

Bihar Co-Operative Societies Act, 1935

6 of 1935

[29 May 1935]

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SCHEDULE 1 :- SCHEDULE I

Bihar Co-Operative Societies Act, 1935

6 of 1935

[29 May 1935]

An Act to consolidate and amend the law relating to cooperative Societies in the States of Bihar

Whereas it is expedient to facilitate the formation, working and consolidation of Cooperative Societies for the promotion of thrift, selfhelp and mutual aid among agriculturists and other persons with common needs and for that purpose to consolidate and amend the law relating to Cooperative Societies in the States of Bihar. And whereas previous sanction of the Governor-General under sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act; It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short Title And Extent :-

(1) This Act may be called the Bihar Cooperative Societies Act, 1935.

(2) It extends to the whole of the State of Bihar.

2. Definitions :-

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

(a) "bye-laws" means the registered bye-laws for the time being in force and includes a registered amendment of the bye-laws:

(b) "cooperative Federation" means a registered Society the main object of which is to co-ordinate and facilitate the activities of other registered societies and to foster the growth of the cooperative movement:

(bb) Cooperative Year" means a year beginning with the 1st April and ending on the 31st March;

(c) financing bank means the State Bank of India, a nationalized Commercial Bank, a state Cooperative Bank, a Central Cooperative Bank, a Land Development Bank, Regional Rural Bank or any other bank to be notified by the State Government, the objects of which include the creation of funds out of which money is to be lent to the Cooperative Societies or other institutions or both;

(d) Liquidator means a person or persons appointed by the Registrar under sub-section (1) of section 44 to wind up the affairs of a registered society;

(e) Managing Committee means the committee of management of other body to whom the management of the affairs of a registered society is entrusted;

(f) "member includes a person Joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the rules and the bye-laws of such society;

(ff) Multi-purpose Cooperative Society" is a primary society formed for providing more than one type of service to its members and includes a society registered as a Cane-growers Cooperative Society;

(fff) nominal or associate member means a member who possesses such privileges of rights of member of a member of society, and who is subject only to such liabilities of a member as may be

specified by the bye laws;

(g) Officer includes a chairman, secretary, treasurer, member of a managing committee of any other person empowered by or under this Act, or rules of the bye-laws of registered society to give direction in regard to the business of the society; (gg) Officer-bearer of a managing committee means and includes the Chairman, the Vice-Chairman, the Secretary, the Joint Secretary, the Treasurer of any such functionary by whatever name he may be designated;

(ggg) Primary society is a society of which no member is a registered society

(gggg) Primary agricultural credit Society" means a Cooperative Society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers and includes farmers service society and multipurpose Cooperative Society;

(h) Registered society means a society registered or deemed to be registered under this Act;

(i) Registrar means a person appointed to perform the duties of Registrar of Cooperative societies under this Act.

(j) rules means rules under this Act.

(K) "Family" means husband, wife and their dependent sons and unmarried daughters as unit."

3. Indian Companies Act, 1913 Not To Apply :-

The provisions of the Indian Companies Act, 1913 (7 of 1913) shall not apply to registered societies.

4. Saving Of Existing Societies :-

(1) Every society now existing which has been registered under the Cooperative Societies Act. 1912 (2 of 1912), shall be deemed to be registered under this Act and its bye-laws shall, so far as they are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

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

5. Construction Of Reference To Cooperative Societies Act,

1912 In Enactments :-

All references to the Cooperative Societies Act, 1912 (2 of 1912) occurring in any enactment made by any authority in India and for the time being in force in the State of Bihar [x x x] shall, in the application of such enactment to the said States be construed as references to this Act.

CHAPTER 2 REGISTRATION OF SOCIETIES

6. The Registrar :-

(1) The State Government may appoint a person to be Registrar of Cooperative Societies for the State of any portion of it, and may appoint persons to assist such Registrar.

(2) The State Government may, by general or special order published in the official Gazette. Confer -

(a) on any person appointed under sub-section (1), to assist the Registrar, all or any of the powers of the Registrar under the Act except the powers under section 26, and

(b) on any Cooperative Federation or Financing Bank. all or any of the powers of the Registrar under section 20, sub-section (3) of section 28 and section 33, Section 34, Section 35, and Section 36,

(3) Where the State Government is of opinion that the Registrar needs the assistance of Additional Registrar for speedy disposal of business, it may by order published in the official gazette, appoint such number of Additional Registrars as it may deem fit.

(4) Notwithstanding anything to the contrary contained in any other provisions of the Act, Registrar may delegate, transfer or assign to the Additional Registrar such of his powers and functions and duties as he may consider necessary including the power under Sections 26 and 50 and the Additional Registrar shall, thereupon have powers of registrar in matters so delegated, transferred or assigned to him.

7. Societies Which May Be Registered :-

(1) Subject to the provisions of this Act, a Cooperative Society constituted in accordance with the provisions of the said Act as amended from time to time, which has as its object the promotion of the common interest of its members in conformity with the Cooperative principles and securing the fulfillment of any of all directives contained in Part IV of the Constitution of India, may be

registered under this Act with or without limited." common interest of its members and securing the fulfillment of any all directive contained in Part IV of the Constitution of India, may be registered under this Act with or without limited liability:

Provided that, unless the State Government by general or special order otherwise directs-

(a) The liability of society of which a member is a registered society shall be limited, and

(b) the liability of a society of which the primary object is the creation of fund to lent to its members, and of which the majority of the members are agriculturists, and of which on member is a registered society, shall be unlimited.

(2) Where the liability of a society is limited, the liability of each member, past member, of the estate of a deceased member shall on liquidation, be limited to the amount, if any, unpaid on the shares held by such member, or where the liability limited by guarantee, to the amount of such guarantee, or where it is limited in an other manner, then as may be determined by the rules or bye laws subject, however to section 32.

(3) Where the liability of a society is unlimited, all members, past members and the estates of deceased members shall on liquidation be jointly and severally liable of and in respect of all its obligations, subject, however, to the provisions of section 32.

8. Conditions Of Registration :-

(1) No society, other than a society of which a member is registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the primary object of the society is the creation of funds to be lent to its members, unless such persons-

(a) reside in the same town or village or in the same group of villages; or

(b) save where the Registrar otherwise directs, are members of the same tribe, class or occupation. (1A) The State Government may by notification in the official Gazette reduce the minimum number of membership of 10 persons for particular class of Cooperative Societies.

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

9. Application For Registration :-

(1) An application for the registration of a society shall be made to the Registrar, and shall be accompanied by a copy of the proposed bye-laws of the society; and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

(2) The application shall be signed -

(a) if none of the applicants is a registered society by at least ten persons or less number of persons qualified in accordance with the requirements of sub-section (1) or sub-section (1A) of Section 8; Provided that applicants, either male or female, shall be from different families:

(b) If any of the applicants is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, where there are less than ten other members, by all of them.

(3) The following shall be attached to such applications :-

(a) Four copies of the proposed bye-laws of the Cooperative Society as adopted by the founder members

(b) A list containing names of members with their address, occupation and share participation.

(c) A list containing names of the persons of first Board as elected by the founder members.

(d) True copy of the resolution of the meeting duly signed by the Chairman in which the Bye Laws have been adopted.

10. Power Of Registrar To Decide Certain Questions :-

When any questions arises whether for the purposes of this Act a person is an agriculturist, or whether any person is resident in a particular town or village or group of village, or whether two or more villages shall be considered to form a group or whether any person belongs to any particular tribe, class or occupation, the question shall be decided by the Registrar, whose decision shall be final.

11. Registration :-

(1) If the Registrar is satisfied that a society has complied with provisions of this Act and Rules and that its proposed bye-laws are not contrary to this Act, or the Rules, he may register the Society and its bye-laws. And he will send by registered post of organizer/ promoter of the Society, within 90 days from the date of submission of application, a registration certificate and original copy

of the registered bye-laws duly sealed and signed by him.

(2) If in the opinion of the Registrar, the conditions stipulated under sub-section (1) above appear not have been complied with within 90 days of presentation of the application before him, he shall record reasons for refusal and refuse to register the society and send this decision by registered post to the organiser/promoter. In the event of the refusal not being sent within the stipulated period, the Society shall be deemed registered and in such a situation the Registrar within one month thereafter shall send by registered post, the registration certificate for deemed registration alongwith original copy of the registered bye-laws duly sealed and signed.

(3) In the event where the organiser/ promoter has received the refusal order in accordance with the provisions of sub-section (2) or has not received registration certificate of deemed registration an appeal shall lie to the Registrar if the refusal order has been passed by an officer appointed to assist the Registrar under sub-section 2 (a) of section 6 of this Act and to the State Government if such order has been passed by the Registrar himself:

Provide that such appeal shall lie within sixty days from the receipt of the refusal order or within sixty days from the expiry of the prescribed period of communication in case of deemed registration.

(4) If in the opinion of the Registrar, the organiser/ promoter has got society registered by mistake, then the Registrar shall appeal to the State Government for cancellation of the said registration.

Provide that such appeal may be filed within sixty days from the registration order.

11A. Registration of societies not registered under this Act :-

Where a society registered under section-5 of the Bihar Self Supporting Co-operative Societies Act, 1996 intends to convert itself into a co-operative society under this Act, it may apply for registration under provisions of this Act in accordance with procedure to be prescribed and notified by the Government.

12. Evidence Of Registration :-

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

CHAPTER 3 INCORPORATION, DUTIES AND PRIVILEGES OF REGISTERED SOCIETIES

13. Societies To Be Bodies Corporate :-

The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal and with power to acquire and hold property, to enter into contract, to institute and defend suits and other legal proceedings and to do all thing necessary for the purposes for which it is constituted.

13A. Promotion Of Cooperative Movement By Government :-

(1) It shall be the duty of the State Government to encourage and promote the Cooperative movement in the State and to take such steps in this direction as may be necessary.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the State Government may -

(a) With a view to aid the growth of a registered society in general or of any class of registered societies subscribe directly to the share capital of a registered society;

(b) assist indirectly in the formation and augmentation of the share capital of a registered society;

(c) give loans or make advances to a registered society or guarantee repayment of principal and payment of interest on debentures issued by a registered society or guarantee repayment of principal and payment of interest on loans or advances to a registered society."

13B. Display Of Name :-

Every Cooperative Society shall display name and address of its registered office as registered under the Bihar Cooperative Societies Act, 1935 in legible letters and as such conspicuous places of every such office where it carries its business and in the following also.

(a) Every information and authorised publication.

(b) All contracts, business, letters indents, Invoice, Statements of accounts, Money receipts, Vouchers etc. (c) All Bills of Exchange, Promissory Notes, Endorsements, Cheques and pay orders which are signed by or on its behalf.

(2) Every registered Society must have the word/ words " Cooperative" and "Limited/ unlimited" in its name in State language

of synonymous words of other languages recognised in the State List.

14. Registered Societies To Have A Managing Committee Etc. :-

(1) Every registered Society shall have an address, registered in accordance with rules, to which all notices and communications may be sent and send notice, in writing to the Registrar and to the financing Bank, if any, of which it is a share holder and to the Cooperative Federation, if any, of which it is a member, of any change in the said address within fifteen days of such change.

(2) The management of registered society shall be vested in a managing committee constituted in accordance with the provisions of this Act and rules/ byelaws of the society made under this Act.

Notwithstanding any thing contained in any provision of this Act or Rules Byelaws of the Society the Maximum number of members including office bearer of office bearers in a managing committee of Society shall be seventeen in Apex and State level Society, fifteen in Central Cooperative Society and thirteen in Primary Society:

Provided that in the Managing Committee of such societies or of class of societies and in such areas as the State Government may by general or special order direct, at least two seats shall be reserved for the members belonging to the Scheduled Castes or Scheduled tribes two seats for the ladies and one seat each for backward caste. The seats so reserved shall be filled up from amongst the members of scheduled castes or scheduled tribes, ladies and backward and other backward castes members either by election or/ and by cooption. The provision shall apply to all Societies form the primary Society and up to the Apex Society.

(3) An Officer of the State Government if deputed to a registered society either as a Managing Director, Executive Officer or in similar position shall be the chief Executive there of and subject to general direction and control the Managing Committee, shall have the following powers and functions :-

(i) to have genera control over the administration of the registered society;

(ii) to convene meeting of the Managing Committee;

(iii) to receive all moneys and securities on behalf of registered society and to make arrangement for the proper maintenance and custody of cash balances and other properties of the registered society;

- (iv) to endorse and transfer promissory notes, Government and other Securities and to endorse, sign and negotiate cheques and other negotiable instrument on behalf of the registered society,
- (v) to be responsible for the general conduct, supervision and management to the day-to-day business and affairs to the registered society;
- (vi) to sign all deposits receipts and operate the accounts of the registered society with Bank; (vii) to sign all bonds and agreements on behalf of the registered society;
- (viii) to determine the powers, duties and responsibilities of the employees of the registered society;
- (ix) to appoint, promote, transfer, punish, suspend, remove or dismiss any paid employee of the registered society except to the extent of the powers vested in the Managing Committee under the bye-laws of the registered society;
- (x) to institute, conduct, defend; compound or to withdraw any suit or other legal proceedings for or against the registered society and also to compound and allow time for payment or satisfaction of any claims;
- (xi) to delegate all or any of the powers to an employee or employees of the registered society subject to his control and supervision;

(4) Notwithstanding any thing contained in any provision of this Act, or of rules framed there under or the bye-laws of any registered Society where the State Government has Subscribed directly to the Share Capital or a registered Society an amount exceeding Rupees Thirty Lakh, in that case the State Government Shall have the right to nominate three persons as members on the Managing Committee of that Society:

Provided that among the members so nominated two will be from the Government service the third one will be an officer of Cooperative/ Financing Institution connected with the affairs of the Society.

Provided further that those ex-officio members as provided in the bye-laws of the society shall be counted in the quota/ numbers fixed/ provided for nomination.

Provided further also that such nominated members shall participate in any meeting of the managing committee of ordinary general meeting of the share holders of the registered Society, convened in accordance with the provisions of the Act and Rules framed thereunder and its bye laws. They shall have right to vote in the meeting of the managing committee but shall have no right

to vote in the ordinary general meeting of the share holders." (5) Notwithstanding any thing contained in any provision of this Act, Rules made there under and the bye-laws of the society the existing members and office bearers nominated by the Government shall cease to be a member of the managing committee within ninety days of the publication of this Amendment Act in the Official gazette; and such registered society shall have elections to the vacant posts for the remaining period of its term;

Provided further that in superseded societies the Administrator of the society shall constitute new managing committee by election within twelve months from the date of publication in the official gazette of this Amendment Act 2002; otherwise the Registrar shall appoint a new Administrator for a further period of three months and get the managing committee constituted by election.

(7) Notwithstanding the provisions of sub-section (9) the nominated members of the managing committee shall hold office during the pleasure of the State Government.

(9) Notwithstanding anything contained in the Rules or Bye-laws of any Registered Society, the term of the members and the office-bearers of the managing committee of a registered society shall not exceed five years from the date of election.

(10) If, for any reason, elections are not held within the said period after expiry of the term of the managing committee the committee shall be deemed to have been superseded with effect from the said date and the Registrar Cooperative Societies shall appoint any government servant as administrator for a period not exceeding six months for constitution of managing committee in accordance with law.

Provided that if for certain special circumstances the election of the members an office bearer of the managing committee is not held within the stipulated period of six months, the Registrar after obtaining explanation from the administrator and after recording reasons in writing may extend the period of supersession for a period not exceeding three months:

Provided further that the term of the Managing Committee as provided in sub-section (9) shall be effective if the election of the Managing Committee has been held after coming into force of this Amendment act.

Provided further that the administrator appointed for superseded society prior to the commencement of this Amendment Act shall Continue to hold tution of a new managing committee by election whichever is earlier.

(11) Every registered society shall keep open to inspection free of charge at all reasonable times at its registered address-

(a) a copy of this Act.

(b) a copy of the rules governing such society.

(c) a copy of the bye-laws of such society, and

(d) a register of its members;

14A. Election to the managing committee of certain registered societies :-

(1) The Government may by notification in the official gazette prescribe that election to the managing committee of a class or classes of registered societies shall be conducted by an authority, by whatever name such an authority may be known, created for the purpose of conduct of election to the managing committee of registered societies under this act and/or for any other body, organization, committee etc. and in the manner prescribed for the conduct of election by such authority.

(2) Notwithstanding any thing contained in any provision of this Act, rules made thereunder and bye laws of a registered society, the election to the managing committee of such class or classes of registered societies notified under sub-section (1) shall, after the date of such notification, be held in terms of the provision of this section, even if the process of election has commenced but the result of such election has not been declared prior to that date.

(3) Notwithstanding any thing contained in sub-section (9) of section-14 of this act, rules made there under and the bye laws of a registered society, the election to the managing committee of the class or classes of registered societies notified under sub-section (1) shall be held within six months from the date of such notification which may further be extended for a period of six months.

(4) Notwithstanding any thing contained in sub-section (9) of section-14 of this act, rules made there under and the bye laws of a registered society, if the term of the managing committee of such registered societies notified under sub-section (1) expires after the notification under that sub-section, shall get extended till such time the managing committee is constituted after elections in terms of the provision contained in that sub section.

(5) Any registered society notified under sub-section (1) and after the constitution of its managing committee under sub-section (2) is superseded or ceases to exist for whatever reason, before the expiry of its term under sub-section (9) of section-14, the election

to the managing committee for such society shall be conducted by the same authority as prescribed under sub-section (1). The term of such managing committee including the term held by earlier managing committee along with the period due to supersession or otherwise, if any, shall not exceed the period prescribed under the provision of sub-section (9) of section-14.

(6) No election to any class or classes of registered societies notified under sub-section (1) shall not be called in question except by way of an election petition filed within ninety days from declaration of the result of such election and the same shall be decided as a dispute under section-48 of this act. Such an election petition shall be filed before the Registrar or such other officer appointed to assist the Registrar under section-6 of this act."

"(4)(a) Notwithstanding anything contrary in this Act, upon the reorganisation of societies under sub-section (2) of this section and establishment of new society/societies under sub-section (3) of this section, the Registrar/Government shall constitute or provide for constitution of an ad hoc managing committee for the purposes of managing the affairs of the new society/societies till such time as a new managing committee is constituted after elections under the provisions of this Act and the ad hoc managing committee so constituted shall exercise such powers and perform such functions as may be prescribed.

(b) Notwithstanding anything contrary in this Act, upon the constitution of the new managing committee after elections under clause (a), the managing committee of all such affiliating societies of which a primary agriculture credit society is a member or federation of such affiliating societies, shall be reconstituted, as per provisions contained in this Act for constitution of the managing committee of such societies."

(4) The sub-section (5) of Section-44AQ of the Act shall be deleted.

(5) In sub-section (6) of Section-44AQ of the Act, the words "sub-section (5)" shall be substituted by the words "sub-section (2)" and the words "a membership fee of Rs. 1" shall be substituted by the words "the membership fee

15. Restrictions On Borrowing :-

A registered society shall receive deposits and loans from members and non-members only to such extent and under such conditions as may be prescribed by the rules or bye-laws.

16. Restrictions On Lending :-

(1) Except with the general or special sanction of the Registrar and subject to such restrictions as he may impose, a registered society shall not -

(a) make a loan to any person other than a member, or

(b) lend money on the security of movable property, "Provided if any reference is received, the Registrar shall dispose off the reference within three months of its receipt."

(2) The State Government may, by general or special order, prohibit or restrict the lending of money or mortgage of immovable property by registered society or class of registered societies.

(3) Where the Registrar has accorded sanction to a financing Bank under the provisions of sub-section (1), a registered society which is member of such financing Bank may, subject to the terms of the sanction and such other terms and conditions as may be prescribed by the Registrar, act as agent for the financing Bank and as such agent carry out, with or without any commission, all or any transactions connected with loans or advances made or to be made by the financing Bank.

17. Restrictions On Other Transactions With Non-Member :-

The transactions of a registered society with persons other than members shall be subject to such further prohibitions and restrictions. If any, as the State Government may by rules prescribe.

18. Reserve Fund :-

(1) At least twenty five percent of the net profits of a registered society shall each year be deposited to reserved provided that the State Government may by rule increase or decrease this proportion for any work of any society or class of societies.

(2) The reserve fund shall not be used in the business of the society except to such extent and in such manner as may be prescribed by the rules.

(3) At least ten percent of the net profit shall be transferred to "Cooperative Education & Development fund" by all registered societies.

(4) In such registered societies where there is State contribution to share capital, at least ten percent of the net profit shall be transferred to an "Equity Redemption Fund" till such time the amount of this fund becomes equal to the share capital. (4) Any

portion of the reserve fund not used in the business of the society shall be invested or deposited in one more of the ways specified in section 19 subject to such rules as the State Government may make in this behalf.

19. Investment Of Funds :-

Subject to the provisions of sub-section (2) of section (16) a registered society shall invest or deposit its funds-

- (a) in a Government Saving Bank: or
- (b) in its own financial Bank or
- (c) in any of securities specified in section 20 of Indian Trust Act, 1882 (2 of 1882)
- (d) in sanction specified by reserve Bank of India, or
- (e) with the general or special sanction of the Registrar and on such conditions as he may impose.
- (i) in shares or securities of any other registered society.
- (ii) in any scheduled Bank or with the sanction or Registrar in other registered societies carrying Banking business.
- (f) may invest or deposit in any other mode permitted by the rules.

20. Contribution To Charitable Purpose :-

Any registered society may, after the amount required by sub-section (1) of section 18 or by any rule has been carried to the reserve fund, contribute an amount not exceeding ten percent of the net profits to any charitable purpose, as defined in section 2 of the Charitable Endowments Act, 1890 (6 of 1890) :

Provided that the Registrar may, by general or special order, prohibit any society or class of societies from making any condition under this section.

21. Restrictions On Division Of Funds :-

No part of the funds of a registered society shall be divided by law or dividend or otherwise among its members:

Provided that after the amount required by sub-section (6) of section 18 or by any rule has been carried to the reserve fund, the balance of the net profits, if any, together with any available profits of past years, may be distributed as dividend among members or paid as bonus or remuneration to a member for any specific service rendered to the society or used for the common benefit or members to such extent and under such conditions as may be prescribed by

the rules or bye-law.

22. Charge And Set Off In Respect Of Shares Of Interest Of Member :-

A registered society shall have a charge upon the share or interest in the capital and on the deposits or contribution of a member, past member or deceased member and upon any amount payable out of profits to a member or past member or to the estate of a deceased or the estate of such deceased member to the society, and may set-off any sum credited or payable to a member, past member of the estate of a deceased member in or towards payment of any such debt.

23. Prior Claim Of Society :-

Subject to claim of the Government in respect of land revenue or any money recoverable as land revenue or as a public demand or any claim of landlord in respect or rent or any money recoverable as rent, any debt or outstanding demand due to a registered society from any member, past member, or the estate of deceased member, shall be a first charge -

(a) If the demand as due in respect of the supply or any loan grant for the purchase of seed or manure upon the crops or other agricultural produce of such member or past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last installment of such supply or loan shall become re-payable;

(b) If the demand is due in respect of the supply of or any loan granted for the purchase of cattle, fodder for cattle, agriculture or industrial implements or machinery or raw materials for manufacture upon any cattle or things so supplied, or purchased, the whole or any part from any such loan or upon any articles manufactured from raw materials so supplied or purchased.

23A. Application Of Section 23 To Non-Members :-

Any debt to outstanding demand due to a registered society, authorised under clause (a) of sub-section (1) of section 16, from any non-member or estate of a deceased non-member, shall be a first charge on the property of the non-member or belonging to the deceased non-member to the same extent and subject to the same claims, conditions and restrictions as debt or outstanding demand

due to a registered society from any member or the estate of a deceased member is under section 23 a first charge on the property of the member or belonging to the estate of the deceased member.]

24. Transfer Of Interest On Death Of Member :-

(1) A registered society may on the death of a member, transfer his share of interest in the capital of the society to the person nominated in accordance with the rules or, if there is no person so nominated, to such person as may appear to the society or, managing committee to be the heir or legal representative, as the case may be, a sum representing the value of such members share or interest, as ascertained in accordance with the rules or bye-laws :

Provide that -

(i) In the case of society with unlimited liability, such nominee, heir of legal representative as the case may be, may require payment by society or the value of the share or interest of the deceased member ascertained, after deduction the amount of any charge existing under section 22:

(ii) in the case of a society with limited liability, the society shall transfer, subject to any charge existing under section 22 , the share or interest of the deceased member to such nominee, heir of legal representative, as the case may be, being qualified in accordance with the rules and bye-laws for membership of the society or in his application within three months of the death of the deceased member, to any person specified in the application who is so qualified :

Provided further that no payment of sum in excess of rupees one hundred shall be made to any such heir or legal representative who has not been nominated in accordance with the rule, until after the decision under section 48 of any claim which may, within that period, be made by any other person.

(2) Subject as aforesaid, a registered society may pay all other money due to deceased member from the society to such nominee heir or legal representative, as the case may be. (3) All transfers and payments, made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

24A. Power Of Registrar To Sanction Compromise Between A Registered Society And Its Creditors :-

(1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a registered society and its creditors or any class of them, the Registrar may on the application in a summary way of the society or of any creditor, or in the case of a society in respect of which an order of winding up has been passed, if the liquidator, order a meeting of the creditors or class of creditors as the case may be, to be called, held and conducted in such manner as may be prescribed by rules.

(2) If a majority in number representing three-fourth in value of the creditors, of class of creditors, as the case may be present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by an order of the Registrar, be binding on all the creditors or the class of creditors as the case may be and also on the society, in the case of a society in respect of which an order of winding up has been passed, on the liquidator and on all persons who have been or may be required by the liquidator acting under clause (c) of sub-section (3) of section 44 to contribute to the assets of the society.

(3) If at any time it appears to the Registrar that it is expedient that any compromise or arrangement between a registered society and its creditors or any class of them, which has become final in accordance with the law in force on the date of the commencement of the Bihar Cooperative Societies (Amendment) Act, 1942 (Bihar Act 7 of 1942) or which was, after the date sanctioned by the Registrar under sub-section (2) of this Section, should, in the interest of society or of its creditors or of the said class of creditors, be revised or replaced by a fresh compromise or arrangement, he may either of his own motion or on the application of the society, order a meeting of the creditors or class of creditors as the case may be, present either in person or by proxy at the meeting, agree to the revision of the previous compromise or arrangement, or to any fresh compromise or arrangement, the Registrar may sanction such revised compromise or arrangement or such fresh compromise or arrangement.

(4) Any revised compromise or arrangement or fresh compromise or arrangement sanctioned under sub-section (3) may be revised or replaced by a fresh compromise or arrangement in the like manner and subject, to the like conditions as a compromise or arrangement any be revised or replaced by a fresh compromise of arrangement under sub-section (3).

(5) Any revised compromise or arrangement or fresh compromise or arrangement sanctioned by the Registrar under sub-section (3) or sub-section (4) be binding on all the creditors or the class of creditors, as the case may be, and also on the society.

(6) A compromise or arrangement under sub-section (2) or a revised compromise or arrangement or a fresh compromise or arrangement under sub-section (3) or sub-section (4) shall not be liable to be challenged, set aside, modified, revised or declared void in any Court, upon merits or upon any ground whatsoever except want of jurisdiction.

(7) The order of the Registrar calling a meeting of creditors or class of creditors, as the case may be, under sub-section (1) or sub-section (3), and the order of the Registrar sanctioning a compromise or arrangement under sub-section (2) or a revised compromise or arrangement or a fresh compromise or arrangement under sub-section (3), or sub-section (4) shall be published in the official Gazette.]

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

(1) No amendment of the bye-laws of a registered society shall be valid until the amendment has been registered under this Act.

(2) If the Registrar is satisfied that an amendment to the byelaws is not contrary to this Act or to the rules, he shall register the amendment within ninety days from the date of submission of the proposal for amendment.

(3) When the Registrar registers an amendment of the bye-law 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 amendment has been duly registered.

(4) If the conditions specified in sub-section (2) have not been fulfilled the Registrar shall dispatch refusal order with reasons by registered post within ninety days from the submission of the proposal.

(5) In case of non-dispatch of the refusal order within ninety days, the amendment shall be deemed registered. In such cases it will be essential for the Registrar to issue the certificate of registration under his seal and signature, which will be conclusive evidence that amendment has been duly registered.

(6) On receipt of the refusal order under sub-section (4) and on non-receipt of the conclusive evidence relation to the amendment as specified under sub-section (5) an appeal shall lie before the

Registrar if the conclusive evidence or refusal order relates to the Registrar having been delegated with the power of Registrar and if such order has been passed by the Registrar Cooperative Society himself then appeal shall lie before the state Government: Provided that such appeal shall be filed within two months from the receipt of order or non receipt of conclusive evidence.

26. Power Of Registrar To Direct Amendment Of The Bye-Laws Of A Registered Society :-

(1) If it appears to the Registrar that an amendment of the byelaws of a registered society is necessary or desirable in the interest of such society, after taking the opinion of affiliating society/federation of that society, he may, by order in writing to be issued to the society, by registered post, require the society to make the amendment within such time as he may specify in such order.

(2) If any society fails to make any such amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard, register such amendment, and issue to the society by registered post a copy of the amendment, certified by him, which shall be conclusive evidence that the amendment has been duly registered, and such amendment shall be binding on the members of such society.

(3) An appeal shall lie to the State Government from any order of the Registrar passed under sub-section (2) within two months from the date of the issue of such order. The order of the State Government on appeal and, subject to the result of such appeal, if any, the decision of the Registrar shall be final.

CHAPTER 4 RIGHTS AND LIABILITIES OF MEMBERS OF REGISTERED SOCIETIES

27. Member Not To Exercise Rights Till Due Payment Made :-

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 as may be prescribed by the rules of bye-laws:

Provided that notwithstanding any thing contained in any provisions of this Act, the member of a registered Society shall exercise the right to vote at the election of members of the

managing committee of society only after acquiring such interest in the society, as may be prescribed by the rules of bye-laws.]

28. Votes Of Members :-

(1) Subject to the provisions of sub-section (2) of this section and of sub-section (4) of Section 14 each member of a registered society shall have one vote only as a member in the affairs of the society, provided that in the case of an equality of votes, the Chairman shall have a casting vote.

(2) A registered society which is a member of any other registered society shall have as many voters as may be prescribed by the bye-laws of such other society, and may, subject to such bye-laws, appoint any number of its members, not exceeding the number of such votes, to exercise its voting power, provided that no member who is disqualified for such appointment under any rule shall be so appointed.

(3) Save as provided in sub-section (2), voting by proxy shall not be allowed except with the general or special sanction of the Registrar for any society or class of societies.

29. Restriction On Holding Of Members :-

No member of a registered society other than the State Government or another registered society, shall have or claim any interest in the capital of a registered society exceeding one-fifth of the total capital or such smaller proportion as may be prescribed by the rules.

30. Share Or Interest Not Liable To Attachment :-

Subject to the provisions of section 22, the share or interest of member in the capital of, or contribution to, a registered society shall not be liable to attachment or sale under any decree or order of a Court of justice in respect of any debt or liability incurred by such member and neither the Official Assignee under the Presidency-towns insolvency Act, 1909 (3 of 1909) nor a Receiver under the Provincial Insolvency Act, 1920 (5 of 1920) shall be entitled to, or have any claim on, such share, interest or contribution.

31. Restrictions On Transfer Of Share Or Interest :-

(1) The transfer or charge of the share or interest of member in the

capital of registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the Rules.

(2) in case of society registered with unlimited liability, a member shall not transfer any share held by his interest in the capital or property of the society or any part thereof unless -

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

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

32. Liability Of A Past Member And Of The Estate Of A Deceased Member :-

The liability of a past member or of the estate of a deceased member for the debts of a registered society as they existed on the date of his ceasing to be a member or of his decease, as the case may be, shall continue for a period of two years from such date.

CHAPTER 5 AUDIT AND INSPECTION

33. Audit :-

(1) The Registrar shall audit or cause to be audited by some person (hereinafter referred to as the auditor) authorised by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the auditor may require.

(3) The audit under sub-section (1) shall be conducted according to the rules, and shall include an examination of overdrafts, if any, the verification of the cash balance and a securities valuation of the assets and liabilities of the society.

(4) The auditor shall submit a report on such examination, verification and valuation, and shall include in his report a statement of -

(a) every transaction which appears to the auditor to be contrary to law or to the rules or bye-laws of the society;

(b) the amount of any deficiency or loss which appears to have been incurred by the culpable negligence or misconduct of any person;

(c) the amount of any sum which ought to have been but has not

been brought into account by any person; and

(d) any money or property belonging to the society which has been misappropriated or fraudulently retained by any person taking part in the organization or management of the society or by any past or present officer of the society or any other person.

(5) The Registrar may determine the sum to be paid by any society towards the cost of auditing its accounts under this section, and such sum shall be paid by the society in such manner as the Registrar may direct.

34. Inspection By Registrar :-

The Registrar may from time to time inspect a registered society himself or cause it to be inspected by some person authorised by him in this behalf by general or special order.

35. Inquiry By Registrar :-

(1) The Registrar may, of his own motion and shall, on the request of the Collector, or on application of a majority or the managing committee, or of not less than one-third of the members, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry, into the constitution, working and financial condition of a registered society.

(2) The Registrar or the person authorised by him under sub-section (1) may -

(a) require an officer of the society to call a general meeting at such time and place at the headquarters of the society, and require the society to take into consideration such matters, as he may direct, and

(b) if the officer of society refuses or fails to call such a meeting or if there be no quorum at a meeting so convened, call such meeting himself by giving notice to the members in such a way as he may consider reasonable, notwithstanding any rules or byelaws prescribing the period of notice for calling a general meeting of the society. Any meeting so convened by the Registrar or the person authorised by him under sub-section (1) shall have all the powers of a general meeting convened under the bye-laws of the society.

(3) When an enquiry is made under this section, the Registrar shall communicate the results of the inquiry to the society, the financing bank, if any, to which the society is affiliated and to the persons or authority, if any at whose instance the inquiry is made.

36. Inspection Of Books By Registrar :-

- (1) The Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorised by him in this behalf by order in writing to inspect, the book of the society.
- (2) No inspection shall be made or directed under section (1) unless the applicant -
 - (a) satisfies the Registrar that debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
 - (b) deposits with the Registrar such sum as security for the costs of the proposed inspections as the Registrar may require.
- (3) Where an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor, to the society and to the financing bank, if any to which the society is affiliated.

37. Inspection Of Books By Financing Bank :-

- (1) A financing bank may cause an inspection to be made of the books of any registered society which is affiliated to it and may direct such society to furnish such information, statement and returns as may be required.
- (2) An Inspection under sub-section (1) may be made by any of the officers of the financial bank or by any member of its paid staff approved by the Registrar by general or special order.
- (3) The financing bank shall communicate the result of such inspection to the Registrar and to the society concerned.

38. Power To Call For Documents And To Issue Summons :-

The Registrar of any person authorised to audit the accounts of a society under section 33 or to make an inspection or to hold an inquiry under sections 34,35,36 or 37

- (a) Shall at all reasonable time 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 of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at the office of the society or at any branch thereof or except in the case of a financing bank, at any place at its headquarters;
- (b) may summon any person who, has reason to believe has

knowledge of any of the affairs of the society to appear before him at the office of the society or at any branch thereof or, except in the case of a financing bank, at any place at its headquarters, and may examine such person on oath; [and]

(c) may seize in presence of two persons the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society if he apprehends any fraud, of damage or mutilation of any of the articles above referred to, and the officer so doing shall grant proper receipt therefore and, when he is an officer other than the Registrar, immediately report the seizure to his immediate superior officer and the Registrar:

Provided that the power under this clause shall be exercised only by such persons as are authorised by rules made in this behalf.

39. Cost Of Inquiry And Inspection :-

Where an inquiry is held under section 35, or an inspection is made under section 36, the Registrar may, after giving the parties an opportunity of being heard and after recording the reasons, apportion the costs of such inquiry or inspection, or such part of the costs as he may think fit, between the society, the members of creditor demanding inquiry of inspection and the officers of former officers of the society.

40. Surcharge :-

(1) Where as the result of an audit under section 33 or an inquiry under section 35, or an inspection under section 34, section 36, or section 37, or the winding up of a society, it appears to the Registrar that any person who has taken part in the organisation or management of the society or any past or present officer of the society has-

(a) made any payment which is contrary to law or to the rules or byelaws of the society, [or against the directions or instructions of the financing bank for which the society is acting as agent under sub-section (3) of Section 16], or

(b) by reason of his culpable negligence or misconduct, involved the society, [or the financing bank for which it is acting as agent under sub-section (3) of Section 16] in any loss or deficiency, or

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

(d) misappropriate or fraudulently retained any property of the society [or of the financing bank, for which it is acting as agent

under sub-section (3) of Section 16. The Registrar may inquire into the conduct of such person, or officer and after giving such person or officer an opportunity of being heard make an order requiring him to contribute such sum to the assets of the society [or of the financing bank, as the case may be], by way of compensation in respect or such payment or loss of sum, or to restore such property as the Registrar thinks fit, together with such sum as the Registrar may fix to meet the cost of the proceeding under this section:

Provided that, before any order requiring such person or officer to contribute is passed in respect of a payment referred to in clause (a) reasonable time shall be given to such person or officer to recover the amount of such payment from the payee and credit it to the society, or, as the case may be, of the financing bank]:

Provided further that any order under this sub-section shall be passed for any commission or omission specified in (a), (b), (c) and (d) within six years from the date of occurrence or within three years from the date of submission of surcharge proposal whichever is earlier

(2) This section shall apply notwithstanding that such person or officer may have incurred criminal liability under this Act or under any other law.

(3) An appeal shall lie from an order of the Registrar under sub-section (1) to the State Government on application made by the person or officer against whom such order was passed within three months from the date of the communication to him of such order. The order of the State Government on appeal, and subject to the result of such appeal, if any, the order of the Registrar, shall be final.

CHAPTER 6 DISSOLUTION OF REGISTERED SOCIETIES

41. Dissolution Of Managing Committee :-

(1) In the opinion or the Registrar, the Managing Committee of any registered society in which the economic interest of the Govt. is apparently clear, is Mismanaging the affairs of the registered society or is persistently making default or is negligent in the performance of the duties imposed on it by this Act, the Rules, by-laws, he may, after giving opportunity to the managing committee to state its objection if any and after obtaining opinion- within twenty one days from the chief executive of the affiliating Federation/ Society, by order in writhing suspend the Managing Committee for a period not exceeding six months. During the

period of suspension the Managing Committee of the registered society shall there upon cease to function, Registrar shall appoint, any Government Servant a special officer to conduct the affairs of the society and shall fix his duties and liabilities.

Provided that the suspended managing committee, if not reinstated earlier shall resume functioning immediately after six months. The period under suspension shall count towards its term."

(2) From the date of reinstatement, a maximum period of six months shall be the period of observation of the working of Managing Committee. If desired improvement in management is not seen, suspension proceeding may be converted into a supersession proceeding and, adopting a procedure similar to that prescribed in subsection (1) for its, suspension, the Managing Committee may be superseded for a period not exceeding six months and it may be ordered that all or any of its members shall be disqualified from being elected to the Managing Committee for the period specified in the order not exceeding three years.

Provided that if within six months from the date of reinstatement of the committee the suspension proceeding is not converted into supersession proceeding then that proceeding will be barred by limitation:

Provided that if within six months from the date of reinstatement of the committee the suspension proceeding is not converted into supersession proceeding then that proceeding will be barred by limitation:

Provided further that the Registrar, in special circumstances and for constitution of Managing Committee by election, may further extend the period of supersession by a maximum period of three months. He may constitute a committee of three persons for managing the affairs of the society in place of Administrator. In such committee the powers of Managing Committee shall remain vested.

The Registrar shall record every order passed under this section and inform the concerned society by registered post.

(3) When a Managing Committee is superseded under sub-section (2), the Registrar shall appoint an Administrator on such remuneration, if any, as he may fix, to carry on the business of the society, and the Administrator, shall subject to any direction issued by the Registrar from time to time, exercise all the powers and perform all the duties which may under this Act, the rules and the bye-laws, be exercised or performed by the Managing Committee or any officer of the registered society: Provided that the Registrar

shall have the power to change the Administrator during the period of dissolution.

(4) The Registrar shall, before the expiry of the period of supersession under sub-section (2), require the Administrator to take necessary action for the Constitution of the new Managing Committee and the Administrator shall forth with hand over the management to the new managing Committee constituted in accordance with the provisions of the Act and the Rules.

(5) The Registrar may dissolve the Managing Committee of a registered society in case where -

(a) majority of the members and elected office- bearers of the Managing Committee of a registered society resign from their respective membership of office: or

(b) half the total member of seats of the Managing Committee of a registered society, becomes vacant for any reason whatsoever, and shall appoint Administrator for the better management of the registered society.

Provided that if during the period of dissolution of the Managing Committee, the Registrar is satisfied that the affairs of a registered society have sufficiently improved and it is desirable to restore the management to a newly elected Managing Committee, he may by order direct that the Administrator shall take steps for the constitution of a new Managing Committee and on such Committee having been constituted in accordance with the provision of this Act and the Rules the Administrator shall hand over the management to such newly constituted Managing Committee forthwith.

(6) An appeal shall lie from an order of the Registrar under sub-section (1) & sub section (2) to the state Government on application made by any member of the Managing committee within One months from the date of communication of the order to the registered society concerned. The order of the State Government on appeal, and subject to the result of such appeal, if any the order of the Registrar shall be final.

(7) The Registrar may issue such direction to the Administrator as to his powers and duties and the affairs of registered society as the Registrar deems desirable and the Administrator may apply to the Registrar at any time for instruction as to the manner in which the Administrator shall conduct the management of the registered society.

(8) Nothing in this section shall be deemed to affect the powers of the Registrar to order the winding up of a registered society under section 42 or to cancel the registration of the registered society

under sub-section (8) of Section 44.

42. Winding Up Order :-

The Registrar may, by notification, order a registered society to be wound up if -

(a) after an inquiry has been held under section 35 or an inspection made under section 34, section 36 or section 37, or on receipt of an application made three-fourth of the members of the society, or of his own motion, in the case of a society that has not commenced working or has ceased working, he is of opinion that the society ought to be dissolved, or

(b) It is a condition of the registration of the society that it should consist of at least ten members who have attained the age of eighteen years, and it is proved to the satisfaction of the registrar that the number of members has been reduced to less than ten.

43. Appeal Against The Order Of Winding Up :-

(1) Any member of a society in respect of which an order under section 42 has been passed may, within two months from the date of the publication of such order in the official Gazette appeal to the State Government from such order.

(2) An order under section 42 shall not take effect until the expiry of two months from the date of the publication of such order in the official Gazette or, if an appeal be preferred, unless and until it is confirmed by notification or appeal.

(3) The order of the state Government on appeal and, subject to the result of such appeal, if any, the order of the registrar shall be final.

44. Liquidation And Dissolution :-

(1) Where the Registrar has passed an order for the winding up of a registered society, he shall appoint a person or persons to be liquidator of the society.

(2) Notwithstanding anything contained in sub-section (2) of section 43, liquidator on appointment shall have power to take Immediate possession of all assets belonging to the society and all books, records and other documents pertaining to the business there of and to carry on the business of the society so far as may be necessary. And all the rights, duties assets and liabilities of the society shall devolve upon the liquidator as such.

(3) Subject to the registrars power of control and revision, such, liquidator shall also have power -

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

(b) to determine and realize all sums due to the society from any person:

(c) to determine from time to time, subject to the provisions of section 32, the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members by any officers or former officers, to the asses of the society and from time to time, to revise any order of contribution until the winding up is completed, and to realize such contribution:

(d) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of property arising between claimants after giving an opportunity of being heard to all the creditors:

(e) to pay claims against the society (including interest) up to the date of the publication in the official Gazette of the notification ordering the winding up the society according to their respective properties, if any, in full or rateably as the assets of the society permit ; and to apply the surplus, if any, remaining after payment of the claims of the claims in full, in payment of interest from the said date of a rate fixed by him but not exceeding in any case the rate agreed to be paid by the society;

(f) to make any compromise or arrangement with persons between whom and the society there exists any dispute or to refer any such dispute to arbitration;

(g) to determine by what persons and in what proportions the costs of the liquidation are to be borne; and

(h) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society; Provided that the liquidator shall not determine the contribution, debt or assets to be recovered from any person unless an opportunity of being heard has been given to such person.

(4) If an appeal from the order of winding up is allowed by State Government under section 34, the liquidator shall give up possession of the assets, books, records and other documents of the society of the managing Committee; and shall cease to carry on the business of the society, Provided that all his acts done in his capacity as liquidator shall continue to have legal validity as if they

had been done by the Managing Committee or the Society.

(5) With the special sanction of the Registrar, an appeal shall lie to the Court of the District Judge within three months from the date of communication by registered post of an order of a liquidator under clauses (b), (c), (d) (e), (g) or (h) of sub-section (3) to the person concerned.

(6) The orders of the liquidator, subject to any order of the Registrar in revision or to any order of the District Judge on appeal, if any, shall be final.

(7) When the affairs of the society have been wound up, the liquidator shall deposit the records of the society in such place as the Registrar may direct.

(8) After the records of society have been deposited under sub-section (7) the Registrar shall cancel the registration of the society and the society shall then cease to exist as a corporate body.

Chapter : VIA - LAND DEVELOPMENT BANKS
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44A. Definitions :-

In this Chapter, unless context otherwise requires -

(a) Board means the Managing Committee of the State Cooperative Land Development Bank :

(b) Land Development Bank Includes the State Cooperative Land Development Bank and the primary Cooperative Land Development Bank;

(c) "Prescribed means prescribed by rules made under this chapter,

(d) "Primary Cooperative Land Development Bank means registered society of that name, registered under section 11, and includes the Bihar State Cooperative and Mortgage Bank Ltd registered as such under section 11; and

(f) Trustee means the Trustee referred to in section 44.C.

44B. Application Of Chapter To Land Development Bank :-

The Provisions of this chapter shall apply to Land Development Banks advancing loan for all or any of the purposes herein enumerated, that is to say-

(i) land improvement and productive purposes:

(ii) the redemption of mortgages on lands;

(iii) the redemption of mortgages on other valuable immovable property subject to such conditions as may be prescribed;

(iv) the liquidation of debts of agriculturists subject to such

restriction as may be prescribed:

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

(vi) the erection, re-building or repairing of houses for agricultural purposes.

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

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

(b) Renewal or reconstruction of any of any of the foregoing work;

(c) preparation of land for irrigation;

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

(e) bunding and similar improvements;

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

(g) horticulture;

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

(i) purchase of tractors or other agricultural machinery;

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

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

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

(m) purchase of land for consolidation of holdings;

(n) digging canals;

(nn) the establishment of poultry, fishery, dairy, piggery and sheep rearing, etc. and (o) such other purposes as the State Government may, from time to time, by notification in the official Gazette declare to be improvement for productive purpose for the purposes of this Chapter.

44C. Appointment Of Trustee And His Powers And Functions

:-

(1) The Registrar, or- where the State Government appoint any

other person in this behalf, such person shall be the Trustee for the purpose of securing the fulfilment of the obligations of the State Cooperative Land Development Bank to the holders of debentures issued by the Board.

(2) The powers and functions of the Trustee shall be governed by the provisions of this chapter and by the instrument of trust executed between the State Cooperative Land Development Bank and the Trustee, as modified from time to time by mutual agreement between the Board and the Trustee.

44D. Trustee To Be A Corporation Sole :-

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

44E. Issue Of Debenture By The Board :-

(1) with the previous sanction of the Trustee, and subject to such terms and conditions as the may impose, the Board may, from time to time, issue debentures of such denomination for such periods as it may deem expedient on the security of the mortgages held of mortgages partly held and partly to be held and either transferred or deemed to have been transferred, under the provisions of section 44-J, to the State Cooperative Land Development Bank and other properties of such Bank Provided that notwithstanding anything contained in this sub-section regarding issue of debentures on security of mortgages, it shall be competent for the Board with the previous sanction of the trustee, and subject to such terms and conditions as it may impose to issue debentures in the security of the Government guarantee regarding re-payment of principal and payment of interest thereon in respect of loans issued to the corporate bodies implementing special schemes of agricultural development irrigation etc. on the basis of Government guarantee.

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

(3) The total amount due on the debentures issued by the Board including those issued before the commencement of the Bihar

Cooperative Societies (Amendment) Ordinance, 1975 and outstanding at any time shall not exceed the aggregate of -

(a) the amount due on the mortgages.

(b) the value of the properties and other assets transferred or deemed to have been transferred under section 44-j to the State Co-operative Land Development Bank and subsisting at such time:

(c) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time;

(d) the amount due on the Government guarantee on the basis of which loans have been issued to corporate bodies.

(4) Debentures in excess of the limit specified in sub-section (3) may be issued with permission of the Trustee.

44F. Vesting Of Mortgaged Property In The Trustee And Floating :-

charge of debenture holders

Upon the issue of debentures under the provisions of section 44E, the mortgages, properties and other assets, referred to in sub-section (3) of that section, held by the State Cooperative Land Development Bank shall vest in the Trustee and the holders of debentures shall have floating charge on all such mortgages, properties and assets and on the amount paid under such mortgages and remaining in the hands of the State Cooperative Land Development Bank or of the Trustee.

44G. Guarantee By The State Government Of Principal And Interest On Debentures :-

(1) The State Government may, if in their opinion it is necessary in the public interest so to do, and subject to such terms and conditions as the State Government may think fit to impose, guarantee the principal of and interest on the debentures issued by the Board, including debentures, if any, issued prior to the commencement of Bihar Cooperative Societies (Amendment) Ordinance, 1975 subject to such maximum amount as may be fixed by the State Government.

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

44H. Priority Of Mortgage, Over Claims :-

(1) Mortgage executed in favour of a Land Development Bank shall have priority over any claim of the Stat Government arising from a loan, under the Land improvement Loans Act, 1883 (19 of 1883), of the Agriculturists Loans Act, 1884(12 of 1884) or any other law for the time time being in force, granted subsequent of the execution of the mortgage.

(2) A mortgage executed in favour of a Land Development Bank shall have priority also over the claim of may other person arising out of a mortgage of any description executed or any other charge created, after the issue of a public notice under section 44. C in respect of the property of the loanee specified in the said public notice.

44I. Right Of Land Development Bank To Purchase Mortgaged Property :-

Notwithstanding the provisions contained in the Bihar Land Reforms (Fixation of Ceiling Are3a and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962) but subject to any tenancy law for the time being in force, it shall be lawful for Land Development Bank to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed to by such bank by sale in such manner and within such period as may be fixed by the trustee: Provided that a purchaser of such mortgaged property form a Land Development Bank shall purchase it subject to the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act Xii of 1962)

44J. Mortgages Executed In Favour Of Land Development Bank To Stand Vested In Trustee :-

The mortgages executed in favour of and all other assets transferred to the State Cooperative Land Development Bank by its members, either before or after the commencement Bihar Cooperative Societies (Amendment) Ordinance, 1975 shall vest in the Truste with effect from the date of such execution or transfer and likewise mortgages or transfer of assets in favour of Primary Cooperative Land Development Bank by its members shall be deemed to have been transferred to the State Cooperative Land Development Bank and shall vest in the Trustee.

44K. Power Of Primary Land Development Bank To Receive Money And Grant Discharge :-

Notwithstanding that a mortgage executed in favour of a Primary Land Development Bank has been transferred or is deemed, under provisions of section 44-J, to have been transferred to the State Cooperative Land Development Bank.

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board of trustee and communicated to the mortgagor, be payable to the Primary Land Development Bank and such payment shall be as valid as if the mortgage had not been so transferred: and

(b) the Primary Land Development Bank shall, in the absence of any specific direction to the contrary, issued by the Board of Trustee and communicated to the Primary Land Development Bank, be entitled to sue on the mortgage or take any other proceeding, including a proceeding under this Act. for the recovery of the moneys due under the mortgage.

44L. Registration Of Mortgage In Favour Of Land Development Bank :-

Notwithstanding anything contained in the Indian Registration Act, 1908 (16 of 1908), it shall not be necessary to register mortgages executed in favour of Land Development Bank Provided that the Land Development Bank concerned sends within such time and in such manner as may be prescribed a copy of the instrument; where by movable or 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, and such Registering officer shall file a copy or copies, as the case may be, in this Book no. 1 prescribed under section 51 of the Indian Registration Act, 1908 (16 of 1908).

44M. Power Of Land Development Bank To Pay Prior Debts Of Mortgagors And Secure Consequential Reliefs :-

(1) Where a mortgage is executed in favour of a Land Development Bank for payment of prior debts of the mortgagor, such Bank any, notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882) by such notice in writing may be prescribed, require any person to whom any such debts is due to receive payment of such debt of part thereof from the Bank at its registered office or its branch offices within such period as may be

specified in the notice.

(2) Where any such person fails 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; Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due may refer the dispute to Registrar for decision in accordance with provisions of section 48;

Provided further that the person to whom such debt is due shall, pending the decision in the dispute, be bound to receive payment, of the amount offered by the Land Development Bank towards the debt but such receipts shall not prejudice the right, if any, of person to recover the balance claimed by him.

(3) Where a notice has been served under sub-section (1) on any person for receiving payment of his dues, such person shall be bound to deliver possession, to the mortgagor, or any property held in usufructuary mortgage for the debts due on or before the date specified in the aforesaid notice; Provided that he may deliver possession of any agricultural land after harvesting of the standing crop, if any, and in such an event he shall be entitled to receive the amount due to him from the Land Development Bank on the date of delivery of possession given to the mortgagor.

(4) Where a person holding any property in usufructuary mortgage refuses delivery of possession in the manner indicated in sub-section (3), the Collector shall, on an application of the Land Development Bank made in this behalf, after making a summary enquiry reject the mortgagee and restore the mortgaged land to the mortgagor and the mortgage shall thereupon be deemed to have terminated.

(5) The provisions of this section shall be subject to any tenancy laws for the time being in force:

44N. Power Of Land Development Bank To Advance Loans And Hold Lands :-

Subject to the provisions of this Act and in accordance with the rules made thereunder, it shall be competent for a Land Development Bank to advance loans for the purposes referred to in section 44- B and to hold lands the possession of which is transferred to it under the provisions of this Chapter.

44O. Public Notice For Entertaining Objection :-

(1) When an application for a loan is made for any of the purposes mentioned in section 44- B, a public notice shall be given of the application in such manner and form as may be prescribed, calling upon all persons interested to make their objections to the loan, if any, before the date specified therein. The person by whom such public notice shall be given and the manner in which the objection shall be disposed of by him shall be such as may be prescribed. Copies of such public notice shall also be sent separately to such persons and within such time as may be prescribed,

(2) The person empowered to give notice under sub-section (1) shall consider every objection made under that sub-section and pass an order in writing either upholding or overruling it. When the objections is overruled, he shall recommend the application to the Land Development Bank for its consideration: Provided that when the question raised by an objection is, in the opinion of such person, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone the consideration of the application until the question has been so decided.

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

(4) Where an application is recommended under sub-section (2) the Land Development Bank shall, in accordance with the rule made by it in this behalf, consider such application for the purpose of making the loan,

(5) Where no objection under sub-section (1) has been made the question at issue shall be decided by the person empowered to consider objections in such manner as he may deem proper and no person shall have any claim what-soever including any claim arising out of a mortgage of any description against the property of the loanee for which the loan applied for is sanctioned under the provisions of this Chapter, until such time as the loan together with interest thereon or any other dues arising out of the loan are paid in full.

44P. Mortgage Executed By Managers Of Hindu Joint Families Or Natural Or Legal Guardians Of Minors Or Disabled Persons :-

(1) Mortgages, in respect of loans by a Land Development Bank either before or after the commencement of the Bihar Cooperative

Societies (Amendment) Ordinance, 1975 by the manager of a Hindu Joint family or the natural or legal guardian of a minor or disabled person for any of the purposes specified in section 44 B. shall be binding on every member of such Hindu joint family, or such minor or disabled person, notwithstanding any law to the contrary.

(2) Subject to the provisions of sub-section (1), where a mortgage execute in favour of a Land Development Bank, either before or after the commencement of the Bihar Cooperative Societies (Amendment) Ordinance, 1975, is called in question on the ground that it was executed by the Manager of a Hindu Joint family or natural or legal guardian of a minor or disabled person for a purpose not binding on the members of such Hindu joint family or such minor or disabled person, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

44Q. Order Granting Loan Conclusive Of Certain Matters :-

Written order by the Land Development Bank, or person or managing committees authorised by this Chapter or under the bye-laws of the Bank loans for all or any of the purposes specified in section 44-B granting either before or after the commencement of the Bihar Cooperative Societies (Amendment) Ordinance, 1975, a loan to or with the consent of a person mentioned therein for the benefit of the land or for the productive purpose specified therein, shall be conclusive of the following matters namely :-

- (a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 44-B;
- (b) that the person had on date of the order a right to make such productive purpose, as the case may be; and
- (c) that the improvement is one benefiting the land specified and the productive purpose concerns the land offered as security or any part thereof as may be relevant.

44R. Recovery Of Loan By Land Development Bank :-

Any loan granted by a Land Development Bank, including any interest chargeable and, such cost, if any as may be prescribed incurred in connection therewith shall, when they become due, be recoverable by the Bank concerned:

Provided that such loan, interest or cost may be recoverable also by

the State Cooperative Land Development Bank even if the loan has been granted by a Primary Cooperative Land Development Bank affiliated to it.

44S. Collector To Make Recoveries During Certain Period :-

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

(2) The Collector or any person specially authorized by him in this behalf, shall recover all sums due to a Land Development Bank in the following order and manner, namely :-

(a) for the borrower as if they were in arrears of land revenue due by him.

(b) Out of the land for the benefit of which the loan has been ranted as if they were arrears of land revenue in respect of that land.

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

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

(3) the provisions of this section shall be subject to any tenancy law for the time being in force.

44T. Distraint And Sale :-

(1) if any installment payable under mortgage executed in favour of a Land Development Bank of any part of such installment has remained unpaid for more than one month from the date on which it fell due, the managing committee of such a bank or the Board may, in addition to any other remedy available to the bank, apply to the Registrar for the recovery of such installment of part there of by distraint and sale the produce of the mortgaged land, including the standing crops thereon, and any other movable property of the default in the manner prescribed. On receipt of such application the registrar may, after giving registered notice to the mortgagor notwithstanding anything contained in the Transfer of Property Act. 1882 (4 of 1882), direct distraint and sale of such produce and, if necessary, also of such other movable property of the defaulter:

Provided that such implements of husbandry other than the implements mortgaged to the Land Development Bank, and such cattle of the defaulter as may, in the opinion of the Registrar, be necessary to enable the defaulter to earn his livelihood as an agriculturist shall not be liable for such distraint and sale:

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

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

44U. Powers Of Sale When To Be Exercised :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882). Where a power of sale without the intervention of the court is expressly conferred on a Land Development Bank by the mortgage deed, the managing committee of such bank or the Board or any person authorized by such managing committee or the Board in this behalf shall, in case of default of payment of mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of court.

(2) No such power shall be exercise unless and until -

(a) the Board has previously authorized the exercise of the power conferred by sub-section (1) after considering the representation, if any, of the mortgagor:

(b) the registered notice requiring payment of such mortgage money or part thereof has been served upon- (i) the mortgagor; (ii) any person who has any interest in, or charge upon the property mortgaged or in or upon the right to redeem the same; (i) any surety for the payment of the mortgage debt or any part thereof; and

(c) default has been made in payment of such mortgage money or part thereof, for there months after service of notice in this behalf,.

44V. Powers Of Land Development Bank Where Mortgaged Property Is Destroyed Or Security Becomes Insufficient :-

Where any property mortgaged to a Land Development Bank is wholly or partially destroyed or for any reason the security is rendered insufficient and the mortgagor, having been given a

reasonable opportunity, by the managing committee of the said bank or the Board of providing further security enough to make the whole security sufficient or of re-paving such portion of the loan as may be determined by the managing committee or the Board has failed to provide such security or to repay such portion of the loan the whole of the loan shall, notwithstanding its terms and conditions, be deemed to fall due at once and the managing committee or the Board shall be entitled to take action against the mortgagor, under section 44-S or section 44-T or section 44-U, for the recovery thereof.

Explanation.- For the purpose of this section, security shall be deemed to be insufficient unless the value of the mortgaged property, including improvement thereon, exceeds the amount for the time being, due on the mortgage by such proportion as may be specified in the rules or the bye-laws of the Land development Bank.

44W. Power Of The Board Or Trustee To Take Action Against Defaulters :-

(1) The Board or the Trustee may direct the managing committee of a primary Cooperative Land Development Bank to take action against a defaulter under sections 44-S, 44-T, 44-U or 44-V and if the managing committee neglects or fails to do so, the Board or the Trustee may take such action. The Trustee may direct the Board to take similar action against a defaulter and on the Board's neglect or failure to do so, may take such action himself.

(2) Where an action is taken under the provisions of sub-section (1) by the Board, the provisions of this Chapter or any rules made in pursuance thereof shall apply as if all references therein to a primary Co-operative Land Development Bank and its managing committee were references to the State Cooperative Land Development Bank and the Board.

(3) When an action is taken under the provisions of sub-section (1) by the Trustee, the provisions of this Chapter or any rules made in pursuance thereof shall apply as if all references therein to primary Cooperative Land Development Bank and its managing committee or the state Cooperative Land Development Bank or the Board were references to the Trustee.

44X. Confirmation Of Sale :-

Where any mortgaged property is sold under the provisions of

section 44- U by a Primary Land Development Bank, the Bank shall, in the manner prescribed, submit to the State Cooperative Land Development Bank and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale. Where the sale is made by the State Cooperative and Development Bank or the Trustee is a person other than the Registrar. Similar Report shall be submitted by the Board or the Trustee as the case may be, to the Registrar.

(2) After the report aforesaid has been submitted to the Registrar the managing committee of a Primary Cooperative Land Development Bank or the Board of the Trustee, as the case may be, may with the approval of Registrar, confirm or cancel the sale within one hundred and twenty days of the date of sale.

(3) Where the Registrar is the Trustee and has taken action pursuant to subsection (1) of section 44-W, he may confirm or cancel the sale of the mortgaged property of his own motion or on the application of a Land Development Bank within one hundred and twenty days from the date.

(4) Upon the mortgagor or any person having a right, title or interest in the mortgaged property applying to the managing committee or a Land Development Bank or the Board or the Trustee or the Registrar as the case may be, for setting aside the sale after having deposited at the Office of the Land Development Bank concerned such sums of money as may be sufficient for payment of the amount specified in the notice served under clause (b) of sub-section (2) of section 44-U together with subsequent interest and costs, if any, incurred during the process of sale and a commission, for payment to the purchaser, or a sum equal to five percent of the purchase money deposited by him, the sale of the mortgaged property shall be cancelled under the provisions of subsection (9) or (3) of this section.

(5) When sale is confirmed under the provisions of this section it shall become absolute and shall be deemed to be absolute to be absolute for the purpose of the Code of Civil Procedure, 1908 (5 of 1908).

44Y. Disposal Of Sale Proceeds :-

(1) The proceeds of the sale, effected under this Chapter shall be applied of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly to the payment of any or all interest due on account of the mortgage in consequence whereof

the mortgaged property was sold and thirdly to the payment of the principal due on account of the mortgage including cast and charges incidental to the recovery.

(2) if there remains any residue from the proceeds of sale referred to under subsection (1), the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, to such persons upon their joint receipt or according to their respective interest therein: Provided that, before such payments are made, the unsecured dues owing from the mortgagor to the Land Development Bank may be adjusted.

44Z. Certificates Of Purchase, Delivery Of Property And Title To Purchaser :-

Where a sale of mortgaged property has become absolute the Bank shall grant a certificate to the purchaser, in the prescribed form, specifying the property sold, the sale-proceeds, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser and the date on which the sale become absolute and upon the production of such certificate, the Sub-Registrar appointed under the Indian Registration Act, 1908 (16 of 1908) within the limits of whose jurisdiction the Whose or any part of the property specified in the certificate is situated shall enter a copy of such certificate in the relevant book maintained for such purpose.

(2) Where a mortgaged property is sold under the provisions of this Chapter and a certificate is granted to the purchaser under the provisions of sub-section (1), Collector shall, on the application of the purchaser, his, their or successor-in-interest, order delivery of possession to be made to such a person and shall put in possession such a person or his nominee.

44AA. Title Of Purchaser Not To Be Questioned On Ground Of Irregularities, Etc :-

Where any property is sold in exercise or power of sale under this Chapter, the title of the purchaser shall not be questioned on the ground that-

- (a) the circumstances required for authorising the sale had not arisen,
- (b) due notice of the sale was not given, or
- (c) the power of sale was otherwise improperly or irregularly exercised; but any person who has suffered any damage by an unauthorized, improper or irregular exercise or such power is

entitled to have a remedy in damage against the Land Development Bank.

44AB. Mortgage Not To Be Questioned On Insolvency Of Mortgagor :-

Notwithstanding anything in any law relating to insolvency, a mortgage executed in favour of a Land Development Bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the Land development Bank a preference over the other creditors of the mortgagor.

44AC. Appointment Of Receiver And His Powers :-

(1) The Board may, of its own motion or on the application of a Primay Land Development Bank and under circumstances in which the power of sale conferred by section 44-U may be exercised, appoint in writing a person other than member of the managing committee of the Land Development Bank concerned to be the receiver of the produce of and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, or both, as the case may be, to retain out of any money realized by him in expenses or management including his remuneration, if any, as fixed by the Board and to apply to balance in accordance with the provisions of sub-section (8) of section 69 A of the Transfer of Property, Act, 1882 (4 of 1882).

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

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

44AD. Restriction On Leases :-

(1) Notwithstanding anything contained in the transfer of property Act, 1882 (4 of 1882), or any law for the time being in force, no mortgagor of property mortgaged to a Land Development Bank shall, except with the prior consent in writing of the bank and subject to such terms and conditions as the bank may impose lease or create to any tenancy rights or any other right, title, or interest

in any such property;

Provided that the rights of the Land Development Bank shall be enforceable against the lessee or the tenant, or any other person, as the case may be, as if he himself were a mortgagor. (P) Where the land, mortgaged with possession to a Land Development Bank, is in actual possession of a tenant, the mortgagor of the Land Development Bank shall give notice to the tenant to pay rent to the Land Development Bank during the currency of the lease and the on such notice being given, the tenant shall be deemed to have attorned to the Land Development Bank.

44AE. Registration Of Documents Executed On Behalf Of A Land Development Bank :-

(1) Notwithstanding anything in the Indian Registration Act, 1908 (16 of 1908), it shall not be necessary for any officer of a Land Development Bank to appear in person or by any agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

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

44AF. Delegation Of Certain Powers By Board :-

The Board if it thinks fit, may delegate all or any of its powers under section 44 U, 44 W of 44 AC to an Executive Committee consisting of three or more of its members constituted by it.

44AG. Provision Of The Transfer Of Property Act, 1882 To Apply To Notice Under This Chapter :-

The provisions of Sections 102 and 103 of the Transfer of Property Act, 1882 (4 of 1882) and of any rule made by the High Court under section 104 of that Act for carrying out of the purposes of the said sections shall apply so far as may be, in respect of all notices to be served under this Chapter.

44AH. Boards Power Of Supervision Over Primary Cooperative Land Development Banks :-

Subject to the provisions of the Act, the Board shall have such powers of supervision over the primary Cooperative Land Development Bank, including powers of inspection of account books and proceeding of such bank, as may be prescribed by rules.

44AI. Power To Make Rules :-

The State Government may, after previous publication, make rules for carrying into effect the purposes of this chapter. (2) Such rule may provide for all or any of the following matters, namely:-

- (a) the manner of effecting distraint under this Chapter, the custody, preservation and sale of distrained property, immediate sale of perishable articles where such articles are distrained;
- (b) conduct of the sale of the property mortgaged to Land Development Bank, appointment of sales officers, recovery of expenses of such sale, deposit of the purchase money in connection therewith and resale of the mortgaged property where purchase money is not deposited in sale proceedings;
- (c) submission of returns and reports by primary cooperative Land Development Bank to the State Cooperative Land Development Bank in respect of their transactions periodical statement of accounts between the primary Cooperative Land Development Bank and the State Cooperative Land Development Bank, payment of amount recovered by the primary Cooperative Land Development Bank on mortgages transferred to the State Cooperative Land Development Bank the form in which application to Land Development Bank for loans may be made, the properties offered as security for such loans the investment of money realised by Land Development Bank from the mortgagors and matters generally relating to the conduct of business of Land Development Bank: and
- (d) all matters expressly required of allowed in this Chapter to be prescribed by rules.

Chapter : VIB - Chapter VIB

44AJ. Application Of The Chapter To Cooperative Bank :-

(1) The provisions of this chapter shall apply to a Cooperative Bank as defined in the Deposit Insurance Corporation Act, 1961 (47 of 1961) in addition to the provisions contained in other parts of this Act, where any question of apparent or implied inconsistency arises, the provisions of this Chapter shall prevail over the provisions of the other parts of this Act.

(2) For the purposes of this chapter," Deposit insurance corporation means the Deposit insurance corporation established under the Deposit Insurance Corporation Act, 1961) and "Reserve Bank means the Reserve Bank of India established under the Reserve Bank of India Act, 1934 (2 of 1934)

44AK. Division, Amalgamation, Compromise, Etc. :-

(1) No order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or of division or transfer of assets and liabilities of a Cooperative Bank shall be made without the previous sanction in writing of the Reserve Bank.

(2) Where an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949(10 of 1949) in respect of a Cooperative Bank, the Registrar, with the previous approval of the Reserve Bank in writing may during the period of moratorium, prepare a scheme,-

(i) for the re-construction of the Cooperative Bank; or

(ii) for its amalgamation with any other Cooperative Bank (herein referred to as the transferee Bank).

(3) Notwithstanding anything to the contrary to the contrary contained in this Act where a Cooperative Bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961(47 of 1961) is amalgamated or in respect of which a scheme of compromise or arrangement or of reconstruction has been sanctioned and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank, under sub-section (2) of section 16 of the Act, the bank with which such insured bank is amalgamated or, the new Cooperative Bank formed after such amalgamation or, as the case may be, the insured bank or the transferee bank shall be under an obligation to repay the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

44AL. Supersession Of Managing Committee Of Cooperative Bank :-

Notwithstanding anything contrary contained in this Act Registrar shall if so required in writing by the Reserve Bank in public interest or for preventing the affairs of the Cooperative Bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the Cooperative Bank; pass an order for the supersession of the

managing committee or other managing body (by whatever name called) of that Cooperative Bank and appointment of an administrator therefore, upon such terms and for such periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank.

44AM. Reserve Banks Sanction Or Requisition For Winding Up Order :-

(1) Notwithstanding anything to the contrary contained in this Act, no Cooperative Bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

(2) Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for the winding up of a Cooperative Bank if so required by the Reserve Bank in the circumstances mentioned in section 13 D of the Deposit Insurance Corporation Act, 1961 (47 of 1961)

44AN. Reimbursement To Deposit Insurance Corporation :-

Where a Cooperative Bank, being an insured bank within the meaning of Deposit Insurance Corporation Act, 1961 (47 of 1961) is wound up or is taken into liquidation and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed in the circumstances to the extent and in the manner provided in section 21 of that Act.

44AO. Finality Of The Reserve Banks Sanction Or Requisition :-

Notwithstanding anything to the contrary contained in this Act where with the previous sanction in writing or on the requisition of the Reserve Bank-

- (i) an order for the winding up of the cooperative bank is made, or
- (ii) in respect of which a scheme of compromise or arrangement or of reconstruction or amalgamation is made, or
- (iii) in respect of which an order for the supersession of its managing committee or other managing body (by whatever name called) and the appointment of an administrator therefore has been made no appeal or revision on review there against shall lie or be permissible and such sanction or requisition of the Reserve Bank

shall not be liable to be called in question in any manner.]

CHAPTER VID

Special Provisions applicable to societies in Short Term Co-operative Credit Structure.

44AT. Overriding effect of Chapter VI-D. :-

Notwithstanding anything contrary or inconsistent contained in any other chapter of this Act or the Bihar Self Supporting Co-operative Societies Act 1996 or rules framed there under or bye-laws of any registered society or orders issued there under, the provisions of this chapter shall have overriding effect.

44AU. Ensuring membership of Primary Agricultural credit society to depositors and borrowers :-

Every person who is a borrower or depositor of a Primary Agricultural Credit Society or wants to become a borrower or depositor of such society shall be compulsorily made a member or an associate member of such society in terms of sub-section (6) of section-44AQ with full voting rights.

44AV. Autonomy in all financial and internal administrative matters :-

A co-operative society under Short Term Co-operative Credit Structure shall, have autonomy in all financial and internal administrative matters including the following areas: -

- (a) Interest rates on deposits and loans in conformity with Reserve Bank guidelines
- (b) Borrowing and investments,
- (c) Loan policies and individual loan decisions,
- (d) Personnel policy, staffing, recruitment, posting and compensation to staff, and
- (e) Appointment of auditors and compensation for the audit and internal control system.

44AW. Limit on State Governments subscription :-

The State Governments subscription in the share capital of any Co-operative Society under the Short Term Co-operative Credit Structure shall not exceed 25% of the total paid up share capital of such society,

Provided that the State Government of such society shall have option to further reduce the subscription of the State Government and that the society shall not be prevented from doing so by the State Government.

44AX. Restriction on number of Government Nominees :-

(1) There shall be only one Government nominee in the Managing Committee of the State Co-operative Bank and Central Co-operative Banks.

(2) There shall be no Government nominee in the Managing Committee of a Primary Agricultural Credit Society.

44AY. Membership of an affiliating society :-

(a) A co-operative society under the Short, Term Co-operative Credit Structure registered under the Bihar Co-operative Societies Act, 1935 shall be eligible to be a member of an affiliating society registered under the provision of the Bihar Self Supporting Co-operative Societies Act, 1996 in accordance with the procedure to be prescribed and notified by the Government.

(b) A co-operative society under the Short Term Co-operative Credit Structure registered under the Bihar Self Supporting Co-operative Societies Act, 1996 may become the member of an affiliating society registered under this Act in accordance with the procedure to be prescribed and notified by the Government.

(2) A Co-operative Society under the Short Term Co-operative Credit Structure may become a member of an affiliating society of its choice or leave the membership of such society.

44AZ. Restriction regarding area of operation :-

There shall be no restriction regarding area of operation for the conduct of business by a society under Short Term Co-operative Credit Structure.

44BA. Freedom of investment and deposit :-

A Co-operative Society under the Short Term Co-operative Credit Structure will have freedom to invest or deposit its funds in any financial institution subject to guidelines framed by Reserve Bank.

44BB. Freedom of borrowings :-

A co-operative society under Short Term Co-operative Credit Structure may obtain loans from any Reserve Bank regulated financial institution and refinance from National Bank or any other refinancing agency directly or through any Reserve Bank regulated financial institution of its choice and not necessarily from only the affiliating society to which it is affiliated.

44BC. Guidelines for payment of dividend by Primary Agricultural Credit Society :-

The Registrar in consultation with National Bank shall issue general guidelines for payment of dividend by a Primary Agricultural Credit Society.

44BD. Contribution to any fund :-

No society in Co-operative Credit Structure shall be directed to contribute any fund other than those for improving the net worth and own fund of the society.

44BE. Disqualification of members of the managing committee to State Co-operative Bank or Central Co-operative Bank :-

(1) A member of the Managing Committee representing a co-operative society other than Primary Agricultural Credit Society in the Managing Committee of State Co-operative Bank or Central Co-operative Bank shall not be allowed to continue as a member of the managing committee by the Registrar in the event of such co-operative society committing a default for a period exceeding 90 (ninety) days on intimation of such default by the Chief Executive of the bank concerned.

(2) A member of Managing Committee representing a co-operative society under the Short Term Co-operative Credit Structure in the Managing Committee of State Co-operative Bank or Central Co-operative Bank shall not be allowed to continue as member by the Registrar in the event of such society committing a default for a period exceeding one year on intimation of such default by the Chief Executive of the bank concerned.

(3) No person shall be eligible for election to the managing committee of a co-operative society under Short Term Co-operative Credit Structure, if-

(a) such person is not a member of the society, or

- (b) such person is in default to the society or any other registered society in respect of any loan taken by him or has any dues of the society on the date of filing of nomination, or
 - (c) he has directly or indirectly, any interest in any subsistent contract made with the society or in any property sold or purchased by the society or in any other transaction of the society, except in any investment made in, or any loan taken from the society;
 - (d) he has any proceeding for surcharge relating to any registered society pending against him.
 - (e) he has a criminal proceeding relating to any transaction of a registered society pending against him in which cognizance has been taken.
- (4) No person elected as member or other office bearer in the management committee of a co-operative credit structure shall be allowed to act as such if he is in default for a period exceeding twelve months in payment of dues to the society unless the amount in default with due interest is paid to the society.

44BF. Supersession of Short Term Co-operative Credit Structure :-

- (1) The supersession of the Managing Committee of State Co-operative Bank or Central Co-operative Bank under section-41 of this Act shall be done by Registrar, Co-operative Societies in consultation with Reserve Bank.
- (2) The supersession of the managing committee under section-41 of this Act of a Primary Agricultural Credit Society shall be done by Registrar, only under the following conditions :-
- (a) if a society incurs losses for three consecutive years, or
 - (b) if serious financial irregularities or frauds have been identified, or
 - (c) if there are judicial directives to this effect, or
 - (d) if there is lack of quorum for three consecutive meetings.

44BG. Elections :-

- (1) The election to the managing committee of a co-operative society under the Short Term Co-operative Credit Structure shall be conducted before the expiry of the term of the existing Managing Committee and in case of supersession of the Managing Committee of such co-operative society; the election may invariably be conducted within six months from the date of supersession.
- (2) A member of the Managing Committee of a Primary Agriculture

Credit Society which has been superseded under the conditions mentioned in sub-clause (a) and (b) of section-44BG(2) shall not be entitled to contest again for a period of five years after such supersession.

44BH. The Prudential norms :-

The prudential norms including Capital to Risk Weighted Assets Ratio shall be specified by the Registrar for all the Primary Agricultural Credit Society in consultation with National Bank.

44BI. Removal of directors and Chief Executive Officers :-

(1) The members of the Managing Committee or chief executive officer of the state co-operative Bank or central Co-operative Bank shall fulfill such criteria as may be stipulated by RBI.

(2) A Person who does not fulfill the criteria for the post of chief Executive officer or a member in the committee of the state co-operative Bank or a central co-operative bank as stipulated by the, Reserve Bank shall be treated as ineligible for such post and if such person is holding the post, he shall be removed by the Registrar on receipt of advice to this effect from the Reserve Bank or the National Bank.

44BJ. Co-option of professionals in Managing Committee of State Co-operative Bank and Central Co-operative Bank :-

(1) The managing committee of the State Co-operative Bank or a Central Co-operative Bank shall have such number of professionals as members having the professional qualifications or experience as may be stipulated by Reserve Bank of India.

(2) If members with professional qualifications or experience as stipulated by the Reserve Bank are not elected in number specified by the Reserve Bank of India in the Committee of the State Co-operative Bank or Central Co-operative Bank, to the extent of, shortfall, such vacancies shall be filled by co-option of such persons in the committee and such co-opted members shall have full voting rights.

44BK. Audit of accounts :-

The State Co-operative Bank or Central Co-operative Banks shall cause audit of its accounts by a Chartered Accountant selected from a panel approved by National Bank.

44BL. Special audit of State Co-operative Bank or Central Co-operative Bank :-

(1) The Registrar shall arrange to conduct the special audit of State Co-operative Bank or Central Co-operative Banks, on the request of Reserve Bank on such specific terms of references as agreed to by the Registrar and also arrange to furnish the report to Reserve Bank within the time stipulated by the Reserve Bank of India.

(2) The Registrar may also on its own motion or on the request of the Managing Committee of State Co-operative Bank or Central Co-operative Bank arrange to conduct the special audit of such bank.

44BM. Restriction of using word Bank by the Primary Agricultural Credit Society.-(1) No Primary Agricultural Credit Society will use the word "Bank", "Banker" or "Banking" or any other derivative of the word "Bank".

(2) The Registrar shall deregister such Primary Agricultural Credit Society, which violates the provision of sub-section (1) of this section.

44BN. Abolition of Cadre system :-

There shall not be any Cadre system in Co-operative Credit Structure with effect from such date as notified by the State Government.

44BO. Winding up of State Co-operative Bank or Central Co-operative Bank :-

The Registrar shall make an order for the winding up of State Co-operative Bank or Central Co-operative Bank and appointment of a liquidator within one month if so advised by the Reserve Bank.

44BP. Implementation of regulatory prescriptions of Reserve Bank :-

Notwithstanding anything contained in this Act or Rules made there under, the Registrar shall ensure the implementation of regulatory prescriptions of the Reserve Bank in case of State Co-operative Bank and Central Co-operative Banks.

44BQ. Exemption by the State Government :-

No society in the short term Co-operative Credit Structure shall be exempted under 62(2) of this Act in any manner from the

application of the provisions of this chapter without prior consultation with the Reserve Bank or the National Bank.

CHAPTER 7 PENALTIES AND PROCEDURE

45. Offences :-

(1) It shall be an offence under this Act if-

(a) an officer or member of a registered society The election of the new society established under sub-section (2) of section 41 intentionally neglects or refuses to do any act required to be done, or to furnish any information required to be furnished, by this Act or by any rule; or

(b) an officer or member of a registered society or any person appointed under sub-section (2) of section 41 willfully makes a false return or furnishes false information.

(2) Any officer or member of registered society [or any person appointed under sub-section (2) of section 41] guilty of an offence under sub-section (1) shall be punishable with fine which may extend to fifty rupees

45A. Section 45A :-

(1) On election of new secretary or on supersession of cooperative society or on expiry of the term of the office bearers of a cooperative society, the outgoing secretary or the person holding charge of the office of the cooperative society shall hand over charge of his office and all papers and properties in his possession as secretary or in charge of the said society to the new secretary or the officer directed by the prescribed authority to take charge of the affairs of the said society.

(2) If the outgoing secretary of a cooperative society or the person holding charge of the office of secretary fails or refuses to hand over charge of his office as required under sub-section(1) above, the prescribed authority or any officer empowered by it in this behalf, may by an order in writing direct the outgoing Secretary or the person holding charge of the office of Secretary to hand over immediately the charge of his office and all papers and properties in his possession as such secretary to the new secretary in case of fresh election, and in case of supersession or on expiry of the term of office to the officer appointed to manage the affairs of the society.

(3) If the person to whom a direction has been issued under sub-

section (2) fails to comply with the said direction he shall be punishable with the imprisonment which may extend up to the period of six months or a fine or a fine of Rs. 500, or with both.

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

(5) If it is so required, the prescribed authority may, by order in writing, authorise any officer to forcibly take possession with the help of local police and Magistrate, of all papers and properties from the secretary or the person holding charge of the office of secretary and hand them over to the new secretary in case of fresh election and to the officer of the State Government appointed to run the affairs of the society in case of its supersession or expiry of the term of office bearers where fresh election is still to be held.

Section 45A - Production of records by the Secretary or person in charge of the office of a Cooperative Society

(1) The Secretary of a Cooperative Society shall, on direction by Registrar or by any other Gazetted officer of Cooperative department, forthwith hand all records and documents of the Society as the Registrar or the officer mentioned above may required for inspection or enquiry relating to the affairs of the said Cooperative Society,

(2) If the Secretary or the person in charge of the office of the Cooperative Society fails, refuses or avoids to hand over the documents as required under foregoing sub-section (1) he shall be punishable with imprisonment for a period which may extend up to six months or with a fine of Rs. 500/- or with both, and such an offence shall be cognizable.

(3) When a person to whom a direction has been issued sub-section (1) of this section fails, refuses or avoids to furnish all records and documents of that Society with the help of police and magistrate.

46. Prohibition Of The Use Of The Word Cooperative :-

(1) No person or society other than a registered society shall trade or carry on business under any name or title of which the word cooperative is part without the sanction of the State Government. Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which the Cooperative Society Act. 1912, Came into operation.

(2) Any officer or member of a society or any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees, and, in the case of a

continuing offence, with a further fine of five rupees for each day on which the offence is continued after conviction therefore.

47. Cognizance Of Offences :-

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

(2) Every offence under this Act shall, for the purpose of the code of criminal Procedure, 1898 [5 of 1898)] be deemed to be non-cognizable.

(3) No Prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar, and the Registrar shall not sanction the prosecution of any person unless he has given such person an opportunity of being heard.

48. Disputes :-

(1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its managing committee against a paid servant or the society) arises.-

(a) amongst members, past members, persons claiming through members, past members or deceased members, and sureties of members, past members or deceased members, whether such sureties are members or non-members; or

(b) between a member, past member, persons claiming through a member, past member or deceased member, or sureties of members, past members or deceased member, whether such sureties are members or non-members and the society, its managing committee or any officer, agent or servant or the society; or

(c) between the society or its managing committee and any past or present officer, agent or servant of the society; or

(d) between the society and any other registered society; or

(e) between a financing bank authorized under the provisions of subsection (1) of section 16 and a person who is not a member of a registered society; such dispute shall be referred to the Registrar;

Provided that no claim against a past member or the estate of a deceased member shall be treated as a dispute if the liability of the past member or of the estate of the deceased member has been extinguished by virtue of section 32 or section 63.

Explanation.- (1) A claim by a registered society for any debt or demand due to it from a member, non-member past member or

the nominee, heir or legal representative of a deceased member or non-member or from sureties or members, past members or deceased members, whether such sureties are members or non-members, shall be a dispute touching the business of the society within the meaning of this sub-section even in case such debt or demand is admitted and the only point at issue is the ability to pay or the manner of enforcement of payment.

Explanation.- (1) The question whether a person is or was a member of a registered society or not shall be a dispute within the meaning of this sub-section.

(2) The Registrar may on receipt of such reference.-

(a) decide the dispute himself; or

(b) transfer it for disposal to any person exercising the powers of a Registrar in this behalf; or

(c) subject to any rules refer it for disposal to an arbitrator or arbitrators.

(3) Subject to any rules, the Registrar may withdraw any reference transferred under clause (b) of sub-section (2) or referred under clause (c) of the said subsection and deal with it in the manner provided in the said sub-section.

(4) The appointment of an arbitrator or arbitrator and the procedure to be followed in proceedings before the Registrar or such arbitrators shall be regulated by rule.

(5) In the case of dispute involving property which is given as collateral security, it shall be competent to the person deciding such dispute to issue mortgage award which shall have the same force as a mortgage decree of a competent Civil Court.

(6) Any person aggrieved by any decision given in dispute transferred or referred under clause (b) or (c) of sub-section (2) may, within three months from the date of such decision, appeal to the Registrar.

(7) The Registrar, in the case of dispute under this section, shall have the power of review vested in a civil Court under section 144 and under Order XL VII, rule 1 of the Code of Civil Procedure, 1908, and shall also have the inherent jurisdiction specified in section 151 of the said Code.

(8) The Registrar may where it appears to him advisable, either of application or of his own motion, state a case and refer it to the District Judge for decision, and the decision of the District Judge shall be final.

(9) Save as expressly provided in this section, a decision of the Registrar under this section, and subject to the orders of the

R3gistrar on appeal or review, a decision given in a dispute transferred or referred under clause (b) or (c) of subsection (2) shall be final.

49. Registrar, Liquidators And Arbitrators To Have Certain Powers Of Civil Court :-

Subject to any rules, the Registrar, any person authorized to hold an inquiry under section 35 or an inspection under section 36, any liquidator, any person exercising the powers of a Registrar, of any arbitrator or arbitrators appointed under section 48, shall in so far as such powers are necessary for carrying out any of the purposes of this Act, have power to summon and enforce the attendance of witnesses and parties concerned and to examine them upon oath and to compel the production of any books, accounts, documents or property by the same means and, so far as may be, in the same manner as if provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908).

50. Attachment Of Property :-

(1) Where the Registrar is satisfied on the application of the liquidator or of a society that any person with intent to defeat or delay the execution of any order that may be passed against him under section 44 or 48.

(a) is about to dispose of the whole or any part of his property, or
(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar, the Registrar may, unless adequate security is furnished to his satisfaction, direct the attachment of the said property or such part thereof, as he thinks, necessary, any such attachment shall have the same effect as if it had been made by a competent court.

(2) An order of attachment passed under sub-section (1) shall, on the application of the Registrar, be executed by the Collector in whose jurisdiction the property lies, in the same manner as an order of a Revenue Court.

51. Enforcement Of Orders :-

Orders passed under section 44, 48 and 50 shall in addition to any other method of enforcement provided under this Act, on application be enforced as follows :-

(a) when passed by the Registrar, a liquidator or by an arbitrator or

arbitrators, by any Civil Court having local jurisdiction in the same manner as a decree of such Court:

(b) when passed by the District judge, in the same manner as a decree of the district judge made in the suit pending before him.

52. Recovery Of Sums Due :-

Any sum payable by any person or by any registered society -

(a) as fees for an audit held under section 33,

(b) in accordance with an order of the Registrar under section 39 apportioning the costs of an inquiry of inspections,

(c) in accordance with an order passed under Section 40.

(d) in accordance with an order of the Registrar or of a liquidator passed under section 44, or

(e) in accordance with an order, decision or award passed or made under section 48.

(f) As an amount due from member, past member or the nominee, heirs, or legal representative of the deceased member or a primary cooperative society shall be recoverable, as a public demand in any area, in which the Bihar and Orissa Public Demands Recovery Act, 1914 (B.& O. Act 4 of 1914), is in force or as an arrear of land revenue throughout the whole of the State and the Registrar or other person authorized by him in this behalf, shall be deemed to be the person to whom such public demand is due or to whom such arrear of land revenue is payable.

53. Recovery Of Sums Due To The Government :-

All sums due from a registered society or from an officer or member, past or present or from his sureties or from the estate of a deceased member of a registered society or from his sureties as such to the Government including any casts awarded to the Government may be recovered in the same manner as arrears of land-revenue.

54. Property From Which Sums Due From A Society Can Be Recovered :-

All sums due from a registered society to the Government and all sums recoverable from a registered society under section 33,39,44 or 48 may be recovered firstly, from the property of the society, secondly, in the case of a society, the liability of the members of which is limited, from the members, past members of which is

limited, from the members, past members or estates of deceased members, or their sureties subject to the limit of their liability; and thirdly, in the case of other societies from the members, past members, or estates of deceased members or their sureties to such extent or in such proportion as may be determined by the Registrar.

55. Liability Of Past Members :-

Notwithstanding anything contained in sections 53 and 54, the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of sections 32 and 63.

56. Power Of Revision By Registrar :-

The Registrar may, on application or of his own motion, Revise any order passed by a person exercising the powers of a Registrar or by a liquidator under section 44 provided such order has been passed within a period not exceeding six months: Provided that the Registrar shall have no power to revise any order against which appeal has been provided under provisions of this Act,"

57. Bar Of Jurisdiction Of Court :-

(1) Save in so far as expressly provided in this Act., no Civil or Revenue Court shall have any jurisdiction in respect of any matter concerned with the winding up or dissolution of the registered society or suspension of the Managing Committee of a registered society under its cat, or of any dispute required by section 48 to be referred to the Registrar or of any proceedings, under Chapter VII A.

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

(3) No order of the State Government, District judge, Registrar, a person appointed to assist the Registrar, liquidator, or an arbitrator or arbitrators purporting to be one, which under any provision of this Act is declared to be final shall be liable to be challenged, set aside, modified. revised, or declared void in any Court upon merits or upon any ground whatsoever except want of jurisdiction.

57A. Cases In Which Application For Distraint May Be Made

:-

Where any debt or outstanding demand is due to a registered society from any member, past member or estate of deceased member or is due to a registered society which is duly authorized by the Registrar under any of the provisions of sub-section (1) of section 16 of this Act to grant loans to non-members, from any person who is not a member of a registered society or from the estate of such person if he is dead the society may, in addition to any other remedy to which it is entitled by law, present an application to the Registrar requesting him to recover the debt or outstanding demand by detaining, while in the possession of the defaulter:-

- (1) any crops or other products of the earth standing or ungathered on the holding of the defaulter;
- (2) any crops or other products of the earth which have been grown on the holding of the defaulter and have been reaped or gathered and are deposited on the holding or on a threshing floor or place for treading out grain whether in the fields or within a homestead.

57B. Form Of Application :-

- (1) Every application under the last foregoing section shall specify-
 - (a) the holding of the defaulter and the boundaries thereof or such other particulars as may suffice for its identification;
 - (b) the name of the defaulter;
 - (c) the detailed account of the dues;
 - (d) the nature and approximate value of the produce to be distrained;
 - (e) the place where it is to be found, or such other particulars as may suffice for its identification: and
 - (f) if it is standing or ungathered at the time at which it is likely to be cut or gathered.
- (2) The application shall be signed and verified in the manner prescribed by the code of Civil Procedure, 1908 (5 of 1908), for the signing and verification of plaints.

57C. Procedure On Receipt Of Application :-

- (1) The applicant shall at the time of filing an application under the foregoing sections, file before the Registrar such documentary

evidence (if any) as he may consider necessary for the purposes of the application.

(2) The Registrar may, after taking such evidence as he thinks, fit, admit the application or reject it.

(3) Where the Registrar cannot forthwith admit or reject an application he may, if he thinks fit make an order prohibiting the removal of the produce specified in the application, pending the execution of an order for distaining the same or the rejection of the application.

(4) when an order for distaining any produce is made under the section at a considerable time before the produce is likely to be cut or gathered, the Registrar may suspend the execution of the order for such time as he thinks fit and may, if he thinks, fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

(5) An order under sub-section (3) or under sub-section (4) shall be served and published in such manner as the state Government may rules prescribe.

57D. Execution Of Order For Distraint :-

(1) If an application is admitted under the last foregoing section and an order for distaining any produce is made the Registrar shall send a copy of the order containing the prescribed particulars to the Collector for execution.

(2) The Collector shall, upon receipt of the order referred to in sub-section (1), depute an officer to distraint the produce specified therein or such portion of that produce as he thinks fit, and the officer shall proceed to the place where the produce is, and distraint the produce by taking charge of it in this behalf and publishing a notification of the distraint in accordance with rules to that effect made by the State Government.

Provided that produce, which from its nature does not admit of being stored, shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

57E. Service Of Demand And Account :-

(1) The distraining officer, shall at the time of making the distraint, serve on the defaulter a written demand for the amount due and the casts incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(3) The demand and account shall, if practicable be served personally but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

57F. Rights To Reap Etc., Produce :-

(1) A distraint under this Chapter shall not prevent any person from reaping, gathering or storing any produce or doing any other act necessary for its due preservation.

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose or in some other convenient place in the neighborhood or shall to whatever else may be necessary for the due preservation of the same.

(3) in either case the distained property shall remain in the charge of the distaining officer or of some other person appointed by him in this behalf.

57G. Sale Proclamation To Be Issued Unless Demand Is Satisfied :-

(1) Unless the demand with all costs of distraint, be immediately satisfied that distraining officer shall issue a proclamation specifying the particulars of the property distrained and the demand for which distrained, and notifying that he will, at a place and on a day specified not being less than three of more than seven days after the time making the distraint, sell the distraint property by public auction: Provided that when the crops or products distrained from their nature admit of being stored but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be struck up on a conspicuous place in the village in which the land of the defaulter is situate.

57H. Place Of Sale :-

The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

57I. When Produce May Be Sold Standing :-

(1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf and do all that is necessary for the purposes of tending and reaping or gathering them.

57J. Manner Of Sale :-

The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable and if the demand with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the order of distraint shall not be executed with respect to the remainder.

57K. Postponement Of Sale :-

If, on the property being put for sale, a fair price (in the estimating of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day or (if a market is held at the place of sale) the next market day, the sale shall be postponed until that day and shall be then completed, whatever price may be offered for the property.

57L. Payment Of Purchase Money :-

The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale direct, and in default of such payment the property shall be put up again and sold.

57M. Certificate To Be Given To Purchaser :-

When the purchase money has been paid in full, the officer holding

the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

57N. Proceeds Of Sale How To Be Applied :-

(1) From the proceeds of every sale of distrained property under this chapter, the officer holding the shall pay the casts of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time, by the state Government in this behalf.

(2) The remainder shall be applied to the discharge of the amount due for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

57O. Certain Persons May Not Purchase :-

Officers holding sales of property under this Chapter and all persons employed by, or subordinate to such officers and all officers and members of the staff of registered societies are prohibited from purchasing either directly or indirectly, any property sold by such officers.

57P. Procedure Where Demand Is Paid Before The Sale :-

(1) if at any time after a distraint has been made under this Chapter, and before the sale of the distrained property, the defaulter, or any person making a bonafide claim as the owner of the distrained property, where he is not the defaulter deposits with the Collector executing the order of distraint or in the hands of the distraining officer, the amount specified in the demand served under section 57-E, with all casts which may have been incurred after the service of the demand, the Collector, or officer, as the case may be, shall grant a receipt for the same, and the order of distraint shall not be executed.

(2) When the distraining officer receives the deposit, he shall forthwith pay it to the collector.

(3) After the expiration of one month from the date of a deposit being made under this section, the collector shall pay therefrom to the applicant for distraint the amount due to him, unless in the mean while the person making a bona fide claim as the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation is

respect of the same.

57Q. Distraint Of Property Which Is Under Attachment :-

When any conflict arises between an order for distraint issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distraint, the order for distraint shall prevail; but if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 57-N, to the owner of the property without the sanction of the Court to which the order of attachment of sale was issued.

57R. Suit For Condensation For Wrongful Distraint And Appeals :-

No appeal shall lie from any order passed by the Registrar or a Collector under the Chapter, but any person whose property is distained on an application is not permitted by that section, may institute a suit against the application for the recovery of compensation: Provided that, if such an order is passed by an Assistant Registrar or Deputy Registrar exercising the power of a Registrar, an appeal shall lie to the Registrar and his decision on such appeal shall be final.

57S. Power To Make Rules :-

The State Government may from time to time, make rules for regulation the procedure in all cases under the foregoing provisions of this Chapter.

57T. Interpretation :-

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

- (a) "Collector" includes an officer appointed by the State Government to discharge any of the functions of a Collector under this Chapter;
- (b) "defaulter" means a person (including his legal representative if he is dead) from whom any such debt or outstanding demand as is referred to in section 57-A, is recoverable; and
- (c) "holding" means any land used for agricultural or horticultural purposes.

CHAPTER 8 MISCELLANEOUS

58. Registrar And Other Officers To Be Public Servants :-

The Registrar, a person exercising the powers of a Registrar, a person authorized to make an inspection under section 34 or 36 or to hold an inquiry under section 35, a liquidator and an arbitrator or arbitrators to whom any dispute is referred under section 48, shall be deemed to be public servants within the meaning of section of the Indian Penal Code (45 of 1860).

59. Proof Of Entries In Societies Book :-

(1) A copy of an entry in a book, register or list of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be admissible in 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 would, if produced, have been admissible to prove such matters, transactions and accounts.

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

60. Delegation Of Power To Hear Appeals :-

The State Government may, by general or special order, delegate its power of hearing appeals under the provisions of this Act, to any authority specified in such order.

61. Compulsory Affiliation Of Registered Societies To A Cooperative Federation :-

(1) the registered cooperative society in accordance with the provisions of Rules framed under the Act shall be affiliated to Bihar Cooperative Federation in such manner and on such condition as has been directed by the Rules for the purpose.

(2) The organization and activities of Bihar Cooperative Federation shall be regulated, under rules framed under the provisions of this

Act, and for which affiliation under sub-section (1) is compulsory.

62. Exemptions From Requirements As To Registration :-

(1) Notwithstanding anything contained in this Act, the State Government may, by special order in each case 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.

(2) The State Government may by general or special order exempt any registered society 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.

63. Limitation :-

Notwithstanding any of the provisions of the Indian Limitation Act, 1908 (9 of 1908), the period of limitation for debt including interest 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 the society.

64. Power To Exempt From Income Tax, Stamp Duty And Registration Fees :-

(1) The Central Government, by notification in the official Gazette, may in the case of any registered society or class of registered societies, remit the income-tax payable in respect of the profits of the society, or of the dividends or other payment received by the member of the society on account of profits.

(2) The Collecting Government may by notification remit, in the case of any registered society or class of registered societies-

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

(b) any fee payable under the law of registration for the time being in force. In this sub-section "collecting Government" has the same meaning as in the Indian stamp Act, 1899.

65. Exemption From Compulsory Registration Of Instrument Relating To Shares And Debentures Of A Registered Society :-

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

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

(2) any debenture by any such society and not creating, declaring assigning or extinguishing any, right, title or interest to or in immovable property except in so far as it entitles the holders to the security afforded by a registered instrument where by its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) any endorsement upon or transfer of any debenture issued by any such society

65B. Removal Of Difficulty :-

If any difficulty arises in giving effect to the provisions of this Act the State Government may, association may require, by order published in official Gazette, to anything not inconsistent with the provisions of this Act for purpose of removing the difficulty.

66. Power To Make Rules :-

The State Government may for the whole or any part of the State and for any registered society or a class of registered societies, make rules to carry out all or any of the purpose of this Act.

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

(i) Prescribes the forms to be used and the conditions to complied with in the making of application for the registration of a society and the procedure in the matter of such applications:

(ii) Prescribes the conditions to be complied with by persons applying for admission or admitted as members and provided for the election and the admission of member and the payment to be made and the interests to be acquired before the exercise of the right of membership.

(ii) Prescribes the extent to which a society may limit the number of its members and, subject to the provision of section 29, prescribe the maximum number of shares or portion of the capital of society, which may be held by a member;

(iii) Prescribes the condition of acceptance of registration of members and prescribe for the expulsion of member and for the

payments, if any to made to members who withdraw or are expelled;

(iv) prescribes the condition of acceptance of registration of members and prescribe for the expulsion of member and for the payments, if any to be made to members who withdraw or are expelled;

(ii) provide for the general meeting of the members and for the procedure at such meetings and the powers to be exercised by such meeting ;

(iii) prescribe the matters in respect of which is a society may or shall make bye-laws, and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(iv) prescribe the manner in which managing committees and sub - committees thereof shall be constituted, and provide for the appointment, suspension and removal of the members of managing committees and other officers, and for the procedure at meetings of managing committees and for the powers to be exercised and the duties to be performed by managing committees and other officers.

(v) prescribe the conditions under which a society may be prohibited from appointing a defaulting member of any society to its managing committee or to the managing committee of any other society and from allowing him to exercise his right of membership in the society or to represent it in on other society:

(vi) prescribe the procedure to be followed when societies change the forum or extent of their liability, and provide for the amalgamation and division of societies and prescribe the conditions of such amalgamation and division;

(vii) prescribe the conditions and terms under which and regulate the manner in which funds may be raised by means of shares deposits of debentures or otherwise.

(viii) prescribe the conditions to be complied with by members applying for loans, the period for which loans may be made, the amount which may be lent and the manner of re payment;

(ix) provide for the deposit or investment of any funds under control of a society;

(xiii) prescribe the conditions, prohibitions and restrictions to which societies may -

(a) transact business with persons who are not members; or

(b) make advances against movable property;

(xiv) prescribe the method of calculating the working capital and the net profits and the conditions under which such profits may be

distributed, and the maximum rate of dividend which may be paid by any society or cooperative societies;

(xv) provide for the formation and maintenance of reserve funds and the objects to which such funds may be applied and for the writing off of bad debts.

(xvi) prescribe the condition for refund of share money and transfer of shares;

(xvii) provide for the mode in which the value of a deceased members interest shall be ascertained, and for the manner of nomination of a person to whom such interest may be paid or transferred;

(xviii) provide for the information and maintenance of a register of members and where the liability of members is limited by shares, of a register of shares and share-holders;

(xix) prescribe the forms to be used and the accounts and registers to be kept and the reports and returns to be submitted by a society and provide for the persons by whom such reports and returns shall be submitted, and in case of failure to submit and such reports or returns, for the levy of the expenses of preparing them;

(xx) prescribe rules for audit under section 33 and for the periodical publication of balance-sheets showing the assets and liabilities of a society;

(xxi) provide for the persons by whom and the form in which copies of entries in records and registers of societies may be certified and for the charge to be levied for the supply of such copies;

(xxii) provide for the custody and destruction of records and registers;

(xxiii) provide for the procedure to be followed in the appointment or removal of and for the payment of remuneration to, a liquidator.

(xxiv) prescribe the procedure to be followed by the liquidator and provide for the manner of disposal of the surplus, if any, of the society;

(xxv) prescribe the procedure to be followed in presenting and disposing of appeals under this Act;

(xxvi) prescribe the procedure to be followed in the appointment of an arbitrator or arbitrators and in proceeding before the Registrar any person exercising the powers of a Registrar and an arbitrator of arbitrators including the transfer, reference and withdrawal of cases;

(xxvii) prescribe the procedure and condition for exercise of the powers conferred by section 49:

(xxviii) provides for all matters expressly required or allowed by

this Act to be prescribed by rules.

(xxix) provides for all matters expressly required or allowed by this Act be prescribed by rules.

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

(4) All rules made under this Section shall be published in the official Gazette and on such publication shall have effect as if enacted in this Act.

66A. Fixation Of Proportion Of Cooperative Loans For Schedule :-

castes, scheduled tribes, small farmers, marginal farmers and other weaker sections of the community

Subject to such directions as may be issued by the Reserve Bank of India, the primary agricultural cooperative societies shall during a cooperative year disburse to scheduled castes/scheduled tribes, small and marginal farmers and other weaker sections of the community, such proportion of their total lending may be laid down by Registrar, Cooperative Societies from time to time having regard to the class of societies, the strength of membership of persons belonging to above classes. Said societies shall maintain separate account in respect of their lending to the aforesaid classes in a manner to be prescribed by the Registrar.

66B. Section 66B :-

(1) Notwithstanding anything contained in this Act of the rules and bye laws made there under, the State Government may, from time to time, by special or general order, determine the nature and number of posts to be created and the mode of recruitment of personnel by Cooperative Societies and prescribe among other things-

(1) the qualifications, age and experience,

(2) the pay scale and other emoluments.

(3) the method of recruitment,

(4) the conditions of service, and

(5) the disciplinary procedure to be followed.

(2) Any appointment made in contravention of the order of the State Government under sub-section (1) shall be void as if no such appointment ever existed and salary and other allowances paid if any, shall be recoverable under Section 40.

67. Repeals :-

The enactments specified in the schedule are hereby repealed in so far as they apply to the State to the extent specified in the fourth column of the said schedule.

SCHEDULE 1

SCHEDULE I

Enactments Repealed

(See Section 67)

Year	No.	Short title	Extent of repeal
1.	2.	3.	4.
1912	II	The Cooperative Societies Act 1912	The whole
1920	XXXVIII	The Devolution Act, 1920	So much as relates to Act II of 1912