

ANDHRA PRADESH CO-OPERATIVE SOCIETIES ACT, 1964

7 of 1964

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ANDHRA PRADESH CO-OPERATIVE SOCIETIES ACT, 1964

7 of 1964

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An Act to consolidate and amend the law relating to Co-operative Societies in the State of Andhra Pradesh in order to facilitate and strengthen the functioning of Co-operative Societies based on co-operative principles and co-operative identity. Be it enacted by the Legislature of the State of Andhra Pradesh in Fifteenth year of the Republic of India as follows

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

- (1) This Act may be called the Andhra Pradesh Co-operative Societies Act, 1964.
- (2) It extends to the whole of the State of Andhra Pradesh.
- (3) It shall come into force on such date as the Government may, by notification in the Andhra Pradesh Gazette appoint.

2. Definitions :-

In this Act, unless the context otherwise requires-

- (a) 'bye-laws' means the registered bye-laws for the time being in force;
- (b) 'Committee' means the governing body of a society by whatever name called, to which the management of the affairs of the society is entrusted;
- (c) 'Co-operative year' means the period commencing on the first day of the April of any year and ending with the 31st day of March of the succeeding year;
- (d) 'dividend' means a share of the profits of a society divided among its members in proportion to the share capital held by each

of them;

(e)'federal society' means a society to which similar class of societies are affiliated;

(f)'financing bank' means a society, the main object of which is to assist any affiliated or other society by giving loans or advancing moneys; and includes any scheduled bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934) and such other body corporate or financial institution as may be notified by the Government from time to time, which gives financial or other aid to a society;

(g)'general body' in relation to the society means all the members of the society;

(l)'prescribed' means prescribed by rules made under this Act;

(m)'rebate' means a share of the profits of a society divided among its members in proportion to the volume of business done by each of them with the society;

(n)'Registrar' means the Registrar of Co-operative Societies appointed under Section 3(1) and includes any other person on whom all or any of the powers of the Registrar under this Act are conferred;

(o)'rules' means the rules made under this Act;

(p)'society' means a co-operative society registered or deemed to be registered under this Act;

(r)'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 all its obligations and to contribute to any deficit in the assets of the society;

(s)'State' means the State of Andhra Pradesh;

(t)'Tribunal' means a tribunal constituted under Section 75 and having jurisdiction;

(u)'Zilla Parishad' means a Zilla Parishad constituted under Section 177 of the Andhra Pradesh Panchayat Raj Act, 1994.

CHAPTER 2

Registration of Societies

3. Appointment of Registrar and other persons for the

purpose of this Act :-

(1) There shall be appointed a Registrar of Co-operative Societies for the State and as many other persons as the Government think fit for the purposes of this Act.

(2) Every other person appointed under sub-section (1) shall exercise under the general superintendence of the Registrar, such powers of the Registrar, under this Act as the Government may, from time to time, confer on him.

4. Society which may be registered :-

(1) A society which has, as its main object, the promotion of the economic interests of its members in accordance with the Co-operative principles, as may be prescribed] or a society established with the object of facilitating the operation of such a society, may be registered under this Act.

(2) Every Society registered or deemed to be registered under this Act shall function subject to such directions as may be issued by the Registrar, from time to time, in the interests of the Co-operative movement or the public interest or in order to prevent the affairs of the society from being conducted in a manner detrimental to the interests of the members or of the depositors or creditors thereof, and the society shall comply with such directions.

5. Registration with limited or unlimited liability :-

(2) The liability of the Government, a financing bank or a federal society having shares in a society, whether with limited or unlimited liability, shall be limited to the share capital subscribed by the Government, such financing bank or federal society, as the case may be.

(3) The name of every society shall contain the expression 'co-operative' or its equivalent in any Indian language and in the case of every society with limited liability, the name of the society shall have also as its suffix the expression 'limited' or its equivalent in any Indian language.

6. Registration of a society :-

(1) An application for the registration of a society shall be made to the Registrar in such form and with such particulars as may, from time to time, be specified by the Registrar.

(3) Where any question arises under clause (c) of sub-section (2) as to the residence, ownership, group of villages, class or occupation, such question shall be decided by the Registrar, whose decision thereon shall, subject to the provisions of Section 76, be final.

(5) Where the Registrar is not so satisfied, he shall communicate by registered post the order of refusal together with the reasons thereof to the applicants within such time as may be prescribed.

7. . :-

x x x x

8. Registration certificate :-

Where a society is registered the Registrar shall issue a certificate of registration signed and sealed by him which shall be conclusive evidence that the society mentioned therein, is a society duly registered under this Act, unless it is proved that the registration of the society has been cancelled.

9. Society to be a body corporate :-

The registration of a society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal. The society is entitled to acquire, hold and dispose of property, to enter into contracts on its behalf, to institute and defend suits and other legal proceedings and to do all other things necessary for the purpose for which it was constituted.

9A. Restriction and creation of any charge :-

Where the Government extends State aid as specified under Section 43 of the Act, such society shall not dispose of or create any charge over its property without the prior approval of the Registrar and the consent of the federal society or financing bank concerned as the case may be.

9B. De-registration of a society :-

(2) A society, de-registered under sub-section (1), shall cease to conduct its business forthwith from the date of such order.

9C. Appointment and Powers of the Official Assignee :-

(1) Where a society is de-registered under Section 9-B, the Registrar shall appoint an Official Assignee for winding up of the affairs of the society and fix his remuneration in the manner prescribed.

(2) On the appointment of an Official Assignee, the property, assets, effects and actionable claims or liabilities of the society as on the date of appointment shall vest in or devolve on the Official Assignee. He shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, assets, affects and actionable claims.

(4) Any sum ordered under this section to be recovered as a contribution to the assets of a society or as costs of liquidation may be recovered, on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land revenue.

(5) Save as provided in sub-section (4), orders made under this section shall, on application, be enforced by any civil Court having local jurisdiction in the same manner as a decree of such Court.

(6) The Official Assignee shall continue to exercise his powers until the affairs of the society are completely wound up when he shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

(7) The winding up proceedings under this section shall be closed within a period of one year from the date of the order of de-registration of a society, and the said period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed two years in the aggregate, and after the expiry of the said period, it shall be deemed that the winding up proceedings have been terminated and the Registrar shall pass an order terminating the winding up proceedings. On the termination of the winding up proceedings, the Official Assignee shall make a report to the Registrar.

(8) Where the affairs of a society have been completely wound up, after considering the report of the Official Assignee under sub-section (6) or sub-section (7), the Registrar shall by order in writing cancel the registration of the society. The society shall cease to exist as a corporate body from the date of such order.

10. Change of name of society :-

(1) A society may, by an amendment of its bye-laws, change its name.

(2) The change of name of a society shall not affect any rights or

obligations of the society, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

11. Change of liability :-

Subject to the provisions of this Act and the rules, the society may, by a resolution, decide to amend its bye-laws to change the form or extent of its liability.

12. Transfer of assets and liabilities, division, amalgamation and conversion of a society :-

(3) Every resolution of a society under sub-section (1) or sub-section (2) shall be passed at the general meeting by a majority of not less than two-thirds of the total members, and such resolution shall contain all particulars of the transfer, division, amalgamation or conversion as the case may be.

12A. Special provision in respect of spinning mills and Sugar factories :-

(3) x x x x

13. Exercise of option by members and creditors :-

(1) Where a society has passed a resolution under Section 11 or Section 12, it shall give notice thereof in the manner prescribed together with a copy of the resolution to all its members and creditors and notwithstanding 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 the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(2) Any member or creditor who does not exercise his option within the period specified in sub-section (1) shall be deemed to have assented to the resolution.

14. Effect of transfer, division and amalgamation :-

(1) Notwithstanding anything in any other law for the time being in force, where a resolution passed by society under Section 12 involves a decision for the transfer of any assets and liabilities the resolution shall, when it takes effect, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further

assurance.

(3) Where two or more societies are amalgamated into a new society, the registration of the societies so amalgamated shall stand cancelled and they shall be deemed to have been dissolved and shall cease to exist as corporate bodies.

15. . :-

x x x x

15A. Identification of viability of societies and consequences thereof :-

(2) The Registrar may, after having considered the matter in the light of any suggestions or objections which may be received by him within the period specified in sub-section (1) and after making if necessary, such modification in the proposal as he may deem fit, make an order and publish it in the prescribed manner.

(4) The Registrar may, at any time before the expiration of the period specified in clause (vi) of sub-section (3), arrange for the calling of a general meeting for the election of a new committee in such manner as may be prescribed for every such viable society xxx.

(5) x x x x

(6) x x x x x

(7) Notwithstanding anything in the Transfer of Property Act, 1882 (Central Act 4 of 1882) or the Registration Act, 1908 (Central Act 16 of 1908) an order issued under this section shall be sufficient conveyance to transfer the assets and liabilities of the society or societies covered by any order passed under sub-section (2) of this section.

(8) No suit or legal proceeding shall be instituted or maintained or continued in any Civil Court in respect of any order made under this Section.

16. Amendment of bye-laws of a society :-

(1) No amendment of any bye-law of a society shall be valid unless the resolution for such amendment is passed at its general meeting by a majority of the total members and such amendment has been registered under this Act. Where such an amendment is not expressed to come into operation on a particular day, then it shall

come into force on the day on which it is registered.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate signed and sealed by him, and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar is not so satisfied, he shall communicate by registered post the order of refusal together with the reasons therefor, to the society within the period specified in sub-section (2). If no order of refusal is communicated within a week after the expiry of the period specified in sub-section (2) it shall be deemed that the Registrar has not registered the amendment as on the last date of the period specified in sub-section (2).

(5) If in the opinion of the Registrar, an amendment of the bye-laws of a society is necessary or desirable in the interest of such society or of the Co-operative movement, he may, in the manner prescribed, call upon the society to make any amendment within such time as he may specify. If the society fails to make such an amendment within the time so specified, the Registrar may, after giving the society an opportunity of making its representation, register such amendment and forward to the society by registered post a copy of the amendment together with a certificate signed by him; such a certificate shall be conclusive evidence that the amendment has been duly registered; and such an amendment shall have the same effect as an amendment of any bye-law made by the society.

17. Partnership of societies :-

(2) No such resolution shall be passed by a society unless ten clear days' written notice of the resolution and the date of the meeting has been given to each member of the society.

(3) The provisions of the Indian Partnership Act, 1932 shall not apply to such contract of partnership.

18. Classification :-

The Registrar shall, in accordance with the rules, classify societies with reference to their objects, area of operation, membership or any other matter specified in the rules.

CHAPTER 3

Members and their Rights and Liabilities

19. Eligibility for membership :-

(2-A) Any person duly qualified for admission as a member under the provisions of this Act, the rules and the bye-laws, may apply through the Registrar for membership of such societies and in such forms as may be prescribed and such person shall be deemed to have been admitted as a member of the society from the date of receipt of the application in the office of the society.

(2-B) Notwithstanding anything in this Act, the Registrar may either suo motu at any time or on any application by the society or any aggrieved person made within fifteen days from the date mentioned in sub-section (2-A) and after giving an opportunity to the person concerned and recording the reasons therefor declare such person as not eligible for membership of the society within thirty days from the date of receipt of the application by the Registrar.

(3) The general body of a society shall not, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this Act and its bye-laws. Where admission is so refused, the decision, with reasons therefor, shall be communicated by registered post to such person within fifteen days of the date of the decision, or within sixty days from the date of his application for membership, whichever is earlier : x x x x x

(4) The name of every person admitted or deemed to have been admitted as a member of the society shall be entered in such records of the society as may be prescribed and the member so admitted shall be issued a photo identity card.

20. . :-

x x x x

21. Disqualification for membership of society :-

21A. Disqualification for membership of committee :-

(1-B) A member of the legislative Assembly of the State, a member of either House of the Parliament, Mayor of a Municipal Corporation, Chairman of a Municipal Council, elected member or Chairman of a Zilla Parishad or elected member or President of Mandal Parishad or Sarpanch of a Gram Panchayat shall be eligible to be elected as the member of the committee; but he shall cease to be a member of the Committee unless within fifteen days from the date of

becoming a member of the Committee he ceases to be a member of the Legislative Assembly of the State or a member either House of the Parliament, Mayor of a Municipal Corporation, Chairman of a Municipal Council, elected member or Chairman of a Zilla Parishad or elected member or President of a Mandal Parishad or Sarpanch of a Gram Panchayat by resignation or otherwise; and if a member of the Committee is subsequently elected to any one of the aforesaid offices, he shall cease to be the member of the Committee unless within fifteen days from the date on which he is elected to any one of such offices he ceases to hold such office by resignation or otherwise.

21AA. Cessation of Membership of Committee :-

(2) A member of the Committee found responsible for wilfully or knowingly sanctioning benami loans or against whom an order of surcharge is issued under Section 60 shall cease to hold office and shall also be ineligible to be elected as member of the Committee for a period of six years from the date of cessation.

(3) Where a society incurs loss in any Co-operative year as a result of misuse or misapplication of share capital, the President and the Secretary of such society shall cease to hold office as such.

(4) Where the Committee fails to prepare and submit or cause to be prepared and submitted within the period specified in sub-section (3) of Section 50 of the Annual accounts of the Society to the Chief Auditor, the members of the Committee shall on the expiration of the period aforesaid cease to hold such office.

(5) Where the committee of a society fails to place the inquiry report under Section 51 or inspection report under Section 52 or Section 53 or Audit Report or Special Audit Report under Section 50 along with the findings of the Registrar before the General Body within a period of thirty days from the date of the receipt of the report by the society, the members of the committee shall, on the expiration of the said period, cease to hold such office.

(6) Where the committee fails to initiate action for prosecution of any member or servant of a society who may have incurred criminal liability under the provisions of this Act or any other law for the time being in force, the members of the committee shall cease to hold such office.

21B. Cessation of membership and reinstatement :-

(1) Where a member of the committee absents himself from three consecutive meetings of the committee, he shall cease to be a member of the committee. He may, however, be reinstated by the committee in the manner, prescribed but such reinstatement shall not be made more than once during the term of the committee.

(2) Where a member of the committee ceases to be such member by reason of his incurring the disqualification under clause (b) of sub-section (1) of Section 21-A or where a delegate of a society ceases to be such delegate by reason of his incurring the disqualification under Item (ii) of the proviso to sub-section (1) of Section 21-A, he shall not be entitled for being chosen against a member of the committee on the removal of the said disqualification, unless a period of one year has elapsed from the date of such cessation.

21C. . :-

x x x x x

22. Right of members to services by society and application for redress :-

(1) Every member on his admission as such member shall be entitled to the services available to the members of the society and such services shall, subject to availability, be rendered to him on his application to the committee.

(2) If any member is refused any service, or where the decision of the committee on his application for services is not communicated to him within a period of thirty days from the date of such application, he may make an application to the Registrar for redress, within thirty days from the date of receipt of the decision of refusal, or within sixty days from the date of application to the society, as the case may be.

(3) If the Registrar is satisfied that the refusal of any service is unreasonable, improper or discriminatory, he may after giving the committee an opportunity of making its representation by order, direct the committee to render the service.

23. Expulsion of Members :-

(1) Any member who has acted adversely to the interests of the society may be expelled upon a resolution of the general body passed at its meeting by the votes of not less than three-fourths of

the total members of the society.

(2) No member shall be expelled under sub-section (1) without being given an opportunity of making his representation to the General Body. A copy of the resolution expelling the member shall be communicated to the member.

24. Members not to exercise rights till payments are made :-

No member shall, save as otherwise provided in Section 31, exercise the rights of a member unless he has made such payment to the society, in respect of membership or has acquired such interest in the society, as may be specified in the rules made in this behalf or as may be specified in the rules made in this behalf or as may be specified in the bye-laws.

25. Vote and manner of its exercise :-

(3) In the case of equality of votes, the chairman of the meeting shall have a second or casting vote.

(4) x x x x

26. Restriction on holding of shares :-

Where the liability of the members of a society is limited, no member other than a society or the Government, shall hold more than such portion of the share capital of the society, subject to a maximum of one-fifth thereof, as may be prescribed, xxxxx:

Provided that the Government may by notification in the Andhra Pradesh Gazette, fix in respect of any society or class of societies, a higher maximum than one-fifth of the share capital x x x

27. Restrictions on transfer of shares or interest :-

(2) Notwithstanding anything in sub-section (1), no member of a financing bank or a federal society shall transfer his share or interest in such bank or society to an individual member, his heir or legal representative.

28. Transfer of interest on death of a member :-

(2) Notwithstanding anything 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 as ascertained in the manner prescribed.

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

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

29. Liability of past member and estate of deceased member :-

(2) Where a society is ordered to be wound up under Section 64, the liability of a past member who ceased to be a member or of the estate of a deceased member who died, within two years immediately preceding the date of the order of winding up, shall continue until completion of the liquidation proceedings but such liability shall be limited only to the debts of the society as they existed on the date of cessation of membership or death, as the case may be.

CHAPTER 4

Management of Societies

30. Ultimate authority of a society :-

30A. Constitution of Supervisory Council :-

The General Body of every society may constitute a Supervisory Council to ensure that the affairs of the society are conducted in accordance with the principles of co-operation, provisions of the Act, rules, bye-laws and resolutions of the General Body. The Supervisory Council shall consist of three members from the General Body other than the members of the Managing Committee and such other members as may be prescribed. The Supervisory Council shall aid and assist the General Body in general and exercise such powers and functions as may be prescribed.

31. Constitution of committees :-

(1-A) Notwithstanding anything in this Act or in the bye-laws of the societies referred to in clause (b) of sub-section (1), the Government may, for the purpose of effective implementation of the reservation specified in clause (b), by rules made in this behalf, provide for the constitution of, and election to, the committees of such societies and all other matters relating thereto, including the division of constituencies, allocation of seats and the choice of

persons belonging to weaker sections of the society as members of the committee of any central society from amongst the members of the committees of the societies affiliated to such central society, by the members of the central society in cases where no such person is a member of the general body of such central society.

(5) In the case of such classes of co-operative societies as may be prescribed, the President shall subject to the provisions of Section 21-A be elected by the members of the General Body from among themselves in the manner prescribed. The President elected under this sub-section shall be an ex-officio member of the Committee.

31A. Powers and functions of the committee :-

The committee of a society shall, subject to the provisions of the Act, rules, bye-laws and resolutions of the General Body, exercise the following powers and functions, namely

- (1) recommend the admission of members to General Body;
- (2) recommend on allotment of shares to members and transfer of shares to General Body;
- (3) recommend removal of the members disqualified under Section 21;
- (4) recommend removal of any of the committee members disqualified under Sections 21-A, 21-AA, 21-B and reinstatement of a committee member who ceased to be such member of the committee under Section 21-B and place the reports before the General Body;
- (5) raise funds in the form of loans or deposits and invest them;
- (6) provide services or facilities including sanction of loans and advances to the members on a specific recommendation of the Chief Executive Officer on the basis of the date of admission of such members;
- (7) sanction expenditure which is necessary for the business of the society subject to the provisions of the annual budget;
- (8) conduct elections in the manner specified in the bye-laws to the office of the members of the committee before the expiry of the term;
- (9) conduct general meetings as prescribed in the Act;

- (10) cause the audit of the accounts of the society within the time prescribed and place the audit report before the General Body;
- (11) decide matters connected with the day to day management of the society;
- (12) fix the staffing pattern, qualifications, pay scales and other allowances to the employees of the society, subject to the availability of the administrative and contingent fund and approval of the General Body and Registrar;
- (13) place the reports of inquiry under Section 51 or inspection under Section 52 or under Section 53 or special audit report under Section 50 before the General Body within the time prescribed;
- (14) rectify the defects noted in the reports of audit under Section 50 or inquiry under Section 51 or inspection under Section 52 or under Section 53;
- (15) suspension of any officer or servant of the society under Section 59;
- (16) initiate action for prosecution of any person who may have incurred criminal liability under the provisions of this Act or any other law for the time being in force;
- (17) prepare the list of defaulters and publish the same as prescribed and place before the General Body;
- (18) review all outstanding loans and ensure coverage of legal action on all overdue loans and advances;
- (19) give information on the affairs of the society to the Supervisory Council, the Registrar, Financing Bank and the Federal Society to which the society is affiliated;
- (20) place the report on the loans sanctioned to and the business done by the members of the committee or their near relatives with the society, defaulters thereof and action to recover them before the General Body;
- (21) place annual report, annual financial statement, annual plan and budget before the General Body;
- (22) ensure co-operative education of the members, officers and the servants of the society;

32. General meetings and committee meetings :-

(1-A) If the General meeting is not convened in accordance with the provisions of sub-section (1), the members of the Committee shall cease to hold office on the day next after the 1st day on which the general meeting should have been held, and it shall be competent for the Registrar, notwithstanding anything in the bye-laws, to call such general meeting in such manner as may be prescribed:

(4) The requisition referred to in sub-section (2) or sub-section (3) shall specify the purpose for which the meeting is to be called, and shall be signed by the requisitionists and delivered in person or by registered post at the registered address of the society.

(6) Notwithstanding anything in this Chapter, if at any time the Government is satisfied that circumstances exist which render it necessary for them to call a general meeting for election of members of the committee to be held in accordance with the provisions of this Act, the Government or any person authorised by them in this behalf shall have power to call such meeting and to determine the place, time and the period of notice of such meeting. If at such meeting there is no quorum, the meeting shall stand adjourned to such other date and time as the Government or person authorised may determine. If at the adjourned meeting also there is no quorum for holding the meeting, the members present shall constitute the quorum. When the meeting is called by the Government it shall be presided over by a person appointed by them in that behalf and if the meeting is called by the person authorised by the Government, the person so authorised shall preside at such meeting; but the person presiding shall not be entitled to vote at the meeting so called or adjourned.

32A. . :-

x x x x x

32B. Devolution of the powers and functions of the President or Vice-President :-

If the President ceases to hold office under sub-section (3) of Section 32 or if he has been continuously absent from the headquarters for more than fifteen days, or is incapacitated for more than fifteen days, his powers and functions on such cessation or during such absence or incapacity shall devolve on the Vice-President.

33. Nominee of the Government on the Committee :-

(2) A member nominated to the committee under sub-section (1), shall, hold office during the pleasure of the Government or the specified authority, as the case may be.

(3) Any nominee of the Government may refer to the Government, through the Registrar, any resolution the execution of which, in the opinion of the nominee, is likely to be prejudicial to the interests of the Government and the decision of the Government thereon shall be final and binding on the committee: Provided that the Government may suspend the execution of any such resolution pending the exercise of their powers under this sub-section.

34. Supersession of the committee :-

(1) If in the opinion of the Registrar, the committee is not functioning properly or wilfully disobeys or fails to comply wilfully with any lawful order or direction issued by the Registrar under this Act or the rules, he may, after giving the committee an opportunity of making its representation, by order supersede the committee from a specified date; and appoint either a person (hereinafter referred to as the special officer) or a committee of two or more persons (hereinafter referred to as the managing committee) 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 aggregate period shall not exceed three years.

(2) Such order shall take effect from the date specified therein unless it is stayed by the Government. Where such order is reversed by the Government, the special officer or the managing committee shall forthwith handover the management of the society to the committee.

(3) The special officer or the managing committee shall, subject to the general control of the Registrar and to such directions 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.

(4) The Registrar may fix the remuneration payable to the special officer or the managing committee. The amount of remuneration so fixed and such other expenditure incidental to the management of the society during the period of the supersession as may be approved by the Registrar shall be payable from the funds of the society.

(5) At the expiration of the period of appointment of the special officer or the managing committee, the Registrar shall arrange for the calling of a general meeting for the election of a new committee in accordance with the provisions of sub-section (5) of Section 32.

(6) Where a society is indebted to any financing bank, the Registrar shall, before taking any action under sub-section (1) in respect of that society, consult the financing bank.

34A. Motion of no-confidence in the President and Vice-President of the committee :-

(1) A motion expressing want of confidence in the President or the Vice-President of a Committee may be made in accordance with the procedure laid down in the following sub-sections.

(4) The quorum for such a meeting shall be majority of the total number of members of the Committee and the Registrar shall preside at such meeting. If within half an hour after the time appointed for the meeting the Registrar is not present to preside at the meeting, the meeting shall stand adjourned to the next day.

(5) If the Registrar is unable to preside at the meeting he may after recording his reasons in writing adjourn the meeting to the next day to be presided over either by himself or by an officer authorised by him in his behalf. The person authorised under this sub-section shall be deemed to be the Registrar for purposes of sub-sections (7), (10) and (11).

(6) Save as provided in sub-sections (3), (4) and (5) a meeting convened for the purpose of considering a motion under this section shall not for any reason be adjourned.

(7) As soon as the meeting convened under this section commences the Registrar shall read to the Committee the motion for the consideration of which the meeting has been convened and declare it to be open for debate.

(8) No debate on the motion under this section shall be adjourned.

(9) Such debate shall automatically terminate on the expiration of two hours from the time appointed for the commencement of the meeting if it is not concluded earlier. On the conclusion of the debate or on the expiration of the said period of two hours, whichever is earlier, the motion shall be put to vote.

(10) The Registrar shall not speak on the merits of the motion and he shall not be entitled to vote thereon.

(11) If the motion is carried with the support of not less than two thirds of the total number of members of the Committee, the Registrar shall by order remove the President or as the case may be, the Vice-President and the resulting vacancy shall be filled in the manner prescribed.

(12) If the motion is not carried by such a majority as aforesaid or if the meeting could not be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same President or as the case may be, the Vice-President shall be made until, after the expiration of one year from the date of the meeting.

(13) No notice of a motion under this Section shall be made within one year of the assumption of office by a President or the Vice-President.

(14) The provisions of this section shall not apply in respect of President of any co-operative society elected by the members of the general body from among themselves.

CHAPTER 5

Rights and Privileges of Societies

35. First charge of a society on certain movable assets of a member for the amount due by him :-

(1) Notwithstanding anything in any law for the time being in force, but subject to any claim of the Government in respect of land revenue, any debt or other amount due to a society by any member including a past or deceased member shall be a first charge upon the crop or other agricultural produce, cattle fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials owned by such member.

(2) Such charge shall be available even as against any amount recoverable by the Government as if it were an arrear of land revenue or any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883, subsequent to the incurring of the debt or the liability for the other amount due to the society referred to in sub-section (1).

(3) No person shall transfer any property which is subject to such

charge except with the previous permission in writing of the society which holds the charge and any transfer, without such permission shall, notwithstanding anything in any law for the time being in force, be void.

36. Charge on the immovable property of a member for the loans borrowed :-

(1) Notwithstanding anything in this Act or in any law for the time being in force, but subject to any claim of the Government in respect of land revenue and to any claim of an Financing Bank/Primary Agricultural Co-operative Society in respect of its dues, in either case, whether prior in time or subsequent any member owning any land or having interest in any land as a tenant, who applies to a society for a loan, shall make a declaration in the form prescribed creating a charge in favour of the society, on the land or interest specified in the declaration, for the payment of the loan to be granted to him by the society in pursuance of the application and for all future advances, if any required by him, which the society may grant to him, subject to such maximum as may be determined by the society, together with the interest on such amount of the loan and advances.

(2) Such declaration may be varied or cancelled at any time by the member with the consent of the society.

37. Deduction from salary or wages :-

(1) Notwithstanding anything in any other law for the time being in force, a member of a society may execute an agreement in favour of that society providing that his employer shall be competent, on a requisition in writing from the society, to deduct every month from the salary or wages payable to him such amount as may be specified in the requisition towards the amount due by him to the society in respect of any debt or other amount due by the member to the society, from time to time.

(3) The employer shall maintain such registers as may be prescribed.

(4) The provisions of this section shall apply to all such agreements of the nature referred to in sub-section (1) as are in force at the commencement of this Act.

(5) If such employer fails to comply with any of the provisions of

this section, he shall be punishable with fine which may extend to five hundred rupees.

38. Charge and set-off in respect of shares or interest of members in the capital, etc., of a society :-

A society shall have a charge upon the share or interest in the capital, deposits, dividend, bonus or profits payable to a member or a past member or the estate of a deceased member in respect of any debt or other amount due by him to the society and may set off any sum credited or payable to such member against payment of any such debt or other amount due: Provided that no financing bank to which a society is affiliated shall have a charge upon or set-off against any debt due from such society :__

(i) any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society; or

(ii) any sum invested in it by the society as provident fund of its employees established under Section 49.

39. Share or interest, etc., not liable to attachment :-

The share or interest, of a member in the capital of a society or of an employee in the provident fund established under Section 49 or the contribution made by a member or past member or from the estate of a deceased member or by any Officer or former Officer under Section 66, or the reserve fund of a society or the bad debts reserve of a Society or the provident fund of its employees invested under Section 46, shall not be liable to attachment or sale, under any decree or order of a court, in respect of any debt or liability incurred by such member, or officer; and an official assignee or a receiver under any law relating to insolvency shall not be entitled to or have any claim on such share, interest, contribution or fund.

40. Right to set-off where a registered society purchases immovable property at a sale under the Andhra Pradesh Revenue Recovery Act, 1864, for any amount due to it :-

(1) Where under this Act or any rule made thereunder, any amount due to a society from any person is recoverable as an arrear of land revenue and the immovable property of such person is brought to sale under the provisions of the Andhra Pradesh Revenue Recovery Act, 1864 and the society is the purchaser at such sale, the provisions of Section 36 of the said Act shall apply thereto subject to the modification that for the third and fourth clauses thereof, the following clauses were substituted, namely "Third" The sum due to

the purchaser shall be set-off, in whole or in part, against the purchase money and the remainder, if any, of the purchase money shall be paid to the Collector or other officer empowered by the Collector in that behalf within thirty days of the date of sale." "Fourth" Where the purchaser refuses or fails to make the payment of the remainder, if any, of the purchase money the amount of loss or expense consequent on such refusal or failure shall be a charge on the property purchased, and shall be recoverable from such purchaser in the same manner as arrears of land revenue. The amount so recovered shall be paid to the owner of the immovable property."

(2) Where a sale is conducted under Section 71, Section 103 or Section 104 by the Registrar or any other person authorised by him, the provisions of sub-section (1) shall apply as if it were a sale for the recovery of an arrear of land revenue.

41. Exemption from certain taxes, duties and fees :-

The Government, if in their opinion it is necessary in the public interest so to do, may by notification in the Andhra Pradesh Gazette, and subject to such restrictions and conditions as may be specified in such notifications, reduce or exempt in respect of any class of societies -

(a) the taxes on professions, trades, callings and employments;

(b) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to business of such society or any class of such instruments or decisions or orders of the Registrar or arbitrator or liquidator under this Act, are respectively chargeable; or

(c) any fee payable under the law relating to registration for the time being in force or court fees.

42. Exemption from compulsory registration of instruments :-

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

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

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

(c) any endorsement upon or transfer of any other debenture issued by any such society.

CHAPTER 6

Properties and Funds of Societies

43. State aid to Societies :-

The Government may, subject to the rules,-

(a) give loans or advance moneys to a society;

(b) subscribe to the share capital of a society;

(d) guarantee the repayment of principal and payment of interest on debentures issued by a society;

(e) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government;

(f) guarantee the repayment of principal and payment of interest on loans and advance of moneys to a society;

(g) guarantee the repayment of deposits received by a society and payment of interest on such deposits subject to such terms and conditions as may be laid down by the Government; and

(h) give financial aid in any other form including subsidies to any society.

44. Funds other than net profits not to be divided among members :-

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 from the funds on such scale as may be prescribed for any service rendered by him to the society;

Provided further that a President of the Society may be paid honorarium from the funds of the Society at such rate as may be prescribed.

44A. Constitution and utilisation of Co-operative Education Fund :-

(1) There shall be constituted a Co-operative Education Fund for the purpose of promotion of co-operative movement in the State and education of the members and training of the officers of the co-operative societies on co-operative principles and management practices. All contributions made by the societies form out of their profit in a year, grants-in-aid from the Government of India or the State Government and donations by any persons, shall be credited to the Co-operative Education Fund.

(2) Every society shall ensure the education of its members and trainings of its officers.

45. Disposal of profits :-

(1) A society shall, subject to such limits as may be prescribed, credit one per cent of gross profit or gross income in a year, as the case may be, to the Co-operative Education Fund.

(2) A society shall credit an amount not being more than 30 per cent of gross profit or 2 per cent of working capital, whichever is less, in a year to the administrative and contingent fund towards pay and other allowances of its employees and contingencies in the manner prescribed.

46. Investment of funds :-

A society may by a resolution of the General Body invest or deposit its funds which are not immediately required for business of the society

(a) in the Postal Savings Banks;

(b) in any of the securities specified in Section 20 of the Indian Trusts Act, 1982.

(c) in the shares or securities of any other society;

(d) with any Nationalised Bank or Scheduled Bank.

47. Restriction on borrowings and loans :-

(1) A society shall x x x receive deposits and raise loans only to

such extent and under such conditions as may be specified in the bye-laws.

(2) A society shall not grant a loan to any person other than a member but it may grant loans to another society with the general or special sanction of the Registrar or to its employees on such terms as may be specified in the bye-laws: Provided that a society may make a loan to a depositor on the security of his deposit.

48. Restrictions on other transactions with non-members :-

(1) Save as otherwise provided in Section 47, the transactions of a society, with persons other than members shall be subject to such restrictions, as may be prescribed.

(2) Every Primary Weavers' Co-operative Society shall produce cloth only through the members of the society by supplying raw materials to the members and receiving back cloth or fabric or product and shall not produce or purchase cloth or fabric or product from any source other than the members of the society either for sale on its own account or for sale through Federal Society or others. But it may purchase cloth or fabric or product of other weavers' co-operative societies with general or special sanction of Registrar for sale on its own account to consumers or others.

49. Provident Fund :-

(1) A society may, subject to the rules, establish a contributory provident fund for the benefit of its employees to which shall be credited all the contributions made by them and the society in accordance with its bye-laws.

(3) Notwithstanding anything in this section a provident fund established, by a society to which the Employees Provident Fund Act, 1952, is applicable, shall be governed by that Act.

CHAPTER 7

Audit, Inquiry, Inspection and Surcharge

50. Audit :-

(2) Every person who is, or has at any time bear, an officer or employee of the society and every member including a past member shall furnish such information in regard to any transaction, working and affairs of the society as the Chief Auditor or such person authorised by him may require.

(3) The committee shall prepare and submit or cause to be prepared and submit within such period not exceeding six months as may be prescribed for different classes of societies after the end of the co-operative year, to the Chief Auditor or the person authorised by him as the case may be, such statements and reports as may be prescribed for the purpose of the audit of accounts of the society for the Co-operative year.

(4) The audit shall be completed within a period of six months from the close of the Co-operative year of the registered society concerned and such other further period not exceeding six months as the Chief Auditor may permit for reasons to be recorded in writing.

51. Inquiry :-

The Registrar, may of his own motion and shall, on the application of a society to which the society concerned is affiliated, or of not less than one third of the members of the committee, or of not less than one fifth of the total number of members of the society, hold an inquiry or direct some person authorised by him by an order in this behalf to hold an inquiry into the constitution, working and financial condition of a society. Such inquiry shall be completed within a period of four months and the report of inquiry along with the findings of the Registrar thereon shall be communicated to the managing committee of the society. It shall be the responsibility of the managing committee to place the inquiry report before the General Body or Special General Body convened for the purpose for its information, within a period of one month from the communication of the inquiry report by the Registrar. The Registrar shall be competent to initiate action under the provisions of this Act, if the committee fails to take action as aforesaid :

Provided that notwithstanding anything contained in this Act and the Rules made thereunder, the bye-laws of a society and the action of the society in placing the inquiry report alongwith the findings of the Registrar, the Registrar shall not be precluded from taking follow up action as may be required on the basis of inquiry report;

Provided further that such action shall not be nullified even if the General Body of the society passes a resolution negating the findings of the inquiry; Provided also that the Registrar may for reasons to be recorded in writing extend the period of four months for completion of inquiry for a further period not exceeding two

months.

Explanation For the purposes of this section, "Managing committee" includes a Committee constituted under Section 31(1)(a), and a person-in-charge appointed under Section 33(7)(a) and also a Special Officer appointed under Section 34 of the Act.

52. Inspection :-

53. Inspection of books by financing bank or federal society :-

A financing bank or a federal society shall have the right to inspect the books of any society which is indebted to it. The inspection may be made either by an officer of the financing bank or federal society authorised by the committee of such bank or society or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so authorised to conduct the inspection shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by such bank or society. The Officer or Member so authorised to conduct the inspection shall prepare a report of inspection which shall be communicated to the Managing Committee of the society together with the findings of the Registrar thereon. It shall be the responsibility of the Managing Committee to place the Inspection Report together with the findings of the Registrar before the General Body or Special General Body convened for the purpose for its information, within a period of one month of the communication of the Inspection Report by the Registrar. The Registrar shall be competent to initiate action under the provisions of this Act, if the Committee fails to take action as aforesaid :

Provided that such action shall not be nullified even if the General Body of the Society passes a resolution negating the findings of the Registrar; Provided further that notwithstanding anything contained in this Act and Rules made thereunder the bye-laws of a society and the action of the society in placing the Inspection Report alongwith findings of the Registrar, the Registrar shall not be precluded from taking follow-up action as may be required on the basis of Inspection Report.

Explanation For the purposes of this Section, "Managing Committee" includes a Committee constituted under Section 31(1) (a), person-in-charge appointed under Section 32(7)(a), and also a Special Officer appointed under Section 34 of this Act.

54. Rectification of defects in audit, inquiry or inspection :-

The Registrar shall draw the attention of the society to the defects noticed in every audit conducted under Section 50 or inquiry held under Section 51 or inspection made under Section 52, or Section 53 and if the society is affiliated to another society, also the attention of that other society and may make an order directing the society or its officers to take such action and within such time as may be specified therein to remedy such defects.

55. Power to summon and examine documents and persons etc :-

(1) The Registrar, or the Chief Auditor or any person authorised by either of them to exercise any powers under this Act, shall at all reasonable times, have free access to the books, accounts, documents, records, securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession of, or responsible for the custody of any such books, accounts, documents, records, securities, cash or other properties, to produce all or any of them at any place at the headquarters of the society or any branch thereof.

55A. Maintenance of Accounts and Books etc :-

(1) The Chief Executive Officer of every society by whatsoever designation he is called, and the President of the society jointly and severally or the President of such society if there is no such Chief Executive Officer for that society, shall be bound to keep, maintain or cause to maintain, sign and authenticate such accounts and books relating to that society in such manner as may be prescribed and shall be responsible for the correct and up-to-date maintenance and authentication of such accounts and books and for producing or causing production of the same when called for in connection with audit, inquiry, inspection or election.

(2) If such accounts and books are not maintained the Registrar may direct the person who is responsible to bring the accounts and books upto date to make them upto date, and he shall be bound to comply with such direction within the period specified therein.

(3) If the person fails to comply with the direction under sub-section (1) the Registrar may suspend such person for such period as he may consider necessary and authorise any person to take action for bringing such accounts and books upto date at the expenses of the society and such expenses shall be recoverable from the society as if it were an arrear of land revenue.

(4) Where the Registrar takes action under sub-section (3) the Registrar may call upon the person concerned whom he considers to be responsible for not complying with the direction made under sub-section (2) and after giving such person an opportunity of being heard, may require him to pay the society the expenses paid or payable by it to the Government as a result of his failure to take action.

(5) The Chief Executive Officer of the society or the President where there is no such Chief Executive Officer for that society shall be the custodian of all books of account of the society.

56. Cost of inquiry and inspection :-

(1) Where an inquiry is held under Section 51 or an inspection is made under Section 52, the Registrar may, after giving the parties an opportunity of making their representations, apportion the costs, or such part of the costs as he may think fit, between the society, the members or creditors demanding an inquiry or inspection, the officers or former officers of the society. Costs may also be awarded by the Registrar to the financing bank or federal society in the case of inspection under Section 53 by such bank or society

(2) Any amount awarded by way of costs under sub-section (1) may be recovered as if it were an arrear of land revenue.

57. Society to pay certain expenses :-

Every society shall pay to the Government such amount as may be determined in the prescribed manner in respect of any special or additional staff employed at the request of the society by the Government for the purpose of the society.

58. Payment of fees to the Government for services rendered to a society, etc. :-

Every person shall pay to the Government such fees, as may be prescribed, for services rendered by the Government to him in respect of audit, execution or arbitration proceedings, or any other prescribed manner.

59. Suspension of officer or servant of society :-

(1) Where in the course of an audit under Section 50 or an inquiry under Section 51 or an inspection under Section 52 or Section 53, it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for mis-appropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion there is prima facie evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of the society, direct the committee pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him, but not retrospectively.

(2) On receipt of such direction, the committee shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

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

60. Surcharge :-

(2) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land revenue.

(3) This section shall apply notwithstanding that such person or officer or servant may have incurred criminal liability by this Act.

CHAPTER 8

Settlement of Disputes

61. Disputes which may be referred to the Registrar :-

(2) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a society, such question shall be decided by the Registrar.

(3) Every dispute relating to, or in connection with, any election to

a committee of a society shall be referred for decision to the Tribunal having jurisdiction over the place where the main office of the society is situated, whose decision thereon shall be final.

(4) Every dispute relating to, or in connection with any election shall be referred under sub-section (3) only after the date of declaration of the result of such election.

62. Action to be taken by the Registrar on such reference :-

(2) Where the reference relates to any dispute involving immovable property, the Registrar or such person or arbitrator may order that any person be joined as a party who has acquired an interest in such property subsequent to the acquisition of interest therein by a party to the reference and any decision that may be passed on the reference by the Registrar or the person or the arbitrator aforesaid, shall be binding on the party so joined as if he were an original party to the reference.

(3) The Registrar may, by order for reasons to be recorded therein, withdraw any reference transferred under clause (b) of sub-section (1) or referred under Clause (c) of that sub-section and may elect to decide the dispute himself or transfer it to any other person under clause (b) of sub-section (1) or refer it to any other arbitrator under clause (c) of that sub-section.

(4) The Registrar, such person or arbitrator shall decide the dispute in accordance with the provisions of this Act and the rules and bye-laws and such decision shall, subject to the provisions of Section 76, be final. Pending final decision on the dispute, the Registrar, such person or arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interest of justice.

63. Powers of financing bank to proceed against members of a society for recovery of moneys due to it from such society :-

(1) If a society is unable to pay its debts to a financing bank by reason of its members committing default in the payment of the moneys due by them, the financing bank may direct the committee of such society to proceed against such members under Section 61 or Section 70, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the financing bank itself may proceed against such

members under Section 61 or Section 70, in which case, the provisions of this Act, the rules or the bye-laws shall apply as if all references to the society or its committee in the said provisions were references to the financing bank.

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

CHAPTER 9

Winding up and cancellation of Registration of Societies

64. Winding up of Societies :-

(1) If the Registrar, after an inquiry has been held under Section 51 or an inspection has been made under Section 52 or on receipt of an application made by not less than two-thirds of the members, is of opinion that the society ought to be wound up, he may after giving the society an opportunity of making its representation, by order direct it to be wound up.

65. Appointment of liquidator :-

(1) Where the Registrar has made an order under Section 64 for the winding up of a society, he may appoint a liquidator for that purpose and fix his remuneration.

(2) On the appointment of a liquidator, the property, assets, effects and actionable claims or liabilities of the society as on the date of appointment shall vest in or devolve on the liquidator. He shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of, or damage to, such property, assets, effects and actionable claims.

(3) Where an order of winding up of a society is set aside in appeal the property, assets, effects and actionable claims or liabilities of the society as on the date of such setting aside shall revest in or devolve on the society.

66. Power of the liquidator :-

(2) Any sum ordered under this section to be recovered as a contribution to the assets of a society or as costs of liquidation may be recovered, on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land

revenue.

(3) Save as provided in sub-section (2), orders made under this section shall, on application, be enforced by any civil Court having local jurisdiction in the same manner as a decree of such Court.

(4) The liquidator shall continue to exercise his powers until the affairs of the society are completely wound up, when he shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

67. Restriction on alienation of property by a member of a society under winding up :-

Where a society has been ordered to be wound up under Section 64, no member shall alienate his property movable or immovable, from the date of the order of winding up and until after expiration of fifteen days from the date on which the order of winding up takes effect. Any alienation of the property made by a member in contravention of this section is voidable at the option of the liquidator :

Provided that the provisions of this section shall not apply to any member who furnishes adequate security to the satisfaction of the liquidator.

68. Cancellation of registration of society :-

Where the affairs of a society have been completely wound up, after considering the report of the liquidator under sub-section (4) of Section 66, the Registrar shall by order in writing, cancel the registration of the society. The society shall cease to exist as a corporate body from the date of such order.

69. Restoration of a society wound up :-

Where in the opinion of the Registrar, a society which has been ordered to be wound up may be restored to a committee constituted in accordance with the provisions of this Act, the rules and bye-laws, he may, at any time, before the affairs of the society have been completely wound up, cancel or withdraw the order of winding up and direct the liquidator to constitute a committee in accordance with the provisions of this Act, the rules and bye-laws and handover the management of the affairs of the society to such committee. The property, assets, effects and actionable claims or liabilities of the society as on the date of such cancellation or withdrawal shall revert in, or devolve on, the society.

69A. Termination of liquidation proceedings :-

(1) The winding up proceedings shall be closed within a period of three years from the date of the order of winding up and after the expiry of the said period of three years it shall be deemed that the liquidation proceedings have been terminated, and the Registrar shall pass an order terminating the liquidation proceedings.

(2) On the termination of the liquidation proceedings the liquidator shall make a report to the Registrar.

69B. Disposal of surplus assets :-

Surplus assets as shown in the final report of the liquidator of a society which has been wound up shall be utilised for such purposes as may be specified in the bye-laws. Where the society has no such bye-laws, the surplus assets shall vest in the Registrar who shall hold it in trust and shall transfer it to the reserve funds 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 is registered within a period of three years of the cancellation of the registration of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus to the Federal society with similar objects or to the Andhra Pradesh State Co-operative Union, or for any charitable purposes as defined under the Charitable Endowments Act, 1890. (Central Act IV of 1890).

CHAPTER 10

Execution of Decisions, Decrees and Orders

70. Power of the Registrar to recover certain amount by attachment and sale of property and execution of orders :-

70A. Execution of non-monetary orders etc. :-

Every order or decision of a non-monetary nature made under the provisions of Section 62, Section 76, Section 77 or Section 78, shall be executed by the Civil Court having jurisdiction, as if such order or decision is a decree of that Court on a certificate issued by the Registrar or any person authorised by him in this behalf.

71. Recovery of debts :-

(1) Notwithstanding anything in this Act or in any other law for the time being in force and without prejudice to any other mode of recovery which is being taken or may be taken, the Registrar may,

on the application made by a society or financing bank or federal society as the case may be, for the recovery of arrears of any such advanced to any of its members and on furnishing a statement of accounts in respect of the arrears and after making such inquiry as he deems fit, issue a certificate for the recovery of the amount stated therein to be due as arrears.

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

(3) A certificate issued 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 certificate shall be executed in the manner specified in sub-section (2) of Section 70.

72. Registrar or person authorised by him to be a Civil Court for certain purposes :-

The Registrar or any person authorised by him in this behalf shall be deemed, when exercising any power under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery, or to take steps in aid of such recovery, to be a Civil Court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908.

73. Attachment of property before decision or order :-

If the Registrar is satisfied on application, report, inquiry or otherwise that any person with intent to delay or obstruct the enforcement of any decision or order that may be made against him under the provisions of this Act,-

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

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or liquidator, as the case may be, he may unless adequate security is furnished direct the attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court.

74. Recovery of amounts due to Government :-

(1) Any amount due from a society or from an officer, former officer or members or past or deceased member of a society as such to Government including any costs awarded to Government under this Act may on a certificate issued by the Registrar in this behalf, be recovered by the Registrar or any other person authorised by him in this behalf or by the Collector in the same manner as arrears of land revenue.

CHAPTER 11

Appeal, Revision and Review

75. Constitution of Co-operative Tribunal :-

(1) The Government may, for the purpose of this Act, by notification constitute as many Tribunals as may be necessary for such area or areas as may be specified in the notification.

(2) The Tribunal shall consist of a Chairman and not more than two other members to be appointed by the Government.

(3) The Chairman shall be a person who is or has been a judicial officer not below the rank of a District Judge and a member shall be a person, who holds or has held a post not below the rank of Additional Registrar of Co-operative Societies.

(4) The Government may, from time to time, likewise reconstitute any Tribunal constituted under sub-section (1) or may abolish such Tribunal.

(5) The Quorum to constitute a meeting of a Tribunal and the manner of taking decision thereat and the procedure and conduct of its business shall be such as may be prescribed.

(6) No act or proceeding of any Tribunal shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect, in the constitution or reconstitution thereof.

76. Appeals :-

(1) Any person or society aggrieved by any decision passed or order made under Section 6, Section 9-A, Section 9-B, Section 9-C, Section 12-A, Section 13, Section 15-A, Section 16, Section 17, Section 19, Section 21, Section 21-A, Section 21-AA, Section 23, sub-section (3) of Section 32, Section 34, Section 34-A, Section 60, Section 62, Section 64, Section 66, Section 70, Section 71, Section 73 and Section 117 may appeal to the Tribunal : Provided that

nothing in this sub-section shall apply to any order of withdrawal or transfer of a dispute under sub-section (3) of Section 62.

(2) On a reference made by the Registrar of Co-operative Societies, the Tribunal shall call for and examine the records of any proceeding which is appealable to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and where 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 fit.

(3) Any appeal under sub-section (1) shall, subject to the other provisions of this Act, be preferred within sixty days from the date of communication to the appellant of the decision, refusal or order complained of but the Tribunal may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within the said period.

(4) In disposing of an appeal under this section, the Tribunal may, after giving the parties an opportunity of making their representations, pass such order thereon as it may deem fit.

(5) The decision or order of the Tribunal on appeal shall be final.

(6) The Tribunal may pass such interim orders pending the decision on the appeal as may deem fit.

(7) The Tribunal may award costs in any proceedings before that authority to be paid either out of the funds of the society or by such party to the appeal as the Tribunal may deem fit.

77. Revision :-

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Registrar or the Government, as the case may be, may suspend the decision or order pending the exercise of his or their power under sub-section (1) in respect thereof.

78. Review :-

(2) Every application for review shall be preferred to the authority which passed the order under Section 76 or Section 77 within such time and in such manner as may be prescribed

(3) The decision or order passed on the application in review shall be final.

(4) The authority competent to pass orders on application for review may pass such interlocutory orders pending the decision on the application for review as that authority may deem fit.

(5) The authority referred to in sub-section (4) may award costs in any proceedings for review to be paid either out of the funds of the society or by such party to the application for review as it may deem fit.

CHAPTER 12

Offences and Penalties

79. Punishment for furnishing false return or information, disobeying summons or other lawful order, requisition, or direction, or for acting in contravention of Section 35 or Section 36 or for failure to produce books etc :-

(2) An offence under clauses (a) to (e) of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees x x x.

79A. Punishment of corrupt practices :-

(2) Every person guilty of a corrupt practice shall be punishable with imprisonment for a term which may extend upto one year or with fine which may extend to rupees five thousand or with both.

80. Prohibition of the use of the word co-operative or its equivalent :-

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with further fine of fifty rupees for each day on which the offence is continued after conviction thereof.

81. Punishment for failure to give effect to decision or order :-

The Committee or any officer or an employee of a society who fails to give effect to, any decision or order under Section 62, or where an appeal against such decision or order has been filed to the order passed by the appropriate appellate authority, such decision or order not being a money decree, shall be punishable with fine

which may extend to five hundred rupees.

82. Punishment for offences not otherwise provided for :-

Any society or any officer or member thereof or any other person contravening the provisions of this Act for which no punishment is expressly provided herein shall be punishable with fine which may extend to fifty rupees.

83. Cognizance of offences :-

(1) No Court inferior to that of a Magistrate of the First Class or a Metropolitan Magistrate shall try any offence under this Act.

(2) Every offence under this Act shall, for the purpose of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), be deemed to be cognizable. (3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar.

83A. . :-

x x x x

83B. Presumption as to commission of offences in certain cases :-

(2) Any member, officer or employee of a society who issues any receipt shall be deemed to have issued the same in the name of the society and shall be responsible to account for the same.

(3) Notwithstanding the criminal liability the member, officer or employee of a society shall be responsible to make good the loss caused to the society by committing such offences and the same shall be recovered as arrears of land revenue by the Registrar or the person authorised by him from the person responsible for causing such loss or his legal heirs or any person who has acquired the properties from such person or with the assistance of such person.

83C. Presumption as to statements :-

Where any member, officer or employee of a society has made a statement during the enquiry under Section 51 or inspection under Section 52 and the statement is recorded by the Registrar or the person authorised by the Registrar in exercise of their powers conferred on them under this Act, the Court shall presume that the statement was so recorded by the Registrar or the person authorised by him as a statement within the meaning of the Indian Evidence Act, 1872.

84. Definitions :-

In the Chapter-

(a) 'Board' means the Board of Directors of Andhra Pradesh State Co-operative Bank Limited; and includes a financing bank or any person authorised by it.

(b) x x x x

(c) ' Financing Bank/Primary Agricultural Co-operative Society' means a co-operative society registered as such or deemed to be registered under this Act, (Act XLIV of 1961). x x x x

(d) 'Trustee' means the Trustee referred to in Section 86.

85. Application of chapter to Financing Bank/Primary Agricultural Co-operative Society :-

The provisions of this Chapter shall apply to Financing Bank/Primary Agricultural Co-operative Society banks advancing loans for the purposes herein enumerated that is to say-

(i) land improvement and productive purposes;

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

(iii) the purchase or acquisition of title to agricultural lands by tenants; or

(iv) the liquidation of debts of agriculturists under the relevant law for the time being in force;

86. Appointment of Trustee and his powers and functions :-

(1) The Registrar, or where the Government appoint any other person in this behalf, such person, shall be the Trustee for the purpose of securing the fulfilment of the obligation of the Andhra Pradesh State Co-operative Bank Limited to the holders of debentures issued by the Board.

(2) The powers and functions of the trustee shall be governed by the provisions of this Act and by the instrument of trust executed between the Andhra Pradesh State Co-operative Bank Limited and the Trustee as modified from time to time, by mutual agreement between the Board and Trustee.

87. Trustee to be a corporation sole :-

The trustee shall be a Corporation sole by the name of the Trustee for the debentures, and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

88. Issue of debentures by the Board :-

(1) With the previous sanction of the trustee, and the Government and subject to such terms and conditions as the Government may impose, the Board may, from time to time, issue debentures of such denominations for such periods as it may deem expedient, on the security of the mortgages held or mortgages partly held and partly to be acquired and other assets transferred or deemed to have been transferred under the provisions of Section 94, by the Primary Agricultural Co-operative Societies to the financing bank and by the financing bank to Andhra Pradesh State Co-operative Bank Limited and other properties of such Bank.

(2) Such debentures may contain a term fixing a period not exceeding ten years from the date of issue during which they shall be irredeemable, reserving to the Board the right to call in at any time any of the debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice in writing.

89. Charge of debenture-holders on certain properties :-

The holders of the debentures shall have a floating charge on-

(a) all such mortgages and assets as are referred to in clause (a) of sub-section (3) of Section 88;

(b) the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee; and

(c) the other properties of the Andhra Pradesh State Co-operative Bank Limited.

90. Guarantee by Government of principal of, and interest on, debentures :-

(1) The principal of, and interest on, the debentures issued under the Andhra Pradesh (Andhra Area) Co-operative Land Mortgage Banks Act, 1934 and those issued under Section 88 shall, in respect of such maximum amount as may be fixed by the Government and subject to such conditions as they may think fit to impose, carry

the guarantee of the Government.

(2) The Government may, subject to the provisions of any Act in that regard, increase the maximum amount of any guarantee under sub-section (1).

(4) Every notification and notice referred to in sub-section (3), shall where the maximum amount of the guarantee is to be restricted, or the conditions subject to which the guarantee was given are to be modified, set forth precisely the scope and effect of the restriction or modification, as the case may be.

91. Other guarantee by Government :-

Where the Andhra Pradesh State Co-operative Bank Limited or Financing Bank/Primary Agricultural Co-operative Society has given a loan to a member for the development of any land in excess of the amount of the loan to which such member would be entitled on the basis of the value of the land as determined in accordance with the principles of valuation approved by the Government, the Government may guarantee for a specified period the repayment of the loan to the extent of the excess.

92. Priority mortgage over certain claims :-

A mortgage created in favour of Financing Bank/Primary Agricultural Co-operative Society shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883 granted subsequent to the creation of the mortgage.

93. Right of Financing Bank/Primary Agricultural Co-operative Society or of the Andhra Pradesh State Co-operative Bank Limited to purchase mortgaged property :-

(1) Notwithstanding anything in any other law for the time being in force, it shall be lawful for Financing Bank/Primary Agricultural Co-operative Society or the Andhra Pradesh State Co-operative Bank Limited to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

(2) Nothing in the Andhra Pradesh Land Reforms Ceiling on Agricultural Holding Act, 1973 fixing a maximum limit of Agricultural holding shall apply to the acquisition of land by Financing Bank/Primary Agricultural Co-operative Society or the

Andhra Pradesh State Co-operative Bank Limited under sub-section (1).

94. Mortgages created in favour of Financing Bank/Primary Agricultural Co-operative Society to stand vested in Andhra Pradesh State Co-operative Bank Limited :-

The mortgages created in favour of, and all other assets transferred to, Financing Bank/Primary Agricultural Co-operative Society by the members thereof shall, with effect from the date of such creation or transfer, be deemed to have been transferred by such Financing Bank/Primary Agricultural Co-operative Society to the Andhra Pradesh State Co-operative Bank Limited and shall vest in the Trustee.

95. Power of Financing Bank/Primary Agricultural Co-operative Society to receive moneys and grant discharges :-

Notwithstanding that a mortgage created in favour of Financing Bank/Primary Agricultural Co-operative Society has been transferred, or is deemed under the provisions of Section 94 to have been transferred to the Andhra Pradesh State Co-operative Bank Limited-

(a) all money due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the Financing Bank/Primary Agricultural Co-operative Society and such payment shall be as valid as if the mortgage has not been so transferred; and

(b) the Financing Bank/Primary Agricultural Co-operative Society shall, in the absence of any specific direction to the contrary issued by the Board or Trustees and communicated to the Financing Bank/Primary Agricultural Co-operative Society be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

96. Right of Financing Bank/Primary Agricultural Co-operative Society to pay prior debts of mortgagor :-

(1) Where a mortgage is created in favour of Financing Bank/Primary Agricultural Co-operative Society for payment of prior of the debts of the mortgagor, the bank may, notwithstanding anything 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:

97. Powers of Financing Bank/Primary Agricultural Co-operative Society to advance loans and to hold lands :-

Subject to the provisions of this Act and in accordance with the rules made thereunder, it shall be competent for Financing Bank/Primary Agricultural Co-operative Society to advance loans for the purposes referred to in Section 85 and to hold lands the possession of which is transferred to it under the provisions of this Chapter.

98. Mode of dealing with applications for loans :-

(1) When an application for a loan is made for any of the purposes mentioned in Section 85 a public notice shall be given of the application in such manner as may be prescribed calling upon all persons interested to make their objections to the loan if any before the date specified therein. The person by whom such public notice shall be given and the manner in which the objections shall be disposed of by him, shall be such as may be prescribed.

(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) Where an application is recommended under sub-section (2), the Financing Bank/Primary Agricultural Co-operative Society shall, in accordance with the rules made in this behalf, consider such application for the purposes of making the loan.

99. Order granting loan conclusive of certain matters :-

A written order by the Financial Bank/Primary Agricultural Co-operative Society, or persons or committees authorised by this Act or under the bye-laws of the bank to make loans for all or any of the purposes specified in Section 85 granting, either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein, for the benefit of the land or for the productive purpose specified therein, shall, for the purposes of this Act be conclusive of the following matters, namely

(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 85;

(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 benefitting the land specified and productive purpose concerns the land offered as security, or any part thereof as may be relevant.

100. Recovery of loans by Financing Bank/Primary Agricultural Co-operative Society :-

Any loan granted by Financing Bank/Primary Agricultural Co-operative Society, including any interest chargeable thereon, and costs, if any, incurred in connection therewith, shall when they become due, be recoverable by the Financing Bank/Primary Agricultural Co-operative Society.

101. Recovery of loans on certificate by Registrar :-

(1) Notwithstanding anything in this Act, on an application made by Financing Bank/Primary Agricultural Co-operative Society 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 by the Collector in the same manner as arrears of land revenue.

(3) It shall be lawful to the Collector to take any precautionary measure until the arrears due to the Financing Bank/Primary Agricultural Co-operative Society together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security of such arrears is furnished to the satisfaction of the Registrar.

(4) It shall be competent for the Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the Financing Bank/Primary Agricultural Co-operative Society together with interest and any incidental charges incurred in the recovery of such arrears, are paid

or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of Section 73 shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.

102. Collector to make recoveries during a certain period :-

(1) During such period as the Government, may by general or special order notify in the Andhra Pradesh Gazette, it shall be competent for the Collector, on application being made to him in that behalf by Financing Bank/Primary Agricultural Co-operative Society to recover sums due to the bank, including the cost of such recovery.

103. Distraint and sale :-

(2) The value of the property distrained shall be, as far as may be, equal to the amount due and the expenses of the distraint and the costs of the sale.

104. Power of sale when to be exercised :-

(1) Notwithstanding anything in the Transfer of Property Act, 1882, the Committee of the financing bank or any person authorised by the Primary Agricultural Co-operative Society in this behalf shall, in case of default of payment of mortgage money due, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the Court:

105. Powers of Financing Bank/Primary Agricultural Co-operative Society where mortgaged property is destroyed or security becomes insufficient :-

Where any property mortgaged to Financing Bank/Primary Agricultural Co-operative Society is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given an opportunity by the committee of the Financing Bank/Primary Agricultural Co-operative Society of providing further security enough to make the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, 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 committee shall be entitled to take action against the mortgagor under Section 103 or Section 104 for the recovery thereof.

Explanation For the purposes of this section, security is deemed to be insufficient unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the Financing Bank/Primary Agricultural Co-operative Society.

106. Power of Board or Trustee to distrain and sell all property, etc :-

(1) The Board or the Trustee may direct the committee of Financing Bank/Primary Agricultural Co-operative Society to take action against a defaulter under Section 103, Section 104 or Section 105 and if the committee neglects or fails to do so, the Board or the Trustee may take such action.

107. Title of purchaser not to be questioned on ground of irregularity etc :-

Whereas any property is sold in the exercise or purported exercise of a power of a sale under Section 104, the title of the purchaser shall not be questioned on the ground that-

(a) the circumstances required for authorising the sale had not arisen, or

(b) due notice of the sale was not given, or

(c) the power of sale was otherwise improperly or irregularly exercised; but any person who has suffered any damage by an unauthorised, improper or irregular exercise of any such power is entitled to have a remedy in damages against the Financing Bank/Primary Agricultural Co-operative Society.

108. Mortgage not to be questioned on insolvency of mortgagor :-

Notwithstanding anything in any law relating to insolvency, a mortgage created in favour of Financing Bank/Primary Agricultural Co-operative Society, shall not be called in question on the ground that it was created in good faith for valuable consideration or on the ground that it was created in order to give the Financing Bank/Primary Agricultural Co-operative Society a preference over the other creditors of the mortgagor.

109. Appointment of receiver and his powers :-

(1) The Board may, on the application of Financing Bank/Primary Agricultural Co-operative Society and under circumstances in which

the power of sale conferred by Section 104 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, fixed by the Board and to apply the balance in accordance with provisions of sub-section (8) of Section 69-A of the Transfer of Property Act, 1882.

(2) The Board may, for sufficient cause, remove such receiver on an application made by the mortgagor and fill a vacancy in the office of the receiver.

(3) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a competent Court.

110. Mortgagors power to lease :-

Notwithstanding anything in the Transfer of Property Act, 1882, or any other law for the time being in force, a mortgagor shall not grant a lease of the mortgaged property for a period exceeding six years and any lease granted in contravention thereof shall be void.

111. Registration of documents executed on behalf of Financing Bank/Primary Agricultural Co-operative Society or of the Andhra Pradesh State Co-operative Bank Limited :-

(1) Notwithstanding anything in the Indian Registration Act, 1908, it shall not be necessary for any officer of Financing Bank/Primary Agricultural Co-operative Society or of the Andhra Pradesh State Co-operative Bank Limited to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 58 of that Act.

(2) When any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such officer for information in regard thereto, and on being satisfied of the execution thereof shall register the instrument.

(3) Notwithstanding anything in the Indian Registration Act, 1908, it shall not be necessary to register mortgages executed in favour

of Financing Bank/Primary Agricultural Co-operative Society or of the Andhra Pradesh State Co-operative Bank Limited, where the bank concerned sends, within such time and in such manner as may be prescribed, a copy of the instrument, requiring registration to the registering officer having jurisdiction who shall file such copy in the book maintained under Section 51 of that Act.

112. Delegation of certain powers by Board :-

The Board may, if it thinks fit, delegate all or any of its powers under Sections 104, 106 and 109 to an executive committee consisting of two or more of its members, constituted by it.

113. Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to notices under this Chapter :-

The provisions of Sections 102 and 103 of the Transfer of Property Act, 1882, and of any rule made by the High Court under Section 104, of that Act for carrying out the purposes of the said sections, shall apply so far as may be, in respect of all notices to be served under this Chapter.

114. Mortgages executed by manager of Joint Hindu Family :-

(1) A mortgage executed in favour of Financing Bank/Primary Agricultural Co-operative Society either before or after commencement of this Act, by the manager of a Joint Hindu Family, shall notwithstanding any law to the contrary, be binding on the members thereof, whether majors or minors, if the loan secured by the mortgage was granted for the purchase of any land or the improvement of any agricultural land or for the improved cultivation of such land.

(2) Where such mortgage is called in question on the ground that it was executed by the manager of a Joint Hindu Family, for a purpose not binding on the members thereof, whether majors or minors, the burden of proving the same shall, notwithstanding any law to the contrary, be on the party raising it.

114A. . :-

x x x x x

114B. . :-

x x x x x

115. Power of the Board to supervise and make regulations

:-

Subject to the provisions of this Act, the Board shall have such power of supervision over the Financing Bank/Primary Agricultural Co-operative Society including powers of appointment, transfer and disciplinary action, in respect of the employees of the Financing Bank/Primary Agricultural Co-operative Society and may, with the previous approval of the Registrar, make such regulation as may be necessary for carrying out all or any of the purposes of this Chapter.

CHAPTER 13A

Eligible Co-operative Banks

115A. Definitions :-

In this Chapter-

(a)'the said Act' means the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961);

(b)'eligible co-operative bank' means a co-operative bank as defined in clause (gg) of Section 2 of the said Act;

(c)'Corporation' means the Deposit Insurance Corporation established under Section 3 of the said Act;

(d)'Reserve Bank' means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; (Central Act 2 of 1934);

(e) all other expressions used in this Chapter but not defined shall have the meaning respectively assigned to them in the said Act.

115B. Special provisions applicable to eligible Cooperative Banks :-

Notwithstanding anything in this Act, the following provisions shall apply to an eligible co-operative bank, namely

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction, of the bank may be made under the provisions of this Act only with the previous sanction in writing of the Reserve Bank;

(ii) an order of the winding up of the bank shall be made under the provisions of this Act, if so required by the Reserve Bank in the circumstances referred to in Section 13-D of the said Act;

(iii) if so required by the Reserve Bank in the public interest or for

preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made under the provisions of this Act for the supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of a special officer therefor for such periods not exceeding five years in the aggregate as may, from time to time, be specified by the Reserve Bank;

(iv) an order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or an order for the supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of a special officer therefor made with the previous sanction in writing or on the requisition of the Reserve Bank shall not be liable to be called in question in any manner; and

(v) the liquidator or the insured bank or the transferee bank, as the case may be, shall be under an obligation to repay the Corporation in the circumstances to the extent and in the manner referred to in Section 21 of the Act.

CHAPTER 14

Miscellaneous

116. Powers of Registrar to appoint supervisory staff :-

The Registrar may, by general or special order, appoint any person to exercise supervision over, and to assist in the working of any society or class of societies subject to such terms and conditions as may be prescribed. The person so appointed shall exercise such powers as may be prescribed and shall at all reasonable times, have free access to the books, accounts, documents, securities, records, cash and other properties belonging to, or in the custody of, the society and may also call for such information, statements and returns as may be necessary for the purpose.

116A. Constitution of common cadre of employees for certain Societies :-

(1) Notwithstanding anything in this Act, the Registrar shall have power to constitute a common cadre for the following posts, namely

(2) The classification and methods of recruitment, conditions of service, pay and allowances and discipline and conduct of the officers specified in sub-section (1) shall be such as may be

provided by regulations to be framed by the Registrar.

116AA. Abolition of Centralised services for certain categories of employees :-

The common cadre for all categories of employees other than those specified in Section 116-A, constituted before the commencement of the Andhra Pradesh Co-operative-operative Societies (Amendment) Act, 1985 and existing at such commencement shall stand abolished with effect on and from the commencement, and upon such abolition, it shall be lawful for the Registrar, to allot, subject to such rules as may be made in this behalf, the employees included in the cadre so abolished to such Primary Agricultural Credit Societies as he may deem fit:

Provided that until they are allotted as aforesaid they shall continue in the posts in which they are working at the commencement of the said Act.

116B. Power of Government to give directions to societies etc :-

The Government may give directions, to a society or class of societies or an appointment committee constituted under Section 116-A to make provision,-

- (a) for the reservation of appointments or posts under any such society in any cadre created under the said section in favour of, or
- (b) for the grant of any special concessions in the matter of appointment to any such posts or cadre to, the Scheduled Castes, the Scheduled Tribes and Backward Classes and the society or appointment committee shall be bound to comply with such directions and to give effect to any provisions so made.

116C. Staffing pattern of societies :-

(1) A society shall have power to fix the staffing pattern, qualifications, pay scales and other allowances for its employees with the prior approval of the Registrar of Co-operative Societies subject to the condition that expenditure towards pay and allowances of the employees shall not exceed two per cent of the working capital or thirty per cent of the gross profit, in terms of actuals in a year whichever is less.

(2) No appointment or removal of a Chief Executive by whatever name called of any society, or class of societies as may be

prescribed which are in receipt of financial aid from the Government, shall be made without the prior approval of the Registrar of Co-operative Societies.

117. Delivery of possession of records and properties of a society :-

(1) Where a new committee is elected, or a committee is nominated or a person is appointed by the Registrar under Section 15-A or an Official Assignee appointed under Section 9-C or a person is appointed under Section 32, or the committee is superseded by the Registrar and a special officer or managing committee is appointed under Section 34, or where the society is ordered to be wound up and a liquidator is appointed under Section 65, and such new committee, person, special officer, managing committee, liquidator or official assignee is resisted in, or prevented from, obtaining possession of the books, accounts, documents, securities, cash and other properties, whether movable or immovable, of the society (hereafter in this section referred to as the records and the properties of the society') by the previous committee or superseded committee or by the society which has been ordered to be wound up or by a person who is not entitled to be in possession of the records and properties of the society, the Registrar shall, on application by the new committee, person, special officer, managing committee, liquidator or official assignee if satisfied, authorise in the prescribed form setting forth the reasons thereof, any officer subordinate to him, not below the rank of a Senior Inspector of Co-operative Societies, to enter, search, or break open any premises where such records and properties of the society are kept and to seize any such records and properties of the society and to cause delivery to the new committee, person, special officer, managing committee, liquidator or official assignee, of the records and properties of the society.

(2) For the purpose of the proceedings under sub-section (1) the authorisation aforesaid shall be conclusive evidence that the records and properties to which it related belong to the society.

(3) The officer authorised under sub-section (1) may take such police assistance as may be necessary for the said purpose and the expenses incurred under this section shall be borne from the funds of the society.

(4) The provisions of Sections 100 to 102 (both inclusive) of the

Code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to searches and seizure shall apply, so far as may be, to searches and seizure under this section.

118. Address of society :-

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

(2) It shall keep affixed a sign board describing the name of the society on the outside of every office or branch thereof.

119. Copy of Act, Rules, bye-laws etc., to be open to inspection :-

(1) Every society shall keep, a copy of this Act, the rules and the bye-laws, the last audited annual balance sheet, the profit and loss account, a list of the members and of the committee, open to inspection by its members, free of charge, at all reasonable times, at its office. It shall also permit every member to inspect such portions of the books and records in which the transactions relating to him have been recorded.

(2) A society shall furnish to a member, on request in writing, and on payment of such fees as may be fixed, a copy of any of the documents mentioned in sub-section (1) or extracts of the transactions relating to him with the society within thirty days from the date of payment of such fees.

120. Power to summon witnesses and requisition documents :-

(2) The Tribunal, Registrar, the person, the arbitrator, the liquidator or the officer, as the case may be, referred to in sub-section (1) may require any person present before it or him to furnish any information or to produce any document forthwith in his possession or power and shall also have power to take, or to authorise the taking of such copies of the document, or of any entries therein as it or he may consider necessary. Copies so taken shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein, as the case may be.

121. Bar of jurisdiction of Court :-

(1) Save as otherwise expressly provided in this Act, all orders, refusals decisions or awards passed or directions issued or actions taken in accordance with this Act or the Rules made thereunder shall be final subject to the provisions for appeal, revision and review and no such order, refusal, decision, award, direction or action taken shall be liable to be called in question in any Court or Forum.

122. Power to exempt societies from conditions of registration :-

Notwithstanding anything in this Act, the Government may, by special order and for reasons to be recorded therein in each case, and subject to such conditions, if any, as they may impose, exempt any society, from any of the requirements of this Act as to registration.

123. Power to exempt class of societies :-

The Government may, by general or special order and for reasons to be recorded therein, exempt any society or any class of societies from any of the provisions of this Act.

124. Register of members :-

Any register or list of members or shares kept by any society shall be prima facie evidence of any of the following particulars entered therein -

(a) the date on which the name of any person was entered in such register or list as a member;

(b) the date on which any such person ceased to be a member.

125. Proof of entries in societys books :-

(1) A copy of any entry in a book of a society regularly kept in the course of its business, shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as prima facie evidence, of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document, and any copy so granted shall, when certified in such

manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

(3) No officer of a society and no officer in whose office the books of a society are deposited after liquidation shall, in any legal proceedings to which the society or liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the Court, or the arbitrator made for special cause.

126. Notice necessary in suits :-

No suit shall be instituted against a society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of sixty days 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.

127. Acts of societies not to be invalidated by certain defects :-

No act of society or any committee or of any officer of the society shall be deemed to be invalid by reason only of the existence of any defect in the organisation of the society or in the formation of the general body or 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.

128. Protection of 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 or any nominee of the Government for anything which is in good faith done or intended to be done in pursuance of any provision of this Act or of any rule or bye-law made thereunder.

129. Certain Acts not to apply :-

The provisions of the Companies Act, 1956, the Andhra Pradesh (Andhra Area) Shops and Establishments Act, 1948 and the Andhra Pradesh (Telangana Area) Shops and Establishments Act, 1951, shall not apply to societies.

129A. Officers and employees to be public servants :-

The Registrar or any person authorised by him to recover any amount or to execute any orders issued or decisions taken under any of the provisions of this Act and every officer and employee of a society shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860.

130. Power to make rules :-

(1) The Government, may, by notification published in the Andhra Pradesh Gazette, make rules for carrying out all or any of the purposes of this Act for the whole or any part of the State and for any class of societies.

(2) Every rule made under this section shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree, in making any modification in the rule or in the annulment of the rule, the rules shall thereafter have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

131. Power of Government to give directions :-

(1) The Government may generally or in any particular matter under this Act, issue such orders and directions, which are in accordance with the provisions of this Act and in the interest of co-operative movement in the State as they may consider necessary to the Registrar and thereupon he shall give effect to such orders or directions and shall report to the Government in due course the result thereof.

131A. . :-

x x x x

132. Repeal and savings :-

The following Acts, namely

(1) The Andhra Pradesh (Andhra Area) Co-operative Societies Act, 1932.

(2) The Andhra Pradesh (Andhra Area) Co-operative Land Mortgage Banks Act, 1934.

133. Act to override other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

134. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the Government may after previous publication, by order make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing of the difficulty.