



The Union Territory of Goa,
Daman and Diu
Office of the
Asst. Registrar of Co-op. Societies,
Daman, Mou Daman (396 220).

MAHARASHTRA ACT No. XXIV
OF 1961

The Maharashtra Co-operative Societies
Act, 1960 as applied to the Union
Territory of Goa, Daman and Diu

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The Maharashtra Co-operative Societies Act, 1960 as applied
to the Union Territory of Goa, Daman and Diu

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Co-operative Deptt. Daman.

Co-operative Deptt. Daman.

Received to Books

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① Maharashtra Act No. XXIV of 1961
② Maharashtra Societies Rules, 1962
③ Co-operative Societies Rules, 1962
for the Union Territory of Goa, Daman & Diu.

2/11/62

MAHARASHTRA ACT No. XXIV OF 1961

(The Maharashtra Co-operative Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu)

An Act to consolidate and amend the law relating to the co-operative societies in the State of Maharashtra

WHEREAS with a view to providing for the orderly development of the co-operative movement in the Union Territory of Goa, Daman and Diu in accordance with the relevant directive principles of State policy enunciated in the Constitution of India, it is expedient to consolidate and amend the law relating to co-operative societies in that State; It is hereby enacted in the Eleventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement. — (1) This Act may be called the Maharashtra Co-operative Societies Act, 1960.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the State Government may, by notification in the Goa, Daman, and Diu Gazette, appoint.

2. Definition. — 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 three-fourths of the members of which are agriculturists or societies formed by agriculturists;

(2) "arbitrator" means a person appointed under this Act to decide disputes referred to him by the Registrar and includes the Registrar's nominee or board of nominees;

(3) "auditor" means a person appointed by the Registrar or by a society, to audit the accounts of the society;

(4) "bonus" means payment made in cash or kind out of the profits of a society to a member, or 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 a 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 members brought together for joint cultivation as may be decided by the society;

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

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

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

(8) "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;

(9) "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;

(10) "co-operative bank" means a society registered under this Act and doing the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949, and includes any society which is functioning or is to function as a Land Development Bank under Chapter XI.

X of 1949.

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

(12) "farming society" means a society in which, with the object of increasing agricultural production, employment and income and the 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;

(13) "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;

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

(15) "general society" means a society not falling in any of the class of societies defined by others clauses of this section;

(16) "housing society" means a society the object of which is providing its members with dwelling houses;

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

[Clause (10) Amended by Goa, Daman and Diu Amendment Act No. 14 of 1978.

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

(19) (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, associate or sympathiser member;

(b) "associate member" means a member who holds jointly a share of a society with others, but whose name does not stand first in the share certificate;

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

(d) "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.

(20) "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;

(21) "prescribed" means prescribed by rules;

(22) "processing society" means a society the object of which is the processing of goods;

(23) "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 members thereof;

(24) "Registrar" means a person appointed to be the Registrar of Co-operative Societies under this Act;

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

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

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

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

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

(30) "Tribunal" means the Goa, Daman and Diu Co-operative Tribunal constituted under this Act;

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

CHAPTER II

Registration

3. Registrar.— The State Government may appoint a person to be the Registrar of Co-operative Societies for the Union Territory; 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.

4. Societies which may be registered.— 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 development of the Co-operative Movement.

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

6. Conditions of registration:— (1) No society, other than a federal society, shall be registered under this Act, unless it consists of at least ten persons (each of such persons being a member of 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) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.

(5) The word "limit" 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, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half-brother, half-sister, and wife of brother or half-brother.

7. Power to exempt societies from conditions as to registration. — Notwithstanding anything contained in this Act, the State 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.

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

(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.

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 a 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.

9. Registration. — (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 sub-section, he shall make a report to the State Government stating therein the reasons therefor; and he shall thereafter act in accordance with such directions as may be issued to him by the State Government.

(3) Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons therefor, to the person making the application and if there be more than one to the person who has signed first thereon.

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

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

11. Power of Registrar to decide certain questions.— When, for the purpose of the formation, or registration or 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. Classification of Societies.— (1) The Registrar shall classify all societies into one or other of the classes of societies defined in section 2, and also into such sub-clauses 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 State Government may, from time to time, direct.

13. Amendment of bye-laws of society.— (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.

13. A. Power to direct amendment of bye-laws:—

(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 such State federal society as may be notified by the State Government, register such amendment and issue to the society a copy of such amendment, certified by him. With effect from the date of the 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, subject to appeal (if any), be binding on the society and its members."

15. Change of name.— (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 any of its members, or 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.

[Section 13A has been inserted by Goa, Daman and Diu Amendment Act No. 1 of 1972 and came into effect from 25-1-1972.

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

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

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

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

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

(b) all claims of members and creditors who exercise the option, given by sub-section (2), within the period specified therein, have been met in full or otherwise satisfied.

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

(a) to amalgamate with another society,

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

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

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

Provided that, when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that —

(i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), giving them the

option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be,

(ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member, or creditor, or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

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

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

(3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case may be, the converted society, or the new societies.

(4) Where two or more societies have been amalgamated or a society has been divided or converted, the registration

of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, the new societies between which the society may have been divided.

17.A. Power to direct amalgamation, division and reorganisation in public interest, etc.

(1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the Co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganised, then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government, by order published in the Official Gazette provide for the amalgamation, division or reorganisation of those societies into a single society, or into societies, with such constitution, property rights, interests and authorities, and with such liabilities, duties and obligations, as may be specified in the order.

(2) No order shall be made under this section, unless

(a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned;

(b) The Registrar has considered and made such modifications in the draft order as may seem to him desirable in the 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 of members, thereof, or from any creditor or class of creditors.

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

19 Reconstruction of societies. — Where a proposal for a 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.

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

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

21. Cancellation of registration. — The Registrar shall make an order cancelling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies or if its affairs are wound up, or it has not commenced business within a reasonable time of its registration, or has ceased to function or if he is satisfied, after making such inquiry as he thinks fit, that

1- Section 17.A has been inserted by Goa, Daman and Diu Amendment Act No. 1 of 1972 and came into effect from 25-1-1972.

the society no longer has genuinely as its objects one or more of the objects specified in section 4, and its registration ought, 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

22. Person who may become member. — (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 State 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:

IX of 1872

XXI of 1860.

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 condition as may be laid down by the State Government by general or special order, a firm or 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 co-operation, municipality, cantonment or notified area committee.

(2) 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. Open membership. — (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 him admission to its membership may appeal to the Registrar.

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

24. Nominal associate and sympathiser member. —

(1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal, associate 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, or an associate member, may, subject to the provisions of subsection (3) 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.

25. Cessation of membership. — 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, removal or expulsion from the society.

26. No right of membership to be exercised till due payments are made.--

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

27. Voting powers of members. -- (1) No member of any society shall have more than one vote in its affairs: provided that, in the case of an equality of votes the chairman shall have a casting vote.

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

(3) A society, which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of 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 director 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 body corporate.

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

(6) A 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 a 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, associate, or sympathiser member shall have the right to vote.

28. Restrictions on holding of shares. -- In any society, no member other than the State 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-fifth thereof) as may be prescribed, or

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

Provided that the State Government may, by notification in the Goa, Daman and Diu 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. Restrictions on transfer or charge of share of interest. --

(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 conditions as may be prescribed.

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

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

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

(3) Notwithstanding anything contained in sub-sections

(1) and (2), Where a member is allowed to resign, or is expelled, or cease 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 value determined in the manner prescribed, provided that the total payment of share capital of a society in any financial year for such purposes does not

exceed ten per cent of the paid up share capital of the society on the last day of the financial year immediately preceding.

Explanation.— 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 provisions.

(4) Where the State 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 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 three months.

30. *Transfer of interest on death of member.*— (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 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 and against any demand made upon the society by any other person.

31. *Share or interest not liable to attachment.*—

The share or interest of a member in the capital of a society, or in the loanstock issued by a housing society, or in the funds raised by a society from its member by way of savings 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 the official Assignee under the Presidency-towns Insolvency Act, 1909, nor 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.

32. *Rights of members to see books, etc.*— (1) Every member of a society shall be entitled to inspect, free of cost, at the society's office during office hours, or any time fixed for the purpose by the society, a copy of the Act, the rules, and the bye-laws, the last audited annual balance-sheet, the profit and loss account, a list of the members of the committee, a register of members, the minutes of general meetings, minutes of committee meetings and those portions of books and records in which his transaction 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 sub-section within one month from the date of payment of such fees.

33. *Liability of past member and estate of deceased member.*— (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 die, 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.

34. Insolvency of members. — Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, 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 Government or to a local authority.

III of 1909.
V of 1920

35. Expulsion of members. — (1) A society may, by resolution passed by three-fourths majority 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 circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of said society or of any other society, as the case may be.

CHAPTER IV.

Incorporation, Duties and Privileges of Societies.

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

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

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

- (a) the name, address and occupation of each member;
- (b) in the case of a society having share capital, the share held by each member;
- (c) the date on which each person was admitted a member;
- (d) the date on which any person ceased to be a member; and
- (e) such other 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.

39. Copy of Act, etc., to be open to inspection.— Every society shall keep, at the registered address of the society, a copy of this Act and the rules and of its 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.

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

(2) In the case of such societies, as the State 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.

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

XVI of 1908

(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 a registered instrument whereby the society has mortgaged,

conveyor or otherwise transferred the whole or part of his immovable property, or any interest therein to trustees upon trust for the benefit of the holders of such debentures;

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

42. Power to exempt from taxation.— The State Government, by notification in the Goa, Daman and Diu Gazette may, in the case of any society or class of societies, remit—

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

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

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

which the State Government is competent to levy.

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

44. Regulation of loan making policy.— (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 sub-section, a society may make a loan to a depositor on the security of his deposit.

(3) If in the opinion of the State Government, it is necessary in the interest of the society or societies concerned to do so, the State 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.

45. Restrictions on other transactions with non-members.— 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.

46. Charge and set-off in respect of share or interest of member.— A society shall have 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 any 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 payment of any such debt.

Provided that no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 71, or its reserve funds, and no co-operative bank shall be entitled to set-off any such sum towards any debts due from the society.

47. Prior claim of society.— (1) Notwithstanding anything 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, —

V 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,

(i) upon 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,

-25-

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

(iii) upon 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 by any 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 sub-section (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 sub-section, 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-sections (2) shall be void.

(4) Notwithstanding anything contained in sub-sections (2) and (3), a society, which has as one of its objects the disposal of the produce of its members, may provide in its 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 a 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.

48. Charge on immovable property of members borrowing from certain societies.— 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 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 a society of which he is a member, before the date of the coming into force of this Act, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a); and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;

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

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

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

Bom. VII
of 1879.

Provided further that, if a part of the amount borrowed by a member is paid, the Central Financing Agency may, on an application from the member, release from the charge created under the declaration made under clause (a) or (b), such part of the movable or immovable property specified in the 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 the prior claims of the Government in respect of land revenue or any money recoverable as land revenue, and to the charge (if any) created under an award made under the Bombay Agricultural Debtors Relief Act, 1947 or any corresponding law for the time being in force in any part of the State, there shall be a first charge, in favour of the society on the land or interest specified in the declaration made under clause (a) or (b), for and to the extent of the dues owing by him on account of the loan;

Bom
XXVIII
of 1947.

(g) and in particular, notwithstanding anything contained in Chapter X-A of the Bombay Land Revenue Code, 1879 or any corresponding law for the time being in force, the Record of Rights maintained thereunder shall also

Bom. V
of 1879.

include the particulars of every charge on land or interest created under a declaration under clause (a) or (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 State Government, by a general or special order.

49. Deduction from salary to meet society's claim in certain case. — (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 that 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 IV of 1936 on which he makes payment.

(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 the 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), and in mines and oil fields.

CHAPTER V

State Aid to Societies

50. Direct partnership of Central Government in societies. — The Central Government may subscribe directly to the share capital of a society with limited liability, upon such terms and conditions as may be agreed upon.

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

52. Principal State Partnership Fund. — (1) An Apex society which is provided with moneys as aforesaid shall, with such moneys, establish a Fund to be called the "Principal State Partnership Fund".

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

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

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

(c) making payments to the Central Government in accordance with the provisions of this Chapter; and for no other purpose.

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

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

(a) purchasing shares in primary societies;

(b) making payments to the Apex society in accordance with the provisions of this Chapter; and for no other purpose.

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

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

(a) the Central Government; or

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

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.

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

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

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

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

(2) All moneys received by a Central society in respect of shares of Primary societies purchased

from the moneys in the Subsidiary State Partnership Fund on redemption of such shares, or by way of dividends or otherwise, shall in the first instance be credited to that Fund, and then transferred to the Apex society which shall credit them to the Principal State Partnership Fund.

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

(4) Save as provided in sub-section (3), the Central Government shall not be entitled to any other return on the moneys provided by it to an Apex society under section 51.

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

(2) If a Central society which has established a Subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to that Fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 52.

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

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

(a) the Central Government may enter into an agreement with an Apex society setting out the terms and conditions on which it shall provide

moneys to the Apex society for the purpose specified in section 51;

(b) an Apex society may, with the previous approval of the Central Government, enter into an agreement with a Central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 52.

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

(a) give loans to a society;

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

(c) guarantee the repayment of loans given by a Co-operative Bank to a society;

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

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

63. Provisions of this Chapter to override other laws.—The provisions of sections 51 to 61 (both inclusive) in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER VI

Property and Funds societies

64. Funds not to be divided.—No part of the funds, other than the net profits of a society, shall

be paid by way of bonus or dividend, or otherwise distributed among its members:

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.

65. Appropriation of profits.— (1) A society earning profit, shall calculate the net profits by deducting from the gross profits for the year, all accrued interest which is overdue for more than six months, 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 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 of the State federal society which may be notified in this behalf by the State Government, 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 towards any other purpose which may be specified in the rules or bye-laws:

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

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

(2) In the case of a Resource or Producer's society at least one-fourth of the net profits of the society each year, and in the case of any other society at

least one-tenth of the net profits of the society each year, shall be carried to the reserve fund; and such reserve fund may be used in the business of the society or may, subject to the provisions of section 70, be invested, as the State Government may by general or special order direct, or may, with the previous sanction of the State Government, be used in part for some public purpose likely to promote the objects of this Act, or for some such purpose of the State, or of local interest.

67. Restrictions on dividend.— No society shall pay a dividend to its members at a rate exceeding 12 per cent.

68. Contribution to educational fund of the State federal society.— (1) Every society which declares, a dividend to its members at a rate of 4 per cent, or more, shall contribute towards the educational fund of the State federal society which may be notified in this behalf by the State 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.

69. Contribution to public purposes.— After providing for the reserve fund as provided in section 66, and for the educational fund as provided in section 68, a society may set aside a sum not exceeding twenty per cent, of its net profits, and utilise, with the approval of the such federal society as may be notified by the State 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. VI of 1890.

1-Section has been amended by Goa, Daman & Diu amendment Act No. 14 of 1978 and came into effect from 6/7/1978.

70. Investment of funds. — A society shall invest or deposit its funds in one or more of the following :—

- (a) in a Central Bank or the State Co-operative Bank;
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; II of 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 any other mode permitted by the rules, or by general or special order of the State Government.

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

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

CHAPTER VII Management of Societies

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

73. Committee, its powers and functions. — The management of every society shall vest in a committee, constituted in

accordance with this Act, the rules and 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.

73A. Disqualification for being designated officer simultaneously of certain specified societies or for being designated officer of the same society for more than six years. — (1) In this section and in sections 73D, 73E and 73F, "a designated officer" means the Chairman, the President, the vice-Chairman and the Vice president, and includes any other officer of the society as may be declared by the State Government, by notification in the Official Gazette, to be a designated officer, but does not include any Officer appointed or nominated by the State Government or by the Registrar.

(2) No person shall, at the same time, be or continue to be, a designated officer of more than one society falling in Category I or Category II or Category III of the categories mentioned below; and shall not be or continue to be a designated officer in more than two societies in the aggregate in the three Categories:—

Category I. — Societies, the area of operation of which extends to the whole of the Union Territory of Goa, Daman and Diu.

Category II. — Societies, the area of operation of which does not extend to the whole of the Union territory of Goa, Daman and Diu but extends to one or more districts; and the authorised share capital of which is more than Rs. 10 lakhs.

Category III. — Societies, the area of operation of which does not extend to the whole of a district but extends to one or more talukas, and the authorised share capital of which is not more than Rs. 10 lakhs but is not less than Rs. 5 lakhs.

(3) If any question arises whether or not a society falls under any of the categories referred to in sub-section (2), such question shall be referred to and decided by the Registrar, and his decision shall be final.

(4) If any person is at the commencement of the Maharashtra co-operative Societies (Goa, Daman and Diu) Third

Amendment) Act, 1977, a designated officer of more than two societies in the said categories, or of more than one society in the same category, then unless he resigns his office in the society or societies in excess of the number prescribed under sub-section (2) within a period of ninety days from such commencement, he shall, at the expiration of the said period, cease to be a designated officer of all such societies.

(5) If any person becomes, at the same time, after the commencement of the said Act, a designated officer of societies in excess of the number prescribed under sub-section (2), unless he resigns his office in the society or societies in excess of the said number within a period of ninety days from the date on which he is elected or appointed a designated officer of more than the permissible number of society or societies, or if the elections or appointments are held or made simultaneously, from the date on which the result of the last of such elections or appointments is declared, he shall, at the expiration of the said period of ninety days, cease to be a designated officer of all such societies.

(6) No person shall be, or shall continue to be, a designated officer of any society of any of the categories referred to in sub-section (2) for a consecutive period of more than six years, and at the expiration of that period any such person shall cease to be a designated officer of that society, and shall not be eligible for being re-elected or re-appointed as a designated officer, until a period of three years has elapsed after the expiry of the aforesaid period of six years.

Explanation:— For the purpose of this sub-section (a) in calculating the consecutive period of six years in office, any period for which the person concerned may have been such officer before the commencement of the Maharashtra co-op. Societies (Goa, Daman and Diu Third Amendment) Act, 1977 shall be ignored;

(b) if any person resigns his office as a designated officer at any time within twelve months of the date on which the consecutive period of six years would, but for his resignations have been completed, he shall be deemed to have completed the period of six years on his resignation.

73B. Reservation of seats, on committees of certain societies, for Scheduled Castes, Tribes and for weaker section of members.— On the committee of such society or class of societies as the State Government may, by general or special order, direct two seats shall be reserved, one for the members who belong to the Scheduled Castes or Scheduled Tribes and one for the weaker section of the members who have been granted loans from the society of an amount not exceeding Rs. 200 during the year immediately preceding. If no such persons are elected or appointed, the committee shall co-opt the required number of members on the committee from amongst the persons entitled to such representation.

73C. Reservation of seats for employees on committees of certain societies.— On the committee of such society or class of societies as the State Government may, by general or special order, direct where the number of permanent salaried employees of the society is 25 or more,—

(a) if the number of members of the committee thereof is 11 or less — one seat; and

(b) if the number of such members is 12 or more—one additional seat for every 10 members over, and above the first 11 members, shall be reserved for such employees. The seats so reserved shall be filled by selection made by the recognised union or unions, from amongst such employees. If there be no such union the members representing such employees may be nominated by the State Government. Any person selected or nominated as a member of the committee to any reserved seat shall not be entitled to be elected as an officer of such society, or to vote at election of officers.

73D. Restrictions on representation of certain class of members on committees of certain societies and for being designated officers.— (1) In the case of an Apex Co-operative Bank and Federal Institutions, there shall not be more than one representative of individual members on the committee of such Bank and Federal Institution and such representative shall not be eligible for being elected or appointed as a designated officer.

(2) In the case of a Land Development Bank or an Apex Land Development Bank, there shall not be more than one representative on the committee of such Bank, of members, who have not taken any loans from the Bank, such representative shall not be eligible for being elected or appointed as a designated officer.

(3) In the case of an Agricultural Credit Society which gives loans to individuals for the raising of crops, there shall not be more than one representative on the committee of such society of members who have not taken any loans from the society; and that representative shall be elected or appointed only from amongst members who have not taken loans. Such representative shall not be eligible for being elected or appointed as designated officer.

73E. Society's nominee on other society not eligible to be designated officer except in a federal society. — No member of a society who is nominated to represent it on any other society, shall be eligible for being elected or appointed as a designated officer of the other society, Unless the other society is its federal society.

73F. In notified societies members not having minimum number of transactions of certain monetary limits not entitled to be designated officers. — In the case of such class or classes of societies as may be notified by the State Government, by notification in the official Gazette, no member shall be eligible for being elected or appointed as a designated officer, if he does not fulfil minimum qualification relating to his transaction with the society of such monetary limits as may be laid down, from time to time, in such notification.

73G. Member who or whose near relation is dealing in goods for purchase of which loans are given by the society not eligible to be on its committee. — In the case of a society, which gives loans to members for purchasing machinery, implements, equipment, commodities or other goods, no member, who or whose near relation is a dealer in such goods or is director of a company or a partner in a firm carrying on business in such goods shall be eligible for being elected or appointed as a member of the committee of such society.

Explanation.— For the purposes of this section, the expression

“near relation” means wife, husband, father, mother, son, daughter, son-in-law or daughter-in-law.

73H. Provision for conduct of elections to committees (and of officers) to certain societies and term of office of members of such committee. — (1) The election of the members of the committee (and the officers by the committee) of the societies of the categories mentioned below shall be subject to the provisions of Chapter XI-A and shall be conducted in the manner laid down by or under that Chapter:—

(i) Such Apex Co-operative Institutions which the State Government may, by general or special order published in the Official Gazette, from time to time, specify in this behalf, regard being had to the financial position and share capital of such institutions;

(ii) All Co-operative Banks;

(iii) Land Development Bank;

(iv) All Federal Institutions;

(v) Any other society or class of societies, which the State Government may, by general or special order published in the Official Gazette, from time to time, specify in this behalf, regard being had to the financial position and share capital of such institutions.

(2) When the election of all the members of the committee of any such society is held at the same time, the members elected on the committee at such general elections shall hold office for a period of three years from the date on which the first meeting is held and shall continue in office until immediately before the first meeting of the members of the new committee.

(3) Notwithstanding anything in the bye-laws of any such society only the committee of management shall be elected by a general body of members of the society; and all other committees authorised by or under the bye-laws may be constituted only by electing or appointing persons from among the persons who are members of the committee of management, and all such committees shall be sub-committees of the committee management, and shall be sub-ordinate to it.”

74. Appointment of manager, secretary and other officers.— The qualifications for the appointment of a manager, secretary, accountant or any other officer of a society shall be such as may, from time to time, be prescribed.

75. Annual general meeting — (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.

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

Explanation — In the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account; and all the 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 "income over expenditure" and "excess of expenditure over income."

1. Section 73.A to 73.H have been inserted by Goa, Daman and Diu Amendment Act No. 14 of 1978 and came into effect from 6-7-1978.

(3) There shall be attached to every balance sheet laid before the society in general meeting, a report by its committee, with respect to (a) the state of the society's affairs; (b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and (c) the amounts, if any, which it recommends, 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-section (2), (3) or (4) the Registrar may by order declare any officer or member of the committee whose duty it was to call such meeting or comply with sub-section (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 three 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 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.

(6) Any penalty imposed under sub-section (5) or under the next succeeding section, may be recovered in the manner provided by the Code of Criminal Procedure, 1898, for the recovery

ry of fines imposed by a Magistrate, as if such fine was imposed by the Magistrate himself.

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

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

(ii) at the instance of the Registrar, 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 meeting duly called by the committee.

(4) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (1), 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.

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

(2) No act done in good faith by any person appointed under this Act, the rules 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.

77 A. Appointment of members of committee, new committee or Administrator where there is failure to elect or where committee does not enter upon office.—

(1) Where the Registrar is satisfied that:—

(a) at the first constitution of the committee of any society there is a failure to elect all or any of the members of the committee;

(b) the term of the committee of any society or of any of its members has expired or for any other reason election is held and there is a failure to elect all or any of the members required to fill the vacancies;

(c) any committee is prevented from entering upon office;

(d) a new committee has failed to enter upon office on the date on which the term of office of the existing committee expired; or

(e) a new committee cannot for any reason be constituted before the expiry of the term of office of the existing committee, he may, either suo moto or on the application of any officer of the society, by order appoint:

(i) any member or members of the society to be the member or members of the managing committee to fill the vacancies;

(ii) a committee, consisting of not more than three members of the society, or one or more administrators, who need not be the members of the society, to manage the affairs of the society till a new committee enters upon office:

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period;

Provided further that, it shall not be necessary to publish such notice in any case where the Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

(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 discharge 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 to be taken in the interest of the society.

(3) The committee or administrator shall make necessary arrangement to constitute a new committee or for enabling the new committee to enter upon office as the case may be, within such period or extended period as the Registrar may specify.

1. - Section 77. A. has been inserted by Goa Daman and Diu Amendment Act. No. 14 of 1978 and came into effect from 6-7-1978.

2. - Section 78 has been substituted by Goa, Daman and Diu Amendment Act. No. 14 of 1978, and came into effect from 6-7-1978.

78. Power of removal of committee or member thereof.

(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 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 productions and other development programmes approved or undertaken by the State Government or is otherwise not discharging its or his functions properly or where a situation has arisen in which the committee or any member thereof ceases or refuses to discharge its or his functions and the business of society has or is likely to come to a standstill or where any member of such committee stands disqualified by or under this Act for being a member, 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 15 days from the date of issue of notice, and after consulting the federal society to which the society is affiliated, by

(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 be members of the society and who may be individuals or a corporation (including a company owned or controlled by the State or a subsidiary thereof)

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

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

(2) When a notice is issued against any committee or member under sub-section (1), if resignation from any office is tendered by the committee or member it shall not

be valid or effective, until two months have elapsed from the date of issue of the notice or until it is permitted to be accepted by the Registrar, whichever is earlier.

(3) 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 bylaws 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 meetings called by the previous committee or to endorse actions taken by it.

(4) 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 or at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at 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, any arrears of land revenue, or any sum recoverable from the society as arrears of land revenue) and he shall, so far as the funds in the credit of the society allow, comply with the orders of the Registrar.

(5) 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 aforesaid, the Registrar, may by an order 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.

(6) 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 bylaws of the society :

Provided that, if a new Committee is not, or cannot be, constituted at the expiry, of termination of the term of office of the committee or administrator, for any reason beyond the control of the committee or administrator, the term of office of the committee or administrator, as the case may be, shall be deemed to be extended, until the new committee is duly constituted.

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

79. Registrar's power to enforce performance of obligations.

(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) within the time provided 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 State 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.

79 A. Government's power to give directions in the public interest.

(1) If the State Government, on receipt of a report from the Registrar or otherwise is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by the Government or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the State Government may issue directions to them from time to time, and all societies or the society concerned, as the case may be shall be bound to comply with such directions.

(2) The State Government may modify or cancel any directions issued under sub-section (1), and in modifying or cancelling such directions may impose such conditions as it may deem fit.

(3) Where the Registrar is satisfied that any person was responsible for not complying with any directions, the Registrar may by order:-

(a) if the person is a member of the committee of the society remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order;

(b) if the person is an employee of the society direct the committee to remove such person from employment of

the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this order, remove the members appoint other person as members and declare them disqualified as provided in clause (a) above.

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated.

Any order made by the Registrar under this section shall be final.

80. Registrar's power to seize records, etc. (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 misapplied, the Registrar or the person authorised by him may apply to the Executive 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.

CHAPTER VIII

Audit, Inquiry, Inspections and Supervision

81. Audit. (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-sections shall include an examination of, overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

1. Section 79 A has been inserted by Goa, Daman and Diu Act No. 14 of 1978 and came into effect from 6-7-1978

(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 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 head-quarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society, and every member and past member of the society, shall furnish such information in regard to the transactions and working of the society as the Registrar, or the 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 thereat, in respect of any part of the business with which he is concerned as auditor.

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

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

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

(2) The Registrar shall hold such an inquiry—

(a) on the requisition of a society duly authorised by rules made in this behalf to make such requisition, in respect of 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 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 an 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 in pursuance of sub-clause (a), 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.

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

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

(b) deposits with the Registrar such 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.

85. Costs of inquiry and inspection.—(1) where an inquiry is held under section 83 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs, as he may think just, between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members 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.

86. Recovery of costs.—Any sum awarded by way of costs under the last preceding section, 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.

87. Registrar to bring defects disclosed in inquiry or inspection of notice of society.—(1) If the result of any inquiry held under section 83 or an inspection made under section 84 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 special 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 State Government.

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

(4) If a society fails to rectify the defects disclosed in the course of or as a result of an audit under section 81 or fails to rectify the defects as directed by the Registrar, and where no appeal has been made to the State Government within the time specified in the order, or where, on the appeal so made the State 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.

88. Power of Registrar to assess damages against delinquent promoters, etc.—(1) Where, in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 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 83 or the person authorised to inspect the books under section 84 or the Liquidator under section 105 or otherwise that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of such audit, inquiry, inspection or order for winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him, in that behalf may frame charge 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 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. Power to enforce attendance, etc. The Registrar or the persons authorised by him, when acting under section 83,

84 or 88 shall have the power to summon and enforce the attendance of any person to give evidence or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

90. Constitution or recognition of federal authority to supervise working of societies.—(1) The State Government may constitute or recognise one or more co-operative federal authorities, in such manner as may be prescribed and subject to such conditions as the State Government may impose, for the supervision of a society or a class of societies and may frame rules for making grants to such an authority.

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

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

CHAPTER XIX

Disputes and Arbitration

91. Dispute.—(1) Notwithstanding anything containing 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 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, if both the parties thereto are one or other of the following :—

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

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

(c) a person, other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions under the provisions of section 45, 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 45, whether such a surety is or is not a member of the society;

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

(2) When any question arises whether for the purposes of the foregoing sub-section, 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 93, 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 of the same society shall not be referred to the Registrar under the provisions of sub-section (1).

Explanation 2.—For the purposes 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 for employee whether such 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.

91-A. Powers of a Central Bank to proceed against members of a society for recovery of moneys due to it from such a society.

(1) If any society is unable to pay its debts to a Central Bank by reason of any of its members committing default in the payment of the moneys due by them to the society, the Central Bank may direct such society to refer to the Registrar under section 91, the dispute between the society and defaulting members thereof.

Provided that if such society fails to refer the dispute as aforesaid within a period of ninety days from the date of receipt of such direction, the Central Bank itself may refer to the Registrar the said dispute.

Provided further that, in case of a reference, the by-laws of the defaulting society shall apply as if all references to the society or its committee in the said by-laws were references to the Central Bank.

(2) Where a Central Bank has obtained a decree or award against any society in respect of the moneys due to it by such society, the Central Bank may proceed to

recover such moneys firstly from the assets of that society and secondly from the members of that society to the extent of the moneys due by them to that society.

92. Limitation.— (1) Notwithstanding anything contained in the Indian Limitation Act, 1908, 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 the last preceding section shall—

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

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

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 102, or in respect of which a nominated committee or an administrator has been appointed under section 78, be six years from the date of the issue under section 102, or section 78 as the case may be;

(d) when the dispute is in respect of an election of an office-bearer of the society, be one month from date of the declaration of the result of the election.

1-Section 91-A has been inserted by Goa, Daman and Diu Amendment Act No. 13 of 1970 and came into effect from 28-10-1970.

(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 the last preceding section shall be regulated by the provisions of the Indian Limitation Act, 1908, 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 the 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 had expired.

93. Settlement of disputes.— (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 91 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 91 the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated 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 proceedings, the Registrar shall take action as is provided in sub-section (1).

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

V of 1908.

(2) Except with the permission of the Registrar or his nominee or board of nominees, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

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

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have 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 *bona fide*, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

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

95. Attachment before award and interlocutory orders.—(1) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 93 or under section 105 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 proceedings 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, his nominee or board of nominees or the person authorised under section 88 direct

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 the person authorised under section 88 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.

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

97. **Appeal against decision of Registrar or his nominee or board of nominees.**— Any party aggrieved by any decision

1- Clause (4) of section 95 has been inserted by Goa, Daman and Diu Amendment Act No. 14 of 1978 and came into effect from 6-7-1978.

of the Registrar or his nominee or board of nominees under the last preceding section, or an order passed under section 95 may, within two months from the date of the decision or order, appeal to the Tribunal.

98. **Money how recovered.**— 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 95 or 96 every order passed in appeal under the last preceding section, every order passed by a Liquidator under section 105 every order passed by the State Government in appeal against orders passed under section 105 and every order passed in revision under section 154 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 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.

99. **Private transfer of property made after issue of certificate void against society.**— Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 98 shall be null and void as against the society on whose application the said certificate was issued.

100. **Transfer of property of which cannot be sold.**— (1) When in any execution of an order sought to be executed under section 98, any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the

Issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (a) or (b) of section 98, the Court or the Collector or the Registrar, 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 98 the Court, the Collector or the Registrar, as the case may be, may, in accordance with 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. Subject to the general or special orders of the State Government the Collector or the Registrar may delegate to an officer, not below the rank of an Assistant or the Deputy Collector or the Assistant Registrar, powers exercisable by the Collector or the Registrar under this section.

100A. Recovery of any sum advanced by a resource society.-

(1) Notwithstanding anything contained in sections 91, 93 and 98, on an application made by a resource society for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing statement of accounts in respect of such arrears, the Registrar may, after making such inquiries as he may deem 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, the Registrar may of his own motion, after 1- Section 100 A has been inserted by Goa, Daman and Diu Amendment Act No. 13 of 1970 and came into effect from 28-10-1970.

making such inquiries as he may deem fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(3) A certificate granted by the Registrar under sub-section (1) or sub-section (2) shall be final and 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 arrears of land revenue.

CHAPTER X

Liquidation.

102. Winding up. - (1) If the Registrar,--

(a) after an inquiry has been held under section 83 or an inspection has been made under section 84 or on the report of the auditing the accounts of the society, or

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

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

(i) has not commenced working, or

(ii) has ceased working, or

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

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

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

(2) A copy of such order made under clause (a) or sub-clause (iv) of clause (c) of sub-section (1) shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of the issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or confirming the interim order.

103. Appointment of Liquidator.—(1) When an interim order is passed under the last preceding section or a final order is passed under that section, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be Liquidator of the society, and fix his remuneration.

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

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

(4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 105. The Registrar may remove such person and appoint another in his place, without assigning any reason.

(5) 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 relating to the transfer of 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.

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

104. Appeal against order of winding up.—(1) The committee, or any member, of the society ordered to be wound up, may, within two months from the date of the issue of the order made under section 102, appeal to the State Government;

Provided that no appeal shall lie against an order issued under sub-clause (i), (ii) or (iii) of clause (c) of sub-section (1) of section 102.

(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.

105. Power of Liquidator.—(1) The Liquidator appointed under section 103 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,—

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

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

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

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

(e) to investigate all claims against the society, and, subject to the provisions of the Act, to decide questions of priority arising out of such claims, and to pay any class or classes of creditors in full or retable 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 and liabilities capable of resulting in debts, and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society, and all questions in any way relating to or affecting the assets or the winding up of the society, on such terms as may be agreed, and take any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof;

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

(i) to issue requisitions under section 98;

(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 cost 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 those debts or claims are proved;

(m) to summon and enforce the attendance of witnesses and 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 Code of Civil Procedure, 1908;

V of 1908

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

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

(2) Notwithstanding anything contained in sub-section (1), the Liquidator shall not have the right to vote on behalf of the society in liquidation, at the election of the members of the committee or of the officers of any other society.

106. Effect of order winding up.— After expiry of the period for appeal against the order made under sub-section (1) of section 102 of where the appeal has been dismissed the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributories of the society, as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the Liquidator shall proceed to realise the assets of the society by sale or otherwise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall be proceeded with, against the society, except by leave of the Registrar.

1— Clause (2) has been inserted by Goa, Daman and Diu Amendment Act No. 14 of 1978 and came into effect from 6-7-1978.

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.

107. Bar of suit in winding up and dissolution matters. — Save as expressly provided in this Act, no Civil Court shall take cognisance 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.

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

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

(3) The Liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts and books kept by the 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, any 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 want of omission, in carrying out the duties and functions.

109. Termination of liquidation proceedings. — (1) The winding up proceedings of a society shall be closed within three years from the date of the order of the winding up, unless the period is extended by the Registrar. Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate, and, shall, immediately after the expiry of seven years from the date of the order for winding up of the society, deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

Explanation. — In the case of a society which is under liquidation at the 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 how the winding up has been conducted and the property of 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.

110. Disposal of surplus assets. — 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 State 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. Where the surplus is not so divided amongst the members and the society has no such bye-law, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society to which the surplus belonged was serving:

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

- (a) an object of public utility and of local interest as may be recommended by the members in general meeting held under the preceding section;
- (b) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no federal society exists, the State federal society which may be notified in this behalf by the State Government; and
- (c) any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

VI of 1890.

110A. Order for winding up of insured Co-operative Bank, etc. not to be made without sanction of Reserve Bank of India. - Notwithstanding anything contained in this Act, -

- (i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or amalgamation or reconstruction of an insured Co-operative Bank cannot be made save with the previous sanction in writing of the Reserve Bank of India;

(ii) an order for the winding up of an insured Co-operative Bank shall be made if so required by the Reserve Bank of India in the circumstances referred to in section 113D of the Deposit Insurance Corporation Act, 1961;

(iii), if so required by the Reserve Bank of India in the public interest, for preventing the affairs of an insured Co-operative Bank from being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of such Bank, an order shall be made for the supersession of the managing body by whatever name called of such Bank and for the appointment of an administrator therefor 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;

(iv) an order for winding up of an insured Co-operative Bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or an order for the supersession of the managing body by whatever name called of such Bank and appointment of an administrator thereof made with the previous sanction in writing or an requisition of the Reserve Bank of India shall not be liable to be called in question in any manner; and

(v) the Liquidator or the insured Co-operative Bank or the transferee Bank, as the case may be, shall be under an obligation to repay to the Deposit Insurance Corporation established under section 3 (1) of the Deposit Insurance Corporation Act, 1961 in the circumstances to the extent and in manner referred to in section 21 of the Deposit Insurance Corporation Act, 1961.

Explanation: For the purpose of this section, an insured Co-operative Bank means a society which is an insured Bank as defined under the provisions of the Deposit Insurance Corporation Act, 1961.

1- Section 110-A has been inserted by Goa, Daman and Diu Amendment Act No. 13 of 1970 and came into effect from 28-10-1970.

CHAPTER XI

Land Development Banks

111. Application of Chapter to Land Development Banks.

This Chapter shall apply to —

- (a) co-operative banks advancing loans, other than short term loans, for the purposes herein enumerated (hereinafter referred to as "Land Development Banks"), that is to say—
- (i) land improvement and productive purposes;
- (ii) the erection, rebuilding or repairing of houses for agriculture purposes;
- (iii) the purchase or acquisition of title to agricultural lands by tenant purchasers or tenants under the Bombay Tenancy and Agricultural Lands Act, 1948 or any corresponding law for the time being in force in any part of the State; or
- (iv) the liquidation of debts under the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State; and
- (b) any other co-operative bank permitted by the Registrar under section 142 to function as a Land Development Bank.

Bom. LX-VII of 1948.

Bom. XX-VIII of 1947.

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) bunding and similar improvements;
- (f) reclamation, clearance and enclosure of permanent improvement of land for agricultural purposes;
- (g) horticulture;
- (h) purchase of oil-engines, pumping sets and electrical motors for any of the purposes mentioned herein;
- (i) purchase of tractors or other agricultural machinery;
- (j) increase of the productive capacity of land by addition to it of special variety of soil;
- (k) construction of permanent farm-houses, cattle-sheds, and sheds for processing of agricultural produce at any stage;
- (l) purchase of machinery for crushing sugarcane, manufacturing gur or Khandari or sugar;
- (n) such other purposes as the State 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.

112. State and other Land Development Banks:— (1) There shall be a State Land Development Bank for the State of Maharashtra, and as many Primary Land Development Banks as may be deemed necessary.

(2) A reference to Land Mortgage Bank in any law, or instrument, for the time being in force in the State, shall, with effect from the commencement of this Act, be construed as a reference to a Land Development Bank within the meaning of this Chapter.

(3) With effect from the commencement of this Act, and until such time as the names of the Land Mortgage Banks and societies functioning in the State at the commencement of this Act are changed into Land Development Banks; all acts done by them or mortgages and other documents executed by them, or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Land Development Banks.

113. Appointment, powers and functions of Trustee. — (1) The Registrar, or any other person appointed by the State Government in this behalf, shall be Trustee for the purpose of securing the fulfilment of the obligations of the State 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 State Land Development Bank and the Trustee, as modified from time to time by mutual agreement between the State Land Development Bank and the Trustee.

114. Issue of debentures. — (1) With the previous sanction of the State Government and the Trustee, and subject to such terms and conditions as the State Government may impose the State Land Development Bank in the discharge of its function as a 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 acquired, and properties and other assets of the Land Development Banks.

(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 debenture not less than three months notice in writing.

(3) The total amount due on debentures issued by the State 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, or deemed to have been transferred under section 112, by the primary Land Development Banks to the State Land Development Bank, and subsisting at such time; and
- (iii) the amounts paid under mortgages aforesaid and the unsecured amounts remaining in the hands of the State Land Development Bank or 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.

115. Guarantee by State Government. — The principal of, and interest on the debentures issued under the preceding section, or any specified portion thereof, may carry the guarantee of the State Government, subject to such maximum amount as may be fixed by the State Government, and to such conditions as the State Government may think fit to impose.

116. Vesting of property in Trustee and Debenture holders' charge on assets. — Upon the issue of debentures under the provisions of section 114, the mortgage properties and other assets referred to in sub-section (3) of that section held by the State 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 State Land Development Bank or of the trustee.

117. Powers of Land Development Banks to advance loans and to hold lands. — Subject to the provisions of this Act

and the rules made thereunder, it shall be competent for the Land Development Bank to advance loans for the purposes referred to in section 111, and to hold lands the possession of which is transferred to them under the provisions of this Chapter.

118. Mode of dealing with applications for loans.

(1) When an application for a loan is made for any of the purposes mentioned in section 111, 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 State 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 offered as security for the loan.

(4) Subject to such rules as may be prescribed, the Land Development Banks shall consider such applications after due enquiry for the purpose of making loans under this chapter.

119. Order granting loan conclusive of certain matters. — A written order by the Land Development Bank, or persons or committees authorised under the bye-laws of the Bank to make loans for all or any of the purposes specified in section 111, granting, either before or after the commencement of this Act, a loan to or with the consent of a

person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land, shall for the productive purpose specified therein, shall for the purposes of this Act be conclusive of the following matters that is to say, —

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 111;

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

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

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

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

121. Mortgages executed in favour of Land Development Banks to stand vested in State Land Development Bank or, if the mortgage is executed in favour of, and all other assets transferred to, a Land Development Bank, by the members thereof, before or after the commencement of the Act, shall, with effect from date of such execution or transfer, be deemed to have been transferred by such Land Development Bank to the State Land Development Bank, and shall vest in the State Land Development Bank.

122. Registration of mortgage in favour of Land Development Banks. — Notwithstanding anything contained in the Indian Registration Act, 1908 it shall not be necessary to register mortgages executed in favour of the Land Development Banks, provided that the Land Development Bank concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged for the purpose of securing repayment of the loan to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged is 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 Indian Registration Act, 1908.

123. Mortgages not to be questioned on ground of insolvency of mortgagors. — Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909 or in the Provincial Insolvency Act, 1920, or in any corresponding law for time being in force, a mortgage, executed in favour of a Land Development Bank, shall not be called in question in any insolvency proceedings on the ground that it was 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.

124. Right of Land Development Bank to pay prior debts of mortgagor. — (1) Where a mortgage is executed in favour of a 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 debts or part thereof, as the case may be, shall cease to carry interest from the expiry of the period specified in the notice.

Provided that, where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount, offered by the Land 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.

125. Mortgages executed by Managers of Joint Hindu families. — (1) Mortgages, in respect of loans by a Land Development Bank or the State Land Development Bank either before or after the commencement of this Act, by the Manager of a Hindu joint family for the improvement of agricultural land or of the methods of cultivation, or for financing any other means to raise the productivity of the land, or for the purchase of land, shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.

(2) In other cases, where a mortgage executed in favour of a Land Development Bank or State Land Development Bank either before or after 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 member (whether such members have attained majority or not) thereof, the burden of the proof shall be on the manager.

notwithstanding any law to the contrary, the on the party alleging it.

126. Section 8 of Act XXXII of 1956 to the Land Development Banks subject to certain modifications, — Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a Land Development Bank, subject to the modification that reference to the Court therein shall be construed as reference to the Collector or his nominee, and the appeal against the order of the collector or his nominee shall lie to Commissioner.

127. Restriction on lease. — (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 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:

IV of 1882

Provided that, rights of the Land Development Bank shall be enforceable against the tenant purchaser, the lessee or the tenant, as the case may be, as if he himself were a mortgagor.

(2) Where land, mortgaged with possession to a Land Development Bank, is in actual possession of a tenant, the mortgagor or the Land Development Bank shall give notice to the tenant to pay rent to the 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 Land Development Bank.

128. Land Development Bank to receive money and give discharge. — Notwithstanding anything contained in section-

121; all monies due under the mortgage shall unless otherwise directed by the State Land Development Bank or the Trustee, and communicated to the mortgagor, be payable by the mortgagor to the Land Development Bank, and such payment shall be as valid as if the mortgage had not been so transferred and the Land Development Bank shall in the absence of specific direction to the contrary, issued by the State Land Development Bank or Trustee and communicated to the Bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the monies due under mortgage.

129. Powers of Land Development Bank where mortgaged property is destroyed or security becomes insufficient. —

Where any property mortgaged to a Land Development Bank in 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 fall 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.

Explanation. — Security shall be deemed insufficient within the meaning of this section, unless the value of the mortgaged property (including improvements 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 by-laws of the Land Development Bank.

130. Right of mortgage bank to buy mortgaged property. — (1) Property purchased under section 133 (3) by, and property transferred under section 100 to, the Land Development Banks may be disposed of by such banks by sale within such period as may be fixed by the Trustee, subject to the condition that such sales shall be in favour only of agriculturists

eligible to hold land under the Bombay Tenancy and Agricultural Lands Act, 1948 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 State Government from time to time.

(2) Nothing contained in any law for the time being in force fixing the maximum limit of agricultural holding shall apply to the acquisition or holding of land by the Land Development Banks under this section.

131. Recovery of loans by development banks. All loans granted by the Land Development Banks, all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall when they become due, be recoverable by the Land Development Bank concerned.

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

(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 in IV of 1882 for the purpose of distraining and selling such produce:

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

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

133. Sale of mortgaged property. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, the 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 situated or at the nearest place of public resort, without the intervention of the Court:

Provided that, no action shall be taken under this sub-section and no such power shall be exercised, unless and until—

- (a) the Land Development Bank has been previously authorised to exercise the power conferred under this sub-section after hearing the objections, if any, of the mortgagor or mortgagors;
- (b) notice in writing requiring payment of such mortgage money or part thereof has been served upon—
 - (i) the mortgagor or each of the mortgagors,
 - (ii) any person who has any interest in or charge upon the property mortgaged, or in or upon the right to redeem the same so far as is known to the bank,
 - (iii) any surety for the payment of the mortgaged debt or any part thereof, and
 - (iv) any creditor of the mortgagor who has in a suit for administration of his estate obtained a decree for sale of mortgaged property, and
 - (e) default has been made in payment of such mortgage money or part thereof, for three months after service of the notice.

(2) If the Land Development Bank fails to take action against a defaulter under section 129 or 132, or under this section, the State Land Development Bank may direct the Land Development Bank to take appropriate action, and where no action is taken either by the State Land Development Bank or the Land Development Bank, the Trustee may take such action. If such action is taken by the Trustee, the provisions of this Chapter and of any rules prescribed shall apply in respect thereto, as if all references to the Land Development Bank in the said provisions were references to the Trustee.

(3) Notwithstanding anything contained in any law for the time being in force it shall be lawful for a primary Land Development Bank or the State Land Development Bank to purchase any mortgaged property sold under this Chapter.

134. Confirmation of Sale.— (1) On effecting the sale by a Land Development Bank under section 133, the bank shall, in the prescribed manner, subject to the State Land Development Bank and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the State Land Development Bank may, with the approval of the Registrar, confirm the sale or cancel it.

(2) Where the sale is effected by the State Land Development Bank or the Trustee under section 133, the State Land Development Bank or the Trustee, as the case may be, shall in the prescribed manner submit to the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the Registrar may confirm or cancel the sale.

135. Disposal of sale proceeds.— The proceeds of every sale effected under section 133 and confirm under the preceding section, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage in consequences where of the mortgage property was sold, and thirdly in payment of the principal due on account of the mortgage including cost and charges incidental to the recovery.

If there remain any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt, or according to their respective interest therein as may be determined by the Land Development Bank.

Provided that, before any such payments are made, the unsecured dues owing—

(a) from the mortgagor to the 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.

136. Certificate to purchase delivery of property and title of purchase.— (1)

Where a sale of mortgaged property has become absolute under section 134 and the sale proceeds have been received in full by the 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 sale became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Indian 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 State Land Development Bank or a 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 who 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 person, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place, that the right, title and interest of the mortgagor have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of 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 the Land Development Bank.

137. Recovery of loans on certificate by Registrar.—(1) Notwithstanding anything contained in section 91 and 98, on an application made by a 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 enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

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

(3) It shall be lawful to the collector to take precautionary measures authorised by section 140 to 144 of the Bombay Land Revenue Code, 1879, of any law or provision corresponding thereto, for the time being in force, until the arrears due to the 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 Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the 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 95 shall apply *mutatis mutandis* to conditional attachment of any property made or to be made under this section.

138. Collector to make recoveries during a certain period.—

(1) During such period as the State Government may, by general or special order notify in the Goa, Daman and Diu Gazette, it shall be competent for the Collector, on application being made to him in that behalf by a Land Development Bank, to recover all sums due to the Land Development Bank (including the cost of such recovery).

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

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

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

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

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

139. Officers of banks not to bid at sales. — At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee of a Land Development Bank or the State 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.

140. Section 40 of Bom. XXVIII of 1947 not to apply to alienation in favour of Land Development Banks. — Nothing contained in section 40 of the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State shall apply to any alienation in favour of the Land Development Banks.

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

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

142. Registrar's power to permit any cooperative bank to function as a Land Development Bank. — It shall be compe-

tent for the Registrar to permit any co-operative bank to function as a Land Development Bank under such terms and conditions and for such period as he may deem fit.

143. Service of notices. — The provisions of sections 102 and 103 of the Transfer of Property Act, 1882, and of section IV of 1882, 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.

144. Power to committee of State Land Development Bank to supervise Land Development Banks and make regulations. — The committee of the State Land Development Bank shall have a general power of supervision over Land Development Banks and may, with the previous sanction of the State Government, make regulations, not inconsistent with this Act or the rules made thereunder, for all or any of the following matters, namely:—

- (a) for the inspection of the account books and proceedings of Land Development Banks;
- (b) for the submission of returns and reports by such banks in respect of their transactions;
- (c) for the periodical settlement of accounts between such banks and the State Land Development Bank being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the State Land Development Bank;
- (d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans;
- (e) for the investment of moneys realised from the mortgages;
- (f) the conditions of service of employees of such banks;
- (g) the programme and policy to be followed by such banks for making loans;
- (h) the types and extent of security to be obtained by such banks for advancing loans;

(f) generally, for the purpose of safeguarding the interest of the parties, furtherance of activities of such banks; and carrying out the purposes of this Chapter;

CHAPTER XI-A

Election of committees and Officers of certain societies.

CHAPTER XII

Offences and Penalties

145. Prohibition of use of the word "Cooperative".— (1) No person, other than a society registered, or deemed to be registered, under this Act, and a person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into force, shall without the sanction of the State 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.

146. Offences.— 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 47 or any person knowingly acquires, or abets in the acquisition of, such property; or

(b) any employer and every director, manager, secretary or other officer or agent acting on behalf of such employer who, without sufficient cause, fails to comply with sub-section (2) of section 49; or

1—chapter XI-A has been inserted by Goa, Daman and Diu Amendment Act No. 14 of 1978 and came into effect from 6-7-1978.

(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 70; or

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

(e) any person, collecting the share money for a society 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 75; 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 books and papers, or give assistance to a person appointed or authorised by the State Government or the Registrar under section 78, 81, 83, 84, 94, or 103; 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 section 78 or 103; or

(i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer, or a member thereof, fails, without any reasonable excuse to 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 made under section 79; or

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

(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 81; or

(m) any officer or a member of a society wilfully fails to comply with any decision, award or order passed under section 93; or

(n) a member of a society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society; 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 secretes or is privy to the destruction, mutilation, alteration, falsification, or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society; 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 past officer and past member, as the case may be.

147. Punishments for offences under section 146. — 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 146 shall, 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 five hundred 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 three 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 three 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.

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

(2) Notwithstanding anything contained in the Code of Criminal Procedure 1898, it shall be lawful for a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine on any person convicted of an offence under clause (b) of section 146 as provided under section 147 in excess of his powers, under section 32 of that Code.

(3) No prosecution under this Act shall be lodged, except with the previous sanction of the State Government in the case of an offence under clause (b) of section 146 and of

V. of 1898

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 State Government by a general or special order.

CHAPTER XIII Appeals, Review and Revision

149. Goa, Daman and Diu Cooperative Tribunal.—

(1) The State Government shall constitute a Tribunal called the Goa, Daman and Diu 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 three other members possessing such qualifications as may be prescribed.

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

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

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

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

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

(7) Subject to the previous sanction of the State Government, the Tribunal shall frame

the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(8) The regulations made under sub-section (7) shall be published in the Goa, Daman and Diu Gazette.

(9) The Tribunal may call for and examine the record of any proceeding in which an appeal lies to it, for the purpose of satisfying itself as to 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.

(10) Where an appeal is made to the Tribunal under section 97 it may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(11) An order passed in appeal, or in revision under sub-section (9) or in review under section 150 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 97 and Order XXI in the First Schedule of the Code of Civil procedure 1908.

V of 1908

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

Provided that no such application made by the party interested shall be entertained, unless the Tribunal is satisfied that there has been 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 subsection by any party, shall be made within ninety days from the date of the communication of the order of the Tribunal.

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

- (a) proof of facts by affidavit,
- (b) summoning and enforcing the attendance of any person and examining him on oath,
- (c) compelling 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.

152. Appeals.—(1) An appeal against an order or decision under section, 4, 9, 11, 12, 13, 14, 17, 18, 19, 21, 29, 35, 78, 102 and 105 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 State 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.^m

(2) An appeal against an order or decision under sections 79, 85 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 (2) shall be filed 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.

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

154. Revisionary powers of State Government and Registrar.

(1) The State Government or the Registrar suo moto or on an application, may call for and examine the record of any enquiries or proceedings of any matter other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any subordinate officer, and no appeal lies against such decision or order, for the purpose of satisfying themselves as to the legality or propriety of any such decision or order, and as to the regularity of such proceedings. If, in any case, it appears, to the State Government or the Registrar, that any decision or order so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the persons affected thereby an opportunity of being heard, pass such orders thereon as to it of

(2) Under this section the revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

(3) No application for revision shall be entertained if made after two months of the date of the communication of the decision or order. The revisional authority may entertain any such application made after such period, if the applicant satisfies that he had sufficient cause for not making application within such period.

(4) The State Government, may, by order direct that the powers conferred on it by this section shall in such circumstances and under such conditions, if any as may be specified in the direction, be exercised also by any officer of the rank of Secretary to the Government.

CHAPTER XIV

Miscellaneous

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

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

1-Section 154 has been substituted by Goa, Daman and Diu Amendment Act No. 14 of 1978 and came into effect from 2.7.1978

156. Registrar's powers to recover certain sums by attachment and sale of property. — (1) The Registrar or any officer subordinate to him and empowered by him in this behalf may, subject to such rules as may be made by the State 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, 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 costs of process by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(2) The Registrar of the officer empowered by him shall be deemed, when exercising the powers under the foregoing sub-section, or when passing any orders on any application made to him for such recovery, to be a Civil Court for the purposes of article 182 in the First Schedule to the Indian Limitation Act, 1908.

IX of 1908.

157. Power to exempt societies from provisions of Act.—The State Government may, by general or special order, to be published in the Goa, Daman and Diu Gazette, exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order.

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

158. Delegation of power of Registrar to federal authorities.—The State Government may, by notification in the Goa, Daman and Diu 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 authority or to an officer thereof, or to any officer of the Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and such officer of the Zilla Parishad shall work under the general guidance, superintendence and control of the Registrar, specified in the notification.

Mah. V of 1962.

159. Branches, etc. of societies outside the State. —

(1) No society shall open a branch or a place of business outside the Union Territory of Goa, Daman and Diu, and no co-operative society registered under any law elsewhere in India shall open a branch or a place of business in the Union Territory of Goa, Daman and Diu, without the permission of the Registrar

(2) Every co-operative society registered under any law elsewhere in India, and permitted to open a branch or a place of business in the Union Territory of Goa, Daman and Diu under the foregoing sub-section, or which has a branch or a place of business in the Union Territory of Goa, Daman and Diu 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 Hindi, and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State where such society is registered.

1. This portion was inserted by Mah. 5 of 1962, S. 286.

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

(2) If the retiring Chairman fails or refuses to hand over charge, or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property.

(3) If the retiring Chairman to whom a direction has been issued as aforesaid does not comply with such direction, he shall on conviction be punished with simple imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both; and the Registrar may, on the retiring Chairman's failure to comply with such direction, take order for seizing the records and property and handing it over to the new Chairman, in the manner provided in section 80.

161. Registrar and other officers to be public servants — The Registrar, a person exercising the powers of the Registrar a person authorised to audit the accounts of a society under section 81, or to hold an inquiry under section 83, or to make an inspection under section 84, and a person appointed as an administrator under section 78, or as a nominee or board of nominees under section 93, or as a Liquidator under section 103, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of
1860.

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

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

(a) the registration of a society or its 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;

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

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

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

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

165. Rules.—(1) The State Government may, for the whole or any part of the State and for any society or class of societies, make rules for the conduct and regulation of the business of such society or class of societies, and for carrying 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 condition 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;

(iii a) 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 form 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;

1. Clause (iii a) has been inserted by Goa, Daman and Diu Amendment Act No. 14 of 1978 and came into effect from 6-7-1978.

(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, removal 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 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 for 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 terms upon which Government aid may be given to societies and terms under which the State Government may subscribe to the share capital of and guarantee the payment of the principal of an 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 class 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 to the charge shall be used in its satisfaction;

(xxvii) provide for giving reasonable notice of the charge under section 48;

(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 section 65 (1), shall be deducted from profits before arriving at the profit for the purpose of section 65 (2);

(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 State federal society under section 68;

(xxxiii) define the co-operative purpose for which a society shall, under section 69, utilise its fund;

(xxxiv) prescribe the mode of investment of funds of a society under section 70 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 and removal of the members of the committee and other officers and for the appointment of administrator under section 78 and prescribe procedure at meeting of the committee and for the powers to be exercised and the duties to be performed by the committee, administrator and other officers;

(xl) prescribe 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 81, 83 and 84 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;

(xlii) 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 reports, and the charges, if any, to be paid by a society for audit;

(xlvii) prescribe the procedure for appointment of auditors under section 81;

(xlviii) prescribe the form for the rectification of defects discovered in the course of audit, inspection or inquiry;

(xlix) prescribe the procedure and principles for the conduct of inquiry under section 83 and inspection under section 84;

(l) prescribe the procedure for apportioning the cost of inquiry and inspection and for assessing damages against delinquent promoters under section 88 and for recovery of cost and damages;

(li) prescribe the manner in which appointment shall be made and control exercised by, and the number of persons 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;

(liii) provide for the issue and service of processes and for proving of service thereof;

(liv) 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 95, and to the execution of awards;

(lxviii) 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 100;

(lxix) prescribe the procedure for attachment and sale of property for the realisation of any security given by a person in the course of execution proceedings;

(lxx) prescribe the procedure and conditions for the exercise of the powers conferred under section 105 and the procedure to be followed by a Liquidator and provide for the disposal of surplus assets;

(lxxi) prescribe the matters in which an appeal shall lie from the order a Liquidator appointed under section 103;

(lxxii) prescribe the procedure and conditions for the issue, redemption, re-issue, transfer, re-placement or conversion of debentures issued by a society to which Chapter XI is applicable;

(lxxiii) 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 XI is applicable;

(lxxiv) prescribe the qualifications and methods of appointment of an officer to effect sale under section 133 and the powers and functions which such an officer may exercise;

(lxxv) prescribe for 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 removed, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive;

(lxxvi) prescribe the circumstances in which action may be taken by a land development bank against a mortgagor under section 133 (2);

(lxxvii) prescribe, in case of sale of immovable property under Chapter XI —

(a) the procedure for proclamation and conduct of the sale and the conditions on which an attempt of sale may be abandoned;

(b) the method of calculating the expenses incidental to the sale or attempted sale;

(c) the procedure for the receipt of deposit and disposal of the proceeds of sale;

(d) the procedure for a resale 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;

(e) the form and method of disposal of money by a land development bank under section 135;

(f) the form of sale certificate under section 136;

(g) the procedure for the delivery by the Court of the property purchased to the purchaser under section 136;

(h) the form of the notice referred to in section 143; and

(i) the fee payable for the service of such notice and the manner of serving such notices on, and of the transmitting landlords' fee to, the landlord named in such notices;

(lxxix) prescribe the time within which and the procedure according to which property purchased by a land development bank at a sale of immovable property under Chapter XI shall be disposed by the bank;

(lxxx) prescribe the procedure to be followed in presenting and disposing of appeals;

(lxxxi) prescribe the qualifications of the members of the Tribunal;

(lxxxii) prescribe in the case of appeals lying to the State Government the authority to which power of hearing appeals may be delegated;

(lxxxiii) prescribe the method of communicating or

publishing order, decision or award required to be communicated or published under this Act or the rules, it may also provide that the contravention of any of the rules shall be an offence under the Act.

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

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

(4) All rules made under this section shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

167. Companies Act not to apply. — 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.

CHAPTER XI-A

Election of committees and officers of certain societies

144A. Application of this Chapter and definitions. — (1) Except section 144Y, this Chapter shall apply only to election to committees of societies belonging to the categories specified in section 73H.

(2) In this Chapter, unless the context otherwise requires,—

(a) "Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965 (6 of 1965);

(b) "Collector" means the Collector having jurisdiction over the local areas in which the registered office of the society concerned is situated, and includes the Additional

Collector, and also any officer not below the rank of Deputy Collector appointed by the State Government to exercise the powers and to perform the duties of the Collector under this Chapter.

(c) "election" means an election of a member or members of the committee of a specified society;

(d) "specified society" means a society belonging to any of the categories specified in section 73H.

144B. When elections to be held. — (1) Every election shall be held as far as possible sometime prior to the date on which the term of office of the retiring member or members is due to expire. If a vacancy occurs due to any other reason, it shall be filled as early as practicable.

(2) Notwithstanding anything contained in the bye-laws of any specified society, election to all the specified societies shall be held afresh in accordance with the provisions of this Chapter within six months of coming into force of the Maharashtra Co-operative Societies (Goa, Daman and Diu Third Amendment) Act, 1977.

144C. Conduct of elections. — (1) Save as otherwise provided, every election shall be held on such date or dates as the Collector may fix, and shall be conducted under his control by such Returning Officer and other officers, as may be appointed by the Collector in this behalf.

(2) In all cases, where a society has to send a nominee as a member of the committee of any specified society, the election of such nominee shall be conducted under the control of the Collector of the District in which the registered office of the society sending the nominee is situated.

(3) In all cases, where the bye-laws of a specified society authorise the Government nominee or the nominee of a financing agency to be a member of the committee of the society no election need be held for such purpose.

(4) The voting of every election shall be by secret ballot.

144D. Cost of conducting elections. — (1) The expenses of holding of any election, including the payment of

allowances, daily allowances and other remunerations, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be borne by the specified society concerned.

(2) For this purpose the Collector may call upon a specified society to deposit with him such amount as he considers necessary for the conduct of elections. Within eight days from the receipt of such directions from the Collector, the society shall deposit the specified amount with the Collector.

(3) The Collector shall maintain an account of the expenses incurred in connection with the election and within six months from the declaration of the results of the elections, render the same to the society concerned, and shall refund to the society the balance, if any, remaining unspent. If the expenditure exceeds the amount of deposits, the Collector shall call upon the society to pay the excess amount as specified by him within eight days from the receipt of the direction from him, and the society shall comply with such directions.

(4) On failure of a specified society to pay as aforesaid the deposit amount or to pay the excess amount, the Collector may recover the sums due, together with interest thereon at the rate of 12 percent per annum from the society as arrears of land revenue.

144E. Disqualifications for membership. — (1) A person shall be disqualified for being elected as, and for being a member, of the committee of any specified society, —

(a) if he is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is elected, appointed or co-opted to any reserve seat on the committee of a society under section 73C;

(b) if he has been convicted of an offence punishable

under section 153-A, or section 171-E or section 171-F, or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code (XLV of 1860) or under section 144-Q or clause (a) of sub-section (2) of section 144-R of this Act unless a period of six years has elapsed since the date of his conviction;

(c) if he has been convicted by a court in India for any offence and sentenced to imprisonment for not less than two years, unless a period of five years has elapsed since his release;

(d) if he is found guilty of a corrupt practice by the Development Commissioner, unless a period of six years has elapsed since the date on which the decision of the said Commissioner takes effect;

(e) if he is so disqualified by or under any other provision of this Act.

(2) For the purposes of clause (a) of sub-section (1), a person shall not be deemed to hold an office of profit under a society, if he does not receive any remuneration other than compensatory allowance or honorarium payable under sub-section (2) of section 65 not exceeding Rs. 6000 per year.

Explanation. — In this sub-section "compensatory allowance" means the travelling allowance, the daily allowance or such other allowance which is paid to the holder of the office for the purpose of meeting the personal expenditure in performing the functions as holder of that office.

(3) Notwithstanding anything contained in clause (b) or (c) of sub-section (1), a disqualification under either clause shall not, in the case of a person who on the date of conviction is a member of any society, take effect until three months have elapsed from that date or, if within that period of appeal or an application for revision is brought in respect of the conviction or the sentence until that appeal or application is disposed of by the court.

144F. Account of election expenses and lodging of account. —

(1) Every candidate at an election shall keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him.

(2) The account shall contain such particulars as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be specified by the State Government, by general or special order, published in the Official Gazette.

(4) Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidate at the election and the dates of the election are different, the latter of those two dates, lodge with the Collector an account of his election expenses which shall be a true copy of the account kept by him under sub-section (1).

144G. Disqualification for failure to lodge account of election expenses.— If the Collector is satisfied that a person,—

(a) has failed to lodge an account of election expenses within the time and in the manner required by the last preceding section, and

(b) has not good reason or justification for the failure, the Collector, shall, by order published in the Official Gazette, declare him to be disqualified for being elected as, and for being, a member of the committee of any specified society, and any such person shall be disqualified for a period of three years from the date of the order.

144H. Removal or reduction of period of disqualification.— The State Government may, for reasons to be recorded remove any disqualification under this Chapter or reduce the period of any disqualification.

144I. Corrupt practices.— The following shall be deemed to be corrupt practices for the purposes of this Chapter:—

(1) "Bribery," that is to say—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any

person whomsoever, with the object, directly or indirectly of inducing—

(a) a person to stand or not to stand as or to withdraw or not to withdraw from being a candidate at an election, or

(b) an elector to vote, or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation.— For the purpose of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimated in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 144-F.

(2) "Undue influence", that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with consent of the candidate or his election agent, with the free exercise of any electoral right;

Provided that—

(a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community, or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station:

Provided that, the hiring of a vehicle or vessel by an elector or by several electors at their joint cost for the purpose of conveying him or them to and from any polling station shall not be deemed to be a corrupt practice under this clause:

Provided further that, the use of any public transport vehicle or vessel or railway carriage by any elector at his own cost for the purpose of going to or coming from any

polling station shall not be deemed to be a corrupt practice.

Explanation.—In this clause and in the next succeeding clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(4) The use of vehicle belonging to a specified society for the purpose of any election.

(5) The incurring or authorising of expenditure in contravention of section 144F.

(6) Making special advances of loans or otherwise favouring any elector or group of electors between the date of declaration of programme for an election and the date of declaration of the result thereof.

144 J Maintenance of secrecy of voting.—(1) Every Officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

144K. Officers, etc., at elections not to act for candidate or to influence voting.—(1) No person who is a Returning Officer or an Assistant Returning Officer or a Presiding Officer or Polling Officer at an election, or an Officer or clerk appointed by the Returning Officer or the Presiding Officer to perform any duty in connection with election shall in conduct or the management of the election do any act (other than giving of vote) for the furtherance of the prospects of the election of a candidate

(2) No such person as aforesaid, and no member of a Police Force, shall endeavour —

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment which may extend to six months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

144L. Prohibition of canvassing in or near polling station.—
(1) No person shall, on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely:-

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

(d) persuading any elector not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under sub-section (2) shall be cognizable.

144M. Penalty for disorderly conduct in or near polling stations.— (1) No person shall, on the date or dates on which a poll is taken at any polling station, —

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as megaphone or a loudspeaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of Officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall, on conviction, be punished with imprisonment which may extend to three months, or with fine, or with both.

(3) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

144N. Penalty for misconduct at the polling station.

(1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer may be removed from the polling station by the Presiding Officer or by any police officer on duty or by any person authorised in this behalf by such presiding Officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine or with both,

(4) An offence punishable under sub-section (3) shall be cognizable.

144 O. Penalty for illegal hiring or procuring of conveyances at elections.— If any person is guilty of any such corrupt practise as is specified in clause (3) or (4) of section 144-I at or in connection with an election, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

144P. Breaches of official duty in connection with election.

(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction be punished with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against such person for damages in respect of any such act or omission as aforesaid.

(4) The persons to whom this section applies are the Returning Officers, Assistant Returning Officers, Presiding

Officers, Polling Officers and any other persons appointed to perform any duty in connection with the Receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "Official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

144 Q. Removal of ballot papers from polling station to be an offence.— (1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer.

Provided that, when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by a police officer, shall be kept such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

144 R. Other offences and penalties thereof.— (1) A person shall be guilty of an electoral offence if at any election he-

(a) fraudulently defaces, or fraudulently destroys any nomination papers; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or

(d) without due authority supplies any ballot papers to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such act.

(2) Any person guilty of an electoral offence under this section shall—

(a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under sub-section (2) shall be cognisable.

144 S. Application of sections 148 to offences under this chapter subject to certain modifications.— The provisions of section 148 shall apply to the offences under this Chapter, subject to the modification that no prosecution for an offence punishable under this Chapter shall be lodged, except with the previous sanction of the Collector.

144 T. Disputes relating to elections to be referred to the Administrative Tribunal.— (1) Notwithstanding anything contained in section 91 or any other provisions of this Act, any dispute relating to an election shall be referred to the Administrative Tribunal.

(2) such reference may be made by an aggrieved party by presenting an election petition to the Administrative Tribunal, within a period of two months from the date of declaration of the result of the election;

Provided that, the Administrative Tribunal may admit any petitions after the expiry of that period, if the petitioner satisfies the Administrative Tribunal that he had sufficient cause for not preferring the petition within the said period,

(3) In exercising the functions conferred on it by or under this chapter, the Administrative Tribunal shall have the same powers as are vested in a Court in respect of—

(a) proofs of facts by 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.

(c) in the case of any such affidavits, an officer appointed by the Administrative Tribunal in this behalf may administer the oath to the deponent.

(4) Subject to any rules made by the State Government in this behalf, any such petition shall be heard and disposed off by the Administrative Tribunal as expeditiously as possible. An order made by the Administrative Tribunal on such petition shall be final and conclusive and shall not be called in question in any court.

144 U. Deposits towards costs for hearing and power to award costs. — A petitioner presenting any election petition under the last preceding section shall pay a deposit not exceeding Rs. 500 as the Administrative Tribunal may direct towards the costs for hearing the petition. Unless the petitioner deposits the same as aforesaid the petition shall be summarily dismissed. Subject to such conditions as may be prescribed, at the time of deciding the petition, the administrative Tribunal shall assess the costs of hearing of the petition and shall require the petitioner or the respondents, or both as the case may be, to defray the whole or in such proportion as he thinks fit, the costs of the petition, including the deposits so made. The Administrative Tribunal shall credit to Government such sum as it assesses as the cost to Government of hearing the petition (but not exceeding Rs. 500 in any case).

144 V. Contents of petition. — (1) An election petition shall —

(a) contain a concise statement of the material facts on which the petitioner relies;

(b) set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement

as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

Provided that, where the petitioner alleges any corrupt practice, the petition shall be also accompanied by an affidavit in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

144 W. Relief that may be claimed by the petitioner. — A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

144 X. Power to make rules for purpose of this chapter. — Without prejudice to any other power to make rules contained elsewhere in this Act, the State Government may make rules consisting with this Act generally to provide for and to regulate all or any of the other matters relating to the various stages of the elections (including preparation of list of voters)

144 Y. Special provision for election of officers of specified societies. — (1) This section shall apply only to elections of officers by members of committees of societies belonging to categories specified in section 73 H.

(2) After the election of the members of the committee, or whenever such election is due, the election of the officers or officers of any such societies shall be held as provided in its bye-laws, but any meeting of the committee for this purpose shall be presided over by the Collector or an officer nominated by him in this behalf.