

Assam Co-Operative Societies Act, 1949

1 of 1950

[25 January 1950]

CONTENTS

CHAPTER 1 :- Preliminary

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :- Registration of Societies

3. The Registrar
4. Societies Which May Be Registered
5. Age Qualification Of A Member
6. Conditions Of Registration
7. Restriction On Acquisition Of Shares In A Society
8. Power Of Registrar To Decide Certain Questions
9. Change Of Liability
10. Application For Registration
11. Registration
12. Evidence Of Registration
13. Amendment Of The Bye-Laws Of A Registered Society
14. Power Of Registrar Or Affiliating Society Or Financing Bank To Direct Amendment Of Bye-Laws Or Adoption Of Rules Of Procedure
15. Division And Amalgamation Of Society
- 15A. Insured Co-Operative Banks

CHAPTER 3 :- RIGHTS AND LIABILITIES OF MEMBERS OF REGISTERED SOCIETIES

16. Member Not To Exercise Rights Till Due Payment Made And Conditions Fulfilled
17. Votes Of Members
18. Member Of Unlimited Society To Furnish Information As To His Financial Position
19. Loan To Be Utilised For The Purpose For Which Advanced
20. Restrictions On Transfer Of Share Or Interest
21. Liability Of Past Member And His Estate
22. Share Or Interest Not Liable To Attachment
23. Nomination Of Transferee
24. Transfer Of Interest Death Member
25. Disposal Of Shares Or Interest Of Ceased Members
26. Liability Of Members On Winding Up Of Society
27. Restriction On Transfer Of Possession Of Land Held Under A Society

- 28. Right Of A Registered Society To Pay Prior Debts Of A Mortgagor
- 29. Restrictions On Mortgaged Property
- 30. Bar To Certain Claim

CHAPTER 4 :- MANAGEMENT

- 31. General Assembly
- 32. Annual Meeting Of General Assembly
- 33. Special Meeting Of General Assembly
- 34. Administrative Council
- 35. Power To Depute Government
- 35A. Section 35A
- 36. Dissolution Or Reconstruction Of The Administrative Council, Managing Body Or Any Committee Of A Society
- 37. Dissolution Of Administrative Council, Managing Body Or Any Committee And Appointment Of Persons To Manage The Affairs Of A Society
- 38. Tenure Of Office Of The Person Appointed Under Section 37
- 39. Powers Of Person Appointed Under Section 37
- 39A. Section 39A
- 39B. Section 39B

CHAPTER 5 :- DUTIES OF REGISTERED SOCIETY

- 40. Address Of Society
- 41. Prescription And Inspection Of Documents
- 42. Restrictions On Borrowing
- 42A. Section 42A
- 43. Power Of Government To Give Financial Assistance
- 44. Restrictions On Loans
- 45. Office Bearer Of Society Is Required To Furnish Information And Produce Documents

CHAPTER 6 :- PRIVILEGERS OF REGISTERED SOCIETIES

- 46. Prior Claim Of A Society
- 47. Charge And Set Off In Respect Of Shares Or Interest Of Members
- 48. Deduction Of Dues From Salary Members
- 49. Exemption From Compulsory Registration And Personal Attendance For Registration Of Instruments
- 49A. Section 49A
- 50. Power To Remit Certain Duties, Fees, Etc

CHAPTER 7 :- PROPERTY AND FUNDS OF REGISTERED SOCIETY

- 51. Investment Of Funds
- 52. Reserve Fund
- 53. Distribution Of Net Profit
- 54. Restriction On Distribution Of Profits

CHAPTER 8 :- Audit

- 55. Registrar Is Responsible For Audit
- 56. Power Of The Registrar To Have The Accounts Written Up
- 57. Nature Of Audit

- 58. Audit Report
- 59. Rectification Of Defects

CHAPTER 9 :- INQUIRY AND INSPECTION

- 60. Inquiry By Registrar
- 61. Inspection Of Society
- 61A. Section 61A
- 62. Cost Of Enquiry And Inspection

CHAPTER 10 :- SETTLEMENT OP DISPUTES

- 63. Reference Of Dispute
- 64. Settlement Of Dispute

CHAPTER 11 :- DISSOLUTION OF SOCIETY

- 65. Cancellation Of Registration
- 66. Winding Up
- 67. Distribution Of Fund Of A Dissolved Society
- 68. Liquidator To Deposit The Books And Submit A Final Report
- 69. Bar Of Suit

CHAPTER 12 :-RECOVERYOF SUMS DUE AND ENFORCEMENT OF OBLIGATIONS

- 70. Power Of Registrar To Direct Payment Of Dues
- 70A. Section 70A
- 71. Charge And Surcharge

CHAPTER 13 :- PENALTY

- 72. Prohibition Of The Use Of The Word "Co-Operative" Or "Samabaya"
- 73. Punishment For False Return, False Information, Disobeying Summons, Orders, Etc
- 74. Punishment For Disposing Property In Contravention Of Section 46
- 75. Penalty For Certain Misdemeanours
- 76. Power To Enforce Performance Of Obligations
- 77. Cognizance Of Offences

CHAPTER 14 :- JURISDICTION

- 78. Indemnity
- 79. Bar To Jurisdiction Of Courts
- 80. Appeal Or Review
- 81. Power Of Attachment Of Property
- 82. Registrar To Be Civil Court For Certain Purposes
- 83. Recovery Of Sums Due
- 83A. Section 83A
- 84. Registrar May Order A Meeting Of Creditors

CHAPTER 15 :- MISCELLANEOUS

- 85. Society To Be A Body Corporate
- 86. Register Of Members

87. Entries In Books Of Registered Society Shall Be Received As Prima Facie Evidence
88. Savings Of Existing Societies
89. Construction Of Reference To Act Ii Of 1912
90. Act Vii Of 1913 Not To Apply
91. Acts Of Societies, Etc., Not To Be Invalidated By Certain Defects
92. Power To Exempt Societies From Provisions Of The Act
93. Rules And Bye-Laws Not To Be Deemed To Go Beyond The Act
94. Power To Exempt Societies From Conditions As To Registration
95. Power To Order Recoupment Of Expenditure
96. Power To Seize Records Of Society
97. Power Of The Managing Body Of An Affiliating Society To Enquire Into The Affairs Of A Member Society
98. Limitation
99. Power To Exempt Societies From The Operation Of The Assam Money Lenders Act
100. Power To Make Rules
101. Repeal

SCHEDULE 1 :- SCHEDULE A

SCHEDULE 2 :- SCHEDULE B

Assam Co-Operative Societies Act, 1949

1 of 1950

[25 January 1950]

An Act to facilitate the formation and working of Co-operative Societies and to consolidate and amend the law relating to Co-operative Societies in the [State]² of Assam Whereas it is expedient further to facilitate the formation and working of Co-operative Societies for the purpose of thrift, self-help, mutual aid and creating the quality of credit worthiness among agriculturists, artisans and other persons with common economic needs so as to bring about a higher standard of living, better business, better methods of production, equitable distribution and exchange and for purpose to consolidate and amend the law relating to Co-operative Societies in the [State]² of Assam. It is hereby enacted as follows - 1. Published in the Assam Gazette of the 8th February, 1950. 2. Substituted for the word "Provincial" by the A.O. 1950.

CHAPTER 1
Preliminary

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Assam Co-operative Societies Act, 1949.
- (2) It extends to the whole of the [State]¹ of Assam.
- (3) It shall come into force on such date² as the [State]¹ Government

may appoint.

1. Substituted for the word "Provincial" by the A.O. 1950.

2. With effect from 1st April, 1950 vide Notification No. CG. 6/50/40, dated 3rd March, 1950. [Published in the Assam Gazette Part IIA dated 22-3-1950] p-671.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context -

(a) "Administrative Council" means a body intermediary between a Managing Body and the General Assembly of registered society;

(b) "Affiliating Society" means the registered society of which a particular registered society is a member and "Affiliated Society" means the particular society which is a member of the affiliating society;

(c) "Arbitrator" means a person appointed under the provisions of this Act to decide any dispute referred to him;

(d) "Audit Officer" means a person appointed under the provisions of this Act to audit the accounts of a registered society;

(e) "Bye-law" refers to the registered bye-laws for the time being in force and includes a registered amendment of bye-laws;

(f) "Co-operative Year" means the period beginning and ending on such dates as may be fixed by the Registrar for the purpose of drawing up the balance sheets of registered societies;

(g) "Co-operative Demand Certificate" means a certificate as defined in Section 83;

(h) "Employee" means a person, not being an office-bearer, employed by a registered society on a salary or similar form of remuneration other than advance patronage dividend or payment for goods sold to or through such society;

(i) "General Assembly" means the supreme body of a registered society as defined in Section 31;

(j) "Managing Body" means the body to which the manager of the affairs of a registered society is directly entrusted and does not include the Administrative Council;

(k) "Member" means a person admitted to membership after registration in accordance with the bye-laws and rules of the society and includes a promoter;

(l) "Officer-Bearer" means a member duly elected by the appropriate body of a registered society, according to its bye-laws, to any office of such society, including the office of President, Chairman, Vice-President, Vice-Chairman, Managing Director and Treasurer :

Provided that any officer appointed by Government to hold charge of any office of a registered society shall be deemed to be an office-

bearer unless specifically stated to the contrary;

(m) "Prescribed" means prescribed by rules;

(n) "promoter" means any eligible person or registered society signing the application for registration of a society;

(o) "Registered Society" means a Co-operative Society registered or deemed to have been registered under this Act and includes a society formed after amalgamation of such two or more societies or by division of such an existing society;

(p) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act;

(q) "Rules" means rules made under this Act; and

(r) "Signature" includes the thumb-impression of an illiterate person.

["(s) "Bank means"-

(i) A Banking Company as defined in the Banking Regulation Act, 1949;

(ii) The State Bank of India constituted under the State Bank of India Act, 1959;

(iii) A subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iv) A corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(v) The Agricultural Refinance Corporation Constituted under the Agricultural Refinance Corporation Act, 1963;

(vi) Agricultural Finance Corporation Limited, a company incorporated under the Indian Companies Act, 1956;

(t) A "Financing Bank" means a bank as defined in clause (s) of Section 2 of this Act or a Co-operative Bank providing working capital to a registered Co-operative Society."]¹

1. Added as a new clauses (s) & (t) by the Assam Act No. XIII of 1975 (w.e.f. from 1-11-1974).

CHAPTER 2

Registration of Societies

3. The Registrar :-

(1) The State Government may appoint a person to be Registrar of Co-operative Societies for the Province or any portion of it for the registration, supervision, assistance, counsel and control of registered societies and for the development of the co-operative movement and control over all co-operative education and with other powers and responsibilities as may be provided under this Act or rules or bye-laws framed thereunder.

(2) The [State]¹ Government may also appointment may also appoint persons to assist the Registrar and may be general or special order, in

writing, delegate to any such persons or to any other Government Officer all or any of the powers of the Registrar under this Act.

(3) The [State]¹ Government may also appoint non-official helpers with such designations and functions as prescribed to aid in the organisation of Co-operative Societies.

1. Substituted for the word "Provincial" by the A.O. 1950.

4. Societies Which May Be Registered :-

(1) A Society which has as its objects the promotion of the economic interests or general welfare of its members or of the public in accordance with the Co-operative principles, or a Society established with the object of facilitating the operations of any society may be registered under this Act with limited liability.

(2) No society shall be registered if in the opinion of the Registrar, its declared objects are unlikely to be achieved or it is likely to be economically unsound or if it may have an adverse effect upon any registered society or the Co-operative movement as a whole."]¹

1. Substituted Sec. "4" by the Assam Act No. XIII of 1975 (with effect from 22-10-1975).

Note - Before substitution Section "4" read as follows -

"4. Societies which may be registered - Subject to the provisions hereafter contained a society which has as its chief object the promotion of the economic interests and general welfare of its members in accordance with co-operative principles, or a society established with the object of facilitating, the operations of such a society including a society formed by the division of a existing registered society or amalgamation of existing two or more societies, may be registered under this Act with or without limited liability :

Provided that the [State] Government by general or special order otherwise directs-

(1) The liability of a society of which a member is a registered society shall be limited.

(2) The liability of a society of which the primary object is the creation of funds to be lent to its members and of which the majority of the members are agriculturists or artisans, and of which no member is a registered society, shall be unlimited and the members of such a society shall on its liquidation, be jointly and severally liable for and in respect of, all obligations of such a society :

Provided further that no society shall be registered if in the opinion of the Registrar, its declared objects are unlikely to be achieved or if it is economically unsound or if it may have an adverse effect upon any registered society or the co-operative movement as a whole.

5. Age Qualification Of A Member :-

No person may be an individual member of a registered society ["if he is less than"]¹ eighteen years of age :

Provided that the bye-laws of a society may prescribe a higher minimum age.

1. Substituted by Assam Act No. XX of 1974 (with effect from 11-7-1974).

6. Conditions Of Registration :-

(1) No society, other than a society of which a member is a registered society shall be registered under this Act which does not consist of at least ten eligible persons and, in cases where the primary object of the society is the creation of funds to be lent to its members, unless such persons reside in the same town, village or in the same Panchayat Area.

(2) The word "Limited" shall be the last word in the name of every society with limited liability registered under this Act.

7. Restriction On Acquisition Of Shares In A Society :-

(1) No member of a registered society shall hold more than such portion of the share capital of the society as may be prescribed by the rules, or the bye-laws of the society.

(2) No member shall be allowed to acquire an additional share until he has paid in full the value of the whole or that portion of his share-holding which he is required to pay in accordance with the bye-laws of his society.

8. Power Of Registrar To Decide Certain Questions :-

All disputes regarding membership for the purpose of the formation, registration or continuance of a society under this Act shall be decided by the Registrar.

9. Change Of Liability :-

(1) Subject to the proviso to Section 4 and to any rules made in this behalf, a registered society may, with the previous sanction of the Registrar, change its liability from limited to unlimited or from unlimited to limited :

Provided that-

(i) The society shall give notice in writing of its intention to change its liability to all its members and creditors;

(ii) Any member or creditor shall, notwithstanding any bye-law or contract to the contrary, have the option of withdrawing his shares,

deposits or loans as the case may be, within three months of the service of such notice on him and the change shall not take effect until all such claims have been satisfied; and

(iii) Any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1) the change shall take effect at once if all the members and creditor assent thereto.

(3) The Registrar shall register the amendment of the bye-laws consequent on the change of liability :

Provided that no person who ceases to be a member of the society before such amendment is registered shall be adversely affected by the change of liability.

10. Application For Registration :-

(1) An application for registration shall be made to the Registrar in the prescribed Form.

(2) The application shall be signed-

(a) in the case of a society of which no promoter is a registered society, by at least ten eligible persons; and

(b) in the case of a society of which at least one promoter is a registered society, by a duly authorised person on behalf of such registered society and at least one other individual promoter or one other duly authorised person on behalf of another registered society.

(3) The application shall be accompanied by four copies of the proposed bye-laws of the society signed on behalf of the promoters by the president of the inaugural general meeting. Promoters by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require and they shall be liable to the full extent of the share money which they have undertaken to subscribe with effect from the date of registration of the society.

11. Registration :-

(1) The Registrar shall decide all questions as to whether the application complies with the provisions of this Act and rules thereunder and whether the objects of the society are in accordance with Section 4.

(2) When he is satisfied that the application is in order under sub-section (1) and the proposed bye-laws are not contrary thereto, he may register the society and its bye-laws :

Provided that the Registrar shall have powers to register the bye-laws

with such modifications as he thinks are necessary to bring about uniformity in the main with the provisions of the bye-laws of societies which have similar objects or functions.

(3) The Registrar shall endorse the bye-laws in token of registration. Each society shall have a copy of its bye-laws so endorsed.

(4) If the Registrar refuses to register a society or an amendment of the bye-laws of a registered society he shall record his reasons in writing and communicate these reasons and his decision to the promoters or the Secretary of a registered society by a registered letter to their office. The Registrar may at any time review his orders in this respect.

12. Evidence Of Registration :-

A certificate of registration signed by the Registrar shall be issued to the society and shall conclusive evidence that the Co-operative Society therein mentioned is a Co-operative Society duly registered under this Act and that its bye-laws are as attached to the certificate, unless it is provided that the registration of the society has been cancelled or that amended bye-laws have been registered or that the societys copy of the certificate or bye-laws has been tampered with.

13. Amendment Of The Bye-Laws Of A Registered Society :-

(1) No amendment of the bye-laws of a registered society, whether by way of addition, alternation, omission, rescission or change of name shall be valid until such amendment has been registered under this Act.

(2) Every proposal for such amendment shall have to be approved by a resolution at a meeting of the General Assembly in accordance with the bye-laws of the society and be forwarded within from the date of the resolution to the Registrar; and if the Registrar is satisfied that the proposed amendment is not contrary to the provisions of this Act or rules, he shall, unless for reasons to be recorded in writing he considers fit to refuse, register the amendment.

(3) When the Registrar register an amendment of the bye-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same has been duly registered, unless it is proved that the registration of the society has been cancelled or that further amendments have been registered or that the societys copy of the amendments have been tampered with. The amendment shall be binding upon the society with effect from the date of registration.

14. Power Of Registrar Or Affiliating Society Or Financing Bank

To Direct Amendment Of Bye-Laws Or Adoption Of Rules Of Procedure :-

1(1) (i) When it appears to the Registrar that an amendment of the bye-laws of a registered society is necessary in the interests of such society or of the co-operative movement as a whole or for the purpose of bringing about uniformity in the main with the provisions of the bye-laws of societies which have similar objects or functions, he may, by an order in writing, direct the society to amend its bye-laws in accordance with the amendment drafted and forwarded to the society by him within such time as he may specify in the order;

(ii) If the society fails to make such amendment within the time specified, the Registrar shall, after giving the society an opportunity of representing its case, make such amendment himself and register the same. The Registrar shall then forward a copy thereof to the society together with a certificate signed by him which shall be effective as prescribed in Section 13(3);

(iii) The Registrar shall not register any amendment of the bye-laws of a society, whether under this Section or Section 13 of this, without the consent of the Provincial Government, if the effect of such amendment is to less the degree of control of the Government or of the Registrar as already provided for in the bye-laws;

(iv) The Registrar may require any registered society to framed rules of procedure under its bye-laws to govern any part of its business and to send such.

["(2) (i) When it appears to an affiliating society or a financing bank that an amendment of the bye-laws of a registered society which is a member of such society or debtor of financing bank is necessary in the interest of the society it may suggest to the affiliated society or the debtor society, as the case may be, to make (sic) amendment within such time as it may specify. The affiliating society or the financing bank shall forward to the affiliated society or the debtor society, as the case may be a draft of the suggested amendment of the bye-laws;

(ii) If the society fails to make the amendment within the time specified, the affiliating society or the financing bank may forward to the Registrar the amendment and the Registrar, if satisfied that the amendment is necessary in the interest of the society and not contrary to the provisions of this Act or rules, may thereupon after giving an opportunity of showing cause to the society concerned against the proposed amendment register the amendment and forward to the society a copy thereof together with a certificate signed by him. The certificate shall be conclusive evidence that the amendment has been registered and such amendment shall thereupon be binding the society and its members;

(iii) If the Registrar considers that the amendment referred in clause (ii) above is not acceptable, he shall submit a report to the Government;

(iv) An affiliating society or a financing bank or the Registered Society if aggrieved by a decision of the Registrar may prefer an appeal to the Government. The orders of the Government on such appeal shall be final;

(v) The State Government may out of its own motion or the Registrar subject to such direction as may be given by the Government amend the bye-laws of any society or group of societies in the interest of public service."]2

1. Inserted by Assam Act No. XIII of 1975 (with effect from 22-10-1975).

2. Substituted sub-section (2) of Section 14 by the Assam Act No. XIII of 1975 (with effect from 22-10-1975).

Note- Before substitution the old sub-section (2)(i), and (ii) read as follows -

(2) (i) When it appears to an affiliating society that an amendment of the bye-laws of a registered society which is a member and debtor of such society, is necessary in the interests of such society, it may suggest to the affiliated society that it makes the amendment within such time as it may specify. The affiliating society shall forward to the affiliated society a draft of the suggested amendment of the bye-laws;

(ii) if the society fails to implement the suggestion within the time specified, the affiliating society may forward to the Registrar the amendment which it considers necessary, and the Registrar, if satisfied that the amendment is necessary and not contrary to the provisions of this Act or the rules, may thereupon register the amendment and forward to the society a copy thereof together with a certificate signed by him. The certificate shall be conclusive evidence that the amendment has been registered and such amendment shall thereupon be binding upon the society and its members.

15. Division And Amalgamation Of Society :-

(1) (i) Any registered society may, at a meeting of its General Assembly specially called for the purpose, resolve to divide into two or more societies. At least fifteen clear days notice of such meeting with the agenda shall be given to its members together with a copy of the proposed resolution;

(ii) Such a resolution shall contain the proposal as to how to divide the assets and liabilities of the society among the newly proposed societies, their areas of operation and the members who will constitute each of the newly proposed societies with draft new bye-laws;

(iii) A copy of the resolution shall be sent to the Registrar within thirty days of its adoption and subject to the Registrars non-interference within thirty days of the dispatch to him of the resolution, the resolution shall be circulated among the members and creditors of the society;

(iv) Notwithstanding any bye-laws to the contrary, any member of the society, and notwithstanding any agreement to the contrary, any creditor of the society, may be notice given to the society within thirty days of the receipt of the resolution intimate in case of a member his intention not to become a member of any of the societies, and in case of a creditor his intention to demand a return of the amount due to him;

(v) After the expiry of ninety days from the passing of the aforesaid resolution a meeting of the General Assembly shall be convened for finally deciding the resolution. At least fifteen days clear notice with the agenda of the meeting shall be given to all members of the society;

(vi) if the General Assembly decides by a three-fourth majority finally to divide the society and if the Registrar approved of the decision, the members, who will constitute each of the newly proposed societies subscribing to the new draft bye laws shall apply to the Registrar under Section 10 for registration of the new societies and the Registrar shall register the societies under Section 11;

(vii) The Registrar shall not register the new society if the application for registration is not accompanied by a certificate of repayment of share capital to members and certificate of satisfaction of claims to creditors referred to in clause (iv);

(viii) From the date on which the new societies are registered under clause (iv) the registration of the old society shall be deemed to have been cancelled;

(ix) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society according to the aforesaid resolution in the new societies.

(2) (i) Two or more registered societies may, at a meeting of their respective General Assembly specially convened for the purpose, by giving at least fifteen clear days notice to the respective members of the societies, resolve to amalgamate into one society by adopting common bye-laws;

(ii) A copy of such resolution of each society shall be circulated forthwith among all members and creditors thereof;

(iii) Notwithstanding any bye-laws to the contrary, any member of any such societies and, notwithstanding any agreement to the contrary, any creditor of any such societies, may within a period of thirty days from the receipt of the aforesaid resolution, intimate his intention not

to become a member of the new society, in the case of a member, and to demand a return of the amount due to him, in the case of a creditor;

(iv) After the expiry of ninety days from the date of the aforesaid resolution, a joint meeting of the members of such societies shall be convened to decide finally the aforesaid resolution;

(v) At least fifteen clear days notice shall be given to all the members of the societies. If at such meeting the aforesaid resolution is confirmed by a majority of three-fourths of the members of each society present and the common bye-laws are accepted with or without any alterations, the Registrar shall be moved by an application under Section 10 for registration and he shall register the new society under Section 11 if he approves;

(vi) The Registrar shall not register the new society if the application for registration is not accompanied by a certificate of repayment of share capital to members and a certificate of satisfaction of claims of creditors referred to in clause (iii);

(vii) From the date on which the new society is registered the registration of the old societies shall be deemed to have been cancelled;

(viii) The registration of the new society shall be a sufficient conveyance to vest in it all the assets and the liabilities of the original societies.

1["(3) (a) Notwithstanding anything contained in sub-sections (1) and (2) of this Section if the Registrar is of opinion that for reason of ensuring economic viability of any registered society or societies or avoiding overlapping or conflict of jurisdictions of registered societies in any area or in order to secure proper management of any Co-operative society, or in the public interest or in the interest of the Co-operative movement in the State as a whole, or in the interest of depositors and the Co-operative banking system in the State as a whole, it is necessary to divide, amalgamate or merge fully or partially any such society or societies with any specified society, he may, by an order published in the official Gazette make a scheme for division, amalgamation or merger, with prior approval of the State Government. Explanation- In this section the society which is divided, amalgamated or merged shall be referred to as "Transferor" society and the societies which are formed out of any division, amalgamation or merger under this section shall be referred to as "Transferee" society or societies.

(b) A scheme referred to in sub-section (a) in respect of division, amalgamation or merger may provide for all or any of the following matters, namely-

(i) The transfer of the business, properties movable or immovable, assets including cash balances and reserve fund, rights, privileges,

liabilities, debts and obligations of the transferor society or societies to the transferee society or societies on such terms and conditions as may be specified in the Said scheme;

(ii) The reduction of interest or rights which the members, depositors and other creditors have in or against the transferor society or societies before division, amalgamation or merger to such extent as the Registrar considers necessary in the public interest or in the interest of the members, depositors and other creditors for the maintenance of the business of such society or societies having due regard to the assets and liabilities of the transferor society or societies;

(iii) The payment in cash or otherwise to the depositors and other creditors in full satisfaction of their claims-

(a) in respect of their interest or rights in or against the transferor society or societies before or after division, merger or amalgamation; or

(b) where the interest or rights as aforesaid in or against the transferor society or societies has or have been reduced under clause (ii), in respect of such interest or rights as so reduced.

(iv) (a) the allotment of shares in the transferee society to the members of the transferor society against the shares held by them in the transferor society or societies, before the division amalgamation or merger; or

(b) where it is not possible to allot shares in the transferee society or societies to such members against the shares held by them in the transferor society or societies, the payment to such members in cash in full satisfaction of their claims in respect of their interest in the shares of the transferor society or societies or where such interest has been reduced under clause (ii), in respect of their interest in the shares as so reduced :

Provided that an aforesaid scheme shall secure-

(i) that allotment or shares or payment in cash in favour of the members of the transferor society or societies under this clause shall not be made until all the depositors and creditors of the transferor society or societies have been paid under sub-clause (a) of this clause or, as the case may be, under sub-clause (b) of clause (iii); and

(ii) that such allotment of share or payment in cash in favour of the members of the transferor society or societies shall be made only out of the surplus of there assets of the transfer or society, or societies, if any, that may be left after payment to the depositors and the creditors as indicated in sub-clause (i).

(v) The continuance of the service of all or any of the employees of the transferor society or societies in the transferee society or societies on such terms and conditions of service as may be determined in this behalf:

Provided that, if any employees is found to be ineligible for

continuance in service or the transferee society under the terms and conditions of the scheme, the service of such employees shall stand terminated on and from the date on which the division, amalgamation or merger takes effect and, the transferee society shall within three months of the aforesaid date, make payment to such employee such compensation as such employee may be entitled under any law relating to industrial dispute in force in the State and pension, gratuity, provident fund and other retirement benefits as are ordinarily admissible to him under the rules of the transferor society in force immediately before the division, amalgamation or merger.

(vi) The scheme for division shall provide division of the assets and liabilities, the area of operation, the employees and the members of such society among the new societies into which such society is to be divided.

(c) (i) No order referred to in sub-section (a) shall be made unless a copy of the proposed order including the scheme is sent to the societies affected, calling upon them to invite objections or suggestions from the members, creditors and suggestions together with their own suggestions and objections, if any, to the Registrar within thirty days from the date of receipt of the copy of the proposed order by such societies;

(ii) The Registrar shall consider the suggestions and objections which may be received under (i) above within the period referred to therein and may make such modifications in the proposed order including the scheme as he thinks just and fit and finalise the proposed order including the scheme in consultation with the State Government :

Provided that such order shall not be passed without the prior approval of the Reserve Bank of India in case of any society coming under the purview of the Banking Regulation Act, 1949 (as applicable to Co-operative Societies), (Central Act No. 10 of 1949).

(d) An order referred to in clause (a) may contain such incidental, consequential and supplemental provisions as the Registrar in consultation with the State Government may consider necessary to give effect to the proposed division, amalgamation or merger and shall have effect on and from such date as may be specified in the final order referred to in sub-clause (ii) of clause (c);

(e) On and from the date on which the division, amalgamation or merger takes effect, the assets and liabilities of the societies referred to therein shall stand divided, amalgamated or merged with the assets and liabilities of the societies formed out of such division or amalgamation or merger and the members, creditors and debtors of such societies, shall be deemed to be members, creditors and debtors, as the case may be of the new society or societies as ordered by the Registrar;

(f) (i) Notwithstanding anything contained in this Act, the Registrar

shall register all new societies created after division of an existing society under this Act and such registration shall be effective from the date on which the division takes effect and the registration of the society ordered to be divided shall be deemed to have been cancelled from the said date and such registration and cancellation shall be effective from the date on which the division takes effect notwithstanding the actual registration is done later on; the registration of the transfer or society or societies shall be deemed to have been cancelled from the date on which the amalgamation or merger takes effect.

(g) The provisions of this section shall have effect notwithstanding anything to the contrary elsewhere in this Act or in any other law or agreement, award or other instrument for the time being in force;

(h) (i) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Registration Act, 1908, and order issued under this section shall be sufficient conveyance to divide or to transfer the assets and liabilities of the society or societies covered by any order passed under sub-clause (ii) of clause (c);

(ii) Notwithstanding anything contained in any other law for the time being in force no civil court shall exercise any jurisdiction in respect of any action taken or order passed under this section and nothing done or order passed in exercise of any power under this section shall be called in question in any such court."]

1. Substituted sub-section (3) of Section 15 by the Assam Act No. XIII of 1975 (with effect from 22-10-1975).

Note - Before substitution of sub-se-Section 15, as inserted by Assam Act No. XX of 1974 (with effect from 11-7-1974) read as follows-

(3) (i) Notwithstanding anything contained in sub-section (1) and (2), the Registrar may, of his own motion and at any time for reasons of ensuring economic viability of any registered society or avoiding overlapping or conflict of jurisdictions of registered societies in any area, direct any registered society shall divide itself into two or more societies or amalgamate or merge fully or partially with any one or more specified society or societies within a specified date and according to any specified bye-laws and may also direct the manner in which the assets and liabilities of the society so directed to divide, amalgamate or merge shall be disposed of;

(ii) In the case of amalgamation or merger a copy of the direction of the Registrar will also be served on the society or societies with which the amalgamation or merger is intended to take effect;

(iii) The Society or societies directed under Clause (i) to divide, amalgamate or merge and the society or societies with which the amalgamation or merger is intended to take effect, may submit objection to such order, if any, to the Registrar within 15 days of the

order. The Registrar, after considering the objection of the society of societies, may withdraw, modify or confirm with such modification, as deemed necessary, the direction given by him under clause (i) of this sub-section;

(iv) On and from the date specified in the order of the Registrar confirming his direction to a society to divide, amalgamate or merge, the division, amalgamation or merger will take effect and the assets and liabilities of the society on which the direction was passed shall stand divided, amalgamated or merged with the assets and liabilities of the societies borne out of such division or amalgamation or merger and the members, creditors and debtors of such society, shall be deemed to be members, creditors and debtors, as the case may be, of the new society as ordered by the Registrar;

(v) Notwithstanding any bye-law to the contrary, any member of any such society and, notwithstanding any agreement to the contrary, any creditor of such society which was divided, amalgamated or merged may, within a period of sixty days from the date of division, amalgamation or merger intimate his intention not to continue as a member of the new society, in case of a member and demand a return of the amount due to him, in case of a creditor. The Society inheriting the assets and liabilities of the erstwhile society in this regard shall return the share money or dues of such persons provided that all dues from such persons to the society, if any, as inherited or otherwise, are realised :

Provided that the Registrar may direct that any such specified society or class of the societies inheriting assets and liabilities of erstwhile society or societies due to division, amalgamation or merger shall pay or return to the creditors or members of the erstwhile societies towards return of their dues or share money as demanded by them, only such sums, to the extent of and proportionate to the recovery or realisation of any money against: the assets and dues realisable from the debtors of such erstwhile societies and for this purpose the successor society shall follow the same principles and procedures as if the erstwhile society has gone into liquidation or being wound up.

(vi) Notwithstanding the procedure for registration of societies as enumerated under sub-sections (1) (vi) and (2) (v), the Registrar shall register the new societies created after division of an existing society under Section 11 on the date from which the order issued under clauses (i) and (ii) of these sub-sections come into effect. From the date on which the new societies are registered the registration of the old societies shall be deemed to have been cancelled;

(vii) In case of the society directed to amalgamate or merge with another society, its registration shall be deemed to have been cancelled from the date on which the order issued under clauses (I)

and (III) of this, sub-section takes effect;

(viii) The division; amalgamation or merger of society shall not affect any rights or obligations of the society divided, amalgamated or merged or render defective any legal proceedings which might have been continued or commenced by or against the society which has been divided, amalgamated or merged and accordingly such legal proceedings may be continued or commenced by or against the society or societies to whom its assets and liabilities are transferred;

(ix) In the case of any society carrying on banking business, to which the Banking Regulation Act, 1949 (as applicable to Co-operative Societies) (Central Act No. 10 of 1949), is applicable, no order, under sub-section (i) Shall be passed by the Registrar, without the previous approval of the Reserve Bank of India."]

15A. Insured Co-Operative Banks :-

"Notwithstanding anything contained in this Act, in the case of an Insured Co-operative Bank-

(i) An order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstructions (including division or reorganisation), of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;

(ii) An order for the winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in its circumstances referred to in Section 13-D of the Deposit Insurance And Credit Guarantee Corporation Act, 1961;

(iii) If so required by the Reserve Bank of India in the public interest or for preventing the affairs of the Bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the bank, an order shall be made for the supersession of the committee of management or other managing body (by whatever name called) of the bank and the appointment of an administrator therefor for such period or periods, not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank of India, and the administrator so appointed shall after expiry of his term of office, continue in office until the day immediately proceeding (sic) the date of the first meeting of the new committees;

(iv) No appeal, revision or review shall lie or be permissible against an order such as is referred to in clause (i), (ii) (iii) made with the previous sanction in writing or on the requisition of the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any other manner;

(v) The liquidator or the insured co-operative bank or transferee bank as the case may be, shall be under an obligation to repay the Deposit Insurance And Credit Guarantee Corporation established under the Deposit Insurance And Credit Guarantee Corporation Act, 1961 in the circumstances, to the extent and in the manner referred to in Section 21 of that Act.

EXPLANATION

(i) For the purposes of this section "a Co-operative Bank" means a bank as has been defined in the Deposit Insurance And Credit Guarantee Corporation Act, 1961;

(ii) "Insured Co-operative Bank" means a society which is an insured bank under the provisions of the Deposit Insurance And Credit Guarantee Corporation Act, 1961;

(iii) Transferee Bank" in relation to an insured Co-operative Bank, means a Co-operative bank -

(a) with which such Insured Co-operative Bank is amalgamated; or

(b) to which the assets and liabilities of such insured Co-operative Bank are transferred, or

(c) into which such insured Co-operative Bank is divided or converted under the provisions of Assam Co-operative Societies Act, 1949."1

1. Inserted by the Assam Act 1 of 1000 (with effect from 6-1-1990.)

CHAPTER 3

RIGHTS AND LIABILITIES OF MEMBERS OF REGISTERED SOCIETIES

16. Member Not To Exercise Rights Till Due Payment Made And Conditions Fulfiled :-

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

17. Votes Of Members :-

(1) Irrespective of the shares he holds in the society and subject to any temporary disqualifications from voting which may be prescribed in bye-laws and to the provisions of Section 31(2)(b) relating to voting by representatives, a member of a registered society shall have one only in the affairs of the society :

Provided that in the case of an equality of votes the chairman at any meeting shall have a second or casting vote :

Provided further that the bye-laws of a society may provide for more than one vote in the case of an affiliated society.

(2) A registered society which is a member of another registered society may appoint one of its members qualified under any rule or bye-laws to vote in the affairs such other society as its representative.

(3) Voting by proxy shall not be allowed except as prescribed in a registered societys bye-laws :

Provided that in registering the bye-laws of a society the Registrar shall not permit voting by proxy except in case, such as those involving a wide area of operation, where it would be difficult for members to exercise their right to vote if voting were not permitted.

["(4) Notwithstanding anything contained in this Act, a registered society may, by specific provisions made in its bye-laws admit certain class of members without any voting right."]¹

1. Inserted by the Assam Act No. XX of 1974 (with effect from 11-7-1974.)

18. Member Of Unlimited Society To Furnish Information As To His Financial Position :-

(1) A full, true and accurate statement of his assets including his immovable property and liabilities shall be furnished-

(a) by an applicant for membership of a registered society with unlimited liability, together with his application;

(b) by a member of a registered society with unlimited liability when required to do so by the Registrar or any person authorised by him in this behalf or by the affiliating society.

(2) No member of a registered society with unlimited liability shall be a member of more than one such society.

(3) A member of a registered society with unlimited liability shall furnish to the society full true and accurate information regarding his intention to transfer his immovable property, in whole or in part by way of sale, mortgage or gift at least fifteen days before completion of each such transaction.

19. Loan To Be Utilised For The Purpose For Which Advanced :-

The loan advanced by a registered society to a member thereof shall be utilised by him for the purpose for which it was advanced and for no other purpose. The society shall have power to recover the advance as prescribed if the member does not so utilise it.

20. Restrictions On Transfer Of Share Or Interest :-

(1) The transfer or charge of the share interest of a member in the capital of a registered society, shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(2) Except as otherwise provided in this Act no transfer or charge of his share or interest by a member of a society with unlimited liability shall be valid unless-

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

(b) the transferee or mortgagee is either a member of such society or a person whose application for membership has been accepted.

21. Liability Of Past Member And His Estate :-

(1) The liability of a past member and of the estate of a deceased member for the debts of a registered society as they existed at the date of his ceasing to be a member or of his death, as the case may be, shall continue for a period of four years from the said date.

(2) No past member of a registered society with unlimited liability shall be eligible for membership of another such society with unlimited liability except with the special permission of the Registrar.

22. Share Or Interest Not Liable To Attachment :-

Notwithstanding anything contained in any law for the time being in force but subject to the provision of Section 44 of this Act, the share or interest of a member in the capital of a registered society or in any fund under Section 53 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 not be subject to any claim by a receiver under the Provincial Insolvency Act, 1920 (V of 1920).

23. Nomination Of Transferee :-

If the bye-laws of a registered society so permit any member of the society may, in accordance therewith nominate a person or persons in whose favour the society shall dispose of the shares or interests of such member on his death.

24. Transfer Of Interest Death Member :-

When a member of a registered society dies his shares and interest in the society shall, subject to the provisions of this Act, be transferred-

(a) to the person, if any, nominated in accordance with the provision of Section 23; or

(b) if there be such nominee or if the nominee is not available or is difficult to be ascertained by the managing body, or if for any other cause such transfer cannot be made without unreasonable delay difficulty, to the person as may appear to the managing body to be the heir or legal representative of the deceased member :

Provided that ninety days have elapsed from the date of the members death. No new claim shall be entertained after the period of ninety days.

25. Disposal Of Shares Or Interest Of Ceased Members :-

When a member of a registered society is expelled or withdraws or otherwise ceases to be a member under this Act, rules or bye-laws his share or interest shall be transferred to another eligible person, and the value thereon, determined in accordance with the rules, shall be paid to such ceased member if his share or interest is not forfeited under the provisions of this Act, rules or bye-laws or if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912 (IV of 1912) :

Provided that if there is no eligible transferee and if the bye-laws of the society so provide the value of his share or interest determined in accordance with the bye-laws shall be paid to him or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

26. Liability Of Members On Winding Up Of Society :-

The members of a registered society shall in the winding up of the

society, be jointly and severally liable to contribute towards any deficiency in the assets of the society--

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

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

27. Restriction On Transfer Of Possession Of Land Held Under A Society :-

Notwithstanding anything in any law for the time being in force-

(1) a member of a registered society, the object of which is to develop Co-operative or Collective farming, shall not be entitled to transfer his possession or interest in any land held by him under the society, except to the society or with the previous approval of the managing body and in accordance with its bye-laws, to a member thereof or to a person who will be admitted as a member of the society;

(2) on the death of such a member, his possession of and interest in, any such land held by him under the society shall come to his nominee in accordance with the provisions of Section 23 or the first eligible heir according to seniority in age willing to become a member of the society;

(3) if no nominee or heir becomes a member the possession of and interest in, such land of the deceased, shall vest in the society, which shall pay to the nominee or the heir, a sum equivalent to the value of the share and interest of the deceased member and any other sum due from the society as determined in accordance with this Act or rules framed thereunder after deducting all dues which the deceased member owed the society;

(4) if there is no person qualified to succeed to the share or interest of the deceased member the society, shall pay to his heir, executor or the legal representative as the case may be, a sum equivalent to the value of the share and interest of the deceased member as determined in accordance with the rules after deducting the dues of the deceased to the society;

(5) when in any other member ceased to be a member of such a society under this Act, rules or bye-laws, his possession of and interest in, any such land held by him under the society shall come to the society. If the bye-laws allow and if the share and interest of the member is not forfeited under this Act or rules framed thereunder the society shall pay to the ceased member a sum equivalent to the value of the share and interest of such member and any other sum due to him from the society after deducting his debts to the society, if any;

(6) no land held under a registered society specified in sub-section (1) by a member thereof, or vested under sub-section (2) in the heir or

nominee of such member, shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof;

(7) no land shall vest in such a society by reason of the provisions of this section unless it is owned by the society or has been leased to the society and, if the society holds the land by lease or contract, the land shall vest in the society only during the pendency of the lease or contract.

28. Right Of A Registered Society To Pay Prior Debts Of A Mortgagor :-

(1) Where a mortgage is executed in favour of a registered society for payment or prior debts or part thereof, of the mortgagor secured on the mortgaged property, the registered society may, notwithstanding the provisions of Sections 83 and 84 of the Transfer of Property Act, 1882 (IV of 1882), by notice in writing and served by registered post with acknowledgment due, require any person to whom any such debt is due to receive payment of such debt or part thereof from the society at its registered office within such period as may be specified in the notice.

(2) The person on whom such notice is served shall be bound to receive payment of the amount offered by the society, but where there is disagreement or dispute between the mortgagor and such person as regard the amount of the debt, or where the society tenders less than the agreed amount of debt, the receipt of the sum offered by the society shall not debar such person from enforcing his right to recover the balance claimed by him.

(3) If any such person refused to receive such notice or such payment, such debt or part thereof as the case may be, shall cease to carry interest from the expiration of the period specified in the notice and the property mortgaged under sub-section (1) shall be deemed to have been freed from the encumbrance of such prior mortgage.

(4) No society shall advance a loan on a mortgage without taking a declaration from the prospective mortgagor as to the names of prior mortgagees of the property in question, if any.

29. Restrictions On Mortgaged Property :-

Where land is mortgaged to a registered society-

(1) the mortgagor shall not be entitled without the approval of the society to transfer or mortgage his equity of redemption or to create a charge upon or lease out such property for a period exceeding three years;

(2) If the mortgaged property at any time is wholly or partially

destroyed or the security is rendered insufficient due to fall in value or for any other reason and the mortgagor having been given a reasonable opportunity by the society of providing for further security sufficiently to cover the loan or of repaying the loan with interest or such portion of the loan as may be determined by the supervisory, managing or controlling body and the mortgagor having failed to provide such security or repay such portion of the loan, the whole of the loan or such uncovered portion shall be deemed to fall due at once and recoverable through a co-operative demand certificate.

(3) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882), the mortgaged property, in case of default of payment of mortgage money or any part thereof, may be sold by the society as prescribed by rules in addition to any other remedy available to it, without the intervention of court is expressly conferred by the mortgage deed, provided the society serves a notice in writing by registered post demanding payment of the mortgage money with interest, or part thereof, upon the mortgagor or, any person having an interest in or charge upon the mortgaged property or the equity of redemption who has previously notified the society of such interest or charge in writing or any surety, and if default has been made in payment of the loan or part thereof for three months after such service of notice :

Provided that any party aggrieved by an action taken by a registered society under this section may prefer an appeal to the Registrar within thirty days from the date of the sale. His decision shall be final.

30. Bar To Certain Claim :-

All payments and transfer made by a registered society under this chapter, shall be valid and effectual against any demand made upon the society by any other person.

CHAPTER 4 **MANAGEMENT**

31. General Assembly :-

(1) The General Assembly of a registered society shall consist of all those who are eligible to vote at general meeting of the society.

(2) (a) Every member of a registered society and every ex-officio member of the Administrative Council or managing body of such society, unless under some temporary disqualification, shall have the right to attend any general meeting of the society and to exercise his vote at such meeting. Provided that the bye-laws of a registered society may prescribe-

(i) that a registered society affiliated to such society may have more than one representative entitled to vote at general meeting of the society; and

(ii) that only one-third of the members of the General Assembly, excluding ex-officio members, may be individual members, the other two third being representatives of affiliated registered societies.

(b) When the bye-laws of a registered society contain the provision of sub-section (2)(a)(ii), if the number of individual members exceed one-third of the total membership of the society, the individual members shall select at a special meeting, to be called by the Secretary of the society not more than one month before the annual general meeting in the manner prescribed in the bye-laws for annual general meeting, those individual members who, as the representatives of the body of individual members, shall form the one-third membership of the general Assembly for the purpose of voting at the annual and other meeting of the General Assembly during the ensuing year, only such elected representatives having the right to attend and vote at such general meetings.

(3) The supreme authority of a registered society shall be vested in the General Assembly. Provided that during the pendency of any loan or service from the Government, or any other creditor secured at the instance of the Government, the supreme authority in respect of any matter adversely affecting the interests of the Government or the said creditor touching such loan or service shall be vested in the [State]¹ Government or the Registrar, as may be provided in the bye-laws, or any person authorised by them in writing, and may extend to the appointment of officers to hold any of the offices of the society or any to be ex-officio members of the Administrative Council managing body or any committee of the society even if not members of the society. This supreme authority of the Government or Registrar may also be exercised in the absence of any loan or service when the Government or Registrar, as the case may be, deem their intervention to be necessary in the interest of the members of the society or of the Co-operative movement in general. The Government or the Registrar as the case may be, may fix the salary of any such appointed officer and declare it to be a charge on the society. They may cancel any such appointments made by them.

(4) An annual or special meeting of the General Assembly shall be summoned and shall exercise its authority and perform its functions in such manner as may be prescribed in the bye-laws of the society.

1. Substituted by the A. O. 1950.

32. Annual Meeting Of General Assembly :-

(1) A general meeting to be termed the annual general meeting of the General Assembly of a registered society shall be held at least once in every Co-operative year for the purpose of-

["(a) electing members to the Administrative Council, Managing body and other Committees of the Society, the Chairman, Vice-Chairman and other office bearers, as may be provided in the bye-laws, and fixing such fees, salaries or other remuneration as prescribed in the bye-laws :

Provided that the State Government may prescribe by rules the tenure of office of the elected members of the Administrative Council, Managing body and other Committees and also the qualifications necessary for the office bearers and the employees;"]¹

(b) electing an internal auditor or auditors, who shall not be members of the Administrative Council or governing body, and fixing the remuneration;

(c) considering the annual report of the Administrative Council or, if there be no Administrative Council, of the managing body, audit report and audited annual accounts and balance sheets and reviewing the working of the society during the preceding Co-operative year;

(d) deciding how profits are to be (sic) accordance with the bye-laws;

(e) passing the annual budget and approving the programme of work for the ensuing year;

(f) fixing the maximum amount of liability to be incurred during the ensuing year and the maximum rate of interest payable on deposits; and

(g) considering such other business as may be placed before the meeting in accordance with the bye-laws :

["Provided that notwithstanding anything to the contrary contained in this Act or Rules made thereunder or bye-laws of any society, the Registrar may direct that the first annual general meeting of any registered society shall be held on a date to be fixed by him (which shall be a date within one hundred and eighty days of the registration of the society) to elect the office bearers of the society, according to the procedure and manner prescribed in the bye-laws of the society and the office bearers so elected shall assume office on the conclusion of the general meeting in which they are elected in replacement of the managing committee elected at the time of the inaugural general meeting of the society".]²

["(2) Such a meeting shall be held within 60 days from the date of expiry of the preceding Co-operative years :

Provided that if for any reason the meeting cannot be held within the date fixed by the Registrar, any society may by application made within the aforesaid period of 60 days and addressed to the Registrar, pray for extension of time for holding the meeting stating the ground

for which, in the opinion of the society, the meeting cannot be held. The ground for which the Managing Body should not stand dissolved under sub-section (4) below should also be stated in the application, if any, made for extension. The period for which the extension is sought for shall also be specifically stated in the application]3.

(3) When an application for extension is made under the preceding sub-section, the Registrar may, if he is of opinion that extension should be granted and that there are good grounds for which the Managing Body should not stand dissolved under sub-section (4) below by order grant extension for any period not exceeding 30 days from the date of passing the order. If the Registrar is of opinion that no extension should be granted he shall by an order passed to that effect reject the same. In both the cases, the order passed shall be communicated under registered post to the society applying for extension.

(4) If any society fails to hold the meeting within the period of 60 days mentioned in sub-section (2) when an application is made for extension under the proviso to sub-section (2) within the period so extended or when no extension is granted, before the expiry of 2 days from the date on which the order rejecting the application for extension is communicated, the Administrative Council and/ or the Managing Body of the society shall stand dissolved from the date of expiry of the aforesaid period.

(5) When the Administrative Council and/or Managing Body are dissolved under sub-section (4), the Registrar may appoint an officer or officers or any adhoc body to manage the affairs of the society and to perform the functions of the Administrative Council and Managing Body till the new Body is elected or formed.

(6) The officer or officers or the adhoc body appointed by the Registrar under sub-section (5) shall arrange to hold the annual meeting of the general assembly which shall be held within ninety days of such appointment :

Provided that the State Government may allow in its discretion such further time, as may be considered necessary but not exceeding one year for holding of such meeting.

1. Substituted by the Assam Act No. XIX of 1990 (with effect from 23-11-1990.)

2. Added by the Assam Act No. XX of 1974 (with effect from 11-7-1974.)

Note - Before substitution of clause (a) of sub-section (1) of Section 32 read as follows-

"(a) electing members to the Administrative Council, managing body and other committees of the society, the Chairman, Vice-Chairman, and other office bearer, as may be provided in the bye-laws, and fixing such fees, salaries or other remuneration as prescribed in the bye-laws:

Provided that the Government may prescribe by rules the qualifications necessary for office bearers and employees,

3. Substituted by the Assam Art No. XX of 1974 (with effect, from 11-7-1974).

Note- Before substitution sub-section (2) of Section 32 read as follows-
"(2) Such meeting shall be held not more than fifteen months after the date of the last preceding meeting held under sub-section (1) and unless the Registrar on special grounds extend the period, within three months of the receipt of the statutory annual audit report."

33. Special Meeting Of General Assembly :-

(1) A special Meeting of the General Assembly shall be called-

(a) at the instance of the Administrative Council or if there be no Administrative Council of the managing body;

(b) at the request of the Chairman of the society;

(c) on a requisition signed by one-tenth of the members of the General Assembly or twenty members, whichever is less; or

(d) at the instance of the Registrar.

(2) The Registrar himself or any person authorised by him in this behalf, in writing, may, by special order call a special meeting of the General Assembly at any time and shall call such a meeting upon the failure of the society to call a meeting on the requisition by the members or at the instance of the Registration under sub-section (1).

(3) Notwithstanding any rule or bye-law prescribing the method of summoning or period of notice for a General Assembly, the Registrar or any person authorised by him in this behalf, may specify the time, place, business for the meeting and manner of convening it.

34. Administrative Council :-

The management of every registered society shall vest in the managing body of the society, except in the case of a society, which for administrative convenience necessitated by reasons such as wide area of operation, that responsibility shall vest in an Administrative Council. The Administrative Council, the managing body and committees of a society shall be constituted in accordance with the bye-laws of the society which shall specify the composition of such bodies, their powers, functions, duties method of sum.

35. Power To Depute Government :-

Servant to manage the affairs of a society--

The State Government may, on the application of a registered society and on such conditions as may be determined, depute Government

officials to the service of the society for the purpose of managing its affairs, and the official shall exercise such powers and perform such duties as may be determined.

35A. Section 35A :-

Notwithstanding anything contained in any law for the time being in force, the Registrar may at any time direct a particular society or a class of societies to appoint only persons having such qualifications as may be prescribed by him from time to time."]1

1. Inserted by Assam An No. XIII of 1975 (with effect from 22-10-1975).

36. Dissolution Or Reconstruction Of The Administrative Council, Managing Body Or Any Committee Of A Society :-

(1) When the Registrar is satisfied, after an inspection or enquiry under Section 60 for reasons to be recorded in writing, that the Administrative Council, managing body or any committee of a registered society is not functioning properly or according to this Act, rules or bye-laws, he may, after giving the offending body an opportunity to state its case, direct under clause (d) of sub-section (1) of Section 33, that a special meeting of the General Assembly be called within a time to be specified to dissolve the Administrative Council, managing body or committee concerned and to elect a new one :

Provided that, if in the opinion of the Registrar it is necessary as an emergent measure to suspend the offending body forthwith, he may do so and shall appoint a person or persons, on which conditions as prescribed by him, to be in full control of the suspended body until a new body has been elected or action has been taken in accordance with Section 37.

(2) The Registrar may, for reasons to be recorded, specified in the direction made under sub-section (1) that all or any of the outgoing members of the dissolved body shall be disqualified for such period not exceeding three years as he may determine, for election or appointment as an officer of the society or for service on any of its bodies.

(3) An appeal shall lie to the Provincial Government against an order of the Registrar disqualifying a member of a society for election or appointment within two months from the receipt of the order.

37. Dissolution Of Administrative Council, Managing Body Or Any Committee And Appointment Of Persons To Manage The Affairs Of A Society :-

If the Administrative Council, managing body or any committee of a society is not dissolved and reconstituted within the time specified by the Registrar under Section 36, he may by order in

writing dissolve such body and shall thereupon appoint a person or persons, on such conditions as prescribed by him, to manage the affairs of the society for such period not exceeding one year when he shall arrange for the constitution of a new body to take the place of the dissolved body. The Registrar may extend this period from time to time as he may deem fit:

Provided that the aggregate of such periods shall not exceed three years.

38. Tenure Of Office Of The Person Appointed Under Section 37 :-

The person appointed under Section 37 shall hold office until the Administrative Council, managing body or committee, as the case may be, is reconstituted or his appointment is cancelled by the Registrar.

39. Powers Of Person Appointed Under Section 37 :-

During the tenure of office of a person appointed under Section 37 such person shall, subject to the control of the Registrar, exercise all the powers and perform all the functions and duties which may be exercised or performed by the superseded body under the provisions of this Act. rules or bye-laws.

39A. Section 39A :-

(1) Notwithstanding anything contained in this Act, the State Government may, if it is of opinion that the Administrative Council the Managing Body, any other Committee or body of a registered society is not competent to perform or persistently makes default in the performance of the duties imposed by or under this Act or exceeds or abuses the powers imposed by or under this Act, at any time, after giving an opportunity of showing cause against the actions proposed, remove any such Council, Body or Committee.

(2) The State Government may, at any time, suspend any such Council, Body, Committee pending its removal under sub-section (1) from office, if in the opinion of the State Government immediate action is necessary and the continuance of such Council, Committee or Body in office is inadvisable on any of the grounds on which it could be removed under sub-section (1) or on the ground of public interest.

(3) When an Administrative Council, Managing Body Committee other body of a registered society is suspended under sub-section 2 the State Government may make such arrangement as may be deemed necessary for discharging the duties, function and obligations of the Administrative Council, Managing Body Committee or other body so suspended till the termination of the order of suspension or, when a body or person is removed under sub-section (1), till the vacancy is filled up in accordance with the provisions by or under this Act.

(4) Notwithstanding anything contained in this Act, if the term of office of any Administrative Council, Managing Body, Committee or other body expires during the continuance of any order passed under sub-section (2) placing any such Council, Body or Committee under suspension, such Council, Body or Committee shall cease to function with effect from the date of such expiry and the arrangements made by the State Government under sub-section (3) will continue till the vacancies caused by such expiry are filled up in accordance with the provision made by or under this Act."]1

1. Inserted as new Sections "39A" and "39B" by the Assam Act No. XVI of 1973. (w.e.f.

3-7-1973).

39B. Section 39B :-

1(1) The State Government may, after giving an opportunity of showing cause, remove the Chairman, the Vice-Chairman, the Secretary, any other member or office-bearer or employee of a registered society from the office of membership held by him on any one or more of the following grounds, namely-

- (a) Doing any act in violation of the provisions of the Act, the rules framed thereunder, the registered bye-law of the society and other lawful orders of the Government or of the Registrar of Co-operative Societies;
- (b) Doing any act which is prejudicial to the interest of the Co-operative movement;
- (c) Misuse and defalcation of funds of the society;
- (d) Misconduct and wilful neglect in the discharge of his duties;
- (e) Refusal to act or incapability of acting.

(2) The State Government may, at any time suspend a Chairman, a Vice-Chairman, a Secretary or any other member, office-bearer or employee of a registered society pending his removal under sub-section (1) if the State Government is of opinion that immediate actions are necessary and his continuance as such Chairman, Vice-Chairman, Secretary, member, office bearer or employee is inadvisable on any of the grounds for which he may be removed under sub-section (1) or on the ground of public interest.

(3) When a Chairman, Vice-Chairman or any other member or office-bearer or employee is suspended under sub-section (2) of this section, the State Government may make such arrangements as may be deemed necessary for discharging the duties, functions and obligations of the person so suspended till the termination of the order of suspension or, when a person is removed under sub-section (1) above, till the election or appointment of a person to the office or membership which was held by the person so removed.

(4) Notwithstanding anything contained in this Act, if the term of office or any Chairman, Vice-Chairman, member, other office bearer, or employee of any registered society expires during the continuance of any order passed under sub-section (2) of this Section placing any such person under suspension, such person shall cease of function with effect from the due of such expiry and the arrangements made by the State Government under sub-section (3) will continue till the vacancies caused by such expiry are filled up in accordance with the provisions made by or under this Act."]

1. Inserted as new Sections "39A" and "39B" by the Assam Act No. XVI of 1973. (w.e.f. 3-7-1973).

CHAPTER 5

DUTIES OF REGISTERED SOCIETY

40. Address Of Society :-

Every registered society shall have a registered address, to which all notices and communications may be sent and shall send notice in writing of every change thereof, within thirty days of such change, to the Registrar and to the affiliating society if any.

41. Prescription And Inspection Of Documents :-

(1) Every registered society shall keep and allow inspection free of charge by any member of the society and such other persons as may be prescribed at all reasonable times at the office of the society-

- (a) A copy of this Act;
- (b) A copy of the rules framed under this Act;

- (c) A copy of the bye-laws of the society;
- (d) A copy of all rules framed under the bye-laws of the society;
- (e) Annual balance sheet authenticated by the Audit Officer, and
- (f) Such other books, forms, registers or other documents as may be prescribed by the Registrar.

(2) A society shall deliver to every member on payment of a sum prescribed by the society's bye-laws or rules, copies of documents certified to be true copies.

42. Restrictions On Borrowing :-

A registered society may receive deposits and may borrow from its members and from persons who are not members to such extent and on such conditions as may be prescribed in the Act and on such conditions as may be prescribed in the Act and bye-laws.

42A. Section 42A :-

Notwithstanding any provision contained in this act, the State Government may, by general or special order direct transfer of any Co-operative Society from one financing bank to another after prior consultation with these banks and the society for the purpose of availing finance by the society for its credit and non-credit operations, on such terms and conditions, as may be considered necessary."]1

1. Inserted new Section "42A" by the Assam Act No. XIII of. 1975. (w.e.f. 1-11-1974)

43. Power Of Government To Give Financial Assistance :-

Notwithstanding anything contained in any law for the time being in force the State Government may grant loans to, take shares in, guarantee the principal or the interest or both in respect of debentures issued by or give financial assistance in any other form to any registered society, which puts forward a satisfactory scheme for the utilisation of the funds so raised. The State Government may recover from any society out of its net profit in any year all or any part of such financial assistance.

44. Restrictions On Loans :-

(1) A registered society shall not give loans-

(a) to any person other than a member except with the general or special sanction of the Registrar :

Provided that a loan may be given to a depositor of the society on the security of his deposit; or

(b) to a member in excess either of the maximum or of the normal credit determined by the society for that member in accordance with its bye-laws :

provided that in assessing normal credit the managing body shall take

a full statement as to the members means of earning;

(c) on the security of movable property of future movable property, unless the movable property is ["charged, hypothecated or pledged with the society"]¹;

(d) on personal security without sureties, unless the borrowing member has unencumbered immovable property or attachable funded assets sufficient to cover the loan and a full statement of such securities is submitted by the borrower and the truth of the statement is ascertained by the managing body;

(e) on personal security with sureties, unless the borrowing member and his sureties together have unencumbered immovable property or attachable funded assets sufficient to cover the loan and a full statement of such securities is submitted by the borrower and the sureties separately and the truth of the statement is ascertained by the managing body;

(f) on personal security, with or without sureties, unless the loan is for a short period not exceeding the time required to reap the benefit of the loan and in no case exceeding three years.

(2) (a) Notwithstanding the provisions of sub-clause (1)(b), (d) and (e) a loan may be given on personal security provided that the managing body of the society is satisfied as to the credit of the borrower and has taken from him a scheme for the utilisation of the loan and has ascertained the truth of the statements contained in the scheme and the bona fides of the borrowing member;

(b) the resolution of the managing body granting a loan under this section shall contain the names of all assenting members :

provided that, if such names are omitted from the proceedings of the meeting, the Chairman and Secretary shall be held jointly and severally responsible for the issue of the loan;

(c) notwithstanding the provisions of sub-clauses (1)(b) to (f) and (2) (a) and (b), a registered society may issue a loan on mortgage or valuable security;

(d) no person shall be accepted as a surety for any borrower unless he is also a member of the same registered society.

(3) A registered society, the primary object of which is not the issue of loans, shall open a separate accounting or finance or banking branch in accordance, with its bye-laws and frame rules for the conduct of business in such branch before it issues any loans and such rules shall first be approved by the Registrar.

1. Subsisted by the Assam Act No. XIII of 1975 [with effect from 1-11-1974).

45. Office Bearer Of Society Is Required To Furnish Information And Produce Documents :-

(1) Every office bearer of a registered society shall produce documents and books of account, cash balance in his custody, and appear before and furnish such information in regard to the transactions or working of the society as may be required of him by the Registrar, or person authorized by the Registrar in this behalf, an audit officer, arbitrator, liquidator or any any person conducting an inspection or inquiry under the provisions of this Act and the Rules made thereunder.

(2) (a) At any sale of property, movable or immovable, held under this Act or rules framed thereunder, no office bearer of the registered society concerned or any person having duty to perform in connection with such sale, shall either directly or indirectly bid for, acquire or attempt to acquire any interest in such property;

(b) Any office-bearer of a society or a liquidator may on behalf of the society bid and purchase at a sale of mortgaged property.

CHAPTER 6

PRIVILEGERS OF REGISTERED SOCIETIES

46. Prior Claim Of A Society :-

(1) Notwithstanding anything contained in Sections 60 and 61 of the Code of Civil Procedure, 1908 (V of 1908), any debt or outstanding demand due to a registered society by any member, surety, past member, or the estate of any deceased member shall be first charge-

(a) if such debt or demand is due in respect of the supply, or any loan to provide the means of such supply, of seed, manure, labour, fodder for cattle or any other thing incidental to the conduct of agricultural operations,-upon the crops or agricultural produce of such member past member or belonging to the estate of such deceased member, at any time within two years from the date of such supply or loan or from the date on which the last installment of such supply or loan became repayable;

(b) if such debt or demand is due in respect of the supply of or any loan for the purchase of cattle, agricultural implements or warehouse for the storage of agricultural produce-in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouse thus supplied or purchased wholly or in part from any such loan;

(c) if such debt or demand is due in respect of the supply of, or any loan for the purchase of raw materials, industrial implements, machinery, workshop, warehouses or business premises-upon the raw materials or other things supplied or purchased by such member, past member or the deceased member wholly or in part from any such loan

and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased wholly or in part from any such loan;

(d) if such debts or demand is due in respect of any loan for the purchase, improvement or redemption of land or for the purchase or construction of any house, building or any portion thereof-upon the land purchased, improved or redeemed or the house or building so purchased or constructed by such member, past member or the deceased member from any such loan.

["(2) Notwithstanding anything contained in this Act or in any other law for the time being in force-

(a) a member who makes an application for a loan to a Co-operative Society of which the majority of the members are agriculturists shall, if he owns any land or has any Interest in any land as a tenant, make in such form as may be prescribed, a declaration that he thereby creates a charge upon such land or such interest, or such portion thereof, as may be specified in the declaration, for securing the repayment of the loan which the society may make to the members on the application and of future loans, if any, that may be made to him, from time to time by the society together with interest on such loan or loans;

(b) a declaration made under clause (a) may be varied or cancelled at any time by the member making it, with the consent of the society in whose favour it is made;

(c) any land or interest in land in respect of which a declaration has been made under clause (a) or any part of such land or interest, shall not be sold or otherwise transferred by the member making the declaration until the entire amount of the loan or loans taken by the member from the society together with interest thereon is paid to the society :

Provided that nothing in this clause shall apply to any such part of such land or interest as may have been released from the charge created under this section under the proviso to clause (d);

(d) subject to any any claim of State Government in respect of land revenue or any sum recoverable as land revenue or as public demand, there shall be a first charge in favour of the society on the land or interest in land specified in declaration made under clause (a), for and to the extent of the dues recoverable from the member making the declaration on account of the loan or loans together with any interest thereon made to him by the society.

Provided that if a part of such dues is paid by the member, the society may, on the application of the member and with the approval of the financing bank to which it may be indebted released from the charged such part of the land or interest in the land specified in the declaration made under clause (a) as the society may, having due regard to the

security of the outstanding amount of the loan or loans made to the member deem proper;

(e) every record of rights prepared and maintained under the Assam Land and Revenue Regulation, 1886 or any other law for the time being in force shall also include the particulars of every charge on any land or any interest thereon created under clause (a)".]

1. Subsisted sub-section (2) of Section 46 by the Assam Act: No. XIII of 1975 (w.e.f. 1-1-1974).

Note- Before substitution sub-section (2) of Section 46 originally read as follows-

"(2) Nothing in this section shall affect the claims of any bona fide purchaser or transferee for value without notice."

47. Charge And Set Off In Respect Of Shares Or Interest Of Members :-

A registered society shall have a charge upon the share or interest in the Capital and on the deposit of a member or past member or deceased member and upon any divided, bonus or surplus payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or estate of such deceased member to the society, and may set off any sum credited or payable to a member or past member or estate of a deceased member in or towards payment of any such debt.

48. Deduction Of Dues From Salary Members :-

If a member of a registered society, who is an employee of the Government or any local authority, takes a loan from a society and contracts to repay it by installments, and authorises the society to recover such installments by deduction from his salary, the person who disburses any amount payable to such member as salary or remuneration in respect of such employment shall, on demand from the society, deduct the amount of such installment from the amount disbursed to such member as salary and shall forthwith remit to the society the amount so deducted.

49. Exemption From Compulsory Registration And Personal Attendance For Registration Of Instruments :-

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

(1) any instrument relating to shares in a registered society, notwithstanding that assets of such society consists in whole or in part of immovable property; or

- (2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holder of such debentures; or
- (3) any endorsement upon or transfer of any debenture issued by any such society;
- (4) notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary for any office bearer of a registered society or a liquidator of a society 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;
- (5) where any instrument is so executed may, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to such office bearer or liquidator for information regarding the same and on being satisfied of the execution thereof, shall register the instrument.

49A. Section 49A :-

(1) Exemption from registration of mortgage deeds executed in favour of Co-operative and Development Bank or Primary Society- Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary to register mortgages executed in favour of the Co-operative land development bank or a primary society of which the majority of members are agriculturists, for the purpose of securing the repayment of a loan provided that the land development bank or the primary society concerned send within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged for the purpose of securing repayment of the loan to the registering officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged is situate.

(2) On receipt of the copy or copies of the instrument under the preceding sub-section, the Registering authority shall file a copy or copies as the case may be in his Book No. 1 prescribed under Section 51 of the Indian Registration Act, 1908.

(3) The mortgages executed in favour of and all other assets transferred to a Co-operative land development bank or a primary Society of which the majority of members are agriculturists, by the members thereof, as security for repayment of loan, before or after commencement of this Act, shall, with effect from the date of such execution or transfer be deemed to have been executed or transferred by such society in favour of or to the financing bank."]¹

1. Inserted by the Assam Act No. XIII of 1975 (with effect from 22-10-1975).

50. Power To Remit Certain Duties, Fees, Etc :-

(1) The State Government may by general or special order in the case of a registered society or class of registered societies remit any tax, cess or fee payable under any law for the time being in force or the rules thereunder in respect of which they are competent to remit such

tax, cess or fee.

(2) The State Government may, in respect of any registered society or class of registered societies, by notification in the official gazette, remit-

(a) the stamp duty other than stamp duties (26, Geo.5, ch.2) falling within 1(item 91 or item 96 in list I in the Seventh Schedule to the Constitution of India) in respect of any instrument executed by, or on behalf of, or in favour of, a registered society or by an officer or on behalf of a member thereof, and relating to the business of such society or any class of such instruments, co-operative demand certificates or decisions awards or orders of Registrar or arbitrators under this Act, in cases where, but for such remission, the registered society, officer or member thereof, as the case may be, would be liable to pay the stamp duty chargeable under any law for the time being in force, in respect of such instrument; and

(b) any fee payable by a registered society under any law for the time being in force for the registration of documents or of court fee for the time being in force.

CHAPTER 7

PROPERTY AND FUNDS OF REGISTERED SOCIETY

51. Investment Of Funds :-

(1) A registered society may invest or deposit its funds-

(a) in a Government Savings Bank; or

(b) in any of the securities specified in Section 20 of the Indian Trust Act, 1882, other than those specified in clause (e) of that section; or

(c) with the sanction of the Registrar, in the shares or debentures or in the security of any other registered society; or

(d) with any registered society, bank or persons carrying on the business of banking approved for this purpose by the Registrar; or

(e) in any other mode permitted by the bye-laws.

(2) Such investment shall be accounted for separately from the Reserve Fund of the registered society.

52. Reserve Fund :-

(1) Every registered society shall maintain a Reserve Fund [Deleted]¹ and carry to the fund in each year not less than [twenty-five]² per centum of its net profits.

(2) The Reserve Fund shall be invested separately in any of the prescribed in Section 51 or, with the sanction of the Registrar, in immovable property required for the furtherance of the activities of the society. Any such investment shall be deemed to constitute Reserve

Fund, No instrument securing a loan on a Reserve Fund shall be valid.

(3) The Reserve Fund shall not be utilised for any purpose whatsoever except with the sanction of the Registrar, who shall accord such sanction only in exceptional circumstances.

1. [] deleted by Assam Act XX of 1974, (w.e.f. 11.7.1974).

2. Substituted by Assam Act XIII of 1975 (w.e.f. 22.10.1975)

53. Distribution Of Net Profit :-

After making the allocation to the Reserve Fund as prescribed in the Section 52, the remaining net profits of a registered society may be distributed according to the bye-laws of the society :

["Provided that a registered Co-operative Society of which the majority of members are agriculturists and one of the objects is the creation of fund to be lend to its members shall carry not less than 15% of its net profit in any year to the Agricultural Credit Stabilisation Fund as may be prescribed."]¹

1. Added by the Act No. XIII of 1975 (w.e.f. 22.10.1975).

54. Restriction On Distribution Of Profits :-

(1) Save as may be prescribed, no distribution of profit shall be made in the case of a registered society with unlimited liability and no part of the net profit or of a fund of any society shall be divided by way of dividend, bonus, patronage dividend, rebate or otherwise among its members.

(2) No dividend, bonus, patronage dividend, or rebate shall be paid-

(a) otherwise than out of net profits certified by the audit officer to have been actually realised: provided that advance patronage dividend may be paid in accordance with the directions of the Registrar and on the certificate of an internal auditor approved by the Registrar; or

(b) without the previous sanction of the Registrar, if the audit officer reports that any asset is bad or doubtful and also recommends that such sanction is necessary.

(3) Notwithstanding anything contained in this Section payments may be made to members as a fixed interest on share capital, if so provided in the bye-laws.

CHAPTER 8

Audit

55. Registrar Is Responsible For Audit :-

(1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in this behalf the accounts of every registered society and society under liquidation

once at least in every year.

(2) The registrar or the person authorized by him in this behalf 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 summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same and furnish such information in regard to the transactions and working of the society at any convenient place or at the headquarters of the society or any branch thereof by the same means and, so far as may be, in the same manner as provided in the Code of Civil Procedure, 1908 (V of 1908),

(3) In respect of every audit of the accounts, a registered society shall pay such audit fee as may be prescribed and such fee shall be deemed to be outstanding dues from the society.

56. Power Of The Registrar To Have The Accounts Written Up :-

If at the time of the audit the accounts of registered society are not complete, the Registrar or with his sanction, the audit officer, may cause the accounts to be written up at the expense of the society. ["Such expenses shall at the first instance be met from the grant under the Head Contingencies by the Registrar and shall be reimbursed later on from the society concerned along with the audit fee".]¹

1. Added by the Assam Act No. XIX of 1954, (w.e.f. 9.6.1954).

57. Nature Of Audit :-

The audit shall include-

- (i) a verification of the cash balance and securities;
- (ii) a verification of the balance at the credit of the depositors and creditors and of the amounts due from the debtors of the society;
- (iii) an examination of overdue debts, if and;
- (iv) the valuation of the assets including stock verifications, and liabilities of the society;
- (v) an examination of the statement accounts and balance sheets to be prepared by the managing body of the society in such forms as may be prescribed;
- (vi) a certification of the realised profits; and
- (vii) any other relevant matter.

58. Audit Report :-

The audit officer shall, within a week the date of completion of audit, submit to the registered society, and to the Registrar, together with

the statement of accounts audited, an audit report including a statement of-

- (i) every transaction which appears, to him to be contrary to law or to the rules or bye-laws;
- (ii) every sum which ought to have been but has not been brought into account;
- (iii) the amount of deficiency or loss which appears to have resulted from any negligence or misconduct or to require further investigation;
- (iv) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person;
- (v) any of the assets which appears to him so to be bad or doubtful;
- (vi) any irregularity in maintaining account; and
- (vii) any other relevant matter.

59. Rectification Of Defects :-

A registered society shall be afforded by the Registrar an opportunity of explaining any defects, or irregularities pointed out and objected to by the audit officer, and thereafter the society shall, within such time and in such manner as the Registrar may direct, remedy such defects and irregularities and report to the Registrar the action taken by it thereon.

CHAPTER 9

INQUIRY AND INSPECTION

60. Inquiry By Registrar :-

(1) The Registrar may, at any time, of his own motion or shall at the request of the administrative head in charge of the Civil Sub-division or other Administrative Area, hold an inquiry or direct some person authorized by him by order in writing in this behalf, to hold an enquiry into the constitution, working and financial condition of a registered society.

(2) Such an inquiry shall also be held on the application of-

- (i) the affiliating society, if any, of which the society is a member and a debtor;
- (ii) a majority of the members of the managing body;
- (iii) one-third of the members of the society, who shall have deposited such security for costs, if any, as the Registrar may direct;
- (iv) creditors representing not less than one half of the borrowed Capital of the society, who shall have deposited such security for costs, if any, as the Registrar may direct.

(3) The Registrar shall communicate the result of any enquiry under this Section to the society and to the person at whose request such

enquiry was made.

61. Inspection Of Society :-

(1) Every registered society shall be liable to inspection at any time by the Registrar or any person authorized by him in this behalf by general order; and by any affiliating society if so provided in its bye-laws.

(2) An inspection of a registered society shall be made by the Registrar or any person authorised by him in this behalf by an order in writing at any time on the application of a creditor of a registered society :

Provided that no inspection shall be made under this sub-section unless,-

(i) the creditor deposits with the Registrar such sum as security for the cost of the proposed inspection as the Registrar may require; and

(ii) the creditor satisfied the Registrar that the alleged debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time :

Provided further that no inspection shall be conducted under this sub-section without giving the society an opportunity of being heard.

(3) The result of an inspection under this Section shall be communicated to the society and if held at the instance of a creditor, to the creditor.

61A. Section 61A :-

(i) A financing bank shall have the right to inspect the books of any Co-operative Society which has either applied to the bank for financial assistance or is indebted to the bank on account of financial assistance granted earlier.

(ii) The inspection may be carried out by an officer or any other member of the paid staff of the financing bank with previous sanction of the Registrar in writing.

(iii) The officer or any other member of the paid staff of the financing bank undertaking such inspection, shall, at all reasonable time, have access to the books of accounts, documents, securities, cash and other properties belonging to or in the custody of the Co-operative Society inspected by him, and shall also be supplied by such society such information, statements and returns as may be required by him to assess the financial conditions of the society and the safety of the financial assistance to be made to the society or already made to it".¹

1. Inserted by the Assam Act No. XIII of 1975 (w.e.f. 22.10.1975).

62. Cost Of Enquiry And Inspection :-

(1) When an inquiry is held under Section 60(2) or an inspection is made under Section 61(2), the Registrar may, after giving the parties an opportunity of being heard, apportion the cost or such part of the cost as he may deem fit, between the society, the members thereof or the affiliating society or the creditor or creditors applying for such inspection or inquiry, as the case may be, and the officers, former officers, members and past members of the society.

(2) No expenditure from the fund of a registered society shall be

incurred for the purpose of defraying any cost in support of any appeal preferred by any person other than the society itself against an order under sub-section (1).

(3) Any person authorised by the Registrar under Sections 60 and 61 shall have all the powers of the Registrar when acting under these Sections.

(4) Recovery of costs- Any sum awarded by way of cost under this Section shall be recoverable through a Co-operative demand certificate.

CHAPTER 10

SETTLEMENT OF DISPUTES

63. Reference Of Dispute :-

Any dispute touching the business of a registered society, other than a dispute regarding disciplinary action taken by a society against an employee of the society, or of the liquidator of a society shall be referred to the Registrar for decision if the parties thereto are among the following-

(a) the society, its past or present controlling or managing body, any past or present officer, agent or employee or the liquidator of the society; or

(b) member, past member or persons claiming through a member, past member or deceased member of the society; or

(c) a surety of a member, a past member or deceased member of a society; or

(d) any other registered society or the liquidator of such society;

["(e) a registered society and a financing bank."]¹

1. Added by the Assam Act No. XIII of 1975 (w.e.f. 22.10.1975).

64. Settlement Of Dispute :-

(1) The Registrar shall on receipt of a reference under Section 63-

(a) decide the dispute himself or authorise any other Government Officer to decide the dispute; or

(b) refer it for disposal to an arbitrator appointed by the Registrar or to three arbitrators one to be nominated by each of the parties to the dispute and the third, who shall be nominated by the Registrar, to act as Chairman. Where any party to the dispute fails to nominate an arbitrator within fifteen days after the communication of this notice, the Registrar may himself make the nomination. No legal practitioner may be nominated as an arbitrator by any party to a dispute or by the Registrar.

(c) An arbitrator appointed under the previous sub-clause shall be governed by the Indian Arbitration Act, 1940 (X of 1940)*, with such

statutory re-enactment or modification thereof as shall from time to time be made.

(2) The Registrar may withdraw any reference of such dispute referred under sub-section (1) and may deal it himself under the said sub-section.

(3) Where the Registrar is satisfied that a party to any reference made to him under Section 63 with intent to defeat or delay the execution of any decision that may be passed thereon-

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

(b) is about to remove the whole or any part of the property from the local limits of the jurisdiction of the Registrar, the Registrar may [deleted]¹ direct the conditional attachment of the said property or such part thereof as he deems necessary; and such attachment shall have the same effect as if it had been made by a competent Civil Court.

* Now the Arbitration and Conciliation Act, 1996.

1. Deleted by the Act No. XIII of 1975 (w.e.f. 22.10.1975).

CHAPTER 11

DISSOLUTION OF SOCIETY

65. Cancellation Of Registration :-

(1) If the Registrar, on receipt of an application made upon a resolution adopted in a meeting of the General Assembly by a three fourths majority of the members present at the meeting provided that the notice of dissolutions was included in the circulated agenda of the meeting, is of opinion that society ought to be dissolved, he may by an order in writing cancel the registration of the society.

(2) The Registrar, after an enquiry has been held under Section 60 or after an inspection has been made under Section 61, may cancel the registration of a society which-

(i) has not commenced working; or

(ii) has ceased working; or

(iii) has ceased to comply materially with any condition as to registration in this Act, rules or bye-laws; and

(iv) in his opinion ought to be dissolved.

(3) A copy of the order cancelling the registration of a society shall forth-with be published in the official Gazette by a notice which shall be communicated to the society and to any affiliating society concerned by registered post. The notice shall contain the name of the liquidator appointed under Section 66, who shall take full charge of the society forthwith and shall require all claims against the said society to be made to the liquidator within two months of publication of the notice. All liabilities recorded in the account books of the society shall be

deemed ipso facto to have been so claimed.

(4) When the cancellation of the registration of a society takes effect, the society shall cease to exist as a corporate body, but shall vest in the liquidator.

(5) Any member of the society may, within two months from the date of publication of the order of cancellation appeal to the State Government from such order.

(6) Where no appeal is presented within two months from the publication of an order cancelling the registration of the society, the order shall take effect on the expiry of that period.

(7) When an appeal is presented within two months of an order of cancellation, the order shall not take effect until it is confirmed by the State Government and such confirmation is communicated to the society by registered post.

66. Winding Up :-

(1) Where an order of cancellation of the registration of a society is made by the Registrar under Section 65, he may appoint any person to be the liquidator of the society and may remove such person and appoint another in his place.

(2) The liquidator appointed under sub-section (1) shall have power from that date of his appointment to take immediate possession of all assets, properties, effects and actionable claims of the society or to which the society is entitled and of all books, records, cash and other documents pertaining to the business of the society and in the interests of the society, shall hold charge of the society notwithstanding the provisions of Section 65, provided that no steps shall be taken for the winding up of the society during the pendency of any stay order.

(3) The liquidator shall, under the general control of the Registrar, have power, so far as is necessary for the winding up of the society, on behalf of the society to carry on the business thereof and to do all acts and execute all documents necessary to such winding up, and in particular shall exercise the following powers-

(a) to institute, compromise and defend suits and other legal proceedings on behalf of the society by his name of office;

(b) to make any compromise or arrangement with any person between whom and the society there exists any dispute;

(c) to determine the debts due to the society by a member, past member or the estate, nominees, heirs or legal representatives of a deceased member;

(d) to determine from time to time the contribution to be made or remaining to be made by the members, past members or by the

estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society and to determine the debts due from such members or persons and the cost of liquidation;

(e) to calculate the cost of liquidation and to determine by what persons and in what proportion they are to be borne;

(f) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(g) to pay claims against the society including interest upto the date of cancellation of registration according to their respective priorities, if any, in full or rateably as the assets including the reserve fund of the society, permit, the surplus, if any, remaining after payment of claims being applied in payment of interest from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case;

(h) to take steps to recover dues according to the provisions of Section 83, if necessary : and

(i) to dispose of the surplus, if any, remaining after paying the claims against the society in accordance with Section 67 of this Act.

(4) Subject to the provisions of this Act and rules made thereunder a liquidator appointed under this Section shall, in so far as such powers are necessary for carrying out the purposes of this Section, have power to summon and enforce the attendance of witnesses and to compel the production of any book, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908).

(5) Notwithstanding anything contained in any law for the time being in force, if any landed property is held by a liquidator as such the title over the land shall be complete as soon as the mutation of the name of his office is effected and no court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

67. Distribution Of Fund Of A Dissolved Society :-

On dissolution of a society, the reserved fund and any undisbursed cash in hand shall be applied to discharging liabilities of the society and the repayment of the share capital. Any sum that may remain may be applied to such object of local and public utility as may be selected by the members of the dissolved society and approved by the Registrar. If, within three months of the notice published in the official gazette under Section 63, notifying the closing of the liquidation proceedings of the society, the members fail to select an object as aforesaid, the

Registrar shall, with the approval of Government, apply the fund to such local public utility as may be determined by him or credit the remaining sum to the reserve fund of a society, to be formed to replace the dissolved society or if there be no such society to any other deserving society existing within the same area of operation and having objects similar to those of the dissolved society or if there be no such society to any other registered society in Assam, as may be determined by the Registrar."]1

1. Substituted by Assam Act XIX of 1954 (w.e.f. 06.06.1954).

Note:- Before substitution of the Original Section 67 read as follows-

"67. Distribution of fund- On dissolution of a society, the reserve fund and any undisbursed cash in hand shall be applied to discharging the liabilities of the society and the repayment of the share capital. Any sum that may remain, shall be credited to the reserve fund of a society, to be formed to replace the dissolved society or, if there be no such society to any other deserving society within the same area of operation and having objects similar to those of the dissolved society or, if there be no such society to any other registered society in Assam, as may be determined by the Registrar.

68. Liquidator To Deposit The Books And Submit A Final Report :-

When the affairs of a registered society have been wound up, the liquidator shall make a report to the Registrar, who when satisfied shall order the liquidation proceedings to be closed and direct the liquidator to deposit the records wheresoever the Registrar thinks fit ["and the Registrar shall issue a notice in the Official Gazette, notifying the closing of the liquidation proceedings of the society."]1

1. Added by the Assam Act No. XIX of 1954 (w.e.f. 06.06.1954).

69. Bar Of Suit :-

Save in so far as is expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act and when a liquidator has been appointed no suit or other legal proceedings shall lie or be proceeded with against him except by leave of the Registrar and subject to such terms as he may impose.

CHAPTER 12

RECOVERY OF SUMS DUE AND ENFORCEMENT OF OBLIGATIONS

70. Power Of Registrar To Direct Payment Of Dues :-

Notwithstanding anything contained in Chapter X the Registrar or such

other person as may be authorised by him in this behalf may, on his own motion or the written requisition of a registered society or an affiliating society or a financing bank for the recovery of any loan or any other demand due by a defaulting member, after making such enquiry as he deems fit, grant a Co-operative Demand Certificate for the recovery of the amount found to be due"].

70A. Section 70A :-

(1) If any installment of loan or interest payable by a member of a Co-operative Society or any part of such installment has remained unpaid for more than 30 days from the date on which it fell due, the Managing Committee of the society may, in addition to any other remedy available to it, apply to the Registrar or any other officer authorised by him for the recovery of such installment or part thereof by distraint and sale of the produce of the charged land including the standing crop.

(2) On receipt of such application the Registrar or the person authorised by him may, notwithstanding anything contained in the Transfer of Property Act, 1882 take action in the manner as prescribed for the purpose of distraining and selling such produce: Provided that no distraint shall be made after the expiry of twelve months from the date on which the installments fell due.

(3) The value of the property distrained shall be, as nearly as possible, equal to the amount due and the expense of the distraint and the costs of the sale."]1

1. Substituted S.70 and inserted S.70A. by Assam Act XIII of 1975, (w.e.f. 22.10.1975). Note : Before substitution of old Section 70 read as follows-

"70. Power of Registrar to direct payment of dues.- Notwithstanding anything contained in Chapter X, the Registrar or such other person as may be authorised, in this behalf, may, on his own motion or on the written requisition of a registered society or an affiliating society for the recovery of any loan due by a defaulting member, after due enquiry, make an award directing payment by such member of the amount found to be due."

71. Charge And Surcharge :-

(1) Where, as the result of an audit under Section 55, or an enquiry under Section 60 or an inspection under Section 61 or a report made in the course of the winding up of a registered society, it appears to the Registrar that any member, officer or employee past or present, of the society has at any time within a period of four years prior to the date of such audit, inspection, inquiry or report as the case may be-

(a) intentionally whether individually or as an assenting member of any Managing or other controlling body, made or authorized any payment or granted any loan which is contrary to the provision of this Act or to the rules or bye-laws or failed to take timely steps to recover any loan at the due date or if it was being improperly utilised; or

(b) was grossly negligent in respect of any loss or deficiency; or

(c) failed to bring into account any sum which ought to have been brought into account; or

(d) misappropriated or fraudulently retained any property of the society; or

(e) committed breach of trust in relation to the society; the Registrar

may inquire into the conduct of such officer or member of the managing, or other controlling body.

(2) The Registrar may similarly inquire into the conduct relating to the affairs of the society of any member, officer or employee, past or present, of a registered society on the application of the present controlling or managing body of the society, or liquidator, or any other registered society to which the society is affiliated or any contributory.

(3) Upon such enquiry, after giving such member, officer or employee an opportunity of being heard and, in the case of a payment made contrary to the provisions of this Act or rule or bye-laws, after affording such member, officer or employee time to recover the amount Of such payment from the payee and credit it to the funds of the society, the Registrar may by an order in writing require such member, officer or employee to pay such sum with interest at such rate as the Registrar may direct, to the society by way of compensation in respect of such payment or loss or to restore such property as the Registrar thinks fit, and to pay such sum as the Registrar may fix to meet the cost of the proceedings under this Section.

(4) Any award made by the Registrar under sub-section (3) shall be reduced to the form of a Co-operative demand certificate, by the officer authorised to issue such certificates.

(5) This Section shall apply notwithstanding that such member, officer or employee may by his act or omission have incurred in addition criminal liability under this Act or any other law for the time being in force.

(6) An appeal shall lie to the State Government against an order passed under sub-clause (1)(a) within thirty days of the communication of the order.

CHAPTER 13

PENALTY

72. Prohibition Of The Use Of The Word "Co-Operative" Or "Samabaya" :-

(1) No person other than a society registered under this or any other Co-operative Society registered under this or any other Co-operative Societies Act shall trade or carry on business under any name or title of which the word "Co-operative" or its vernacular equivalent "Samabaya" is a part :

Provided that nothing in this Section shall apply to the use by any person, or by his successor in interest of any name or title under which he lawfully traded or carried on business at the commencement of this Act.

(2) Whoever contravenes the provisions of this Section shall be

punishable with fine which may extend to fifty rupees, and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction thereafter.

73. Punishment For False Return, False Information, Disobeying Summons, Orders, Etc :-

(a) If a registered society or an officer or member thereof or any liquidator, wilfully makes a false return or furnishes false information or wilfully neglects or refuses to do any act required by this Act or the rules or bye-laws, or does anything contrary to this Act or the rules or bye-laws; or

(b) any person wilfully or without reasonable excuse disobeys any summons, requisition or lawfully written order issued under the provisions of this Act or does not produce documents, or cash balance of the society or furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Act [or fails to maintain up-to-date accounts, records and other documents of the Society required to be maintained by him under this Act or the rules or bye-laws]¹ he shall be punishable with fine which may extend to five hundred rupees; and in the case of a continuing offence a further fine of five rupees for each day on which offence is continued after conviction therefor.

1. Inserted by the Assam Act XIX of 1953.

74. Punishment For Disposing Property In Contravention Of Section 46 :-

Any member, past member or the nominee, heir or legal representative of a deceased member removing or otherwise disposing of, or suffering to be removed or otherwise disposed of, any property on which a registered society holds a first charge under Section 46 with intent to defraud the society or with such intent doing any other act to the prejudice of the society's first charge, shall be punishable with fine not exceeding five hundred rupees.

75. Penalty For Certain Misdemeanours :-

Where it appears to the Registrar that any person has contravened the provisions of this Act, the rules or bye-laws-

(a) by sitting or voting or exercising his rights as a member or as a member of any managing or controlling body, or voting in the affairs of a registered society as a representative of another society which is a member of such society, when such person was not entitled so to sit, vote or exercise such rights, as the case may be; or

(b) by utilising a loan for a purpose different from that for which it was granted.

The Registrar may, after affording such person an opportunity to be heard, by an order in writing direct him to pay the assets of the society by way of penalty such sum not exceeding fifty rupees as the Registrar thinks fit.

76. Power To Enforce Performance Of Obligations :-

Notwithstanding anything contained in this Act, where any registered society is required to take any action under this Act, the rules or bye-laws and such action is not taken within the time provided in this Act, the rules or bye-laws or within such time as the Registrar may specify by a notice in writing, where no time is so provided, the Registrar may call upon any officer of the society whom he considers to be responsible for the carrying but the directions, and after giving such officer an opportunity, to be heard, may require him to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrars directions are carried out.

77. Cognizance Of Offences :-

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

(2) No prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar.

(3) Offences under this Act may be tried summarily.

CHAPTER 14 **JURISDICTION**

78. Indemnity :-

No suit, proceeding or prosecution whatever shall lie against the Registrar or any person acting on his authority, or against any liquidator in respect of anything done or purporting to be done in good faith under this Act.

79. Bar To Jurisdiction Of Courts :-

(1) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of-

(a) registration of a registered society or its bye-laws or amendments of bye-laws; or

(b) the dissolution of a managing or controlling body and the

management of the affairs of the society on, dissolution thereof; or
(c) any dispute referred to the Registrar; or
(d) any matter in relation to the winding up and dissolution of a registered society.

(2) Save as provided in this Act, no order, decision or award under this Act or working of the affairs of a registered society shall be liable to be challenged, set aside, modified, revised or declared void in any court on any ground whatsoever except on grounds of jurisdiction.

80. Appeal Or Review :-

(1) Except where otherwise expressly provided to the contrary an appeal shall lie to the Registrar from the decisions made under this Act or rules framed under by any Government Officer, liquidator or non-official helper appointed under sub-section (3) of Section 3.

(2) The Registrar may review any order passed by him at any time within two months from the communication of such order.

(3) Save as provided in this Act or rules, no appeal shall lie to the State Government against any order of the Registrar, except on a question of law, and provided such appeal is preferred within two months of the communication of such order.

(4) Any appellate authority and the Registrar in case of review may pass any stay order pending any appeal or review before such an authority, and may award costs against before such an authority, and may award costs against any party appealing or petitioning for review if such appeal or review petition is considered false, vexatious or frivolous by the authority concerned.

81. Power Of Attachment Of Property :-

Where the Registrar or such Gazetted officer as may have powers delegated to him under Section 83 is satisfied that any person holding property within his jurisdiction with intent to defeat or delay the execution of any order under a Co-operative demand certificate for recovery of dues, or with intent to avoid payment of dues from such person under this Act, rules or bye-laws-

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

(b) is about to remove the whole or any part of such property from the local limits of the jurisdiction of the Registrar or of such Gazetted officer may, unless adequate security is furnished, as he may require, direct the conditional attachment of the said property or such part thereof as he thinks necessary, notwithstanding that the claimant or owner of the property may reside elsewhere, and such attachment shall have the same force and effect as if it had been made by a competent Civil Court and shall continue in force until withdrawn or

cancelled.

82. Registrar To Be Civil Court For Certain Purposes :-

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

83. Recovery Of Sums Due :-

(1) All dues recoverable under this Act or Rules framed thereunder shall be reduced to the form of a Co-operative demand certificate, as in Schedule A over the signature of the Registrar or of such gazetted officers as may have powers delegated to them by the Registrar in this behalf and shall be recovered as an arrear of land revenue and shall be paid to the certificate holder or his authorised nominee. Such certificate shall be in the name of the claimant and shall be delivered to him.

[(2) Notwithstanding anything contained in sub-section (1), all the said dues shall also be recoverable as a public demand in accordance with the procedure laid down in the Bengal Public Demands Recovery Act, 1913 (Bengal Act III of 1913) on a written requisition sent to the certificate officer in the prescribed form over the signature of the Registrar or of such gazetted officer as may have powers delegated to him by the Registrar in this behalf.

Explanation- The certificate officer means the officer so defined in, and the prescribed form means the form so prescribed under the Bengal Public Demands Recovery Act, 1913.]¹

(3) For the purpose of this Section a member of an affiliated society shall be deemed to be a member of the affiliating society and loans due to the affiliated society shall be deemed also to be loans due to the affiliating society to the extent that loans from the affiliating society to the affiliated society are outstanding and cannot be recovered from the affiliated society directly: provided that not more than one demand certificate may be executed against a single loan.

1. Substituted for the original sub-section (2) by the Assam Act XIX of 1953.

83A. Section 83A :-

(1) A copy of the Co-operative Demand Certificate prepared under Sections 70 and 83 of this Act shall be served in the manner prescribed upon the person from whom the amount is due.

(2) On receipt of a copy of the Co-operative Demand Certificate the person from whom the amount is due shall pay the same within a period of thirty days from the date of service of the Certificate; provided that the period during which the payment is to be made may be extended by Registrar for another period not exceeding thirty days for reasons to be recorded in writing.

(3) Any person violating the provisions of sub-section (2) above shall, on conviction be punished with imprisonment of either description for a term which may extend to 6 months or with fine which may extend to one thousand rupees or with both."]1

1. Inserted by Assam Act XIII of 1975.

84. Registrar May Order A Meeting Of Creditors :-

(1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a registered society and its creditor or creditors or any class of them, the Registrar, upon an application made by a registered society or by liquidator in case of a society in respect of which an order has been passed for the winding up thereof, or by a creditor or creditors or any class of creditors, may order a meeting of the creditors.

(2) If a majority in number of creditors or the class of creditors as the case may be, representing claims to three-fourths of the debts due by the society to the creditors or class of creditors, at a meeting agree to any compromise or arrangement and if the Registrar agrees to such compromise or arrangement and give his sanction, then the compromise or the arrangement shall be binding on all the creditors or class of creditors and also on the society or on the liquidator in the case of a society in respect of which an order has been passed for the winding up thereof, and on all persons who may be required by the liquidator to contribute to the assets of the society.

CHAPTER 15

MISCELLANEOUS

85. Society To Be A Body Corporate :-

Every registered society shall be deemed to be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

86. Register Of Members :-

Any register or list of members or shares kept by any registered 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; and

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

87. Entries In Books Of Registered Society Shall Be Received As Prima Facie Evidence :-

(1) A copy of any entry in a book of a registered society, regularly kept in the course of business shall, if certified by the Chairman or Secretary of the society, be received in any suit or legal proceeding as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as the original entry itself is admissible.

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless specially so directed by an order of the Court or the arbitrator.

88. Savings Of Existing Societies :-

(1) Every society existing at the commencement of this Act which has been registered or deemed to have been registered under the Co-operative Societies Act, 1912 (II of 1912), shall be deemed to be registered under this Act; and its bye-laws shall, in so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded and shall to such extent be deemed to be registered under this Act.

(2) All appointments, rules and orders made, notification and notices issued, all transactions entered into and all suits and other proceedings instituted under the said Act shall continue and shall, so far as may be, be deemed to have been respectively made, issued, entered into or instituted under this Act.

89. Construction Of Reference To Act II Of 1912 :-

All reference to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in India and for the time being in force in Assam, shall in the application of any such enactment thereto, be construed as references to this Act; and anything done, or any proceeding commenced in pursuance of such enactment on or after the commencement of this Act shall be deemed to have been done or to have commenced and to have had effect as if the reference in such

enactment to the Co-operative Societies Act, 1912, had been a reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.

90. Act Vii Of 1913 Not To Apply :-

The provisions of the Indian Companies Act, 1913 shall not apply to registered societies.

91. Acts Of Societies, Etc., Not To Be Invalidated By Certain Defects :-

(1) No act of a registered society or of a managing or controlling body or of any officer or liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society or in the constitution of any such body or in the appointment or election of the officer or liquidator or on the ground that such officer or liquidator was disqualified from appointment.

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

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of a society.

92. Power To Exempt Societies From Provisions Of The Act :-

The State Government may, by general or special order, exempt any registered society, or class of registered societies from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

93. Rules And Bye-Laws Not To Be Deemed To Go Beyond The Act :-

Rules framed under this Act and bye-laws registered under this Act shall not be deemed to go beyond the provisions of this Act if their effect is not to lessen the degree of control expressly provided for in the Act.

94. Power To Exempt Societies From Conditions As To Registration :-

Notwithstanding anything contained in this Act, the State Government

may by special order and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

95. Power To Order Recoupment Of Expenditure :-

Notwithstanding anything contained in any law for the time being in force the State Government may, by a general or special order, require of every registered society or a class of registered societies to make contribution of such sum annually to be fixed by the Registrar towards the recoupment of administrative expenditure incurred by the Government in respect of inspection, supervision and guidance of a society or class of societies on of any service to such society or class of societies.

96. Power To Seize Records Of Society :-

(1) In the Registrar or any person authorised by him in this behalf, while making audit, inspection, inquiry or supervision, as the case may be, believes or has reason to believe that the registered society is not keeping or maintaining the accounts, book and records of the society properly or finds or reasonably suspects gross negligence of duties, misappropriation or misuse of funds of the society, irregularity in recording proceeding or keeping accounts or books, he shall have power to take possession of any or all books, registers or documents, each in hand or account books of the society and remove such seized property or keep in proper custody such seized property till it is disposed of in any manner as may be directed by the Registrar.

(2) The person seizing the property of the society under sub-section (1) shall prepare an inventory of the properties seized in duplicate with his signature and require the officer or member of the society from whose possession or custody the property is seized to put his signature in witness thereof and, if such officer or member refuses to sign, then the person seizing the property shall call upon two or more persons to sign the seizure list. A copy of the list prepared under this section, signed by the witnesses, shall be delivered to the officer of the society.

(3) The Registrar shall take immediate steps in way of audit or inspection and pass such orders as he may think fit.

(4) The administrative head of a civil sub-division or administrative area shall give police help to all officers mentioned in sub-section (1) of this Section when sought for.

97. Power Of The Managing Body Of An Affiliating Society To Enquire Into The Affairs Of A Member Society :-

When a registered society takes a loan from an affiliating society and defaults payment of the debt or any instalment thereof any member of the managing body of the affiliating society, may examine and look into the accounts and working of such borrowing society and report the result of his enquiry or examination particularly with reference to the said loan to the affiliating society and may recommend any suggestion in his report. The borrowing society shall furnish such information and produce such documents, books and accounts as the member of the managing body may require.

98. Limitation :-

(1) Notwithstanding any of the provisions of the Indian Limitation Act, 1908, the period of limitation for the institution of a claim to recover any sum, including the interest thereon, due to a registered society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of a society.

(2) The Indian Limitation Act, 1908 [IX of 1908], shall not apply to any debts or liability due by any member, past member or deceased member to any society in respect of which an order of dissolution has been passed under this Act.

99. Power To Exempt Societies From The Operation Of The Assam Money Lenders Act :-

The State Government by a notification in the official Gazette may exempt a registered society from any or all the provisions of the Assam Money Lenders Act, 1934 (Assam Act IV of 1934) for the time being in force.

100. Power To Make Rules :-

The [State]¹ Government may, after previous publication, make rules to carry out the purposes and objects of this Act, and such rules may provide a penalty not exceeding fifty rupees for a breach thereof.

1. Substituted for the word "Provincial" by the A.O. 1950.

101. Repeal :-

The Co-operative Societies Act, 1912, (II of 1912) is hereby repealed in so far it applies to Assam to the extent specified in column 4 of Schedule B.

SCHEDULE 1
SCHEDULE A

(Under Section 83)
"Co-operative Demand Certificate granted under Section 83 (1) of the Assam Co-operative Societies Act, 1949 (Act 1 of 1950), as amended
(To be realised as an arrear of land revenue by the revenue authority within whose jurisdiction the judgment debtors property is situated.)
Case No..... of 20.....
District/Sub-division.
In the matter of.....
Versus
.....
Whereas as a result of my enquiry I decide that a sum of Rs. (Rupees) by way of.....under Section 70 of the Assam Co-operative Societies Act, 1949 (Assam Act 1 of 1950) as amend and sum of Rs. (Rupees) by way of interest is/are due from you and you have not paid.
Whereas.....has made a reference in writing to me complaining/determining that a sum of Rs. (Rupees.....) by way of.....under Section.....of the Assam Co-operative Societies Act, 1949 (Act 1 of 1950) as amended and a sum of Rs..... (Rupees.....) by way in interest is/are due from you and you have evaded payment of the same and whereas a notice of demand calling on you to pay the dues within the specified time was served with notice to show cause;
And Whereas you have not paid your dues specified in the notice;
And Whereas you have not submitted explanation/your explanation is unsatisfactory;
Now, therefore, I, under authority of Section 70 of the Assam Co-operative Societies Act, 1949 as amended/sub-section (1) of Section 83 of the Assam Co-operative Societies Act, 1949 as amended to hereby order that the above mentioned sum of Rs.....is due to the above-named from you and that will pay further interest on the principal sum at the rate of.....percent per annum from.....together with all cost till the date of realisation.
I further order that right, title and interest of.....in the properties set out and described in the schedule below be sold as an arrear of land revenue under the provisions of the Assam Land and Revenue Regulation, 1886 (Regulation 1 of 1886) and that, if the sale proceeds should be found insufficient to discharge the dues with subsequent interest at the above rate till the date of realisation and costs in full, balance be realised by attachment and sale or other movable and immovable property of the judgment debtor as an arrear of land revenue.
Further take notice that, if you fail to pay amount as ordered above within a period of thirty days from the date of service of the Certificate you shall also be liable to prosecution under sub-section (3) of Section 83A of the Assam Co-operative Societies Act, 1949 as amended, in addition to other measures for recovery of the amount payable by you.
Dated Gauhati
The.....
Registrar,
Co-operative Societies, Assam.
Officer empowered under Sections 70, 83(1) of the Assam Co-operative Societies Act, 1949 (Act 1 of 1950) as amended.

1. Prescribed form in Schedule "A" was earlier substituted by the Assam Act No. XIX of

1953 and now again substituted by the Assam Act No. XIII of 1975.

SCHEDULE 2

SCHEDULE B

(See Section 101)

Year	No.	Stort title	Extent of repeal
1	2	3	4
1912	II	The Co-operative Societies Act, 1912.	The whole, with the exception of sub-section (a) of Section 28, and of sub-section (b) of Section 28, so far as it relates to the stamp duties specified in the second paragraph thereof.

N.B. : The irrelevant words/portions may be struck off and relevant entries may be made where necessary.