

KARNATAKA CO-OPERATIVE SOCIETIES ACT, 1959

11 of 1959

[10th APRIL, 1958]

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KARNATAKA CO-OPERATIVE SOCIETIES ACT, 1959

11 of 1959

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STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 11 OF 1959] Karnataka Gazette, dated The report of the committee of direction of all Indian rural credit survey, appointed by the reserve bank of India, was published in December, 1954. At the first conference of State ministers in charge of Co-operation held at New Delhi in April, 1955 it was agreed that schemes of Co-operative development under the second five-year plan should be drawn up to give effect to the recommendations contained in the rural credit survey report. The report recommended, among other things, increased State partnership in Co-operative Societies and State participation in their management. In order to implement the recommendations of the rural credit survey report and to facilitate the implementation of the schemes of Co-operative development under the second five-year plan and also to simplify, rationalise and modernise the existing laws relating to Co-operative Societies, the committee on co-operative law was appointed by the Government of India. The committee observed that the implementation of the recommendations of the rural credit survey report and of the schemes of Co-operative development under the second five-year plan requires revision of the existing co-operative societies Act and the rules made thereunder in all States. Further, the re-organisation of States has brought together, areas which are being

governed by different Acts and rules. Under these circumstances the committee felt, the present juncture was very opportune for revising the Co-operative Societies Acts in force in the different States with a view to bringing about as large a degree of uniformity in the legislation governing co-operative societies as possible throughout the country. Taking these factors into consideration, the committee prepared a model Co-operative Societies bill and model rules which they recommended to State Governments, for enactment and adoption. At present five different Co-operative Societies Acts are in operation in the different parts of the Mysore State. This is a source of considerable administrative inconvenience. It is necessary to have a uniform Co-operative Societies law as applicable to the whole of the State. Government have, therefore, decided to introduce the present bill. The bill has been drafted after taking into consideration the Model Co-operative Societies bill recommended by the Committee on Co-operative law appointed by the Government of India. The principle of State partnership in Co-operative Societies and State participation in their management has been accepted and incorporated in the relevant provisions of this bill. STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 40 OF 1964] Karnataka Gazette, Extraordinary, dated 18-6-1964

The Karnataka Co-operative Societies Act, 1959, which was brought into force from First July, 1960 has revealed in the course of working the need for some amendments for speedy implementation. It has also become necessary to amend the chapter relating to the Karnataka Central Land Mortgage Bank Limited, so that the Bank could take up expeditiously developmental activities for which funds could be made available from the provision made under Taccavi loans or from the funds borrowed from the Agricultural Refinance Corporation of India or from the debentures raised by the Bank itself. Hence the amending Bill. STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 39 OF 1975] Karnataka Gazette, Extraordinary, dated 26-2-1973

In order to facilitate the extension of Deposit Insurance Schemes under the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961) to co-operative banks registered under the Karnataka Co-operative Societies Act, 1959 the Government of India, Ministry of Food, Agriculture, Community Development and Co-operation and also the Reserve Bank of India have suggested to the State Government to make necessary amendments in the State Act so as to enable the State Government and the Reserve Bank of India to exercise powers of supersession re-constitution and liquidation of

Co-operative Banks. The Committee appointed by the Government with the then Deputy Minister for Co-operation as the Chairman with non-official President of some of the major Co-operative Institutions and officers of the Government to consider the amendments to be made in the State Act in the light of the policies and programmes of the Government, recommended among others, making all the necessary provisions in the Co-operative Societies Act as suggested by the Government of India and the Reserve Bank. A bill was for this purpose introduced in the Legislative Assembly in March, 1970. The Bill was not taken up for consideration by the Assembly, and with on dissolution of the Legislative Assembly, the bill has lapsed. It was considered necessary by Government to amend the Act to provide for certain urgent and important items noted below. (1) Extension of deposit insurance schemes to the Co-operative Banks; (2) Amalgamation of Co-operative Banks; (3) Creation of second charge on the land of the member of the Society enabling him to draw finance for agricultural operations; (4), Nomination of members of committee by State Government in certain cases; (5) Winding up of Co-operative Banks. Accordingly, an amendment bill was prepared and forwarded to the Government of India with a request to get it enacted as President's Act. The Government of India suggested certain changes in the Bill. As elections to the State Legislature were to be held the Bill was not enacted as a President's Act. It is now considered necessary to amend the Karnataka State Co-operative Societies Act, 1959, so as to facilitate the extension of Deposit Insurance Scheme to Co-operative Banks, to allow for the admission of Commercial Banks as nominal members of the Co-operative Societies, to afford relief to the borrowers from Co-operative Society to get proportionate release of charge on lands where partial discharges of loans are made and where Area Development Works are taken up in compact areas to protect the interest of Government or Land Development Bank financing the scheme, to make suitable provision in the Act for nomination of two-thirds of the total number of Directors on the Board of Directors of any Co-operative Society in which Government hold shares of the value not less than 50 per cent of the share capital of Co-operative Society, to make provisions of framing T.A. Rules of the members of the Co-operative Societies, to provide for the Central Banks to initiate the Arbitration Proceedings on some of the members of the Primary Co-operative Societies, to make provision for disqualification of defaulters from membership of committee of

Management, to provide for the commencement of term office of the members, resignation of Members of the Committee and for disqualifying a member to be appointed or continued as President, Vice-President, etc., of a co-operative society for more than six consecutive years, to provide for the constitution of a bench comprising of two members, by the Chairman, Karnataka Co-operative Appellate Tribunal and to make provision enabling Government to constitute an authority/authorities for the recruitment, training, etc., of employees of the Co-operative Societies. During the President's rule Section 101 of the Karnataka Co-operative Societies Act, 1959 was amended by President's Act No. 1 of 1972. This was to overcome the difficulty arising out of the decision of the High Court in regard to execution of decree against non-members. As the operation of the President's Act is upto March, 1973, and it is necessary to continue the provisions made therein, these provisions have to be re-enacted. Hence the Bill

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 19 OF 1976] Karnataka Gazette, Extraordinary, dated 21-2-1976

Under the existing provisions of the Co-operative Societies Act, the power to admit a person as a member of the society either as a regular member or even as an associate or nominal member vests with the committee of management. Government have been giving considerable aid to the co-operatives for the purpose of providing adequate facilities, particularly to weaker sections of the people specially in the rural areas. It is considered necessary to provide that all persons who apply for membership shall be deemed to be members, thus taking away the discretion of the committees of Management in the matter of admission. Income of the Co-operative Societies, on account of their area of operation being too wide (e.g., in the case of the Karnataka State Industrial Co-operative Bank, the jurisdiction of which extends to the whole of the State) or because of the unwieldy number of members it is considered necessary to provide by law for a representative General Body Meeting. It has been noticed that old committees of management sometimes delay or obstruct handing over charge to the new committees. The present provisions of law, e.g., Section 29(A), Section 31 and Rule 13 are not that effective. It is, therefore proposed to ensure that the records of the societies are in the custody of the Secretary in which case the question of handing over charge by old committees does not arise. The Secretary would also be legally obliged to convene the first meeting of the newly constituted committees within 15 days. Surcharge proceedings

under existing Section 69 are not being expedited on account of the need for two enquiries under present provisions. It is considered necessary to provide for only one enquiry. Section 68, of the present Act limits action on the reports of audit, enquiry or inspection only to contraventions of provisions of the Act, rules or Bye-laws. Other irregularities, though of a serious nature, are outside the scope of action by the Registrar. It is considered necessary, therefore, to delete the explanation to this section which contains these restrictive provisions. Section 70 which relates to decision of disputes needs to be amended so as to include service conditions etc., of employees and the disputes in regard to acts of omissions and commission on the part of persons incharge of Managements. The other amendments are of consequential nature and are necessary for the effective implementation of the Act. An Ordinance was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance.

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No70 OF 1976] Karnataka Gazette, Extraordinary, dated 8-11-1976

The Karnataka Co-operative Societies Act was amended on 10th March, 1976 providing for reorganisation of Co-operative Societies with a view to making the Societies more viable and to serve the interest of weaker sections in particular and to slacken the hold of vested interests over the Societies. But even after the amendment of the Act, it was seen that there were some difficulties in the timely and effective implementation of the provision of the Act. It is also considered necessary to provide for legal steps towards ensuring proper management of the Co-operative Institutions as also for effective action on the erring Co-operative Societies. Accordingly the provisions pertaining to the following matters have been amended suitably by promulgating Ordinance Nos. 15 and 19 of 1976 on 19th July, 1976 and 7th August, 1976 respectively. (1) Reorganisation of Co-operative Societies; (2) Appointment of Special Officers to Co-operative Societies; (3) Power to give direction to Co-operative Societies; (4) Appeal provisions under the Act as consequential measure; (5) Removal and disqualification of members on the Committee of Management; (6) Extending the indemnity provision to the new Management Committee and the Administrators and Special Officers appointed under the Act. The reorganisation of Co-operative Societies was of an urgent nature. The Reserve Bank of India and the Government of India were pressing all State Governments to immediately complete the reorganisation of Co-operative Societies so as to enable effective

implementation of the 20 Point Economic Programme. In certain cases immediate action for taking over the management of Cooperative Societies is considered essential. Hence a new Section 30(A) has been included. It is also considered to have legal authority to enable Government to give directions in public interest, to Co-operative Societies. Provision for removal of members of the Committees existed in the rules. It was necessary to make provision under the Act. The provision regarding the indemnifying the officers who acted in good faith was sought to be extended to the new Committees of Management as also administrators and the Special Officers appointed under the Act is considered necessary. All the amendments were of urgent nature in the interest of development of Co-operative Movement on right lines and in the absence the Legislative Assembly in Session recourse to promulgation of Ordinance had to be resorted to. These amendments do not involve additional cost to Government. This Bill seeks to replace the said Ordinances.

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 14 OF 1978] Karnataka Gazette, Extraordinary, dated 30-6-1978 With a view to make the Co-operative Societies effective instruments of assisting the weaker sections and also for handling the financing of agricultural production on an increasing scale, it was considered necessary to reorganise the Co-operative Societies into stronger units. The need for reorganisation of these Societies into viable units has gained urgency in view of the necessity for filling up the credit gap as a result Of the Debt Relief measure which apart from redeeming the debts of weaker sections has resulted in more or less drying up the traditional sources of available finance. Writ petitions were filed before the High Court of Karnataka by the Primary Agricultural Credit Co-operative Societies/individuals challenging the validity of the provisions of Section 14-A of the Karnataka Co-operative Societies Act, 1959, as also the orders issued by the Deputy Registrars of Co-operative Societies. The Hon'ble High Court of Karnataka while disposing of the writ petitions has upheld the constitutional validity of Section 14-A of the Karnataka Co-operative Societies Act, 1959 but the orders issued by the authorities under Section 14-A of the Act have been struck down on the ground of non-application of the principle of audi alterem partem. As the amalgamation and reorganisation of societies already taken place and the said societies have functioned for quite some time it was not practicable to revert Back to the original position. Hence it was considered necessary to validate the action

taken earlier by specifically excluding the application of principle of natural justice before taking action under Section 14-A of the Act by suitably amending the Act with retrospective effect. Since the Legislative Council was not in session an Ordinance was promulgated. This Bill seeks to replace the said Ordinance.

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 16 OF 1979] Karnataka Gazette, Extraordinary, dated 24-1-1979 It is proposed to. (i) declare the Chief Administrative and Executive Officer of a Co-operative Society, by whatever name called, as Secretary of such society; (ii) provide that the State Government shall be deemed to be admitted as a member of a Co-operative Society on the day it subscribes to the share capital of such Co-operative Society and that the Government need not file any application to admit it is a member of such Co-operative Society; (iii) provide that each person nominated by the State Government on the committee of a Co-operative Society will have one vote as such a provision is necessary to safeguard the interests of the Government; (iv) confer on the Registrar of Co-operative Societies the power of issuing directions under Section 30-B as such a provision is necessary to avoid delay in the issue of directions by the Government. Opportunity is taken to make some minor and consequential amendments. An ordinance was promulgated for the above purpose and this Bill seeks to replace the said ordinance. Hence this Bill.

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 3 OF 1980] Karnataka Gazette, Extraordinary, dated 27-2-1980 Under the existing provisions of the Karnataka Co-operative Societies Act, 1959, the Registrar of Co-operative Societies is empowered to get the accounts of the Co-operative Societies audited by a person authorised by him. In order to ensure that the accounts of the Co-operative Societies are audited by independent persons, the State Government has created a separate audit wing with the Chief Auditor as the head thereof. This wing has been functioning effectively since more than two years. In order to give the Chief Auditor and officers subordinate to him statutory recognition it was considered necessary to amend the Co-operative Societies Act, 1959 suitably. As the matter was very urgent, the Karnataka Co-operative Societies (Amendment) Ordinance, 1979 (Karnataka Ordinance No. 20 of 1979) was issued. Hence this Bill to replace the said Ordinance.

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 5 OF 1984] Karnataka Gazette, Extraordinary, dated 24-2-1984 The Karnataka Co-operative Societies Act, 1959 has revealed in the

course of working the need for some amendments on the lines of the recommendations made by K.H. Patil Committee for speedy implementation. It has become necessary to amend the provisions relating to audit, so that Government could constitute an audit board for audit of accounts of Milk Co-operative Unions and Milk Co-operative Federations in the State. It has also become necessary to amend the chapter relating to the "Land Development Bank" so that the bank could take up expeditiously developmental activities for which funds could be made available on the basis of hypothecation of moveable property. The penalties under the Act have been enhanced by way of fine, imprisonment to create a deterrent impact on the persons committing offences under the Act. Hence the Bill.

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 34 OF 1985] Karnataka Gazette, Extraordinary, dated 29-7-1985 It is considered necessary to amend the Karnataka Co-operative Societies Act, 1959 for speedy recovery of large amounts due from the members of various Co-operative Institutions in the State of Karnataka. The amendment proposed enables the State Government to purchase the defaulters' properties by Government bidding in the public auction and to dispose of such properties in such manner as Government deems fit.

2. As the matter was very urgent, and the Legislative Assembly was not in session, the Karnataka Co-operative Societies (Amendment) Ordinance, 1985 (Karnataka Act 15 of 1985) was issued. This Bill seeks to replace the said Ordinance.

STATEMENT OF OBJECTS AND REASONS [KARNATAKA ACT No. 34 OF 1991] Karnataka Gazette, Extraordinary, dated 30-9-1991 It is considered necessary to omit Section 101-C, since other provisions relating to recovery of Co-operative dues are found to be adequate and the purchase of immovable property by the State Government in the auctions has caused unnecessary anxiety and hardship to the farmers.

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Karnataka Co-operative Societies Act, 1959.

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

¹ (3) It shall come into force on such date as the State Government

may, by notification in the official Gazette, appoint.

1. This Act has come into force on 1-6-1960, vide Notification No. A and F 21 CAD 59(11), dated 25-9-1960.

2. Definitions :-

In this Act, unless the context otherwise requires. [

1(a) "Apex Society" means a federal society whose area of operation extends to the whole of the State;

(a-1) "Assisted Society" means a co-operative society which has received the Government Assistance in the form of share capital from the Government.]

2(a-2)] "Bye-laws" means the bye-laws registered or deemed to be registered under this Act and for the time being in force and includes a registered amendment of the bye-laws;

3[(a-3) "Chief Executive" means any employee of a co-operative society by whatever designation called and includes an official of the State Government, an employee of any other institution or co-operative society who discharges the functions of a Chief Executive under the Act, rules or the bye-laws;]

4(a-4) "Director of Co-operative Audit" means the Director of Co-operative Audit referred to in sub-section (1) of Section 2-AA who performs the functions of the Director of Co-operative Audit under this Act and includes an Additional Director of Co-operative Audit, a Joint Director of Co-operative Audit, a Deputy Director of Co-operative Audit, and an Assistant Director of Co-operative Audit appointed to assist the Director of Co-operative Audit when exercising all or any of the powers of the Director of Co-operative Audit;]

(b) "Committee" means the governing body of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted;

5[(b-1) "Co-operative Bank" means a Co-operative Society which is doing the business of banking.

Explanation. For the purpose of this clause "Banking" shall have the meaning assigned to it in Section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949);]

(c) "Co-operative Society" means a society registered or deemed to

be registered under this Act;

(d) "Co-operative Society with limited liability" means a co-operative society in which the liability of its members, for the debts of the society in the event of its being wound up, is limited by its bye-laws

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

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

6[(d-1) "Co-operative Year or Year" means the year commencing from the first day of April;]

(e) "Co-operative Society with unlimited liability" means a co-operative society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

7[(e-1) "Credit Agency" means a credit agency as defined in the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 **8**[and includes any other, body or corporation or financial institution which gives financial assistance to a co-operative society and has been notified by the State Government from time to time;]

9[(e-2)] "Deposit Insurance Corporation" means the Deposit Insurance Corporation established under Section 3 of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961);

10(e-3) "Employee" means a salaried employee of a co-operative society and includes an official of the State Government or any employee of any other institution or co-operative society who for the time being is working in a co-operative society.

(e-4) "Federal Society" means a co-operative society, the membership of which is not open to individuals: Provided that nothing in this clause shall apply to admission of individuals as nominal members;]

11(e-5)] "Financing Bank" means a co-operative society, the main object of which is to make advances in cash or in kind to other co-operative societies;]

(f) "Member" means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal and an associate member;

12(g) "Office Bearer", means the President, Vice-President, Chairperson, Vice-Chairperson, Liquidator, Administrator, Special Officer and includes a member of the committee or any other person not being an employee empowered to exercise any power or perform any function in regard to the business of a co-operative society and to give directions in regard to policies affecting the business of the society;]

(h) "Prescribed" means prescribed by rules made under this Act;

13(h-1) "Primary Society" means a co-operative society whose membership is not open to another co-operative society;]

14(i) "Registrar" means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes an Additional Registrar of Co-operative Societies, a Joint Registrar of Co-operative Societies, a Deputy Registrar of co-operative Societies and an Assistant Registrar of Co-operative Societies appointed to assist the Registrar when exercising all or any of the powers of the Registrar;]

15(i-1) "Reserve Bank" means the Reserve Bank of India constituted

(j) "Rules" means the rules made under this Act;

16(j - 1) "Scheduled Castes and Scheduled Tribes" means the Scheduled Castes and Scheduled Tribes specified in respect of the State of Karnataka in the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950 for the time being in force;

(j-2) "Secondary Society" means a co-operative society whose membership is also open to another co-operative society;

(j-3) "State Representative" means any person appointed as State representative under Section 2-A;]

17 (k) "Tribunal" means the Tribunal constituted under Section 2-B;]

(1) references to any enactment or provision of law not in force in any Area of the State of Karnataka shall be construed as references to the corresponding enactment or provision of law, if any, in force in that Area.

1. Clauses (a) and (a-1) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
2. Original clause (a) renumbered as clause (a-2) by Act No. 25 of 1998, w.e.f. 15-8-1998.
3. Clause (a-3) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
4. Original clause (a-1) renumbered as clause (a-4) and thereafter substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.
5. Clause (b-1) and explanation substituted for clause (b-1) by Act No. 25 of 1998, w.e.f. 15-8-1998.
6. Clause (d-1) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.
7. Clause (e-1) inserted by Act No. 2 of 1975.
8. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
9. Latter clause (e-1) as inserted by Act No. 39 of 1975, w.e.f. 23-9-1975, renumbered as clause (e-2) by Act No. 25 of 1998, w.e.f. 15-8-1998.
10. Clauses (e-3) and (e-4) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
11. Clause (e-2) as inserted by Act No. 39 of 1975, w.e.f. 23-9-1975, renumbered as clause (e-5) by Act No. 25 of 1998, w.e.f. 15-8-1998.
12. Clause (g) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.
13. Clause (h-1) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
14. Clause (i) substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.
15. Clause (i-1) inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.
16. Clauses (j-1) to (j-3) substituted for clause (j-1) by Act No. 25 of 1998, w.e.f. 15-8-1998.
17. Clause (k) substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

CHAPTER 1A

Authorities and Appellate Tribunal

2A. Registrar, Additional Registrar, Joint Registrars, Deputy Registrars % State representatives] and Assistant Registrars :-

(1) The State Government may appoint a person to be the Registrar of Co-operative Societies for the State.

(2) The State Government may appoint ¹as many Additional Registrars of Co-operative Societies] Joint Registrars of Co-operative Societies, Deputy Registrars of Co-operative Societies ²State Representatives, and Assistant Registrars of Co-operative Societies either

(3) The State Government may appoint such other officers with such designations as it deems fit to assist the Registrar.

(4) All officers and persons employed in the administration of this Act³ except relating to the audit] shall be subject to the superintendence, direction and control of the State Government and the Registrar, and the officer or officers to whom each officer appointed under this Act shall be subordinate shall be determined by the State Government: Provided that the power vested in the State Government and the Registrar under this sub-section shall not be exercisable so as to interfere with the discretion of any authority in the exercise of any quasi-judicial function whether as original or Appellate Authority.

(5) The State Government may, by general or special order, confer on any person appointed as Additional Registrar of Co-operative Societies, Joint Registrar of Co-operative Societies, Deputy Registrar of Co-operative Societies or Assistant Registrar of Co-operative Societies,⁴ either as officiating or otherwise] all or any of the powers of the Registrar under this Act.

(6) Notwithstanding anything contained in this Act, matters relating to the⁵ x x x x x] accounts of every Co-operative Society shall be subject to the supervision and control of the Registrar of Co-operative Societies for the State.

⁶ (7) In proceedings before the Tribunal, the State representative shall be competent.

(i) to prepare and sign applications, appeals and other documents;

(ii) to appear, represent, act and plead;

(iii) to receive notices and other processes; and

(iv) to do all other acts connected with such proceedings, on behalf of the State Government or any officer appointed under this Act.]

1. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Substituted for the words "an Additional Registrar of Co-operative Societies, and as many" by Act No. 14 of 1973, w.e.f. 14-6-1973.

3. Inserted by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

4. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

5. The words "audit and" omitted by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

6. Sub-section (7) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

2AA. Director of Co-operative Audit, Additional Director of Co-operative Audit, Joint Directors of Co-operative Audit], [Deputy Directors of Co-operative Audit] and [Assistant Directors of Co-operative Audit] :-

1234567(1) The Registrar of Co-operative Societies shall be the Director of Co-operative Audit for the State.]

(2) The State Government may appoint an **8**Additional Director of Co-operative Audit] of co-operative societies and as many **9**[Joint Directors of Co-operative Audit], **10**[Deputy Directors of Co-operative Audit] and **11**Assistant Directors of Co-operative Audit], of co-operative societies, as it thinks fit for the purpose of assisting the **12**Director of Co-operative Audit].

(3) The State Government may appoint such other officers with such designations as it deems fit to assist the **13**Director of Co-operative Audit

.

(4) All officers and persons employed in the administration of this Act relating to audit shall be subject to the superintendence, direction and control of the State Government and the **14**Director of Co-operative Audit and the officer or officers to whom each officer appointed under this section shall be subordinate shall be determined by the State Government:

Provided that the power vested in the State Government and the **15**Director of Co-operative Audit] under this sub-section shall not be exercisable so as to interfere with the discretion of any authority in exercise of any quasi-judicial function whether as original or appellate authority.

(5) The State Government may, by general or special order confer on any person appointed as **16**Additional Director of Co-operative Audit], **17**Joint Director of Co-operative Audit], **18**Deputy Director of Co-operative Audit] or **19**Assistant Director of Co-operative Audit], of co-operative societies, all or any of the powers of the **20**Director of Co-operative Audit] under this Act.

(6) Notwithstanding anything contained in this Act, matters relating

to audit of every co-operative society shall be subject to the supervision and control of the ²¹ Director of Co-operative Audit].]

1. Section 2-AA inserted by Act No. 3 of 1980 and shall be downed to have come into force w.e.f. 11-8-1977.
2. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "Additional Chief Auditor" by Act No 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
4. Substituted for the words "Joint Chief Auditors" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
5. Substituted for the words "Deputy Chief Auditors" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
6. Substituted for the words "Assistant Chief Auditors" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
7. Sub-section (1) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.
8. Substituted for the words "Additional Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
9. Substituted for the words "Joint Chief Auditors" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
10. Substituted for the words "Deputy Chief Auditors" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
11. Substituted for the words "Assistant Chief Auditors" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
12. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
13. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
14. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
15. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
16. Substituted for the words "Additional Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
17. Substituted for the words "Joint Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
18. Substituted for the words "Deputy Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
19. Substituted for the words "Assistant Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

20. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

21. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2B. Tribunal :-

(1) The State Government shall constitute a Co-operative Appellate Tribunal consisting of a Chairman and two other members to exercise the functions conferred on the Tribunal by or under this Act ¹or under any other law for the time being in force]. The Chairman of the Tribunal shall be a District Judge who has held office as such Judge for not less than three years and of other two members one shall be a Joint Registrar of Co-operative Societies and the other shall be an Advocate having practical experience in the co-operative movement for a period of not less than ten years.

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

(3)

²[(a) Notwithstanding anything contained in sub-section (1), the functions of the Tribunal may be exercised by a BenA consisting of all members of the Tribunal or by a Bench consisting of two members constituted by the Chairman, or in the event of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other member:

Provided that if any case which comes up before a Bench of which the

(b) Where an appeal or application is heard by all the three members of the Tribunal, and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal or application is heard by a Bench consisting of two members and the members are divided in their opinion, the case shall be referred to the Full Bench.

(4) The Appellate Tribunal shall, with the previous sanction of the State Government, make regulations consistent with the provisions of this Act and the rules made thereunder, ³and in respect of proceedings under any Other law, consistent with such law] for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4) shall be published in the Official Gazette.

(6) The Tribunal may call for and examine the record if any proceeding in which an appeal lies to it ⁴under this Act or any other law for the time being in force], for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem just.

(7) Where an appeal is made to the Tribunal under Section 105 ⁵ of this Act or under any other law] it may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(8) An order passed in appeal, or in revision under sub-section (6), or in review under sub-section (9), by the Tribunal, shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.

Explanation. The Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an Appellate Court by Section 107 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908.

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

Provided that no such application made by the party interested shall be entertained, unless the Tribunal is satisfied that there has been the

Provided further that no such order shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(10) An application for review under the foregoing sub-section by any party shall be made within ninety days from the date of the communication of the order of the Tribunal.]

1. Added by Act No. 27 of 1966.

2. Clause (a) of sub-section (3) substituted by Act No. 39 of 1975, w.e.f. 23-9-1975.
3. Inserted by Act No. 27 of 1966.
4. Inserted by Act No. 27 of 1966.
5. Inserted by Act No. 27 of 1966.

CHAPTER 2

Registration of Co-operative Societies

3. Registrar :-

¹ x x x x.]

1. Section 3 omitted by Act No. 40 of 1964, w.e.f. 26-6-1965.

4. Societies which may be registered :-

¹ Subject to the provisions of this Act, a Co-operative Society which has as its objects the promotion of the economic interests or general welfare of its members, or of the public, in accordance with the co-operative principles, or a Co-operative Society established with the object of facilitating the operations of such a society, may be registered under this Act:

Provided that no Co-operative Society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development of the co-operative movement.]

1. Section 4 substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

5. Registration with limited or unlimited liability :-

(1) A cooperative society may be registered with or without limited liability:

Provided that the liability of a co-operative society of which any member is a co-operative society, shall be limited.

(2) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a co-operative society registered under this Act with limited liability.

6. Application for registration of co-operative societies :-

(1) An application for the registration of a co-operative society shall be made to the Registrar in such form **¹** and after complying with such formalities] as may be prescribed; and the applicants shall furnish to him all such information about the society as he may require.

(2) Every such application shall conform to the following requirements, namely.

(a) the application shall be accompanied by [five] copies of the proposed bye-laws of the co-operative society;

(b) where all the applicants are individuals, the number of applicants shall not be less than ten;

(c) every one of the applicants who is an individuals shall be above the age of eighteen years and the applicants shall not be members of the same family;

Explanation. For the purpose of this clause family in relation to a person means an individual, wife or husband, as the case may be, and their dependent children and parents.]

(d) where the objects of the co-operative society include the creation of funds to be lent to its members and where all the applicants are individuals, the applicants shall reside in the same village or town or in the proposed area of operation of the co-operative society] or belong to the same class or pursue the same occupation;

(e) the application shall be signed by every one of the applicants who is an individual and by a person duly authorised on behalf of any co-operative society which is an applicant.

(f) the application shall be accompanied by such fee as may be prescribed and different fees may be prescribed for different class or classes of co-operative societies.]

1. Substituted for the words "and the rules" by Act No. 25 of 1998, w.e.f. 15-8-1998.

7. Registration :-

(1) If the Registrar is satisfied

(a) that the application complies with the provisions of this Act ¹,rules and the provisions of any other law for the time being in force;]

(b) that the objects of the proposed society are in accordance with Section 4;

(c) that the aims of the proposed society are not inconsistent with the principles of social justice;

(d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and

(e) that the proposed society complies with the requirements of sound business and has reasonable chances of success; the²Registrar shall within a period of three months from the date of receipt of the application register] the co-operative society and its bye-laws.

3

⁴ (2) If the Registrar is unable to dispose of such application within the period specified in sub-section (1), the society and the bye-laws shall be deemed to have been registered.]

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

(4) The Registrar shall maintain a register of all Co-operative Societies registered or deemed to be registered under this Act.]

1. Substituted for the words "and the rules" by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Substituted for the words "Registrar may register" by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Sub-sections (2), (3) and (4) substituted for sub-section (2) by Act No. 40 of 1964, w.e.f. 26-6-1965.

4. Sub-section (2) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

8. Registration certificate :-

Where a co-operative society is registered¹or is deemed to be registered] under this Act, the Registrar shall issue a Certificate of Registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is a co- operative society duly registered¹ or is deemed to be registered] under this Act.

1. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

9. Co-operative societies to be bodies corporate :-

The registration of a co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold

property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

10. Change of name of co-operative society :-

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

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a co-operative society shall not affect any rights or obligations of the co-operative society, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

11. Change of liability :-

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

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding any bye-law or contract to

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

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

(a) the assent thereto of all members and creditors has been, or deemed to have been, obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. Amendment of bye-laws of a co-operative society :-

(1) No amendment of any bye-law of a co-operative society shall be valid unless such amendment has been registered under this Act.

(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment

(i) is not contrary to the provisions of this Act and the rules;

(ii) does not conflict with co-operative principles;

(iii) satisfies the requirements of sound business;

(iv) will promote the economic interests of the members of the society; and

(v) is not inconsistent with the principles of social justice; ¹he shall, within a period of three months from the date of receipt of the proposal, register the amendment.]

²(2-A) If the Registrar is unable to dispose of such application within the period specified in sub-section (1), the amendment of bye-laws shall be deemed to have been registered.]

³(3) When the Registrar registers an amendment of the bye-laws of a society or when an amendment of the bye-laws is deemed to have been registered, he shall issue to the society a copy of amendment certified by him and such certificate shall be conclusive evidence that the amendment of the bye-law has been duly registered or deemed to be registered, as the case may be.]

(4) Where the Registrar refuses to register an amendment of the

⁴ [(5) If it appears to the Registrar that any amendment of the bye-laws of a co-operative society is necessary or desirable in the interest of such society, the Registrar may, by order, call upon the co-operative society, to make the amendment proposed by him in such manner as may be prescribed and within such time as he may specify.

(6) If such amendment is not made by the co-operative society within the time specified in the said order, notwithstanding anything contained in the Act, the Registrar may, after giving the co-operative society an opportunity of being heard, register the said amendment and forward a copy thereof to the co-operative

society along with a certificate signed by him which shall be conclusive evidence that the amendment has been duly registered.]

1. Substituted for the words "he may register the amendment" by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Sub-section (2-A) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Sub-section (3) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Sub-sections (5) and (6) inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

13. When amendments of bye-laws come into force :-

Subject to any appellate order under Section 106, an amendment of the bye-laws of a co-operative society shall unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

14. Amalgamation, transfer of assets and liabilities and division of co-operative societies :-

(1) A co-operative society may, by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of the society

(a) divide itself into two or more co-operative societies; or

(b) transfer its assets and liabilities in whole or in part to any other co-operative society which by a like resolution agrees to such transfer.

(2) Any two or more co-operative societies may, by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of each such society amalgamate themselves and form a new co-operative society.

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be, and no such resolution shall have any effect unless approved by the Registrar:

¹ Provided that in the case of a co-operative bank, the Registrar shall not approve such resolution without the previous sanction in writing of the Reserve Bank.]

(4) When a co-operative society has passed any such resolution, and it has been approved by the Registrar, the co-operative society shall give notice thereof in writing to all its creditors and such

members of the

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) and every member who has voted in favour of the resolution shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect until either

(a) the assent thereto of all the members and creditors has been, or deemed to have been, obtained under this section or;

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

1. Proviso to sub-section (3) inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

14A. Power to direct amalgamation, division and reorganisation in public interest :-

12 x x x x x.]

1. Sections 14-A to 14-C inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Section 14-A omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

14B. Registrar to prepare scheme for amalgamation of co-operative banks in certain areas :-

(1) 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 (Central Act 10 of 1949) in respect of a co-operative bank, the Registrar may, during the period of moratorium, prepare a scheme

(i) for the reorganisation of the co-operative bank; or

(ii) for the amalgamation of the co-operative bank with any other co-operative bank.

(2) No such scheme shall be given effect to unless it has been sanctioned by the Reserve Bank.

14C. Liability of co-operative bank to the Deposit Insurance Corporation :-

Notwithstanding anything contained in Section 14 or other provision of this Act, where a co-operative bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961) is amalgamated or reorganised 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 that Act, the bank with which such insured bank is amalgamation or the new co-operative bank formed after such amalgamated or, as the case may be, the insured bank or 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 the Deposit Insurance Corporation Act, 1961.]

15. Cancellation of registration certificates of co-operative societies in certain cases :-

(1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of Section 14, ¹or Section 14-A] the registration of the first mentioned co-operative society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of Section 14, ²or Section 14-A] the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each such

(3) Where a co-operative society ³[is divided] itself into two or more co-operative societies in accordance with the provisions of Section 14, ² [or Section 14-A] the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

1. Inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

3. Substituted for the words "divides itself" by Act No. 39 of 1975, w.e.f. 23-9-1975.

16. Persons who may become members :-

¹(1) Subject to the provisions of Section 17, no person shall be admitted as a member of a co-operative society except the following, namely.

(a) an individual competent to contract under the Contract Act, 1872 (Central Act IX of 1872);

(b) any other co-operative society;

(c) the State Government or the Central Government;

(d) the Life Insurance Corporation of India, State Warehousing Corporation and such other institutions as may be approved by the State Government;

(e) a firm, a company or any other body corporate constituted under any law for the time being in force including a society registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960);

(f) a Market Committee established under the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966);

(g) a local authority.

Explanation. For the purpose of this clause, local authority means, a Municipal Corporation, Municipal Council, Town Panchayat, Zilla Panchayat, Taluk Panchayat or Grama Panchayat constituted under any law for the time being in force.]

²(2) No Co-operative Society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of this ³Act, Rules and Bye-laws.]

(3) Any person, seeking admission as a member of any Co-operative Society shall make an application in writing for admission as a member of such society.

(4) Every Co-operative Society shall within three months from the date on which application for admission was delivered to such society either admit or refuse to admit any such person as a member, and shall send a written communication of such admission

or refusal to the applicant before the said period. If no communication of admission as a member is received by the applicant before the expiry of the said period, his application for admission shall be deemed to have been refused by the Co-operative Society on the last day of the said period for purposes of Section 105-A.]

⁴(5) Notwithstanding anything contained in the preceding sub-sections or Section 18 or the rules and the bye-laws of such co-operative society or classes of co-operative societies as the State Government may, by notification, specify, an individual who makes an application for admission as a member of such co-operative society shall be deemed to have been admitted as an associate member of such co-operative society from the date of receipt of such application.

(6) If the society does not, within ⁵sixty days] from the said date, prefer an application to the Registrar objecting to such admission, such individual shall be deemed to have been admitted as a member.

(7) Where the application under ⁶sub-section (6)] is preferred, the Registrar shall, after giving to the individual and the co-operative society concerned an opportunity of making representation, by order, reject the application if he finds that the individual is not disqualified under Section 17 for being a member and thereupon the individual shall be deemed to have been admitted as member of the co-operative society concerned.]

⁷ (8) Notwithstanding anything contained in this section and Section 17, the State Government shall be deemed to have been admitted as a member of a co-operative society on the day it subscribes to the share capital of such co-operative Society.]

1. Sub-section (1) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.
2. Sub-sections (2), (3) and (4) substituted for sub-section (2) by Act No. 40 of 1964, w.e.f. 26-6-1965.
3. Substituted for the words "Act and its bye-laws" by Act No. 25 of 1998, w.e.f. 15-8-1998.
4. Sub-sections (5), (6) and (7) inserted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.
5. Substituted for the words "fifteen days" by Act No. 25 of 1998, w.e.f. 15-8-1998.
6. Substituted for the words, figure and brackets "sub-section (2)" by Act No. 25 of 1998, w.e.f. 15-8-1998.

7. Sub-section (8) inserted by Act No. 16 of 1979 and shall be deemed to have come into force w.e.f. 18-12-1978.

17. Disqualification for membership :-

(1) No person shall be eligible for admission as a member of a co-operative society, if he,

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

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

¹(c) carries on ²or any of his near relation carries on] business of the kind carried on by such co-operative society:

³Explanation. The Expression "near relation" shall have the same meaning assigned to it in the explanation to clause (f) of sub-section (1) of Section 29-C]

(d) is already a member of a co-operative society carrying on business of the same kind as itself.]

(2) If a member becomes subject to any of the disqualifications specified in ⁴⁵x x x x x] sub-section (I)], he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

⁶(2-A) If a member fails to fulfill his obligations as a member under the Act, rules or bye-laws, for a continuous period of three years, he shall, on the expiry of such period, cease to be a member.]

⁷ (3) If any question arises as to whether a member is deemed to have ceased or has ceased to be a member under sub-section (2) or (2-A), the Registrar may either suo motu or on a report made to him and after giving an opportunity to the perspn concerned of being heard, decide the question.]

1. Clauses (c) and (d) inserted by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

2. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Explanation inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Substituted for the word, figure and brackets "sub-section (1)"

by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

5. The words, letters and brackets "clauses (a) to (c) of" omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

6. Sub-section (2-A) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

7. Sub-section (3) substituted for sub-section (3) and the explanation thereto by Act No. 25 of 1998, w.e.f. 15-8-1998.

18. Nominal or associate members :-

¹(1) Notwithstanding anything contained in Section 16, a co-operative society may admit,

(a) any individual as a nominal or associate member;

(b) any banking company as a nominal member.

Explanation. In this sub-section "banking company" shall have the same meaning as is assigned to it in the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961).

²(c) any firm, company, co-operative society, or any body or corporation constituted by or under any law for the time being in force, as a nominal or associate member.]

(2) a nominal member shall not be entitled to any share in any form whatsoever in the assets or profits of the society and a nominal member who is an individual shall not also be entitled to become an ³office bearer] of the society.]

(3) An associate member may hold shares but shall not be entitled to become an ⁴ office bearer] of the society.

(4) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

1. Sub-sections (1) and (2) substituted by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Clause (c) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

19. Member not to exercise rights till due payment made :-

¹ Save as otherwise provided in sub-section (8) of Section 16, no

member] of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society, as may be specified in the bye-laws.

1. Substituted for the words "No member" by Act No. 25 of 1998, w.e.f. 15-8-1998.

20. Votes of members :-

1

(1) No member of a society shall have more than one vote in the affairs of the co-operative society.

2 Provided that where the State Government is a member of a co-operative society, each person nominated or deemed to have been nominated by the State Government on the committee of such co-operative society shall have one vote.]

(2) The following shall not have the right to vote at a meeting of the co-operative society in which they are members, namely.

3(a) a nominal or associate member;

(a-i) an individual member who is a defaulter;

(a-ii) members admitted as per **4** clauses (d), (e), (f) and (g) of sub-section (1) of Section 16], who are defaulters;]

5(a-iii) an individual member who has become member of a society not later than one year prior to the date of such meeting:

Provided that nothing in this clause shall apply to an individual member of a society participating in the first general body meeting of such society held immediately after its registration.]

(b) a co-operative society

(i) the committee of which stands superseded or to which a special officer is appointed under **6**Section 31] of the Act.

(ii) which is **7**ordered to be wound up] under Section 72;

(iii) which has not commenced working or has ceased to work;

8(iv) whose principal object is to advance loans and whose percentage of recovery is less than seventy five per cent of the total demand for the co-operative year iprimediately preceding the

co-operative year during which the meeting is held and which has failed to pass on to the financing bank or the credit agency, as the case may be, to which it is indebted.

(a) seventy five per cent of the demand of the society, if the

(b) the actual demand of the financing bank or credit agency, if the demand of the society is more than the demand of the financing bank or credit agency, not later than fifteen days of the close of the said co-operative year.]

⁹(v) other than the society referred to in sub-clause (iv), which is a defaulter.]

¹⁰(c) x x x x x.]

Explanation. A member shall be deemed to be a defaulter if he has failed to pay the arrears of any kind due by him to the society ¹¹as borrower] ¹²or has failed to pay any other amount due by him to the society] or in any other capacity, at least fifteen days before the date of such meeting after a notice of not less than ¹³fifteen days] in this behalf has been issued to him.]

¹⁴ (3) An Agricultural Credit Society which is a member of the concerned District Central Co-operative Bank, but has been permitted by the Registrar to raise loan from another financing agency for the purpose of financing its members shall not have a right to vote at a meeting of such District Central Co-operative Bank.]

1. Section 20 substituted by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

2. Proviso inserted by Act No. 16 of 1979 and shall be deemed to have come into force w.e.f. 18-12-1978.

3. Clauses (a) to (a-ii) substituted for clause (a) of sub-section (2) by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the words, figures, letters and brackets "Section 16(1), (c-1), (c-2), (d) and (e)" by Act No. 25 of 1998, w.e.f. 15-8-1998.

5. Clause (a-iii) and the proviso thereto inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

6. Substituted for the word, figures and letter "Section 30-A" by Act No. 25 of 1998, w.e.f. 15-8-1998.

7. Substituted for the words "wound up" by Act No. 25 of 1998, w.e.f. 15-8-1998.

8. Sub-clause (iv) substituted by Act No. 25 of 1998, w.e.f. 15-8-

1998.

9. Sub-clause (v) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

10. Clause (c) omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

11. Substituted for the words "whether as borrower or as surety or in any other capacity" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

12. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

13. Substituted for the words "one month" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

14. Sub-section (3) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

21. Manner of exercising vote :-

¹(1) Every member, every delegate and every nominee shall exercise his vote in person and not by proxy.]

(2) Notwithstanding anything contained in sub-section (1),

²(a) the committee of a co-operative society which is a member of another co-operative society may appoint one of its members to vote on its behalf in the affairs of that other society;]

³(b) where the Life Insurance Corporation of India, the State Warehousing Corporation or such other institutions

⁴ (3) A member once nominated by the committee of a co-operative society under clause (a) of sub-section (2) to vote on its behalf in any meeting of any other co-operative society shall not be changed except by a resolution passed in a general body meeting by a majority of the members present and voting in such meeting.]

1. Sub-section (1) substituted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

2. Clause (a) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Clause (b) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Section 22 omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

22. Restrictions on holding of shares :-

¹ x x x x x.]

1. Section 22 omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

23. Restrictions on transfers of shares or interest :-

¹

(1) x x x x x.

(2) No transfer by a member of his share or interest in a co-operative society shall be valid unless,

- (a) the member has held such share or interest for not less than one year;
- (b) the transfer is made to a member of the society; and
- (c) the transfer is approved by the Committee of the society.

1. Sub-section (1) omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

23A. Refund of value of share :-

1

(1) If an individual member of a co-operative society, the principal object of which is to advance agricultural loans is not indebted to such society, then, the value of all except one of the shares held by him shall, on his application, be refunded to him.

(2) "If the amount of debt due by such member to the co-operative society is equal to or less than the value of all except one share held by him in such society, then, on the application of such member, the value of such number of shares as are required to discharge the amount of debt may be adjusted in full discharge of such debt and the value of the

1. Section 23-A inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

24. Transfer of interest on death of member :-

(1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member

(a) to the person or persons nominated in accordance with the rules and if the nomination subsists; or

(b) if no person has been so nominated or the nomination does not subsist,

(i) where the share or interest of the deceased member does not exceed ¹one lakh rupees], to such persons as may appear to the Committee to be the heirs or legal representatives of the deceased member, on the execution by such persons of an indemnity bond with such sureties as it may require;

(ii) where the share or interest of the deceased member exceeds ²one lakh rupees], to such person or persons as produce a succession certificate or other legal authority granted by a

Competent Court of law:

Provided that such nominee, heir or legal representative as the case may be, is admitted as a member of the society: Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in a co-operative society.

(2) Notwithstanding anything contained in sub-section (1), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules.

(3) A co-operative society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

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

1. Substituted for the words "five hundred rupees" by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Substituted for the words "five hundred rupees" by Act No. 25 of 1998, w.c.f. 15-8-1998.

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

(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed

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

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

(2) Where a co-operative society is ordered to be wound up under Section 72, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the

society as they existed on the date of his ceasing to be a member or death, as the case may be.

CHAPTER 4

Management of Co-operative Societies

26. Final authority in a co-operative society :-

1

(1) Subject to the provisions of this Act, the rules and the bye-laws, the final authority of a co-operative society shall vest in the general body of members:

Provided that nothing contained in this sub-section shall affect the exercise by a committee or any ² office bearer] of a registered co-operative society of any power conferred on such committee or such office bearer] by this Act or the rules or the bye-laws.

(2) Notwithstanding anything contained in sub-section (1).

(a) where the area of operation of a co-operative society is not less than the area that may be prescribed; or

(b) where a co-operative society consists of not less than the number of members that may be prescribed, the Registrar may amend the bye-laws of the co-operative society providing for the constitution of a smaller body consisting of such number of the members of the co-operative society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the bye-laws and any reference, by whatever form or words in this Act to the general body or a meeting thereof shall have effect as if such reference were a reference to the representative general body or a meeting thereof, as the case may be.

(3) The amendments of the bye-laws made by the Registrar under sub-section (2) shall be deemed to have been registered under Section 12.

(4) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be prescribed by the rules or by the bye-laws.]

1. Sections 26-A and 26-B inserted by Act No. 2 of 2000

2. Section 27 substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

26A. Partnership of Co-operative Societies :-

(1) Any two or more co-operative societies may, by resolution, passed by three-fourth majority of the members present and after voting at a general meeting of each of such co-operative societies, may enter into partnership to carry out any one or more specific business. In case of an assisted society prior permission of the Registrar, to enter into such partnership, is necessary. A written notice of the date of general meeting shall be given to each member before ten clear days of such meeting.

(2) Nothing in the Indian Partnership Act, 1932 (Central Act 9 of 1932) shall apply to such partnership.

1. Sections 26-A and 26-B inserted by Act No. 2 of 2000

26B. Collaboration by Co-operative Societies :-

(1) Any co-operative society or co-operative societies may, enter into collaboration with any Government undertaking or any other undertaking approved by the State Government to carry out any one or more specified business provided in the bye-laws of such society or societies including industrial investment, financial aid or marketing and management expertise. An assisted society may enter into such collaboration with the prior approval of the Registrar.

(2) Before approving such schemes of collaboration under subsection (1), the Registrar shall have due regard to the following matters, namely.

(a) the scheme is economically viable;

(b) it can be implemented without, in any way, altering the co-operative character of the co-operative society or the co-operative societies;

(c) the scheme is in the interests of the members of the co-operative society or co-operative societies, or is in the public interest or in the interest of the co-operative movement, in general.]

27. Annual General Meeting :-

¹ (1) Every co-operative society shall Convene a general meeting of its members once in a year before thirtieth day of September for the purpose of.

- (a) consideration of annual report presented by the committee;
 - (b) consideration of latest available audit report and the report of the committee thereon;
 - (c) consideration of inquiry report, if any;
 - (d) disposal of net profits;
 - (e) review of operational deficit, if any, and programme to reduce such deficit;
 - (f) approval of the programme of activities of the society prepared by the committee for the ensuing year;
 - (g) approval of the annual budget;
 - (h) creation of specific reserve and other funds;
 - (i) approval of membership of the co-operative society in other co-operative societies;
 - (j) review of annual report and accounts of any subsidiary organisation, if any;
 - (k) perusal of list of the employees recruited who are relatives of members of the committee or the Chief Executive;
 - (1) amendment of bye-laws;
 - (m) formation of code of conduct for the members of the committee, office bearers and employees of the co-operative society;
 - (n) note on admission and termination of members; and
 - (o) consideration of any other matter which may be brought forward in accordance with the bye-laws.
- (2) If default is made in calling a general meeting in accordance with the provisions of sub-section (1), the Registrar shall by order.
- (a) in case of an office bearer or member of the committee whose duty it was to call such meeting and who without reasonable excuse failed to call such meeting, disqualify him for being elected as and for being an office bearer or member of the committee for such period not exceeding five years;
 - (b) in case of an employee of the society whose duty it was to call

such meeting and who without reasonable excuse failed to call such meeting, impose a penalty of rupees one thousand and may also direct the committee to initiate disciplinary action on such employee and if the amount so fined remains unpaid, it shall be recovered as arrears of land revenue: necessary for holding the elections. Hanumanthegowda and Another v Block Development Officer and Returning Officer and Another, 1979(1) Kar. L.J. 371. Section 27 General meeting of society Registrar's order declaring meeting already held and elections to managing committee conducted as void and illegal Order passed merely on basis of report submitted by Officer who was appointed for purpose and without notice to promoters who held general meeting of newly registered society in accordance with bye-laws, is to be held illegal for violation of principles of natural justice Where initial order is held illegal, subsequent order appointing Returning Officer to hold elections is also to be held ipso facto illegal.

1. Section 27 substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

28. Special general meeting :-

(1) The committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from ¹ fifty members or one fifth of the total number of members whichever is less, to transact a specified business.]

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf, shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the committee and shall have power to transact all business which can be transacted at the annual general meeting under the bye-laws of the society and such other business as is specially mentioned in the requisition made by the Registrar.

1. Substituted for the words "such number of members or a proportion of the total number of members, as may be prescribed" by Act No. 25 of 1998, w.e.f. 15-8-1998.

28A. Management of co-operative societies vest in the committee :-

(1) The management of a co-operative society shall vest in a committee constituted in accordance with this Act, the rules and the bye-laws of such society. The committee shall exercise such powers, discharge such duties and perform such functions as may be conferred or imposed upon it by this Act, the rules and the bye-laws.

2 (2) The committee of a co-operative society shall consist of not less than nine but not exceeding the number of members specified below excluding Government nominees and the Chief Executive, namely.

(i) in the case of a primary society and a secondary society whose area of operation extends to.

(a) a part of a taluk, nine members;

(b) whole taluk, eleven members;

(c) beyond a taluk but not beyond a district, thirteen members;

(d) beyond a district, eighteen members;

(ii) in the case of a federal society, excluding Apex societies, twenty one members;

(iii) in the case of an Apex society, twenty five members:

Provided that a member shall not represent more than one constituency in the committee of a society.

(3) In the committee of every primary society there shall be reserved.

(i) one seat to be filled by election, in favour of the persons belonging to the Scheduled Castes and Scheduled Tribes;

(ii) one seat to be filled by election, in favour of women:

Provided that no such reservation shall be required to be made in case of a society where there are no members belonging to the Scheduled Castes, Scheduled Tribes and Women.

(4) Subject to the provisions of Sections 29-A and 39-A, the term of office of the members of the committee shall be five co-operative years and they shall be deemed to have vacated office as such members of the committee on the date of completion of the said term:

Provided that if an election to the committee of any co-operative society had already been held in accordance with the bye-laws of such society, prior to the commencement of the Karnataka Co-operative Societies (Amendment) Act, 1997, the term of office of the committee of such co-operative society shall be three years including the co-operative year in which such election was held.

Explanation. For the purpose of this sub-section where elections to the committee have been held in the middle of a co-operative year, for the purpose of computing the term of office of the committee, the remaining part of the co-operative year shall be deemed to be a co-operative year: Provided further that the first general meeting of a society after registration shall be held within one month from the date of its registration to elect the first committee to manage the affairs of the society and the term of office of such committee shall also be five co-operative years.

(5) If the new committee is not constituted under Section 29-A, on the date of expiry of the term of office of the committee, the Registrar or any other officer within whose jurisdiction the society is situated and who is authorised by the Registrar, shall be deemed to have assumed charge as Administrator and he shall, for all purposes function as such committee of management. The Administrator shall, subject to the control of the Registrar, exercise all the powers and perform all the functions of the committee of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required, in the interest of the co-operative society.

(6) The elected members of the committee shall elect from among themselves the office bearers of the co-operative society. The election of the office bearers shall be by secret ballot.]

1. Section 28-A inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Sub-sections (2) to (6) substituted for sub-sections (2), (3) and (4) by Act No. 25 of 1998, w.e.f. 15-8-1998.

28B. Committee to arrange for election :-

1

(1) The committee shall make arrangement for election of members of the next committee in accordance with the Act, rules and the bye-laws.

(2) The members of the committee who have failed to make

arrangements for election within the time limit specified in Section 39-A, shall be deemed to have vacated their office on the last day of the time limit so specified and such members shall not be eligible for election as members of the committee for a period of five years from the date of expiry of their term.

(3) The Administrator who shall assume charge under sub-section (5) of Section 28-A, shall, as early as possible but within a period of six months arrange for the constitution of a new committee of the society in accordance with the Act, rules and the bye-laws.]

1. Section 28-B inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

29. Nominees of Government on the committee of an assisted co-operative society :-

1

(1) The State Government may nominate not more than three persons as its representatives on the committee of any assisted society of whom one shall be a person belonging to the Scheduled Castes or Scheduled Tribes and one shall be a woman.

(2) The persons so nominated shall not have the right to become office bearers of the society.

(3) The persons nominated under sub-section (1) shall hold office as members of the committee for such period as the State Government may, by order specify.

(4) Where an officer of Government is nominated under sub-section (1), such officer may, if unable to be present himself at any meeting of the committee, depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be a person nominated as a representative of the State Government for the purpose of such meeting.]

1. Section 29 substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

29A. Commencement of term of office :-

1

23[(1)] The term of office of the elected members of the committee shall commence on the date on which the majority of the elected members of the committee assume office or the term of the outgoing committee expires, whichever is later.]

4(2) Notwithstanding anything contained in this Act or the rules or

the bye-laws of a co-operative society, the committee shall be deemed to be duly constituted when .⁵the majority of the elected members of the committee are available] to function as members of the committee after the ⁶x x x x x] election.

(3) The committee deemed to be constituted under sub-section (2) shall be competent to exercise all the powers and perform all the functions of the committee of the co-operative society.

⁷ (4) to (6) x x x x x.]

1. Sections 29-A, 29-B, 29-C and 29-D inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Section 29-A renumbered as sub-section (1) thereof by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

3. Sub-section (1) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Sub-sections (2) to (6) inserted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

5. Substituted for the words "not less than two-thirds of the elected members or not less than the number specified in the bye-laws to form a quorum, whichever is less, is available" by Act No. 25 of 1998, w.e.f. 15-8-1998.

6. The word "annual" omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

7. Sub-sections (4), (5) and (6) omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

29B. Resignation of a member :-

¹ A member of a committee, other than a nominated member, may resign his membership in writing under his hand and delivered to the Chief Executive and his seat shall become vacant on the expiry of fifteen days from the date of such delivery unless within the said period of fifteen days he withdraws such resignation in writing under his hand and delivered to the Chief Executive. The Chief Executive shall place the letter of resignation before the meeting of the committee convened next after the delivery of such letter.]

1. Section 29-B substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

29C. Disqualification for membership of the committee :-

(1) No person shall be eligible for being elected or appointed or continued as a member of the ¹[committee of any co-operative society], if

²(a) he is in default to that society or any other co-operative society in respect of any dues from him as borrower;]

(b) he is interested directly or indirectly in any contract made with such co-operative society or in the sale or purchase made by such co-operative society privately or in auction or in any contract or transaction of the co-operative society (other than investment and borrowing) involving financial interests in that contract, sale, purchase or transaction;

(c) ³he or any of his near relation carries] on a business of the kind carried on by such co-operative society or by a co-operative society of which such co-operative society is a member: ⁴Provided that if any question arises as to whether any person is near relation or not, the case shall be decided by the Registrar and his decision shall be final.]

(d) he is employed as legal practitioner on behalf of such co-operative society or accepts employment as legal practitioner against such co-operative society;

(e) he is a paid employee of such co-operative society or of its financing bank;

⁵Provided that nothing in this clause shall apply to the Chief Executive of such co-operative society.]

(f) he is a near relation of a paid employee of such co-operative society. >~t

⁶Explanation. For the purpose of ⁷this clause an⁴, clause (c)] 'near relation' means,

(i) husband, wife and unmarried daughter;

(ii) father, mother, undivided son, undivided brother and unmarried sister; and

(iii) such other relations as may be prescribed to be a near relation.

⁸x x x x x.]

⁹(g) he was a paid employee of a co-operative society and was dismissed, removed or compulsorily retired from service of a co-operative society;

(h) he is disqualified to be a member of the society or to vote as such member;

(i) he has been convicted for an offence punishable under Section 153-A or Section 171-E or Section 171-F or sub-section (2) or sub-section (3) of Section 505 of the Penal Code, 1860 (Central Act 45 of 1860) or under Section 39-J or clause (b) of sub-section (2) of Section 39-K of this Act, unless a period of six years has elapsed from the date of such conviction;

(j) he has been convicted by a Court in India for any offence and sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed from the date of his release;

(k) he is found guilty of corrupt practice within the meaning of Section 39-C unless a period of six years has elapsed from the date on which he was found guilty;

(1) he has failed to remit to any co-operative society any amount (other than a loan) retained by him in contravention of the provisions of this Act, rules or bye-laws;

(m) he is a representative of a co-operative society which is in default to a financing bank or to any co-operative society in respect of any dues by the co-operative society which he represents, for a continuous period of one year:

Provided that the disqualification under this clause for being continued as a member of the committee shall apply to a co-operative society which has defaulted in payment of an amount exceeding thirty per cent of such dues;

(n) he was a member of the committee which failed to make arrangement for election within the time limit specified in Section 39-A; }

(2) No person including a person elected by a co-operative society as a member of a committee of another co-operative society of which such co-operative society is a member shall be a ¹⁰President or Chairperson,

¹¹(3) x x x x x.]

¹²(4) Nothing in sub-section (2) shall apply.

(i) to any person who is appointed by the State Government or the Registrar as the President or Chairperson, Vice-President or the

Vice-Chairperson; or

(ii) to any person who is merely a member of the committee.]

(5) In the case of co-operative marketing societies, consumers cooperative societies and such class or classes of co-operative societies as may be specified by the State Government, by notification in the official Gazette, no member shall be eligible for being appointed or elected as a member of the committee of such co-operative society if he does not fulfill the minimum qualifications relating to his transactions with the co-operative society up to such monetary limits as may be specified from time to time in such notification.

(6) There shall be no representative of individual members on the committees of a District Central Co-operative Bank or an Apex Co-operative Bank or such other classes of co-operative banks as may be prescribed.

(7) Any question as to whether a member of the committee was or has become subject to any of the disqualifications mentioned in this section shall be decided by the Registrar after giving the person concerned a reasonable opportunity of being heard.

13 (8) If any member of a committee of a co-operative society during the term of his office.

(a) becomes subject to any disqualifications specified in sub-sections (1), (2) and (5); or

(b) has acted or has been acting fraudulently or with gross negligence or in contravention of the provisions of this Act, the rules or the bye-laws of the co-operative society or without the sanction of the committee of the co-operative society where such sanction is necessary or contrary to the resolution of the co-operative society or its committee or in any way prejudicial to the interest of the co-operative society; or

(c) has acted or has been acting persistently against the directions or orders issued under this Act, rules or bye-laws; or

(d) is not discharging his duties satisfactorily; the Registrar may

Provided that no order shall be made under this sub-section unless a reasonable opportunity of being heard, is given to the person against whom the order is to be made.

(9) A copy of the order made under sub-section (8) shall be communicated to the member and the co-operative society concerned.]

1. Substituted for the word "committee" by Act No. 25 of 1998, w.e.f. 15-8-1998.
2. Clause (a) substituted for clause (a) including the provisos by Act No. 25 of 1998, w.e.f. 15-8-1998.
3. Substituted for the words "he carries" by Act No. 25 of 1998, w.e.f. 15-8-1998.
4. Proviso inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
5. Proviso to clause (e) inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
6. Explanation to clause (f) substituted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.
7. Substituted for the words "this clause" by Act No. 25 of 1998, w.e.f. 15-8-1998.
8. The words "If any question arises whether any person is a near relation or not the same shall be decided by the Registrar and his decision shall be final" in Explanation to clause (f) omitted by Act No. 70 of 1976, w.e.f. 4-12-1976.
9. Clauses (g) to (n) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
10. Substituted for the words "President or Vice-President or Managing Director or other officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.
11. Sub-section (3) omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.
12. Sub-section (4) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.
13. Sub-sections (8) and (9) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

29D. Disqualification for being a President, Vice-President, Managing Director, Treasurer or Secretary :-

¹ x x x x x.]

1. Section 29-D omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

29E. Filling up of casual vacancy in the office of members of the Committee :-

¹ Any vacancy in the office of members of the committee of a co-operative society by reason of death, resignation, removal or otherwise, shall be filled up in such manner as may be specified in the bye-laws of such society.

1. Sections 29-E to 29-G inserted by Act No. 25 of 1998, s. 29, but Sections 29-E and 29-F came into force w.e.f. 15-8-1998.

29F. Election of President, Chairperson, Vice-President, or Vice-Chairperson, etc. :-

(1) Every co-operative society shall have a President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers elected in accordance with the provisions of this Act, rules or bye-laws.

(2) The President or Chairperson shall preside over meetings of the committee of the society and its sub-committee as well as general meeting of the society.

(3) In the event of vacancy in the office of President or Chairperson by resignation, death or removal or otherwise, the Vice-President or Vice-Chairperson shall perform the duties of the President or Chairperson as the case may be, until a member is duly elected as President or Chairperson.

(4) The Chief Executive shall within fifteen days from the date of constitution or deemed constitution of the committee after a general election and immediately before the expiry of the term of office of the President or Chairperson, Vice-President or Vice-Chairperson convene a meeting in the prescribed manner of all the elected members of the committee for the purpose of electing President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected under the bye-laws of the co-operative society. One of the elected members who is not a candidate for the election of President or Chairperson, Vice-President or Vice-Chairperson shall be chosen to preside over such meeting:

Provided that the members of the first committee elected in the first general meeting held after the registration of a co-operative society shall elect the President or Chairperson, Vice-President or Vice-Chairperson and other office bearers in such manner as may be prescribed.

(5) Save as otherwise provided under this Act, the President or Vice-President, Chairperson or Vice-Chairperson or other office bearers shall hold office for a term of two and half years.

(6) The Chief Executive shall as and when there is a casual vacancy in the office of the President, or Chairperson, Vice-President or Vice-Chairperson or other office bearers convene a meeting of the elected members of the committee for the purpose of filling up the

casual vacancy and the provisions of sub-section (4) shall mutatis mutandis apply.

(7) The Chief Executive shall within three days from the date of the

(8) If the Chief Executive fails to convene the meeting in accordance with sub-sections (4) and (6), the Registrar or any person authorised by him to do so shall convene a meeting for the purposes specified in the said sub-sections.

29G. Appointment of Chief Executive :-

(1) For every co-operative society there shall be a Chief Executive who shall, subject to the provisions of Section 128-A be appointed and be removable by the society: Provided that

(i) in respect of the co-operative societies where the majority of shares are held by the Government, the Government or the Registrar shall have power to appoint and remove the Chief Executives; and

(ii) in respect of other co-operative societies, the Government or the Registrar may appoint Chief Executives where such Society makes a request for appointment of a Chief Executive for a term which shall not be less than five years; and remove such Chief Executive.

(2) On the appointment of Chief Executive to a co-operative society by the Government or the Registrar, the person appointed as Chief Executive by the society, if any, by whatever name called, shall cease to be the Chief Executive.

(3) Salary and other conditions of services of the Chief Executive shall.

(i) in the case of an official of the State Government be as approved by the State Government; and

(ii) in other cases, be as approved by the Registrar: Provided that where a cadre for the post of Chief Executive common on any class of co-operative societies has been created under Section 128-A, the recruitment, appointment and other conditions of service of persons appointed to such posts including the person appointed before the creation of such service, shall be governed by the provisions of that section and the regulations made in that behalf.

(4) The Chief Executive shall be the Chief Administrative Officer of

the society and shall, subject to the general supervision, and control of the committee and such other conditions and restrictions as may be specified in the bye-laws.

(a) be responsible for general supervision and control over the employees of the society and be responsible for the day-to-day management and business of the society;

(b) carry on the authorised and normal business of the society;

(c) make arrangement for repayment of loans due to the State Government and loans obtained on Government guarantee and other loans, and shall send report to the Registrar in this behalf;

(d) be responsible for operating the bank accounts in accordance with the provisions of the bye-laws and shall make arrangements for safe custody of cash;

(e) sign and authenticate all documents of the do-operative society for and on behalf of the society;

(f) be the custodian of all records and documents of the co-operative society and shall make arrangements for the correct maintenance of accounts and various books and records of the society and for the correct preparation and timely submission of periodical statements and returns in accordance with the provisions of the Act, rules and bye-laws and as directed by the Registrar or the Director of Co-operative Audit;

(g) be responsible for convening the meeting of the general body, the committee of management and the sub-committee in consultation with the President or Chairperson and recording and maintaining minutes of such meetings;

(h) assist the committee in the formulation of policies and objectives and planning;

(i) provide necessary information to the committee and appraise the committee the functions and operations of the society;

(j) sue and be sued on behalf of the co-operative society;

(k) perform such other duties and exercise such other powers imposed or conferred on him under the Act, rules or bye-laws.

(5) In addition to the powers and duties specified in sub-section (4), the Chief Executive of an Apex Society.

(a) shall have power to appoint with the approval of the committee and subject to the provisions of the Act, rules and bye-laws, necessary staff;

(b) shall specify the powers, functions and duties of the employees of the society;

(c) may conduct, defend, compound or abandon any suit or legal proceeding instituted by or against the society or otherwise concerning the affairs of the society and also allow in consultation with the President or Chairperson, reasonable time for payment or satisfaction of any claims or demand by or against the society;

(d) may subject to the guidelines issued by the committee enter into negotiations and execute contracts;

(e) may delegate any of his powers to any employee.

(6) In respect of primary co-operative societies, the Chief Executive shall send a copy of the extract of the cash book duly certified by him every month to the Registrar and the financing bank or credit agency within fifteen days of the next following month. He shall also send a certified copy of the proceedings of the General Meetings and of the committee meetings to the Registrar and financing bank or credit agency within fifteen days from the date of such meetings.]

30. Supersession of committee :-

1

(1) If, in the opinion of the Registrar,

(a) the committee of a co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or commits any act which is prejudicial to the interests of the society or its members, or is otherwise not functioning properly; or

(b) a co-operative society is not functioning in accordance with the provisions of this Act, the rules or bye-laws or any order or direction issued by the State Government or the Registrar, the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the said committee, and appoint an administrator to manage the affairs of the society for such period, not exceeding ²six months], as may be specified by the Registrar ³The Registrar may for the reasons to be

recorded in writing extend the period of such appointment for a further period of six months.]

(2) The administrator so appointed shall, subject to the control of the Registrar and such instructions as he may give from time to time, exercise all or any of the functions of the committee or of any ⁴office bearer] of the co-operative society and take such action as he may consider necessary in the interest of the society.

(3) The administrator shall, before the expiry of his term of office arrange for the constitution of a new committee after holding the election in accordance with this Act, the rules and the bye-laws of the co-operative society: ⁵xxxxx.]

(4) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult the financial banks to which it is indebted.

(5) Notwithstanding anything contained in this Act, the Registrar shall, in the case of a co-operative bank, if so required in writing by the Reserve Bank of India in public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the co-operative bank, by order in writing, remove the committee of that co-operative bank and appoint an administrator to manage the affairs of ⁶ x x x x x] as may, from time to time, be specified by the Reserve Bank of India.]

1. Section 30 substituted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "one year" by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

5. Provisos to sub-section (3) omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

6. Section 30-A omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

30A. Appointment of Special Officer :-

¹ x x x x x.]

1. Section 30-A omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

30B. Powers to give direction in public interest :-

¹ x x x x x.

1. Section 30-B omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

31. Appointment of Special Officer :-

¹ (1) Where the Registrar is of the opinion that a co-operative society is not functioning in accordance with the provisions of the Act, rules or bye-laws on account of the number of members of the Committee falling short of the required number to form a quorum due to disqualification, resignation or death or removal of a member or for any other reason, the Registrar may, notwithstanding anything contained in this Act, rules or bye-laws, by order appoint a Special Officer for such co-operative society, for such period not exceeding six months.

(2) Before making an order under sub-section (1), it shall not be necessary for the Registrar to give any co-operative society or person likely to be affected by such order, an opportunity to state its or his objection, if any.

(3) On the issue of the order under sub-section (1).

(a) the members of the committee of the co-operative society, if any, shall vacate and shall be deemed to have vacated their offices/and

(b) the Special Officer shall be deemed to have assumed charge of the affairs of the co-operative society.

(4) The Special Officer shall, subject to the control of the Registrar, exercise and perform all the powers and functions of the committee of the co-operative society or any office bearer of the co-operative society and take all such actions as may be required in the interest of the co-operative society.

(5) The Special Officer shall, before the expiry of his term, arrange for constitution of a new committee for the co-operative society in accordance with its bye-laws.

1. Substituted for the words, figures and brackets "Land Improvement Loans Act, 1883 (Central Act XIX of 1883), or the Agriculturists' Loans Act, 1884 (Central Act XII of 1884)" by 'SO 1911, dated 24-10-1973, w.e.f. 1-11-1973.

31A. Delivery of possession of records and properties of the co-operative societies :-

(1) Where a new committee is elected or an Administrator or

Special Officer is appointed by the Registrar or where the co-operative society is ordered to be wound up and a liquidator is appointed under this Act, and such new committee, Administrator or Special Officer or Liquidator is resisted in, or prevented from obtaining possession of the books, accounts, documents, securities, cash and other properties, whether movable or immovable of the co-operative society (hereinafter in this section referred to as the records and properties of the society) by the previous committee or superseded committee or by the committee of the society which has been ordered to be taken over or to be wound up, or a person who is not entitled to be in possession of the records and properties of the society, the Registrar may, on application by the new committee or Administrator or Special Officer or Liquidator, if satisfied, authorise in the prescribed form setting forth the reasons therefor any officer subordinate to him not below the rank of a Senior Inspected of co-operative societies, to enter, search or break open any premises or place where such records and properties of the co-operative societies are kept and to seize any such records and properties of the co-operative society and to cause them to be delivered to the new committee, Administrator or Special Officer or Liquidator.

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

(3) The provisions of Sections 100, 101 and 102 of the Code of Criminal Procedure, 1973 relating to searches and seizure shall mutatis mutandis apply to searches and seizures under this section.

(4) The provision of sub-sections (1), (2) and (3) shall mutatis mutandis apply, if necessary records and properties of a co-operative society are not made available for purpose of inspection, inquiry or audit under this Act or for taking charge of office by the Chief Executive or any other employee.]

CHAPTER 5

Privileges of Co-operative Societies

32. First charge of co-operative society on certain assets :-

(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue,

any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted, under the ¹ Karnataka Land Improvement Loans Act, 1963 or the Karnataka Agriculturists Loans Act, 1963], after the grant of the loan by the society.

1. Second and third provisos, inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

33. Charge on land, owned by members or held as tenants by members borrowing loans from certain co-operative societies :-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force,

(i) any person who makes an application to a co-operative society of which he is a member for a loan shall, if he owns any land, or holds any land as a tenant make a declaration in the prescribed form. Such declaration shall state that the applicant thereby creates a charge on the land owned by him or on his interest in the land held by him as tenant and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to the member as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;

(ii) a declaration made under clause (i) may be varied at any time by a member with the consent of the co-operative society in favour of which such charge is created;

(iii) no member shall alienate the whole or any part of the land or any interest of his in the land specified in the declaration made under clause (i) or varied under clause (ii) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that standing crops on any such land may be alienated with the previous permission in writing of the society:

¹Provided further that it shall be lawful for a member to mortgage such lands or any part thereof in favour of the State Government or a ²Agriculture and Rural Development Bank]:

Provided also that if a part of the amount borrowed by a member is paid, the co-operative society with the approval of the financing bank to which it may be indebted may, on an application from the member, release from the charge created by the declaration made under Clause (i) or varied under Clause (ii), such part of the land or of the interest in the land specified in the declaration as it may deem proper, with due regard to the security for the balance of the amount of loan outstanding from the member.]

(iv) any alienation made in contravention of the provisions of clause (iii) shall be void;

(v) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue and the prior claims of any person in whose favour alienation of the land or interest in such land has been effected and duly registered, before the date of the grant of the loan by the society, there shall be a first charge in favour of the society on the land or interest in the land specified in the declaration made under clause (i) or varied under clause (ii) for and to the extent of the dues owing by him on account of the loan.

(2) Notwithstanding anything contained in ³the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964)].

(i) the record of rights maintained under the said Act shall also include the particulars of every charge on land or interest in land created under sub-section (1);

(ii) the co-operative society in whose favour a charge is created

(iii) the State Government may, by notification in the official Gazette, make rules to carry out the purposes of clauses (i) and (ii).

Explanation. For the purpose of this section,

(1) "land" shall mean land to which ⁴ the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964)], is applicable; and

(2) "co-operative society" shall mean a co-operative society of which majority of the members are agriculturists and which is

(a) a credit society the primary object of which is to obtain credit for its members; or

(b) any other class of society specified in this behalf by the State Government by general or special order.

1. Second and third provisos, inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Substituted for the words "Land Development Bank" by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Substituted for the words, figures and brackets "the Mysore Land Record of Rights Act, 1958 (Mysore Act 17 of 1958)" by Act No. 39 of 1975, w.e.f. 23-9-1975.

4. Substituted for the words, figures and brackets "the Mysore Land Record of Rights Act, 1958 (Mysore Act 17 of 1958)" by Act No. 39 of 1975, w.e.f. 23-9-1975.

34. Deduction from salary to meet societys claim in certain cases :-

(1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay

(2) On the execution of such an agreement the employer shall, if so required by the co-operative society by requisition in writing and so along as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within fourteen days from the date of the deduction.

(3) Nothing contained in this section shall apply to persons employed in railways as defined in Article 366 of the Constitution, mines and oil fields.

35. Charge and set off in respect of shares or interest of members in the capital of a co-operative society :-

A co-operative society shall have a charge upon the share or interest in the capital and on the deposits of a member or a past member and on any dividend, bonus or profits payable to a member or a past member in respect of any debt or outstanding demand owing to the co-operative society and may set off any sum credited or payable to a member towards payment of any such debt or outstanding demand:

Provided that no financing bank to which a co-operative society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

36. Shares or interest not liable to attachment :-

Subject to the provisions of Section 35 the share or interest of a member in the capital of a co-operative society shall not be liable to attachment of sale under any decree or order of a Court in respect of any debt or liability incurred by such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

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

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

(a) the tax payable under the Karnataka Agricultural Income-tax Act, 1957 (Karnataka Act 22 of 1957) for the time being in force;

¹ (b) the tax payable under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957);]

(c) the duties with which any instrument executed by or on behalf of a co-operative society or by an officer or member thereof and

(d) the fees payable in respect of any document under the Karnataka Court-Fees and Suits Valuation Act, 1958 (Karnataka Act 16 of 1958) for the time being in force;

(e) any fee payable under the Indian Registration Act, 1908 (Central Act XVI of 1908) for the time being in force.

1. Clause (b) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

38. Exemption from compulsory registration of instruments

:-

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

(a) any instrument relating to shares in a co-operative society notwithstanding that the assets of the society consist in whole or in part of immovable property;

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

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

39. Registration of documents executed on behalf of co-operative societies :-

(1) Notwithstanding anything contained in . the Indian Registration Act, 1908 (Central Act XVI of 1908), it shall not be necessary for any member of a committee, ¹Chief Executive] or other ² office bearer of a co-operative society] or any officer of the Department of Co-operation to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity on behalf of a co-operative society 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 such member, secretary or officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

1. Substituted for the word "Secretary" by Act No. 25 of 1998, w.e.f 15-8-1998.

2. Substituted for the words "officer of a co-operative society" by Act No. 25 of 1998, w.e.f. 15-8-1998.

CHAPTER 5A

Election of members of the committees of co-operative societies

39A. Conduct of elections :-

(1) Every general election of members of the committee other than the members of the first committee of a co-operative society after its registration or any casual vacancy shall be held subject to the superintendence, direction and control of the Registrar.

(2) Every general election of members of the committee shall be held within fifteen days before the date of expiry of the term of office of the committee. The date of such general election shall be fixed by the committee or in the absence of the committee by the Administrator or Special Officer.

(3) Subject to the provisions of the Act, the election of members of the committee shall be held by secret ballot, in accordance with such rules as may be prescribed.

39B. Cost of conducting elections :-

The expenses of holding any election, including the payment of travelling allowances, dearness allowances and other "remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election shall be borne by the co-operative society concerned.

39C. Corrupt practices :-

The following shall be deemed to be corrupt practices for the purposes of this Act, namely.

(i) "Bribery" as defined in clause (1) of Section 123 of the Representation of the Peoples Act, 1951 (Central Act 43 of 1951), for the time being in force;

(ii) undue influence as defined in clause (2) of the above section for the time being in force;

(iii) the appeal by a candidate or his agent or by any other person

with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate;

(iv) the promotion of or attempt to promote, feeling of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the election of that candidate or for prejudicially affecting the election of any candidate;

(v) the publication by a candidate or his agent or by any other person, with the consent of candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidature, being a statement reasonably calculated, to prejudice the prospects of that candidate's election;

(vi) the hiring or procuring whether on payment or otherwise, any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent, or the use of such vehicle or vessel for the free conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act:

Provided that the use of any public transport vehicle or vessel or railway carriage by any voter at his own cost for the purposes of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation. In this clause, the expression "vehicle" means any vehicle used or capable of being used for the purposes of road transport, whether propelled by mechanical power or otherwise whether used for the drawing of other vehicles or otherwise;

(vii) the holding of any meeting at which intoxicating liquors are served;

(viii) the issuing of any circular, placard or poster having reference to the election which does not bear the name and address of the printer and publisher thereof;

(ix) any other practice which the State Government may by rule specify to be a corrupt practice.

39D. Maintenance of secrecy of voting :-

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

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

39E. Officers etc., at election not to act for candidates or to influence voting :-

(1) No person who is a returning officer, or an assistant returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour.

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

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

(c) to dissuade any person at an election in any manner.

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

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

39F. Prohibition of canvassing in or near polling station :-

(1) No person shall, on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of one hundred meters of the polling station, namely.

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

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

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

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

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

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

39G. Penalty for disorderly conduct in or near polling station :-

(1) No person shall on the date or dates on which a poll is taken at any polling station.

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

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

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

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

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

39H. Penalty for misconduct at the polling station :-

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

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

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

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

39I. Breaches of official duty in connection with election :-

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

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

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

(4) The persons to whom this section applies are the returning officers, assistant returning officers, presiding officers, polling

officers and any other person appointed to perform any duty in connection with the receipt of nomination or withdrawal of candidature or the recording or counting of votes at an election and the expression "official duty" shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

39J. Removal of ballot papers from polling station to be an offence :-

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

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

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

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

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

39K. Other offences and penalties :-

(1) A person shall be guilty of an electoral offence, if at any election, he.

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

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

(c) fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper; or

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

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

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

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

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

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

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

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

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

CHAPTER 6

State Aid to Co-operative Societies

40. Promotion of co-operative movement :-

It shall be the duty of the State Government to encourage and promote the co-operative movement including encouragement of

co-operative farming in the State and to take such steps in this direction as may be necessary.

41. Direct partnership of State Government in co-operative societies :-

(1) The State Government may subscribe directly to the share capital of a co-operative society with limited liability.

(2) Notwithstanding any agreement to the contrary, the State Government shall not be entitled to a dividend on the shares of any such co-operative society at a rate higher than that at which such dividend is payable to any other shareholder of the society.

42. Indirect partnership of State Government in co-operative societies :-

The State Government may, subject to appropriation by law, provide moneys to a co-operative society (hereinafter in this Chapter referred to as apex society) for the purchase of shares in other co-operative societies with limited liability.

43. Principal State Partnership Fund :-

(1) An apex society which is provided with moneys by the State Government under Section 42 shall, with such moneys, establish a Fund to be called the "Principal State Partnership Fund".

(2) An apex society shall utilise the "Principal State Partnership Fund" for the purpose of

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

(b) providing moneys to a co-operative society (hereinafter in this Chapter referred to as central society) to enable that society to purchase shares in other co-operative societies with limited liability (hereinafter in this Chapter referred to as primary societies);

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

44. Subsidiary State Partnership Fund :-

(1) A central society which is provided with moneys by an apex society from the 'Principal State Partnership Fund' shall, with such moneys, establish a Fund to be called the 'Subsidiary State Partnership Fund'.

(2) A central society shall utilise the 'Subsidiary State Partnership Fund' for the purpose of

(a) purchasing shares in primary societies;

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

45. Approval of State Government for purchase of shares :-

No shares shall be purchased in a co-operative society from the moneys in the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund', except with the previous approval in writing of the State Government.

46. Liability to be limited in respect of certain shares :-

Where any shares are purchased in a co-operative society by

(a) the State Government; or

(b) an apex society or a central society from the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund' as the case may be, the liability in respect of such shares shall, in the event of the co-operative society being wound up, be limited to the amount paid in respect of such shares.

47. Restriction on amount of dividend :-

An apex society which has purchased shares in other co-operative societies from the moneys in the 'Principal State Partnership Fund' and a central society which has purchased shares in the primary societies from the moneys in the 'Subsidiary State partnership Fund' shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society.

48. Indemnity of apex and central societies :-

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

(2) If a co-operative society in which shares are purchased from the 'Subsidiary State Partnership Fund' is wound up or is dissolved,

neither the State Government nor the apex society shall have any claim against the central society which purchased the shares, in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the "Principal State Partnership Fund".

49. Disposal of share capital and dividend, etc. :-

(1) All moneys received by an apex society in respect of shares of other co-operative societies purchased from the moneys in the 'Principal State Partnership Fund' on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the 'Subsidiary State Partnership Fund' on redemption of such shares or by way of dividend or otherwise, shall in the first instance be credited to that Fund and then transferred to the apex society which shall credit them to the "Principal State Partnership Fund".

(3) All moneys and dividends referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the share stands in the name of the apex society or the central society, as the case may be, be paid to the State Government.

(4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under Section 42.

50. Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of an apex or a central society :-

(1) If an apex society which has established a 'Principal State Partnership Fund' is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the State Government.

(2) If a central society which has established a "Subsidiary State Partnership Fund" is wound up or is dissolved all moneys, to the credit of, or payable to, that Fund shall be paid and credited to the 'Principal State Partnership Fund' from which it received moneys

under clause (b) of sub-section (2) of Section 43.

51. Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets :-

Any amount to the credit of a 'Principal State Partnership Fund' or a 'Subsidiary State Partnership Fund' shall not form part of the assets of the apex society or the central society, as the case may be.

52. Agreement by State Government and apex societies :-

Subject to the foregoing provisions of this Chapter.

(a) the State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in Section 44;

(b) an apex society may, with the previous approval of the State Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the 'Principal State Partnership Fund' for the purpose specified in clause (b) of sub-section (2) of Section 43.

53. Other forms of State aid to co-operative societies :-

Notwithstanding anything contained in any law for the time being in force, the State Government may

(a) give loans or make advances to co-operative societies;

(b) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;

(c) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the State Government;

(d) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and

(e) give financial assistance in any other form, including subsidies, to any co-operative society.

53A. Nomination of members of committee by State Government in certain cases :-

¹ . x x x x x.]

1. Second proviso inserted by Act No. 39 of 1975, w.e.f. 23-9-

1975.

54. Control of society assisted :-

Where State aid amounting to not less than two lakhs of rupees is given to any co-operative society, the State Government, if it is satisfied that it is necessary in public interest so to do, may by notification in the official Gazette take power to exercise such control over the conduct of business of such society as shall suffice in the opinion of the State Government to safeguard the interests of the State.

55. Provisions of this Chapter to override other laws :-

The provisions of Sections 42 to 51 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in this Act or any other law for the time being in force.

CHAPTER 7

Properties and Funds of Co-operative Societies

56. Funds not to be divided :-

No part of the funds other than the net profits of a co-operative society shall be paid by way of bonus or dividend or otherwise distributed among its members: Provided that a member may be paid such remuneration, allowances or honoraria on such scale as may be laid down by the bye-laws for any services rendered by him to the co-operative society.

1 Provided further that no member shall be paid travelling allowance, daily allowance or such other allowances or fees for attending meetings of the committees or for performing any other functions as member at a rate higher than maximum rate prescribed for the purpose, and different rates may be prescribed for different classes of co-operative societies or for different purposes.]

1. Second proviso inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

57. Net profits and their disposal :-

(1) The net profits of co- operative societies shall be determined in accordance with such rules as may be prescribed and different rules may be made for different classes of co-operative societies.

(2) A co-operative society shall, out of its net profits in any year transfer an amount not being less than twenty-five per cent of the profits to the reserve fund.

¹(2-A) A co-operative society shall, from out of the balance of the net profits, contribute two per cent to the Co-operative Education Fund and five per cent to the Sahakara Kalyana Nidhi constituted by the Government.

(2-B) No co-operative society which has failed to contribute to the Co-operative Education Fund, and Sahakara Kalyana Nidhi shall pay a dividend to its members.]

(3) The balance of the net profits may ²x x x x x] be utilised for all or any of the following purposes, namely

³(a) x x x x x;

(b) x x x x x;]

(c) payment of bonus to members on the amount or volume of business done by them with the society to the extent and in the manner specified in the bye-laws:

Provided that no bonus shall be payable to members in a credit society;

(d) constitution of, or contributions to, such special funds as may be specified in the bye-laws;

(e) donations of amounts not exceeding ten per cent of the net

(f) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws:

Provided that the bonus payable in any year to any employee shall not exceed two months' pay.

⁴ (4) A co-operative society may pay dividend to its members from out of the balance of net profits available after making deductions as provided for under sub-sections (2), (2-A) and (3) and the bye-laws of the society.]

1. Sub-sections (2-A) and (2-B) substituted for sub-section (2-A) by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. The words, figures and brackets "subject to the provisions of sub-section (4)" omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Clauses (a) and (b) omitted by Act No. 40 of 1964, w.e.f. 26-6-1965.

4. Clauses (d) and (e) and proviso thereto substituted for clause (d) by Act No. 25 of 1998, w.e.f. 15-8-1998.

58. Investment of funds :-

A co-operative society may invest or deposit its funds,

(a) in a Government Savings Bank; or

1. Sub-section (4) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

(b) in any of the securities specified in Section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882); or

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

¹ (d) with any Co-operative Bank; or

(e) with any Scheduled Bank approved by the Registrar:

Provided that no such approval shall be necessary for opening a current account in any Scheduled Bank by a Co-operative Bank for its regular business transaction.]

1. Clauses (d) and (e) and proviso thereto substituted for clause (d) by Act No. 25 of 1998, w.e.f. 15-8-1998.

59. Restrictions on borrowings :-

¹(1)] A co-operative society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

² (2) Notwithstanding anything contained in sub-section (1), such co-operative societies or class of co-operative societies as the State Government may, by notification specify shall have power to borrow from a credit agency subject to such conditions as may be prescribed.]

1. Section 59 renumbered as sub-section (1) thereof by Act No. 2 of 1975.

2. Sub-section (2) inserted by Act No. 2 of 1975.

60. Restrictions on loans :-

(1) A co-operative society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar, a co-operative society may make loans to another co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor on the security of

his deposit.

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

Save as is provided in Sections 59 and 60, the transactions of a co-operative society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

62. Provident Fund :-

(1) A co-operative society may establish a contributory Provident Fund for the benefit of its employees .to which shall be credited all contributions made by the employees and society in accordance with the bye-laws of the society.

(2) A contributory Provident Fund established by a co-operative society under sub-section (1)

(a) shall not be used in the business of the society;

(b) shall not form part of the assets of the society; and

(c) shall not be liable to attachment or be subject to any other process of any Court or other authority.

CHAPTER 8

Audit, Inquiry, Inspection and Surcharge

63. Audit :-

(1)

(a) The Director of Co-operative Audit shall audit or cause to be audited, at least once in each year by a person authorised by him by general or special order in writing in this behalf, the accounts of every society which has been given financial assistance by way of share capital or loan or subsidy or guarantee by the State Government, financing bank or credit agency from time to time;

(b) The societies other than those referred to in clause (a) shall arrange to get their accounts audited at least once in each co-operative year, by a Chartered Accountant holding a certificate issued by the Institute of Chartered Accountants of India or by an auditor from the panel of Auditors maintained by the Director of Co-operative Audit:

Provided that every third year the accounts of the societies falling under this clause shall be audited or caused to be audited by the Director of Co-operative Audit or by a person authorised by him in

this behalf.]

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, a valuation of the assets and liabilities, and an examination of the working and the other prescribed particulars of the society.

(3) The ¹Director of Co-operative Audit] ²or the person authorised by him or the person conducting audit under clause (b) of sub-section (1)] shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any public office at the headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the ³Director of Co-operative Audit] or the persons authorised by him ⁴or the person conducting audit under clause (b) of sub-section (1)] may require.

⁵(4-A) Every co-operative society shall for each co-operative year, prepare and furnish within two months from the end of that year, to the

⁶(5) The Director of Co-operative Audit or the person conducting audit under clause (b) of sub-section (1) shall send copies of the audit report and communicate the results of audit to the co-operative society, the Registrar and to the financing bank or credit agency, and if the society is affiliated to any other co-operative society, to such co-operative society.]

⁷ (6) The Director of Co-operative Audit or any officer authorised by him shall have right to receive all notices and every communication relating to the annual general meeting of a co-operative society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.

(7) If the result of the audit held under sub-section (1) discloses

any defects in the working of society, the society shall within six months from the date of the audit report explain to the Director of Co-operative Audit and to the Registrar the defects or the irregularities pointed out in audit, and take steps to rectify the defects and remedy the irregularities and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its office bearers to take such action, as may be specified in the order to remedy the defects within the time specified therein.

(8)

(a) Any society aggrieved by any item held under objection in the audit report may apply to the Director of Co-operative Audit for its deletion within six months of the receipt of the audit report.

(b) The Director of Co-operative Audit may on receipt of the application under clause (a) summon the production of documents, if any, pertaining to the objection and examine the same. He may also examine any person including the auditor and order for deletion or confirmation of the audit objection and on deletion, the objection shall stand removed from the balance sheet of the society and on confirmation the amount held under objection shall be recoverable.

(9) The Registrar shall submit half yearly reports to the State Government furnishing details of the number of defects disclosed in audit, number of defects rectified, action taken to remedy the defects and the reasons for pendency, if any. A copy of such report may be forwarded to the Director of Co-operative Audit.

(10) If it appears to the State Government on an application by a co-operative society or otherwise that it is necessary or expedient to re-audit any account of a society, the State Government may, by an order provide for such re-audit and the provisions of the Act and the rules applicable to the audit shall apply to such re-audit:

Provided that such a re-audit shall not be ordered in respect of any year for which an audit report was issued more than three years prior to the date of such order:

Provided also that such re-audit shall be ordered only when there is a prima facie case of fraud or misappropriation or embezzlement of funds not detected or properly examined by the auditor during regular audit or misclassification of accounts or for any other valid

reasons with a view to truly reflect the financial position of the society.

(11) Notwithstanding anything contained in the preceding sub-sections, the Director of Co-operative Audit shall have power to re-examine or re-verify the audited accounts of any co-operative society pertaining to any year and incorporate the lapses observed during such re-examination or re-verification in the next audit report to be issued.]

1. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "or the authorised person" by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

5. Sub-section (4-A) inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

6. Sub-section (5) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

7. Sub-sections (6) to (11) substituted for sub-section (6) by Act No. 25 of 1998, w.e.f. 15-8-1998.

64. Inquiry by Registrar :-

(1) The Registrar may, of his own motion, by himself or by a person authorised by him, by order in writing, hold an inquiry into ¹any matter specified in the order touching] the constitution, working and financial condition of a co-operative society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of

(a) a co-operative society to which the society concerned is affiliated;

(b) a majority of the members of the committee of the society; or

(c) not less than one-third of the total number of members of the society.

²(2-A) An inquiry under sub-section (1) shall be completed within a period of six months which may, however be extended by the Registrar for a further period of six months for reasons to be recorded in writing.]

(3) The Registrar, or the person authorised by him under sub-

section (1) shall, for the purpose of an inquiry under this section have the following powers, namely,

(a) he shall, at all times, have free access to the books accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any public office at the headquarters of the society or any branch thereof;

(b) he may summon any person who, he has reason to believe has knowledge of any of the affairs of society, to appear before him at any public office at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the ³office bearers] of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the ⁴office bearers] of the society refuse or fail to call such a meeting he shall have power to call it himself; (ii) any meeting called under clause (i) shall have the powers of the general meeting called under the bye-laws of the society and its proceeding shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.

(4) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and to the co-operative society, if any, to which that society is affiliated ⁵ and also to the Director of Co-operative Audit]

1. Inserted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

2. Sub-section (2-A) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Substituted for the word "officers" by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Substituted for the word "officers" by Act No. 25 of 1998, w.e.f. 15-8-1998.

5. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

65. Inspection of books of a co-operative society :-

(1) The Registrar may of his own motion, or on the application of a

creditor of a co-operative society, inspect or direct any person authorised by him by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,

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

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate¹ the result of any such inspection to the Director of Co-operative Audit and].

(a) where the inspection is made of his own motion to the society; and

(b) where the inspection is made on the application of a creditor, to the creditor and the society.

1. Substituted for the words "the results of any such inspection" by Act No. 25 of 1998, w.e.f. 15-8-1998.

65A. Report of inquiry], inspection and final report to be made available to a credit agency :-

¹. ²The Registrar shall draw the attention of a credit agency financing a co-operative society to³the defects noticed in any inquiry] or inspection of such co-operative society and shall also supply a copy of each of⁴such inquiry or inspection report], if demanded in writing by such credit agency. ^"" ⁵ Explanation. For the-purpose of this section and Section 65-B credit agency includes a financing Bank.]

1. Sections 65-A and 65-B inserted by Act No. 2 of 1975.

2. Substituted for the word "audit" by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

3. Substituted for the words "the defects noticed in any audit inquiry" by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

4. Substituted for the words "such audit or inquiry report" by Act N6. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

5. Explanation inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

65B. Inspection of books of co-operative society by a credit

agency :-

(1) A credit agency shall have the right to inspect the books of any co-operative society which has either applied to the credit agency for financial assistance or is indebted to it.

(2) The inspection may be made either by an officer of the credit agency

(3) The officer or member so inspecting shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the co-operative society and may also call for such information, statements and returns as may be necessary to ascertain the financial conditions of the co-operative society, and to ensure security of the sums lent to it by the credit agency.]

66. Power to seize books and property :-

If any officer or person conducting audit under Section 63, inquiry under Section 64 or inspection under Section 65, has reason to believe that any books or other property of the society have been tampered with or are likely to be tampered with, if left with the society with a view to eliminate or efface or change or manipulate any evidence which may be deemed necessary by such officer or person in connection with the proof of any defect or irregularities noticed by him during the course of audit, inquiry or inspection, he shall have power to seize and impound such books or property in such manner and for such period as may be prescribed.

67. Costs of Inquiry :-

Where an inquiry is held under Section 64 or an inspection is made under Section 65 on the application of a creditor, the Registrar may apportion the costs, or such part of the costs, as he may deem fit, between the co-operative society to which the society concerned is affiliated, the society, the members or creditor demanding an inquiry or inspection, and the ¹office bearers] or former ² office bearers] of the society:

Provided that.

(a) no order of apportionment of the costs shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard;

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

1. Substituted for the word "officers" by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Substituted for the word "officers" by Act No. 25 of 1998, w.e.f. 15-8-1998.

68. Order by the Registrar :-

¹(1) The Registrar may make an order directing the co-operative society or its ²office bearers] to take such action as may be specified in the order within the time mentioned thereift to remedy the defects disclosed in the audit under Section 63 or the inquiry under Section 64 or inspection under Section 65 ³and 65-B.]

⁴(2) A report about rectification of defects by the co-operative society shall be sent by the committee of such society periodically till all such defects are rectified to the Registrar, the credit agency and the financial Bank, and where the defects were pointed out in the audit, to the Director of Co-operative Audit.

(3) When the Registrar makes an order under sub-section (1) to remedy the defects disclosed in the inquiry or inspection, he shall send a copy of the order along with the result of the inquiry or inspection as the case may be, to the Director of Co-operative Audit who shall take action for incorporation of such results in the next audit report and financial statements wherever necessary.]

⁵ Explanation. x x x x x.]

1. Section 68 renumbered as sub-section (1) thereof by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Substituted for the word "officers" by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Sub-sections (2) and (3) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

5. Explanation omitted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

69. Surcharge :-

¹(1) If in the course of an audit, inquiry, inspection or the winding up of a co-operative society, it is found that the Committee of Management of such society or the President, Vice-President, the Chairman, Vice-Chairman or any other member of the Committee of Management or any person who is or was entrusted with the

organisation or management of such co-operative society or who is or has at any time been an officer or an employee of a co-operative society has made any payment contrary to the Act, the rules or the bye-laws or has caused any deficiency in the assets of the co-operative society by breach of trust or ²x x x x x] negligence or has misappropriated or fraudulently retained any money or other property belonging to such co-operative society, the Registrar may, of his own motion or on an application of the Committee, Liquidator or any creditor, frame charges against such person or persons and after giving such persons and in the case of a deceased person, to his representative who inherits his estate, an opportunity of making representation, make an order requiring him to pay or restore the money or property or any part thereof with interest at such rate as he may determine or to contribute such sum to the assets of the co-operative society by way of compensation to such extent as he may consider just and equitable.

(2) this section shall apply, notwithstanding that the act is one for which the person concerned may be criminally liable.]

³ (3) The order made by the Registrar under sub-section (1) may also

1. Section 69 substituted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

2. The word "wilful" omitted by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

3. Sub-section (3) inserted by Act No. 25 of 1998, s. 46.

CHAPTER 9

Settlement of Disputes

70. Disputes which may be referred to Registrar for decision :-

(1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises.

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society, or

(c) between the society or its committee and any past committee,

any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs, or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

(d) between the society and any other co-operative society, ¹or a credit agency.] such dispute shall be referred to the Registrar for decision and ² no Civil or Labour or Revenue Court or Industrial Tribunal] shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely.

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of a President, Vice-president, Chairman, Vice-Chairman, Secretary, Treasurer or Member of Committee of the society.

(d) any dispute between a co-operative society and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947)];

(e) a claim by a co-opertive society for any deficiency caused in the assets of the co-opertive society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its committee, past or present whether such loss be admitted or not.]

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution,

management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called the question in any Court.

1. Section 71-A inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.
2. Section 71-B inserted by Act No. 2 of 1975.

70A. Period of limitation :-

¹ (1) No dispute under Section 70 shall be entertained unless it is referred to the Registrar within six years from the date of the cause of action:

Provided that a dispute relating to the election of a member, President, Vice-President, Managing Director, Honorary Secretary or other officer of the Committee shall be referred to the Registrar within thirty days from the date of declaration of the result of the election.]

(2) Notwithstanding anything contained in sub-section (1), the Registrar may entertain a dispute referred after the period specified in sub-section (1) if he is satisfied that the person making the reference had sufficient cause for not making the reference within that period.]

1. Section 71-A inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

71. Disposal of disputes :-

(1) The Registrar may, on receipt of the reference of a dispute under Section 70,

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by the State Government with powers in that behalf, or

(c) refer it for disposal to one arbitrator appointed by the Registrar.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interests of justice.

¹ (3-A) When a dispute is referred to an arbitrator under clause (c) of sub-section (1), the award shall, subject to such rules as may be prescribed, include the fee payable to the arbitrator and the fees and expenses payable to the Registrar. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar, and shall, subject to appeal/or revision, be binding on the parties to the dispute.]

(4) Notwithstanding anything contained in Section 70, when any dispute under clauses (a) or (b) of sub-section (1) of the said section is referred for decision to the Registrar, and the Registrar is satisfied on an application by the society concerned that in the interest of the society it is necessary for an effective decision of the dispute to implead persons who cannot be made parties to the dispute in proceedings before him, he may permit the society to institute a regular suit in a Civil Court having jurisdiction and the Civil Court shall be competent to entertain such suit.

1. Section 71-A inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

71A. Powers of financing bank to proceed against members of a co-operative society for the recovery of money due to it from such society :-

¹ (1) If a co-operative society is unable to pay its debts to a financing bank by reason of its members committing default in the payment of moneys due by them, the financing bank may direct the committee of such co-operative society to take proceedings against such members under Section 70 or to initiate proceedings under Section 101, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the financing bank itself may proceed against such members under Section 70 or Section 101, as the case may be, in which case, the provisions of this Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions were references to the financing bank.

(2) Where a financing bank has obtained a decree or decision against a co-operative society in respect of money due to it from the co-operative society, the financing bank may proceed to recover such moneys, first, from the assets of the co-operative society and, secondly, from the members of such co-operative

society to the extent of their debts to the society.]

1. Section 71-A inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

71B. Powers of credit agency to proceed against members of a co-operative society for the recovery of Money due to it from such society :-

¹ (1) If a co-operative society is unable to pay its debts to a credit agency by reason of its members committing default in the payment of the moneys due by them, the credit agency may direct the committee of -such co-operative society to take proceedings against such member under Section 70 or initiate proceedings under Section 101, as the case may be and if the committee fails to do so within a period of ninety days from the date of receipt of such direction the credit agency may itself proceed against such defaulting members under Section 70 or Section 101, as the case may be, in which case, the provisions of the Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions, were reference to the credit agency.

(2) Where a credit agency has obtained a decree or award against a co-operative society in respect of money due to it from the co-operative society, the credit agency may proceed to recover such moneys firstly

1. Section 71-B inserted by Act No. 2 of 1975.

CHAPTER 10

Winding up and Dissolution of Co-operative Societies

72. Winding up of co-operative society :-

(1) If the Registrar after an inquiry has been held under Section 64 or an inspection has been made under Section 65 or on receipt of an application made by no less than three-fourths of the members of a co-operative society, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up.

(2) The Registrar may, of his own motion, make an order directing the winding up of a co-operative society

¹ (a) where the number of members of the society has been reduced to less than the minimum number required for registration of the co-operative society; or]

(b) where the co-operative society has not commenced working or has ceased to work; or]

(c) where the co-operative society has ceased to comply with the conditions imposed by or under this Act regarding registration and management.]

(3) The REgistrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.]

(4) Notwithstanding anything, contained in this section, no co-operative bank shall be wound up or an order for winding up shall be cancelled] except with the previous sanction in writing of the Reserve Bank.]

1. Sections 72-A and 72-B inserted by Act No.39 of 1975, w.e.f. 23-9-1975.

72A. Winding up of a co-operative bank if so, required by the Reserve Bank :-

¹ Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in Section 13-D of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961).

1. Sections 72-A and 72-B inserted by Act No.39 of 1975, w.e.f. 23-9-1975.

72B. Reimbursement to the Deposit Insurance Corporation by the Liquidators :-

Where a co-operative bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961, is wound up or taken into liquidation and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of Section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in Section 21 of the Deposit Insurance Corporation Act, 1961.]

73. Liquidator :-

(1) Where the Registrar has made an order under Section 72 for the winding up of a co-operative society, he may appoint a

Liquidator for the purpose and fix his remuneration.

(2) A Liquidator shall, on appointment, rake into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to such property, effects and claims.

(3) Where an appeal is preferred under Section 106, an order of winding up of a co-operative society made under Section 72 shall not operate thereafter until the order is confirmed in appeal: Provided that the Liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub- section.

(4) Where an order of winding up of a co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall revest in the society.

74. Powers of Liquidator :-

(1) Subject to any rules made in this behalf, the whole of the assets of a co-operative society in respect of which an order for winding up has been made, shall vest in the Liquidator appointed under Section 73 from the date on which the order takes effect and the Liquidator shall have power to realise such assets by sale or otherwise.

(2) Such Liquidator shall also have power, subject to the control of the Registrar

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

(b) to determine from time to time 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 representative of deceased members or by any ¹office bearers] or former ² [office bearers], to the assets of the society;

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

(d) to pay claims against the co-operative society including interest

up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

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

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) 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;

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

(i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have

(j) to compromise all calls or liabilities to call and debts and liabilities capable of resulting in debts and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a co-operative society have been wound up, the Liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

1. Substituted for the word "officers" by Act No. 25 of 1998, w.c.f. 15-8-1998.

2. Substituted for the word "officers" by Act No. 25 of 1998, w.e.f. 15-8-1998.

75. Cancellation of registration of a co-operative society :-

Where in respect of a co-operative society which has been ordered to be wound up under Section 72, no Liquidator, has been appointed under Section 73 after two months from the date of such

order, or if an appeal has been filed, from the date of confirmation of the order in appeal, or where the affairs of a co-operative society in respect of which a Liquidator has been appointed under Section 73, have been wound up, the Registrar shall make an order cancelling the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

CHAPTER 11

Agriculture and Rural Development Banks

76. Definitions :-

12In this Chapter

(a) "Board" means the Board of Directors of the State ³State Agriculture and Rural Development Bank;]

(b) ⁴"[Agriculture and Rural Development Bank]" means a Co-operative ⁵Agriculture and Rural Development Bank] registered or deemed to be registered under this Act and admitted as a member of the ⁶State Agriculture and Rural Development Bank] ⁷and includes such class or classes of co-operative societies as may be notified by the Registrar and admitted as members of the ⁸State Agriculture and Rural Development Bank.]]

(c) ⁹["State Agriculture and Rural Development Bank"] means the Karnataka Central Co-operative ¹⁰ [Agriculture and Rural Development Bank], Limited;

(d) "Trustee" means the Trustee referred to in Section 77.

1. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984, w.e.f. 9-1-1984.

2. Section 79 substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

3. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

5. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

6. Sustituted for the words "on the security of mortgage, or mortgages to be acquired or partly on mortgages held and partly to be acquired, and properties and other assets of the Land Development Banks" by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

7. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
8. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
9. Clause (aa) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
10. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

76A. Application of Chapter to Agriculture and Rural Development Banks :-

12 This Chapter shall apply to co-operative banks advancing loans, either on the security or mortgage of lands or by hypothecation of the agricultural machinery or other assets, created out of the loan for the purposes as may be notified by the Government in this behalf from time to time.]

1. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984, w.e.f. 9-1-1984.
2. Section 79 substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

76B. State and other 3Agriculture and Rural Development Banks] :-

(1) There shall be a ¹State Agriculture and Rural Development Bank] for the State of Karnataka, and as many ²Agriculture and Rural Development Banks] as may be deemed necessary.

(2) A reference to Land Mortgage Bank in any law, or instrument, for the time being in force in the State, shall, with effect from the commencement of the Karnataka Co-operative Societies (Amendment), Act, 1964 be construed as a reference to a Land Development Bank ³upto date of commencement of the Karnataka Co-operative Societies (Amendment) Act, 1984 and thereafter as Agriculture and Rural Development Bank] within the meaning of this Chapter.

(3) With effect from the commencement of the Karnataka Co-operative Societies (Amendment) Act, 1964 and until such, time as the names of the Land Mortgage Banks and societies functioning in the State at the commencement of the said Act are changed into Land Development Banks, all acts done by them or mortgages and other documents executed by them, or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Land Development Banks.]

⁴ (4) With effect from the date of commencement of the Karnataka

Co-operative Societies (Amendment) Act, 1984 and until such time as the names of the Land Mortgage Banks and Land Development Banks functioning in the State at the commencement of the said Act are changed as Agriculture and Rural Development Banks, notwithstanding anything contained in sub-section (3), all acts done by them or mortgages and documents executed by them, or in their favour and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Agriculture and Rural Development Bank.]

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "on the security of mortgage, or mortgages to be acquired or partly on mortgages held and partly to be acquired, and properties and other assets of the Land Development Banks" by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

4. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

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

(1) Registrar, or where the State Government appoints any other person in his behalf, such person, shall be the Trustee for the purpose of securing the fulfillment of the obligations of the ¹ State Agriculture and Rural 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 Act and by the instrument of trust executed between the Bank and the Trustee as modified from time to time by mutual agreement between the Board and the Trustee.

1. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984, w.e.f. 9-1-1984.

78. Trustee to be a corporation sole :-

The Trustee appointed under Section 77 shall be a corporation sole by the name of the Trustee for the debentures and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

79. Issue of debentures :-

¹(1) With the previous sanction of the State Government and the Trustee, and subject to such terms and conditions as the State Government may impose, the ²[State Agriculture and Rural Development Bank] in the discharge of its function as a ³[Agriculture and Rural Development Bank] Land Development Bank may issue debentures of such denominations, ⁴[or take loans] for such period, and at such rates of interest, as it may deem expedient ⁵[on the security of.

(a) mortgage or mortgages ⁶[or the hypothecation of the agricultural machinery ⁷[or on the basis of charges created on the lands of the borrowers under Section 33] or other assets created out of the loan] already held; or ⁸[(aa) Charges already created under Section 33 on the land owned by members or on the interest in the land held by such members as tenants;]

(b) mortgage or mortgages ⁹[or the hypothecation of the

¹⁰(bb) charges to be created under Section 33 on the lands owned by members or on the interest in the land held by such members as tenants;]

(c) penalty on mortgage ¹¹or the hypothecation of the agricultural machinery or other assets created out of the loan] held and partly to be acquired; or

¹²(cc) partly on charges already created and partly on charges to be created under Section 33 on the lands owned by members or on the interest in the land held by such members as tenants;]

(d) the guarantee of the State Government guaranteeing the full amount of principal and interest on debentures ¹³or loans] until the date of complete discharge of the debentures; or

(e) partly on mortgages held or to be acquired and partly on the Government guarantee for the principal and interest till the complete discharge of the debentures ⁴or loans]; and

(f) properties and other assets of the ¹⁵Agriculture and Rural Development Banks.¹¹

(2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee the right to redeem

at any time in advance of the date fixed for debenture not less than three months notice in writing.

(3) The total amount due on debentures issued ⁶or loans taken] by the ¹⁷State Agriculture and Rural Development Bank], and outstanding at any time, shall not exceed,

(a) where debentures are issued ¹⁸[or loans are taken against mortgages or, charges on lands or hypothecations of agricultural machinery or other assets created out of loans] held, the aggregate of'

(i) the amounts due on the mortgages;

(ii) the value of the properties and other assets transferred or deemed to have been transferred under Section 85 by the Primary ¹⁹Agriculture and Rural Development Banks] to the ²⁰State Agriculture and Rural Development Banks] and subsisting at such time; and

(iii) the amounts paid under the mortgages aforesaid and the unsecured amounts remaining in the hands of the ²¹State Agriculture and Rural Development Banks] or the Trustee at the time;

(b) where debentures are issued ¹³ or loans are taken] otherwise than on mortgages held, the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage.]

1. Section 79 substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.
2. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
4. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
5. Sustituted for the words "on the security of mortgage, or mortgages to be acquired or partly on mortgages held and partly to be acquired, and properties and other assets of the Land Development Banks" by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.
6. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
7. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

8. Clause (aa) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
9. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
10. Clause (bb) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
11. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
12. Clause (cc) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.
13. Inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
15. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
17. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
18. Substituted for the words "against mortgage" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
19. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
20. Substituted for the words "State Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
21. Substituted for the words "State Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

80. Charge of debenture holders on certain properties :-

The holders of the debentures shall have a floating charge on

- (a) all such mortgages and assets as are referred to in clause (a) of sub-section (3) of Section 79;
- (b) the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee; and
- (c) the other properties of the State¹ Agriculture and Rural Development Bank.]

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

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

(1) The principal of, and interest on, the debentures issued under Section 79 shall, in respect of such maximum amount as, may be fixed by the State Government and subject to such conditions as it

may think fit to impose, carry the guarantee of the State Government.

(2) The State Government may, subject to any law of the Legislature of the State, increase the maximum amount of any guarantee given under sub-section (1).

(3) The State Government may, after consulting the Board and the Trustee,

(a) by notification in the official Gazette; and

(b) by notice of not less than fourteen days in such of the principal newspapers in the State and of other States in India as the State Government may select in this behalf discontinue any guarantee given by it or restrict the maximum amount thereof or modify the conditions, subject to which it is given with effect from a specified date, not being earlier than six months from the date of publication of the notification in the official Gazette:

Provided that the withdrawal, restriction or modification of any guarantee under this sub-section, shall not in any way affect the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

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

82. Other guarantees by State Government :-

(1) The State Government may by general or special authorise the grant of loans to members by the ¹State Agriculture and Rural Development Bank] or the ² Agriculture and Rural Development Banks] for the development of land in excess of the loans to which such members may be entitled on the basis of the value of the lands determined in accordance with the principles of valuation approved by, the State Government, such excess not exceeding such limits as may be specified in such order.

(2) In respect of loans granted in accordance with sub-section (1), the State Government may guarantee for a specified period the repayment of the loan to the extent of the excess granted to the members.

1. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
2. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

82A. Powers of Agriculture and Rural Development Banks to advance loans and to hold lands :-

¹²Subject to the provisions of this Act and the rules made thereunder, it shall be competent for the ³ Agriculture and Rural Development Banks] to advance loans for the purposes referred to in Section 76-A, and to hold lands the possession of which is transferred to them under the provisions of this Chapter.

1. Sections 82-A, 82-B and 82-C inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.
2. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

82B. Mode of dealing with applications for loans :-

(1) When an application for a loan is made for any of the purposes mentioned in Section 76-A, a public notice shall be given of the application in such manner as may be prescribed calling upon all persons interested to

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

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

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

(4) Subject to such rules as may be prescribed, the ¹ Agriculture

and Rural Development Banks] Land Development Banks shall consider such application after due enquiry for the purpose of making loans under this Chapter.

1. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

82C. Order granting loan conclusive of certain matters :-

A written order by the ¹ Agriculture and Rural Development Bank], or persons or committees authorised under the bye-laws of the Bank to make loans for all or any of the purposes specified in Section 76-A, granting, either before or after the commencement of the Karnataka Co-operative Societies (Amendment) Act, 1964, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose specified therein, shall for the purposes of this Act be conclusive of the following matters, that is to say,

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of Section 76-A;

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

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

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

83. Priority of mortgage over certain claims :-

¹(1)] A mortgage ²Agriculture and Rural Development Bank] shall have priority over any claim of the Government arising from a loan under the ³the Karnataka Land Improvement Loans Act, 1963 (Karnataka Act 16 of 1963) or the Karnataka Agriculturists Loans Act, 1963 (Karnataka Act 17 of 1963)] granted after the execution of the mortgage.

⁴(2) Notwithstanding anything contained in the Karnataka Land

Reforms Act, 1961, where a mortgage in favour of a ⁵Agriculture and Rural Development Bank] is in respect of land in which a tenant purchaser or tenant has an interest, the mortgage may be against the security of such interest and the rights of the mortgagee shall not be affected by the failure of the tenant purchaser or tenant to comply with the requirements of the said Act and the sale of the land and his interest therein under the said Act shall be subject to the prior charge of the ⁶ Agriculture and Rural Development Bank].]

1. Section 83 renumbered as sub-section (1) by Act No. 39 of 1975, w.e.f. 23-9-1975

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words, brackets and figures "the Land Improvement Loans Act, 1883, (Central Act XIX of 1883) or the Agriculturists Loans Act, 1884, (Central Act XII of 1884)" by Act No. 39 of 1975, w.e.f. 23-9-1975.

4. Sub-section (2) inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

5. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

6. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

84. Right of Agriculture and Rural Development Bank] or of the State Agriculture and Rural Development Bank] to purchase mortgaged property :-

¹²(1) Notwithstanding anything contained in any law for the time being in force it shall be lawful for the ³State Agriculture and Rural Development Bank] or a ⁴[Agriculture and Rural Development Bank] to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

(2) Nothing in any law fixing a maximum limit of agricultural holding shall apply to the acquisition of land by a ⁵[Agriculture and Rural Development Bank] or the ⁶ State Agriculture and Rural Development Bank] under sub-section (1).

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
5. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
6. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

85. . :-

Mortgages executed in favour of ¹Agriculture and Rural Development Bank] to stand vested in ²State Agriculture and Rural Development Bank]. The mortgages executed in favour of, and all other assets transferred to a ³Agriculture and Rural Development Bank] by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such ⁴Agriculture and Rural Development Bank] to the ⁵ State Agriculture and Rural Development Bank] and shall vest in the Trustee.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
2. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
5. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

85A. Registration of mortgage or lease in favour of Agriculture and Rural Development Bank] :-

¹²Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary to register mortgages or leases

executed in favour of the ³Agriculture and Rural Development Bank], provided that the ⁴ Agriculture and Rural Development Bank] concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immoveable property is mortgaged or leased to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged or as the case may be, leased, is situate, and such Registering Officer shall file a copy or copies as the case may be in his Book No. 1 prescribed under Section 51 of the Indian Registration Act, 1908.]

1. Section 85-A inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.
2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

86. Power of Agriculture and Rural Development Bank to receive moneys and grant discharges :-

Notwithstanding that a mortgage executed in favour of a ¹²[Agriculture and Rural Development Bank] has been transferred, or is deemed under the provisions of Section 85 to have been transferred, to the ³State Agriculture and Rural Development Bank], (a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the ⁴Agriculture and Rural Development Bank] and such payment shall be as valid as if the mortgage had not been so transferred; and (b) the ⁵Agriculture and Rural Development Bank] shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the ⁶ Agriculture and Rural Development Bank], be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
2. Substituted for the words "Land Development Bank" by Act No, 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-

1984.

3. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

5. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

6. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

86A. Recovery of Loans by development Banks :-

¹All loans granted by the ²Agriculture and Rural Development Bank], all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall when they become due, be recoverable by the ³ Agriculture and Rural Development Bank] concerned.]

1. Section 86-A inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

87. Right of Agriculture and Rural Development Bank to pay prior debts of mortgagor :-

¹(1) Where a mortgage is executed in favour of a ²Agriculture and Rural Development Bank] for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of Sections 83 and 84 of the Transfer of Property Act, 1882, (Central Act IV of 1882) by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice.

(2) Where any such person fails to 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 shall be bound to receive payment of the amount offered by the ³Agriculture and Rural Development Bank] towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

(3) For purposes of determining the particulars of prior debts referred to in sub-section (1), any officer of the ⁴[State Agriculture and Rural ⁵ Agriculture and Rural Development Bank], authorised in this behalf by the State Government by notification in the official Gazette, may, subject to such restrictions, limitations and conditions as may be prescribed, by order in writing require any person to whom any such prior debt may be due, to furnish any information or any document relating to such debt, and thereupon such person shall furnish the information or document so required.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.t.f. 9-1-1984.

5. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

87A. Mortgages executed by managers of joint Hindu families :-

¹(1) Mortgages, in respect of loans by a ²Agriculture and Rural Development Bank] or the ³State Agriculture and Rural Development Bank] either before or after the commencement of the Kamataka Co-operative Societies (Amendment) Act, 1964 by the manager of a joint Hindu family for the improvement of agricultural land or of the methods of cultivation, or for financing any other means to increase the productivity of the land, or for the purchase of land, shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.

(2) In other cases, where a mortgage executed in favour of a

⁴Agriculture and Rural Development Bank] or ⁵ State Agriculture and Rural Development Bank] either before or after the commencement of the Karnataka Co-operative Societies (Amendment) Act, 1964, is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members (whether such members have attained majority or not) thereof, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

1. Sections 87-A and 87-B inserted by Act No.40 of 1964, w.e.f. 26-6-1965.
2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
5. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

87B. Restrictions on lease :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 or any other law for the time being in force, no mortgagor of property mortgaged to a ¹Agriculture and, Rural Development Bank], shall except with the prior consent in Writing of the Bank, and subject to such terms and conditions as the Bank may impose, lease or create any tenancy rights on any such property:

Provided that the rights of the ²Agriculture and Rural Development

(2) Where land mortgaged with possession to a ³Agriculture and Rural Development Bank], is in actual possession of a tenant, the mortgagor or the ⁴Agriculture and Rural Development Bank] shall give notice to the tenant to pay rent to the ⁵Agriculture and Rural Development Bank] during the currency of the lease and the mortgage, and on such notice being given, the tenant shall be deemed to have attorned to the ⁶ Agriculture and Rural Development Bank.]]

1. Substituted for the words "Land Development Bank" by Act No.

5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

5. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

6. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

88. Distraint When to be made :-

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

(2) On receipt of such application, the Registrar may, notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882) take action in the manner prescribed for the purpose of distraining and selling such produce:

Provided that no distraint shall be made after the expiry of ² thirty-six months] from the date on which the installment fell due.

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

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "twelve months" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89. Power of sale when to be exercised :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), where a power of sale without the intervention of the Court is expressly conferred on the ¹Agriculture and Rural Development Bank] by the mortgage deed, the committee of such Bank or any person authorised by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the Bank, to bring the mortgaged property to sale without the intervention of the Court.

(2) No such power shall be exercised unless and until,

(a) the Board has previously authorized the exercise of the power conferred by sub-section (1), after hearing the objections, if any, of the mortgagor;

(b) notice in writing requiring payment of such mortgage money or part 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;

(iii) any surety for the payment of the mortgage debt or any part thereof; and

(iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and

(c) default has been made in payment of such mortgage money or part thereof for three months after such service.

²(3) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for ³an] ⁴Agriculture and Rural Development Bank] or the ⁵State Agriculture and Rural Development Bank] to purchase any mortgaged property sold under this Chapter.]

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Sub-section (3) substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

3. Substituted for the words "a primary" by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

5. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89A. Confirmation of sale :-

¹(1) On effecting the sale by a ²Agriculture and Rural Development Bank! under Section 89, the bank shall, in the prescribed manner submit to the ³State Agriculture and Rural Development Bank] and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the ⁴State

(2) Where the sale is effected by the ⁵State Agriculture and Rural Development Bank] or the Trustee under Section 89, the ⁶ State Agriculture and Rural Development Bank] or the Trustee, as the case may be, shall in the prescribed manner submit to the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the Registrar may confirm or cancel the sale.

1. Sections 89-A to 89-H inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

5. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

6. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89B. Disposal of sale-proceeds :-

The proceeds of every sale effected under Section 89 and confirmed under Section 89-A, shall be applied first in payment of all costs charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage in consequences whereof the mortgage

property was sold, and thirdly, in payment of the principal due on account of the mortgage including costs and charges incidental to the recovery. If there remain any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt or according to their respective interest therein, as may be determined by the ¹Agriculture and Rural Development Bank]:

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

(a) from the mortgagor to the ² Agriculture and Rural Development Bank] may be adjusted, and

(b) from any member or past member to whom the mortgagor is indebted may also be adjusted under the written authority given by such member and past member, and after holding such inquiry as may be deemed necessary.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89C. Certificate to purchase, delivery of property and title of purchaser :-

(1) Where a sale of mortgaged property has become absolute under Section 89-A and the sale-proceeds have been received in full by the ¹Agriculture and Rural Development Bank], the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale-price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the

(2)

(a) Where the mortgaged property sold is in the occupancy of the mortgagor, or of some person on his behalf, or some person claiming under a title created by the mortgagor, subsequent to the mortgage in favour of the ²[State Agriculture and Rural Development Bank] or a ³Agriculture and Rural Development Bank] and a certificate in respect thereof has been granted under the

foregoing sub-section, the Deputy Commissioner shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

(b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under the foregoing sub-section, the Deputy Commissioner shall, on the application of the purchaser and after notice to such tenants or other persons, order the delivery to be made by affixing copy of the certificate of the sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place, that the right, title and interest of the mortgagor have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of a power of sale under ⁴ Section 89], the title of the purchaser shall not be questioned on the ground that the circumstances required for authorising the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised:

Provided that any person who suffers damage on account of unauthorised, improper or irregular exercise of such power shall have a remedy in damages against the Land Development Bank.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the word and figures "Section 69" by Act No. 25 of 1998, w.e.f. 15-8-1998.

89D. Recovery of loans on certificate by Registrar :-

(1) Notwithstanding anything contained in Sections 70 and 71, on an application made by a ¹ [Agriculture and Rural Development Bank] for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such

enquiries as he deems fit, grant a

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

(3) It shall be lawful to the Deputy Commissioner to take precautionary measures authorised by Section 188 of the Karnataka Land Revenue Act, 1964 or any law or provision corresponding thereto for the time being in force until the arrears due to the ²Agriculture and Rural Development Bank] together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security for payment of such arrears, is furnished to the satisfaction of the Registrar.

(4) It shall be competent for the Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the ³ Agriculture and Rural Development Bank] together with interest and incidental charges incurred in recovery of such arrears, are paid or security for payment or such arrears is furnished to the satisfaction of the Registrar and the provisions of Section 95 shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89E. Deputy Commissioner to make recoveries during a certain period :-

(1) During such period as the State Government may by general or special order notify in the Official Gazette, it shall be competent for the Deputy Commissioner on application being made to him in that behalf by a ¹Agriculture and Mural Development Bank], to recover all sums due to the ²Agriculture and Rural Development Bank] (including the cost of such recovery).

(2) Any amount due to a ³ Agriculture and Rural Development Bank] shall be recoverable by the Deputy Commissioner or any officer specially authorised by the Deputy Commissioner in this behalf, in all or any of the following modes, namely:

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

(b) out of the land for the benefit of which the loan has been granted according to the procedure for the realisation of land revenue by the sale of immoveable property;

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

(d) out of the property comprised in the collateral security (if any) according to the procedure for the realisation of land revenue by the sale of immovable property.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89F. Officers of banks not to bid at sales :-

At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee of a ¹[Agriculture and Rural Development Bank] or the ² State Agriculture and Rural Development Bank], except on behalf of the bank of which he is an officer or an employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9 1-1984.

2. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89G. Section 40 of Bombay Act 28 of 1947 not to apply to alienation in favour of Agriculture and Rural Development Bank :-

¹Nothing contained in Section 40 of the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State shall apply to any alienation in favour of the ² Agriculture and Rural Development Bank],

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

89H. Provision for Guarantee Funds to meet certain losses

:-

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

(2) The ²State Agriculture and Rural Development Bank] and the ³ Agriculture and Rural Development Banks] shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilisation of such Funds shall be governed by such rules, as may be made by the State Government in this behalf.]

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

90. Powers of Agriculture and Rural Development Bank where mortgaged property is destroyed or security becomes insufficient :-

¹Where any property mortgaged to a ²Agriculture and Rural Development Bank] is wholly or partially destroyed or the security

is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the ³Agriculture and Rural Development Bank], or providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under Section 88 or Section 89 for the recovery the reof.

Explanation. A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the ⁴ Agriculture and Rural Development Bank.]

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

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

(1) The Board or the Trustee may direct the committee of a ¹Agriculture and Rural Development Bank] to take action against a defaulter under Section 88, Section 89 or Section 90 and if the committee neglects, or fails to do so, the Board or the Trustee may take such action.

(2)

(a) Where such action is taken by the Board, the provisions of this Chapter and of any rules or regulations made in this behalf shall apply in respect thereto as if all reference to the ²Agriculture and Rural Development Bank] and to its Committee in the said provisions were reference to the State ³ Agriculture and Rural Development Bank] and the Board, respectively.

(b) Where shall action is taken by the Trustee, the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all reference to the Mortgage Bank or to its committee in the said provisions were references to the Trustee.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

92. Title of purchaser not to be questioned on the ground of irregularity, etc. :-

Where any property is sold in the exercise or purported exercise of a power of sale under Section 89, the title of the purchaser shall not be questioned on the ground that,

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

(b) the power of sale was otherwise improperly or irregularly exercised; but any person who has suffered any damage by an unauthorised, improper or irregular exercise of any such power shall have a remedy in damages against the ¹ Agriculture and Rural Development Bank.]

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

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

Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of a ¹ Agriculture and Rural 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 ² Agriculture and Rural Development Bank] a preference over the other creditors of the mortgagor.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

94. Appointment of receiver and his power :-

(1) The Board may, on the application of a ¹ [Agriculture and Rural Development Bank] and under circumstances in which the power of sale conferred by Section 89 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of Section 69-A of the Transfer of Property Act, 1882 (Central Act IV of 1882).

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application made by the mortgagor, be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) 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 Civil Court.

1. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

95. Mortgagors powers to lease :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), or any other law for the time being in force, a mortgagor shall not grant a lease of the mortgaged property for a period exceeding five years.

(2) Any lease granted in contravention of the provisions of sub-section (1) shall be void.

96. Delegation of certain powers by Board :-

The Board may, if it thinks fit, delegate all or any of its powers under Sections 89, 91 and 94 to an executive committee constituted by it and consisting of two or more of its members.

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

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

98. Power to 1[Board] of State Agriculture and Rural Development Bank] to supervise Agriculture and Rural Development Banks and make regulations :-

The ¹²³⁴Board] of the ⁵State Agriculture and Rural Development Bank] shall have a general power of supervision over ⁶Agriculture and Rural Development Bank] and may, with the previous sanction of the State Government, by notification in the Official Gazette make regulations, not inconsistent with this Act or the rules made thereunder, for all or any of the following matters, namely:

- (a) for the inspection of the account books and proceedings of ⁷Agriculture and Rural Development Banks];
- (b) for the submission of returns and reports by such banks in respect of their transactions;
- (c) for the periodical settlement of accounts between such banks and the ⁸[State Agriculture and Rural Development Bank] being accounts relating to the payment of the amounts recovered by ⁹State Agriculture and Rural Development Bank];
- (d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans;
- (e) for the investment of moneys realised from the mortgagors;
- (f) the conditions of service of employees of such banks;
- (g) the programme and policy to be followed by such banks for making loans;
- (h) the types and extent of security to be obtained by such banks for advancing loans;
- (i) generally, for the purpose of safeguarding the interest of the parries, furtherance of activities of such banks, and carrying out the purposes of this Chapter.]

1. Substituted for the word "committee" by Act No. 25 of 1998, w.e.f. 15-8-1998.
2. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
3. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
4. Substituted for the word "committee" by Act No. 25 of 1998, w.e.f. 15-8-1998.
5. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
6. Substituted for the words "Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
7. Substituted for the words "Land Development Banks" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
8. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
9. Substituted for the words "State Land Development Bank" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

CHAPTER 12

Execution of Awards, Decrees, Orders and Decisions

99. Enforcement of charge :-

Notwithstanding anything contained in Chapter IX, or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property which is subject to a charge under sub-section (1) of Section 32:

Provided that no order shall be made under this section, unless the member, past members or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within seven days from the date of such service.

100. Recovery of moneys due to Societies :-

(1) Notwithstanding anything contained in Chapter IX or any other law for the time being in force, on an application made by an approved society for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may after making an enquiry in such manner as may be prescribed, grant a certificate for the recovery of the amount stated therein to be due as arrears:

Provided that if the determination of the amount due from any person to the society depends upon decisions on complicated questions of fact or law, the Registrar shall dispose of the case in accordance with the provisions of Section 71 as if it were a dispute referred to him for decision under Section 70.

(2) A certificate granted by the Registrar under sub-section (1) shall be final and conclusive, the arrears stated to be due therein shall be recoverable as arrears of land revenue or according to the procedure provided in Section 101:

Provided that any error in such certificate may be rectified by the Registrar suo motu or on the application of the society or the member affected by the certificate.

(3) It shall be lawful for the Deputy Commissioner to take precautionary measures authorised by ¹ Section 188 of the Karnataka Land Revenue Act, 1964], until the arrears due to the society together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar.

Explanation. For the purpose of this section,

(i) "approved society" shall mean a society of such class of societies declared to be approved societies for purposes of this section by rules;

(ii) "financing of crops" shall mean advancing of loans for the raising of crops during the ploughing season or later for ploughing, weeding, harvesting, purchase of seeds, manure or for such other purposes as may be prescribed by the Registrar, such loans being repayable during the season when the crops for which the loans were advanced are harvested;

(iii) "seasonal finance" shall mean the advancing of loans for such

purposes as may be specified by notification in the official Gazette, by the Registrar, such loans being repayable on or before the 31st of March following or such other date as may be specified by a like notification by the Registrar.

1. Substituted for the words, brackets and figures "Sections 146 to 150 of the Karnataka Land Revenue Code, 1888 (Karnataka Act IV of 1888)" by ALO 1973 w.e.f. 1-11-1973.

101. Execution of orders, etc. :-

¹(1)] Every order made by the Registrar under sub-section ²(1)1 of Section 69 or under Section 99, every decision or award made under Section 71, every order made by the Liquidator under Section 74 and every order made by the Tribunal under Sections 105 and 107, and every order made under Section 106 or 108 shall subject to

(a) on a certificate signed by the Registrar, or any person authorised by him in this behalf, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such Court; or

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

Provided that an application for the recovery in such manner of any sum shall be made,

(i) to the Deputy Commissioner and shall be accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf;

(ii) within twelve years from the date fixed, in the order, decision or award, and if no such date is fixed, from the date of the order, decision or award, as the case may be; or

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a co-operative society against whom the order, decision or award has been obtained or passed.

³ (2)

(a) Notwithstanding anything contained in this Act, every question relating to the execution, discharge or satisfaction of an order,

decision or award referred to in sub-section (1) or relating to the confirmation or setting aside of a sale held in an execution of such order, decision or award in pursuance of Clause (c) of subsection (1), or relating to any claim or objection to an attachment of any property made under Section 103 or in execution in pursuance of the said Clause (c), shall be determined, by an order of the Registrar or any other person subordinate to him empowered by the Registrar under the said Clause (c) (hereinafter in this section referred to as 'authorised person') before whom such question arises.

(b)

(i) Where any claim is preferred against or any objection is made to the attachment of any property made under Section 103 or in execution in pursuance of clause (c) of sub-section (1) on the ground that the said property is not liable to such attachment, the Registrar or the authorised person shall proceed to investigate the claim or objection:

Provided that where the Registrar or the authorised person considers that the claim or objection was designedly or unnecessarily delayed he shall make an order refusing such investigation.

(ii) Where upon the said investigation the Registrar or the authorised person is satisfied that for the reason stated in the claim or objection such property was not, at the date of the attachment, in the possession of the person or co-operative society against whom the order, decision or award has been obtained or passed (hereinafter in this section referred to as the 'judgment-debtor') or of some person in trust for the judgment-debtor or in the occupancy of a tenant or other person paying rent to the judgment-debtor or that, being in the possession of the judgment-debtor at the said date, it was so in his possession, not in his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Registrar or the authorised person shall make an order, releasing the property, wholly or to such extent as he thinks fit, from attachment.

(iii) Where the Registrar or the authorised person is satisfied that the property was on the said date, in the possession of the judgment-debtor as his own property and not on account of any

other person or was in the occupancy of a tenant or other person paying rent to him, the Registrar or the authorised person shall disallow the claim.

(iv) Where a claim or an objection is preferred, the party against whom an order is made may within a period of one year from the date of such order, institute a suit in a Civil Court to establish the right which he claims to the property in dispute; but subject to the result of such suit, if any, the order of the Registrar or the authorised person shall be conclusive.]

1. Section 101 renumbered as sub-section (1) thereof by Act No. 39 of 1975, w.e.f. 2-9-1975.

2. Substituted for the brackets and figure "(2)" by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

3. Sub-section (2) inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

101A. Transfer of property made after issue of certificate void against Co-operative Society :-

¹ Any private transfer or delivery of, or encumbrances or charge on, property made or created after the issue of the certificate of the Registrar or any person authorised by him in this behalf under Section 101 shall be null and void as against the Co-operative Society on whose application the said certificate was issued.

1. Sections 101-A and 101-B inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.

101B. Transfer of property which cannot be sold :-

(1) When in any execution of an order sought to be executed under Section 101, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter, or of some person on his behalf or of some person claiming under a title created by the defaulter after the issue of the certificate by the Registrar or any person authorised by him under Section 101, the Court, or the Deputy Commissioner or the Registrar, as the case may be, may, notwithstanding anything contained in any law for the time being in force, direct that the said property or any portion thereof shall be transferred in the manner prescribed, to the Co-operative Society which has applied for the execution of the said order.

(2) Where property is transferred to the Co-operative Society under

sub-section (1) or where the property is sold under Section 101, the Court, the Deputy Commissioner or the Registrar, as the case may be, may in accordance with the rules place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to such rules as may be made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Deputy Commissioner or the Registrar, as the case may be, and the said society.

(4) Subject to the general or special orders of the State Government, the Deputy Commissioner or the Registrar may delegate to an officer not below the rank of an Assistant Commisisoner or an Assistant Registrar,

101C. . :-

¹ x x x x x.

1. Section 101-C omitted by Act No. 34 of 1991, w.e.f. 10-12-1991.

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

The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a Civil Court for the purposes of Article 182 of the First Schedule to the ¹ Limitation Act, 1963.]

1. Substituted for the words, brackets and figures "Indian Limitation Act, 1908 (Central Act IX of 1908)" by ALO 1973, w.e.f. 1-11-1973.

103. Attachment of property before award or order :-

¹(1)] If the Registrar is satisfied on an application, report, enquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act,

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

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

² (2) Where the Registrar directs attachment of the property under sub-section (1), he shall issue a notice calling upon the person whose property, is so attached to furnish security which he thinks adequate within a specified period; and if the person fails to provide the security so demanded, the Registrar may confirm the order and after the decision in the dispute or the completion of the proceedings referred to in the

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.]

1. Section 103 renumbered as sub-section (1) by Act No. 40 of 1964, w.e.f. 26-6-1965.

2. Sub-sections (2) and (3) inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.

104. Recovery of sums due to Government :-

(1) All sums due from a co-operative society or from an ¹office bearers] or member or past member of a co-operative society as such to Government including any costs awarded to Government under any provisions of this Act, may, on a certificate issued by the Registrar ²or the ³Director of Co-operative Audit]] in this behalf, be recovered in the same manner as arrears of land revenue.

(2) Sums due from a society to Government and recoverable under sub-section (1) 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 or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies, from the members, past members or the estates of deceased members:

Provided that the liability of past members and the estates of

deceased members shall in all cases be subject to the provisions of Section 25.

4 (3) Notwithstanding anything contained in the preceding sub-sections, the audit fee due from a co-operative society may also be recovered in such manner as may be prescribed.]

1. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Inserted by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

3. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

4. Sub-section (3) inserted by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

104A. Application of this Chapter to Co-operative Societies in other States :-

1 The provisions of this Chapter and all rules made under this Act relating to, or in any manner connected with the recovery of the sum, specified in Section 103 shall apply with such modifications if any, as may be directed by the State Government in regard to the recovery of like sums due to Co-operative Societies registered or deemed to be registered under any law for the time being in force in any State in India notified in this behalf by the State Government in the Official Gazette as if such Co-operative Societies had been registered in the State of Karnataka under this Act.]

1. Section 104-A inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.

CHAPTER 13

Appeals, Revision and Review

105. Appeals to the Tribunal :-

Any person aggrieved by,

(a) any decision of the Registrar made under clause (a) of sub-section (1) of Section 71; or

(b) any decision of the person invested by the State Government with powers in that behalf under clause (b) of sub-section (1) of Section 71;

(c) any award of an arbitrator under clause (c) of sub-section (1) of Section 71; or

(d) any determination of a Liquidator under clause (f) of sub-section (2) of Section 74;

(e) any order made under Section 103 with a view to preventing any delay or obstruction in ¹the execution of any order, decision or award that may be made under Sections 69 and 71;]

² (f) any order passed under Section 69,] may, within sixty days from the date of the decision, award or order, as the case may be, appeal to the Tribunal.

1. Substituted for the words "An appeal shall lie under this section" by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Clause (c) omitted by Act No. 40 of 1964, w.e.f. 26-6-1965.

105A. Appeals relating to admission of members to societies :-

¹(1)Any person who has made an application for admission as a member under sub-section (3) of Section 16 may appeal to the Registrar against any refusal of Co-operative Society to admit him as a member or against any failure on its part within the period referred to in sub-section (4) of Section 16 to admit him as a member or to send a notice of its refusal to admit.

(2) Every appeal under sub-section (1) shall be made by a petition in writing within sixty days by the person seeking admission of the communication of refusal, or within sixty days on which the admission shall be deemed to have been refused under sub-section (4) of Section 16 as the case may be. ²x x x x x.]

(3) The Registrar shall, after causing reasonable notice to be given to the Co-operative Society and also to the person seeking admission, and giving them a reasonable opportunity to make their representations, if any, in writing/by order, direct either that the person shall be admitted by the Co-operative Society or that he need not be admitted by the society, and in the former case the Co-operative Society shall give effect to the decision within ten days of the receipt of the order.

(4) Before making an order under sub-section (3) on an appeal against any refusal of the Co-operative Society to admit a person as a member, the Registrar may require the Co-operative Society to disclose to him the reasons for such refusal and on the failure or refusal of the Co-operative Society to disclose such reasons, the Registrar may presume that the disclosure if made would be unfavourable to the Co-operative Society. ³ The Registrar shall dispose of every appeal as expeditiously as possible.]

(5) All proceedings in appeals under this section or in relation thereto shall be confidential, and no suit, prosecution or other legal proceedings shall lie in respect of any allegation made in such proceedings, whether orally or otherwise.]

1. Substituted for the words "An appeal shall lie under this section" by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Clause (c) omitted by Act No. 40 of 1964, w.e.f. 26-6-1965.

3. Clause (d-1) inserted by Act No. 70 of 1976 and shall be deemed to have come into force w.e.f. 19-7-1976.

106. Appeals to other authorities :-

(1) ¹Subject to the provisions of Section 108-A, an appeal shall lie under this section] against,

(a) an order of the Registrar made under sub-section (2) of Section 7 refusing to register a co-operative society;

(b) an order of the Registrar made under sub-section (4) of Section 12 refusing to register an amendment of the bye-laws of a co-operative society;

²(c) x x x x x;]

(d) an order of the Registrar under Section (2) of Section 27; ³(d-1) an order of the Registrar unswe Awxrion 29-C;]

(e) an order of the Registrar removing the committee of a co-operative society made under Section 30;

(f) the seizure and impounding of books or property under Section 66;

(g) an order made by the Registrar under Section 67 apportioning the costs of an inquiry held under Section 64 or an inspection made under Section 65;

(h) an order of the Registrar under Section 68;

⁴(i) x x x x x;]

(j) an order made by the Registrar under Section 72 directing the winding up of a co-operative society;

(k) any order made by the Liquidator of a co-operative society in exercise of the powers conferred on him by Section 74, other than a determination under clause (f) of sub-section (2) of that section;

(1) an order made by the Registrar under Section 101; or

(m) an order for attachment of any property made by the Registrar under Section 103 other than an order referred to in clause (e) of Section 105;

(n) x x x x x.]

(2) An appeal against any act, decision or order under sub-section (1) shall be made within sixty days from the date of the act, decision or order,

5(a) if the act, decision or order was made by the Registrar, to the State Government;

(b) if the act, decision or order was made by any other officer to that officer's immediate superior officer:]

6Provided that where the act, decision or order was made by the superior officer himself, the appeal shall lie to the next higher officer or authority and, if pending shall stand transferred to and be disposed by such next higher officer or authority.]

7 Explanation. x x x x x.]

1. Substituted for the words "An appeal shall lie under this section" by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Clause (c) omitted by Act No. 40 of 1964, w.e.f. 26-6-1965.

3. Clause (d-1) inserted by Act No. 70 of 1976 and shall be deemed to have come into force w.e.f. 19-7-1976.

4. Clause (i) omitted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

5. Clauses (a) and (b) substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

6. Proviso to clause (b) inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

7. Explanation omitted by Act No. 40 of 1964, w.e.f. 26-6-1965.

107. Revision by Tribunal :-

1 Subject to the provisions of Section 108-A, the Tribunal may] suo motu or on application of any person aggrieved call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit.

1. Substituted for the words "The Tribunal may" by Act No. 39 of 1975, w.e.f. 23-9-1975.

108. Powers of revision of State Government :-

¹ Subject to the provisions of Section 108-A, the State Government] suo motu at any time, and, on application of any person aggrieved, within a period of six months from the date of any order, may call for and examine the record of any case subject to appeal or revision by the Tribunal or those in respect of which an appeal has been made to the State Government under Section 106, and the State Government after such enquiry as it deems fit is satisfied that the order of the officer is contrary to law and has resulted in a miscarriage of justice, pass such orders thereon as the State Government deems just:

Provided that no order shall be made to the prejudice of any person under this section unless he has been given a reasonable opportunity of being heard.

1. Substituted for the words "The State Government" by Act No. 39 of 1975, w.e.f. 23-9-1975.

108A. No appeal or revision in certain cases :-

¹Notwithstanding anything contained in this Act, where with the previous sanction in writing or on the requisition of the Reserve Bank,

(i) a co-operative bank has been ordered to be wound up; or

(ii) a scheme of amalgamation or reorganisation of a co-operative bank is given effect to; or

(iii) an order for the removal of the committee and the appointment of an Administrator² and Special Officer] in respect of a co-operative bank, has been made, there shall be no appeal or revision against such order or action and the sanction or requisition of the Reserve Bank shall not be liable to be called in question in any Court of law.]

1. Section 108-A inserted by Act No. 39 of 1975, w.e.f. 23-9-1975.

2. Inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

CHAPTER 14

Offences and Penalties

109. Offences :-

(1) Any person other than a co-operative society carrying on

business under any name or title of which the word "Co-operative" or its equivalent in any Indian language, is part, without the sanction of the State Government, shall be punishable with a fine which may extend to ¹two thousand] rupees.

²(1-A) if default is made in giving effect to the order of the Registrar within the period specified in sub-section (3) of Section 105-A, the Co-operative Society and every ³office bearer] of the society who is in default shall be punishable with fine which may extend to one thousand rupees or with further fine which may extend to one hundred rupees for every day after the first during which the default continues.]

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a co-operative society who contravenes the provisions of Sections 32 or 33 by disposing of any property in respect of which the society is entitled to have a first charge ⁴five thousand] rupees.

(3) A co-operative society or an ⁵office bearer] or member thereof willfully making a false return or furnishing false information, or any person willfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or willfully not furnishing any information or handing over any documents or property required from him by a person or body of persons authorised in this behalf under the provisions of this Act, shall be punishable ⁶with imprisonment which may extend to two years but shall not be less than three months and with fine which may extend to three thousand rupees but shall not be less than five hundred rupees,]

(4) Any employer, who without sufficient cause, fails to make the deduction under sub-section (2) of Section 34, or fails to pay to a co-operative society the amount deducted by him under sub-section (2) of Section 34 within a period of fourteen days from the date on which such deduction is made, shall, without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with ⁷imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees.]

(5) If default is made in complying with provisions of ⁸sub-section (4)] of Section 16, sub-clause (ii) of clause (b) of sub-section {!} of

Section 24, sub-section (1) of Section 28, Section 56, Section 58, Section 59, Section 60 or Section 62, the co-operative society, and every ⁹office bearer] or member of committee of the society who is in default shall be punishable with fine which may extend to ¹⁰three] hundred rupees.

(6) If any person

(i) not eligible to become a member under Section 17 applies to a co-operative society for admission as a member, or becomes a member, or after ceasing to be a member ¹¹under sub-section (2) of that section acts as or exercises any rights or privileges of a member of any such co-operative society;]

(ii) exercise the rights of a member in contravention of the provisions of Section 19;

(iii) willfully fails to furnish the information or document in contravention of the provisions of sub-section (3) of Section 87;

(iv) grants a lease of the mortgaged property in contravention of sub-section (1) of Section 95, shall be punishable with ¹²imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees.]

¹³(7) If any person who is not eligible to vote under sub-section (2) of Section 20 exercises such vote, he shall be punishable with a fine which may extend to ¹⁴three thousand] rupees.]

¹⁵(8) If any person collecting any money as share money for a co-operative society in formation does not within a period of seven days from the date of such collection deposit the same in a co-operative bank specified by the Registrar in this behalf in the name of the co-operative society to be formed, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees.

(9) Any ¹⁶office bearer] or member of a co-operative society who is in possession of any information, books and records fails to furnish such information or produce such books or records or to give assistance to a person appointed or authorised by the State Government or the Registrar or the Director of Co-operative Audit under Sections 30, ¹⁷31], 63, 64, 65, 65-B or 73 and entitled to the possession thereof, shall be punishable with fine which may extend to three thousand rupees.

(10) Any ¹⁸office bearer] of a co-operative society or other person who fails to hand over the custody of books, records, cash, securities and other property belonging to the co-operative society to a person appointed under Sections 30, ¹⁹31], 73 or any other person or ²⁰[office bearer] entitled to the possession thereof shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees.

(11) Any ²¹office bearer] or member of a co-operative society who wilfully fails to comply with any decision, award or order passed by the Registrar or arbitrator or the tribunal shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to three thousand rupees.

(12) Any ⁵office bearer] or a member of co-operative society who wilfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he has interest, a loan in the name of any other person shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to three thousand rupees or with both.

²³(12-A) Where any person conducting audit under Section 63 or inquiry under Section 64 or inspection under Section 65 or Section 65-B.

(i) wilfully omits to mention in his report any defects or irregularity which he has noticed or might have noticed had he exercised due diligence during the course of audit, inquiry or inspection; or

(ii) wilfully makes false observation in his report, shall without prejudice to any other action that may be taken against him under any law for the time being in force be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both.

(12-B) Where a Chief Executive fails to send periodical extracts of cash book and certified copies of the proceedings of the General Meetings and Committee Meetings to the Registrar and the financing bank or credit agency within the time limits specified under sub-section (6) of Section 29-G, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both.]

(13) Any co-operative society or any ²⁴office bearer] or employee or paid servant thereof who fails to give effect to give any decision or award under Section 71 including order if any, passed by the appropriate appellate authority, such decision or award not being a money decree, shall if such failure is by,

(a) the Board, be punishable with fine which may extend to five thousand rupees; and

(b) an ²⁵office bearer] or an employee or a paid servant of such co-operative society, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

(14) A member of the committee of a co-operative society who uses or allows the use of properties or funds of any co-operative society otherwise than in accordance with the provisions of this Act, the rules or the bye-laws of the society, shall be punishable with fine which may extend to five thousand rupees.

(15) Where an ²⁶office bearer], an employee, a paid servant or a member of a co-operative society, receives or sanctions a benami loan, accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatsoever, other than legal remuneration as a motive or reward for doing or forbearing to do any official act or showing or forbearing to show in exercise of his official functions favour or disfavour to any person or for rendering or attempting to render any services or disservice to any person or used or allows to use the properties or funds of any co-operative society otherwise than in accordance with the provisions of this Act, the rules or the bye-laws of the co-operative society; or where any ²⁷office bearer] of the co-operative society signs in the minutes of the board or other committee meetings without actually attending such meeting; he shall be deemed to be guilty of corrupt practice, and

(i) every person found guilty of any corrupt practice shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both;

(ii) every person convicted of an offence under clause (i) shall be disqualified permanently to be an ²⁸ office bearer] or an employee or a paid servant of any co-operative society.

(16) Any co-operative society or a member of its committee or any employee thereof guilty of any contravention of the provisions of this Act for which no penalty is provided elsewhere, shall be punishable with imprisonment or a term which may extend to three months or with fine which may extend to five thousand rupees or with both.]

1. Substituted for the words "two hundred" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
2. Sub-section (1-A) inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.
3. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.
4. Substituted for the words "two hundred" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
5. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.
6. Substituted for the words "with fine which may extend to two thousand rupees" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
7. Substituted for the words "fine which may extend to two thousand rupees" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
8. Substituted for the word, brackets and figure "sub-section (2)" by Act No. 40 of 1964, w.e.f. 26-6-1965.
9. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.
10. Substituted for the word "two" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
11. Substituted for the words, figure and brackets "under sub-section (2) of that section, acts as a member" by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.
12. Substituted for the words "fine which may extend to one hundred rupees" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
13. Sub-section (7) inserted by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.
14. Substituted for the words "two thousand" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
15. Sub-sections (8) to (16) inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.
16. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.
17. Substituted for the figures "30-A" by Act No. 25 of 1998, w.e.f. 15-8-1998.
18. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.
19. Substituted for the figures "30-A" by Act No. 25 of 1998, w.e.f.

15-8-1998.

20. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

21. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

23. Sub-sections (12-A) and (12-B) inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

24. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

25. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

26. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

27. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

28. Substituted for the word "officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

110. Offences by Companies :-

(1) Where an offence under sub-section (1) or sub-section (4) of Section 109 or under any rule has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the aforesaid sub-section or in any rules, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under sub-section (1) or (4) of Section 109 or any rule has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purposes of this section,

(a) "company" means a body corporate, and includes a firm or

other association of individuals; and

(b) "director" in relation to a firm means a partner of the firm.

110A. Power to compound offences :-

¹ (1) The Registrar may accept from any person against whom a reasonable suspicion exists that he has committed any offence punishable under sub-sections (1), (1-A), (2), (5), (7), (9), (13) and (14) of Section 109 a sum of money not exceeding one thousand rupees by way of composition for the offence which such person is suspected to have committed.

(2) On the payment of such money to the Registrar the suspected person if in custody, shall be discharged, the property, if any, seized shall be released and no further proceeding shall be taken against such person or property.]

1. Section 110-A inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

111. Cognizance of offences :-

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

¹ (2) No prosecution shall be instituted under this Act without the previous sanction of,

(a) the Chief Auditor in respect of matters arising out of audit;

(b) the Registrar in respect of other matters.

(3) The sanction under sub-section (2) shall not be given,

(i) without giving to the person concerned an opportunity to represent his case;

(ii) if the Chief Auditor or the Registrar, as the case may be is satisfied that the person concerned has acted in good faith.]

1. Sub-sections (2) and (3) substituted for sub-section (2) by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

111A. Secretary :-

¹² x x x x x.

1. Section 111-A and Section 111-B inserted by Act No. 19 of 1976 and shall be deemed to have come into force w.e.f. 20-1-1976.

2. Section 111-A omitted by Act No. 25 of 1998, s. 61.

111B. Preservation of records :-

The books and every records of a co-operative society shall be preserved for such period as the Registrar may from time to time by general or special order direct. A list of records destroyed shall be prepared and kept by the ¹ Chief Executive.]]

1. Substituted for the word "Secretary" by Act No. 25 of 1998, w.e.f. 15-8-1998.

CHAPTER 15

Miscellaneous

112. Prohibition against the use of the word "Co-operative" :-

No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language is part:

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 carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act II of 1912), came into operation.

113. Address of a co-operative society :-

¹(1)] Every co-operative society shall have an ²office and address registered] in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

³ (2) All the meetings including the general body meetings of a co-operative society shall be held in its registered office:

Provided that any such meeting may, with the previous permission of the Registrar, be held at any other place within the same city, town or village where the registered office is situated if there is no sufficient accommodation to hold such meeting in the registered office.]

1. Section 113 renumbered as sub-section (1) thereof by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

2. Substituted for the words "address registered" by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Sub-section (2) inserted by Act No. 71 of 1976 and shall be deemed to have come into force w.e.f. 3-11-1976.

114. Copy of Act, rules and bye-laws to be open inspection

:-

Every co-operative society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the ¹ registered office] of the society.

1. Substituted for the words "registered address" by Act No. 25 of 1998, w.e.f. 15-8-1998.

115. Amendment of Bye-laws of Co-operative Societies in certain circumstances :-

¹ x x x x x.]

1. Section 115 omitted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

116. Orders to be pronounced :-

Every order, decision or award made or given by the Registrar, or any officer or other person or a Liquidator, under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

117. Procedure for settlement of disputes and power of the Registrar or any other person to whom a dispute is referred for decision under Section 70 :-

¹ (1) The Registrar or any other person to whom a dispute is referred for decision under Section 70, hearing a dispute under Section 71 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

(2) Except with the permission of the Registrar or any other person deciding a dispute, as the case may be,, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3)

(a) If the Registrar or any other person to whom a dispute is referred is satisfied that a person, whether he be a member of the Co-operative Society or not, has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may join

as a party to the dispute; and any decision that may be passed on the reference by the Registrar or his nominee or any other person shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Registrar or any other person to whom a dispute is referred for decision under Section 70 may, at any stage of the hearing of the dispute, if satisfied that the mistake was bonafide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

(c) The Registrar or any other person to whom a dispute is referred for decision under Section 70, may, at any stage of the proceedings, either upon or without the application of any party and on such terms as may appear to the Registrar, or any other person deciding a dispute, as the case may be to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, or any other person deciding a dispute under Section 70, as the case may be, may be necessary in order to enable the Registrar or such person effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of

1. Section 117 substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

118. Bar of jurisdiction of Courts :-

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

(a) the registration of a co-operative society or bye-laws or of an amendment of a bye-law;

(b) the removal of a committee ² or member thereof];

(c) any dispute required under Section 70 to be referred to the Registrar or the recovery of moneys under Section 100;

(d) any matter concerning the winding up and the dissolution of a co-operative society.

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

(3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any Court on any ground whatsoever.

1. Substituted for the words "civil or revenue Court" by Act No. 2 of 2000

2. Inserted by Act No. 2 of 2000 Civil Courts. The bar is dependent on the provisions of the Act in this regard.

119. Application of Limitation Act :-

The provisions of Sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall be applicable to the filing of any appeal or application for revision under this Act.

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

Notwithstanding anything contained in this Act, the State Government may, by special order published in the official Gazette in each case and subject to such conditions, if any, as it may impose, exempt any co-operative society from any of the requirements of this Act as to registration.

121. Power to exempt societies :-

¹ x x x x x.]

1. Section 121 omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

122. Register of Members :-

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

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

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

123. Proof of entries in co-operative societies books :-

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

(2) A co-operative society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

(3) ¹[No office bearer] of a co-operative society and ² no office bearer] in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the Liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under the order of the Court, Tribunal or the arbitrator made for special cause.

1. Substituted for the words "No officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Substituted for the words "no officer" by Act No. 25 of 1998, w.e.f. 15-8-1998.

124. Service of notice under the Act :-

Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place of residence or business of such person prepaying and posting by registered post a letter containing the notice or order and unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course.

125. Notice necessary in suits :-

No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitution, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the

Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

126. Acts of co-operative societies not to be invalidated by certain defects :-

No act of co-operative society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the constitution of the society or the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

126A. Removal and Disqualification of a member of a committee :-

x x x x x.]¹

1. Section 126-A omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

127. Indemnity :-

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority ¹or the ²Director of Co- operative Audit] or any other person subordinate to him acting on his authority] ³ or against the new committee of the co-operative society or the Administrator or the Special Officer appointed under Section 30 or Section 30-A] in respect of anything in good faith done or purporting to have been done under this Act.

1. Inserted by Act No. 3 of 1980 and shall be deemed to have come into force w.e.f. 11-8-1977.

2. Substituted for the words "Chief Auditor" by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

3. Inserted by Act No. 70 of 1976 and shall be deemed to have come into force w.e.f. 19-7-1976.

127A. Office bearers, members and employees] of co-operative societies to be public servants :-

¹²³ Every office bearer of a co-operative society, every member of a committee and every employee] of a co-operative society including sale and recovery officers shall be deemed to be public servants within the meaning of Section 21 of Indian Penal Code.]

1. Section 127-A inserted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

2. Substituted for the word "Employees" by Act No. 25 of 1998,

w.e.f. 15-8-1998.

3. Substituted for the words "Every employee" by Act No. 25 of 1998, w.e.f. 15-8-1998.

128. Companies Act, 1956, not to apply :-

The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to cooperative societies.

128A. Constitution of a common cadre :-

¹ (1) Notwithstanding anything contained in this Act, the rules or the bye-laws, where the Registrar, in the interest of the co-operative movement, considers that the creation of a common cadre of employees for any class of co-operative societies is necessary, he shall authorise one or more federal societies to which such class of co-operative societies is affiliated to exercise the power of appointment, transfer and disciplinary action in respect of such categories of employees of that class of co-operative societies as may be specified by him and make such regulations as may be necessary for carrying out the said purpose. Where such federal society is so authorised by the Registrar, the affiliated co-operative societies shall not have powers to deal with such categories of employees except to the extent the regulations may permit.

(2) The Registrar shall have power to require the affiliated co-operative societies to make contribution of such sum every year towards

1. Section 128-A substituted by Act No. 5 of 1984 and shall be deemed to have come into force w.e.f. 9-1-1984.

128B. Duties of Police Officer :-

¹ It shall be the duty of every police officer to assist the Registrar or any person subordinate to the Registrar reasonably demanding his aid for the lawful exercise of any power vesting in the Registrar or such person under this Act or any rule or bye-law made thereunder.]

1. Section 128-B inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

129. Powers to make rules :-

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely.

(a) the applicant to whom the order refusing the registration of a co-operative society may be sent by the Registrar;

(b) the procedure and conditions for change in the form and extent of the liability of a co-operative society;

(c) the matters in respect of which a co-operative society shall or may make bye-laws;

(d) the procedure to be followed for amendment of bye-laws by a co-operative society;

(e) the qualifications of individuals who may be admitted as members of co-operative societies;

(f) the provision for a second or casting vote by the chairman of a meeting of a co-operative society;

(g) the appointment by a co-operative society of one of its members to represent and vote on its behalf at a meeting of another co-operative society of which it is a member;

¹(h) x x x x x;]

(i) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;

(j) the mode in which the value of a deceased member's share shall be ascertained;

²(k) conduct of election of members of the committee and office bearers of the co-operative society including appointment of returning officers, polling officers and such other officers, and their powers and functions;]

(1) the requisitioning of a general meeting of a co-operative society;

³(m) remuneration payable to the members of the committee and the administrator or the Special Officer appointed in place of a committee removed by the Registrar;]

(n) the qualifications ⁴x x x x x] for membership of committee of a

co-operative society ⁵, the authority competent to decide questions of disqualification and appeals from such decisions;]

⁶(o) the recruitment including qualification for recruitment and conditions of service of employees of co-operative societies;]

(p) the prohibitions against officers of a co-operative society being interested in contracts with the society;

(q) the matters connected with direct and indirect partnership of the State Government in co-operative societies;

(r) the rate at which dividend may be paid by co-operative societies;

(s) the objects of the reserve fund of co-operative society and mode of its investment;

(t) the mode of disposal of reserve fund of a co-operative society on its winding up;

(u) the extent and conditions subject to which a co-operative society may receive deposits and loans;

(v) the restrictions on transactions by a co-operative society with non-members;

(w) the restrictions on grant of loans by a co-operative society against its shares;

(x) the form and standards of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits;

(y) the levy of audit fees on co-operative societies;

(z) the procedure to be followed in proceedings before the Registrar, ⁷and the fees payable to arbitrators;]

(aa) the conditions subject to which assets of a co-operative society shall vest in a liquidator and the procedure to be adopted in winding up of a co-operative society;

⁸(bb) the procedure for recovery of amounts due or payable to a Co-operative Society and for the transfer of property under Section 101-B;]

(cc) the mode of making attachment before judgment;

⁹(dd) the procedure and conditions for the issue, redemption,

reissue, transfer, replacement or conversion of debentures issued by a society to which Chapter XI is applicable;

(dd-1) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures issued by a society to which Chapter XI is applicable;

(dd-2) the qualifications and methods of appointment of an officer to effect sale under Section 89 and the powers and function which such an officer may exercise;

(dd-3) for the appointment of a receiver of the produce and income of the mortgaged property for sale under Section 89, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive;

(dd-4) the circumstances in which action may be taken by a ¹⁰Agriculture and Rural Development Bank] against a mortgagor under Section 91;

(dd-5) in case of sale of immovable property under Chapter XI,

(i) the procedure for proclamation and conduct of the sale and the conditions on which the proposed sale may be abandoned;

(ii) the method of calculating the expenses incidental to the sale or proposed sale;

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

(iv) the procedure for a resale if a proposed sale is abandoned or

(v) the form and method of disposal of money by a ¹¹Agriculture and Rural Development Bank] under section 89-B;

(vi) the form of sale certificate under Section 89-C;

(vii) the procedure for the delivery by the Court to the purchaser of the property purchased under Section 89-C;

(viii) the form of the notice referred to in Section 97; and (ix) the fee payable for the service of such notices and the manner of serving such notices, on the land lord named in such notices;

(dd-6) the time within which and the procedure according to which property purchased by a ¹²Agriculture and Rural Development

Bank] at a sale of immovable property under Chapter XI shall be disposed of by the Bank;]

(ee) the manner of registering the address of a co-operative society;

(ff) the ¹³account books, records] and registers to be kept by a co-operative society and power of Registrar to direct the accounts and books to be written up;

(gg) the manner of certification of entries in the books of a co-operative society and of copies of documents kept by it in the course of its business;

(hh) the statements and returns to be furnished by co-operative societies to the Registrar;

(ii) the restrictions on persons appearing as legal practitioners;

(jj) the inspection of documents and the levy of fees for granting certified copies thereof; and

(kk) the matters expressly required or allowed by this Act to be prescribed.

14(11) any other matter necessary for giving effect to the purposes of this Act.]

(3) In making a rule under this section, the State Government may

15 (4) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under Section 130, every rule made under this Act shall have effect as if enacted in this Act.]

1. Clause (h) omitted by Act No. 25 of 1998, w.e.f. 15-8-1998.

2. Clause (k) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

3. Clause (m) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

4. The words "and disqualifications" omitted by Act No. 39 of 1975, w.e.f. 23-9-1975.

5. Added by Act No. 40 of 1964, w.e.f. 26-6-1965.

6. Clause (o) substituted by Act No. 25 of 1998, w.e.f. 15-8-1998.

7. Added by Act No. 40 of 1964, w.e.f. 26-6-1965.

8. Clause (bb) substituted by Act No. 40 of 1964, w.e.f. 26-6-1965.

9. Clauses (dd) to (dd-6) substituted for clause (dd) by Act No. 40 of 1964, w.e.f. 26-6-1965.

10. Substituted for the words "Land Development Bank" by Act No. 25 of 1998, w.e.f. 15-8-1998.
11. Substituted for the words "Land Development Bank" by Act No. 25 of 1998, w.c.f. 15-8-1998.
12. Substituted for the words "Land Development Bank" by Act No. 25 of 1998, w.e.f. 15-8-1998.
13. Substituted for the words "account books" by Act No. 25 of 1998, w.e.f. 15-8-1998.
14. Clause (11) inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.
15. Sub-section (4) inserted by Act No. 40 of 1964, w.e.f. 26-6-1965.

129A. Model bye-laws :-

¹ (1) In respect of any of the matters specified in the rules made in accordance with clause (c) of sub-section (2) of Section 129, the Registrar may by notification, make model bye-laws and different model bye-laws may be made for different classes of societies.

(2) The Registrar may by order direct any co-operative society or class or classes of co-operative societies to adopt the model bye-laws in respect of any matter within such period not being less than three months from the date of receipt of the direction by the society.

(3) If a co-operative society fails to take any action for adopting the model bye-laws with or without modification the Registrar may by order declare that the said model bye-laws shall be deemed to have been adopted by such society from such date as may be specified in such order and such bye-laws come into force accordingly.)

1. Section 129-A inserted by Act No. 25 of 1998, w.e.f. 15-8-1998.

130. Rules and orders to be laid before State Legislature :-

Every notification issued under Sections 37, 54 and 132, every order made under Sections 120 and 121, and every rule made under Section 120 shall, as soon as may be, after it is issued or made be laid before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more sessions and if before the expiry of the said period, either House of the State Legislature makes any modification in the notification, order or rule or directs that the notification, order or rule shall not have effect and if the modification or direction is agreed to by the other House, the notification, order or rule shall thereafter have effect only in such

modified form or be of no effect, as the case may be.

131. Repeal and savings :-

The Bombay Co-operative Societies Act, 1925 (Bombay Act VII of 1925) as in force in the Bombay Area, the Madras Co-operative Societies Act, 1932 (Madras Act IV of 1932) and the Madras Co-operative Land Mortgage Banks Act, 1934 (Madras Act X of 1934) as in force in the Madras Area, the Coorg Co-operative Societies Act, 1936 (Coorg Act II of 1936) as in force in Coorg District, the Karnataka Co-operative Societies Act, 1948 (Karnataka Act LII of 1948), as in force in the Karnataka Area, the Hyderabad Co-operative Societies Act, 1952 (Hyderabad Act XVI of 1952), and the Hyderabad Co-operative Land Mortgage Banks Act, 1349 F (Hyderabad Act II of 1349 Fasli) as in force in the Hyderabad Area, are hereby repealed:

Provided that any co-operative society existing on the date of commencement of this Act which has been registered or deemed to be registered under any of the aforesaid repealed enactments shall be deemed to be registered under this Act; and the bye-laws of such society shall so far as they are not inconsistent with the provisions of this Act or the rules made thereunder, continue in force until altered or rescinded in accordance with the provisions of this Act and the rules made thereunder:

Provided further that subject to the preceding proviso Section 6 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899) shall be applicable in respect of the repeal of the said enactments and Sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and reenacted by a Karnataka Act.

132. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act in consequences of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government, may, by notification in the official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may by notification make such provisions, not

inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.