

**Madhya Pradesh Shakari Krishi Aur Gramin Vikas Bank
Adhiniyam, 1999**

20 of 2000

[05 July 2000]

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**Madhya Pradesh Shakari Krishi Aur Gramin Vikas Bank
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[05 July 2000]

An Act to facilitate a more efficient working of the Co-operative Agriculture and Rural Development Banks in Madhya Pradesh and to enable them to play a greater developmental role both in farming and non-farming sectors. Be it enacted by the Madhya Pradesh Legislature in the Fiftieth Year of the Republic of India as follows :-- 1 Received the assent of the President on the 5th July, 2000; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)" dated the 13th July, 2000.

CHAPTER 1

PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Madhya Pradesh Sahakari Krishi Aur Gramin Vikas Bank Adhiniyam, 1999.

(2) It extends to the whole of the State of Madhya Pradesh.

(3) It shall come into force¹ on such date as the State Government may, by notification, appoint.

1 W.e.f. 2-10-2000, vide Notification No. F-5-10-94-XVI-dated 26th Sept 2000, published in M.P. Rajpatra (Abadharam), dated 26-9-2000.

2. Definitions :-

(1) In this Act, unless the context otherwise requires--

(a) "Board" means the Board of Directors of the Madhya Pradesh State Co-operative Agriculture and Rural Development Bank Limited;

(b) "State Development Bank" means the Madhya Pradesh State Co-operative Agriculture and Rural Development Bank Limited, registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961);

(c) "District Development Bank" means a District Co-operative

Agriculture and Rural Development Bank registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961);

(d) "Loanee" means the person to whom loan is advanced by the State Development Bank or a District Development Bank on security as provided in sub-section (1) of Section 15;

(e) "National Bank" means National Bank for Agriculture and Rural Development established under Section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (No. 61 of 1981);

(f) "Security" means the security as referred to in sub-section (1) of Section 15 to secure the repayment of loan;

(g) "Sinking Fund" means a fund established and maintained by the State Development Bank for redemption of ordinary debentures;

(h) "Trustee" means the Trustee referred to in Section 7.

(2) Words and expressions used in this Act and not defined herein but defined in the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), and the Rules made thereunder, shall have the meaning assigned to them in that Act.

3. Conferral Of Registrars Power :-

The State Government may, by notification, for the whole or for any specified part of the State, appoint any officer sub-ordinate to the Registrar to exercise all or any of the powers and to perform all or any of the duties, conferred and imposed on the Registrar by or under this Act subject to such control as the State Government may direct.

CHAPTER 2

FUNDS AND RESOURCES

4. Power To Raise Funds :-

Notwithstanding anything contained in the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), the State Development Bank may, with the prior approval of the State Government and subject to the Rules made under this Act, raise funds through--

(a) Debentures;

(b) Bonds;

(c) Loans;

(d) Deposits;

(e) Donations; and

(f) Grants.

5. Issue Of Debentures :-

(1) With the previous sanction of the State Government and the trustee, the State Development Bank may issue debentures of one or more denominations for--

(i) such periods and at such rates of interest as it may deem expedient against one or more securities held or partly held or partly to be acquired or other assets taken by it and other assets and securities of District Development Bank transferred or deemed to have been transferred to it under the provisions of Section 20;

(ii) the purpose of providing loans to a company or any other body corporate established, registered or constituted, as the case may be, under any law for the time being in force and approved for that purpose by the State Government, on the strength of such Government Guarantee and with or without other securities and other assets, for such periods as it may deem expedient.

(2) The State Development Bank shall have the right to call in, at any time, any of the debentures in advance of the date fixed for redemption after issuing a notice in such manner as it may prescribe to the debenture holders.

(3) The total amount due on the debentures issued by the State Development Bank, and outstanding at any time, shall not exceed the aggregate of the amount due on the securities and other assets and Government Guarantee referred to in clause (ii) of sub-section (1) and the amounts paid thereunder and remaining with the State Development Bank or the Trustee at such time.

(4) Where debentures are issued otherwise than against mortgages held, the total amount due on debentures issued by the State Development Bank for the purpose specified in sub-section (1) and outstanding at any time shall not exceed the total amount as calculated under sub-section (3) increased by such portion of the amount obtained on the debentures as not covered by mortgages to such extent as may be approved by the State Government under sub-section (1).

6. Issue Of Bonds And Raising Of Loans And Deposits :-

(1) The State Development Bank may, subject to such directions or instructions as may be issued by the Reserve Bank of India or the National Bank from time to time, and with the previous sanction of the State Government issue bonds, which shall be in the form of

promissory notes repayable on the expiry of such period or periods from the date of issue thereof as may be approved by the Reserve Bank of India or the National Bank :

Provided that the State Development Bank may repay the amount due under the bonds at any time before the period or periods so fixed, after issuing a notice in such manner as it may prescribe to the bond holders.

(2) The State Development Bank may raise funds--

(a) by way of loans or deposits from the Central Government or a State Government, the National Bank, the Reserve Bank of India or such other financial institutions as may be approved by the Trustee;

(b) by way of deposits from the public.

7. Appointment And Powers Of Trustee :-

(1) The Registrar shall be the Trustee for the purpose of securing fulfilment of the obligations of the State Development Bank to its debenture-holders and for fulfilment of the obligations relating to the funds raised under Section 6 as also for the purpose of Section 20.

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

(3) The powers and functions of the Trustee shall be governed by the instrument of trust executed between the State Development Bank and the Trustee, as modified from time to time by mutual agreement.

(4) The securities furnished in favour of the District Development Bank and other securities and assets transferred or deemed to have been transferred under the provisions of Section 20 to the State Development Bank shall vest in the Trustee from the date of such furnishing or transfer.

(5) The debenture-holders shall have a floating charge on all such securities and assets, on the amounts paid under such securities and remaining with the State Development Bank or with the Trustee and on the other properties of the State Development Bank.

8. Government Guarantee For Debentures, Bonds And Loans :-

(1) The principal of, and the interest on, debentures issued under Section 5 or bonds issued or loans raised under Section 6, to such maximum amount as may be fixed by the State Government from time to time and subject to such conditions as it may deem fit to impose, shall carry the guarantee of the State Government.

(2) The State Government may, after consulting the State Development Bank and the Trustee, by notification in the Official Gazette and by notice published for not less than fourteen days in such of the principal newspapers, in and outside the State as it may select, discontinue the guarantee given under sub-section (1), or restrict the maximum amount thereof, or modify the conditions subject to which it is given with effect from a date specified in such notification or notice not being earlier than six calendar months from the date of the first publication of the notification in the Gazette.

(3) In case where the maximum amount of the guarantee is to be restricted or any of the conditions subject to which it is given, is to be modified, the notice shall set forth with sufficient clarity, the scope and effect of the restriction or modification, as the case may be.

(4) Any discontinuance, restriction or modification notified under sub-section (2) shall not effect in any way the guarantee carried by any debentures issued prior to the date on which such discontinuance, restriction or modification takes effect.

9. Guarantee Fund :-

(1) The State Government may constitute a Guarantee Fund on such terms and conditions as it may deem fit for the purpose of meeting losses that may arise on account of loans advanced by the State Development Bank and District Banks on thesecurities furnished in favour of the State Development Bank or transferred under the provisions of Section 20 not being fully recovered due to such circumstances as may be specified in the Rules.

(2) The State Development Bank and District Banks shall contribute to Guarantee Fund at such rates as may be prescribed.

(3) The Fund shall be maintained and utilised in such manner as may be prescribed.

10. Credit Stabilization Fund :-

(1) The State Development Bank shall constitute a Credit Stabilization Fund for the purpose of--

- (i) enabling it to discharge its obligations in the event of postponement of repayment of loans or of instalments of loans; or
 - (ii) meeting the obligations of Sinking Fund arising as a consequence of total or partial failure of crops on account of drought or any other natural calamity; or
 - (iii) enabling it to discharge its obligations in the event of default by a member due to loss caused by a natural calamity in products of Rural and Cottage Industries as described by the National Bank.
 - (iv) any other purpose as determined by the Registrar.
- (2) The State Development Bank and the District Development Banks shall contribute to the Fund at such rates and maintain and utilise it in such manner as may be determined by the Registrar.
- (3) The State Development Bank may receive contributions to the Fund made from time to time from any person or the Central Government and the State Government.

11. Power Of State Development Bank To Make Regulations For The Purpose Of This Chapter :-

The State Development Bank shall, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Chapter--

- (a) for fixing the period of debentures, or bonds or deposits and the rate of interest payable thereon;
- (b) for calling in debentures or bonds after giving notice to debenture or bond-holder, as the case may be;
- (c) for the issue of new debenture or bonds in place of debentures or bonds damaged or destroyed and fixing the fee for such issue;
- (d) for converting one class of debentures or bonds into another class of debentures or bonds bearing a different rate of interest; and
- (e) generally for carrying out the provisions of this Chapter.

CHAPTER 3 **LOANS**

12. Power To Advance Loans :-

Subject to Rules made under this Act, it shall be competent for the State Development Bank and District Development Banks to Advance loans for the following purposes :--

- (i) agricultural and rural development; and
- (ii) such other purposes, for which refinance facilities are available from the National Bank.

Explanation :-- For the purpose of this section, "Agricultural and Rural Development purposes" means any work, construction or activity which aids agricultural and rural development and in particular includes the following :--

- (a) construction and repair of wells including tubewells, borewells and dug-cum-borewells, tanks and other works for storage, supply or distribution of water for the purposes of agriculture or for use of men and cattle employed in agriculture;
- (b) renewal or reconstruction of any of the foregoing works or alteration therein or additions thereto;
- (c) preparation of land for irrigation including Command Area Development;
- (d) drainage, reclamation from river or other waters, or protection from Hoods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is culturable;
- (e) binding and similar improvements;
- (f) reclamation, clearance and enclosure or permanent improvement of land for agricultural purposes;
- (g) horticulture;
- (h) pisciculture;
- (i) poultry, animal husbandry or dairy farming;
- (j) sheep and goat rearing, piggery;
- (k) purchase of plough-bullocks;
- (l) purchase and repair of oil engines, pumping sets, and electrical motors for any of the purposes mentioned in this section;
- (m) purchase of tools, implements, machinery;
- (n) purchase and repair of tractor or powertillers or any other agricultural machinery;
- (o) increase of the productive capacity of land by addition to it of special variety of soil;
- (p) construction, repair and reconstruction of permanent farm-houses, cattle-sheds and sheds for processing of agricultural produce at any stage;
- (q) purchase of machinery for crushing sugarcane, manufacturing Gur;
- (r) purchase of machinery for harvesting and processing of agricultural produce;
- (s) apiculture, sericulture including production of silk;
- (t) plantation including tree crops;
- (u) agro-forestry;
- (v) transportation, storage including rural warehouses, godowns, and cold-storage, and marketing of agricultural, cottage and

industrial products, and acquisition of implements and machineries including animal-driven carts in connection with such activities;
(w) market yards for agricultural produce;
(x) establishment of bio-gas plant;
(y) working capital or production credit to borrowers of investment credit;
(z) setting up of cottage and village industries;
(a-1) purchase of shares in Co-operative sugar factory, spinning mill or any agro-processing industry;
(b-1) laying of transmission lines of electricity, and rural electrification;
(c-1) development and use of non-traditional sources of energy;
(d-1) establishment of milk-chilling plant.
(e-1) acquisition including acquisition of plot, construction, reconstruction or repair of rural dwelling houses;
(f-1) all such other activities as are incidental or ancillary to the above mentioned purposes or as may be approved by the Board of the State Land Development Bank in consultation with the Refinancing Agencies, in case of any disagreement the Board's decision shall be final.

13. Who Can Be Granted Loans And Advances :-

(1) Notwithstanding anything contained in the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) loans for the purposes mentioned in Section 12 may be granted by the State Development Bank or a District Development Bank to the following :--

- (a) a Co-operative Society registered under the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961); or
- (b) an individual competent to contract under Section 11 of the Indian Contract Act, 1872 (No. 11 of 1872) ; or
- (c) a public trust registered under the Madhya Pradesh Public Trusts Act, 1951 (No. 30 of 1951); or
- (d) a Firm, a Company or any other body corporate established or constituted, as the case may be, under any law for the time being in force; or
- (e) a Society registered under the Madhya Pradesh Society Registrations Act, 1973 (No. 44 of 1973) as may be approved by the State Government in this behalf by general or special order; or
- (f) a minor acting through a guardian appointed by the Court:

Provided that the loan shall be granted to those who are members of the State Development Bank or District Development Banks as provided in the bye-laws.

(2) Notwithstanding anything contained in any law for the time being in force, District Development Banks may grant loans to any member of a joint holding in land, only to the extent of his share therein.

14. Regulation Of Certain Categories Of Membership :-

The State Development Bank or a District Development Bank shall admit any company or corporation or body of persons as member subject to the prior approval of the Registrar.

15. Security For Loans :-

(1) Notwithstanding anything contained in the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), the State Development Bank or District Development Banks may accept any of the following securities for grant of loans on the basis of principles of valuation approved by the Registrar :--

- (i) Mortgage;
- (ii) Pledge;
- (iii) Hypothecation;
- (iv) Lien;
- (v) Government Guarantee;
- (vi) Surety;
- (vii) Bond;
- (viii) Guarantee; and,
- (ix) Promissory Note.

(2) All loans advanced by and all amounts payable to or recoverable by the State Development Bank or District Development Banks shall, in case of default of payment, be recoverable as arrears of land revenue in addition to other remedies available to them.

(3) In case a loan and interest thereon is not recovered from the borrower, it shall be recoverable from the surety or guarantor in such manner as may be prescribed.

16. Disposal Of Application For Loan :-

When an application for a loan is made for any of the purposes specified in Section 12, it shall be disposed of in such manner, by

such authority and within such time, as may be prescribed.

17. Order Granting Loan Conclusive Of Certain Matters :-

A written order by the State Development Bank or a District Development Bank or by the persons or Committees authorised under its bye-laws to make loans for all or any of the purposes specified in Section 12, advancing either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the development of the land or for the agricultural and rural development purposes specified therein, shall, for the purposes of this Act, be conclusive of the following matters :--

- (a) that the work described or the purpose for which the loan is granted is an Agricultural and Rural Development purpose within the meaning of Section 12;
- (b) that the person had on the date of the order a right to make such an improvement or incur expenditure for Agricultural and Rural Development purposes, as the case may be;
- (c) that the improvement is one benefiting the land specified; and
- (d) that the Agricultural and Rural Development purpose concerns the land offered in security, or any part thereof as may be relevant.

18. Application For Loan From A District Development Bank To Be Supported By Affidavit :-

(1) Every person who applies for a loan from a District Development Bank shall give declaration on an affidavit in such form as may be prescribed before an officer specified by the State Development Bank in this behalf that the movable or immovable property furnished as security for the loan is free from encumbrances and that he is in actual possession thereof and that he has the right to furnish such security in favour of the District Development Bank.

(2) Notwithstanding anything contained in any law for the time being in force, where an affidavit under sub-section (1) in respect of any movable or immovable property is false or defective, the District Development Bank shall, subject to the provisions of Section 20, have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the security furnished by the applicant for the loan granted to him by the District Development Bank.

(3) Any person, who makes a false affidavit under sub-section (1) or makes any statement which is false in any such affidavit shall, in addition to action under sub-section (2), be punishable also under the Indian Penal Code, 1860 (45 of 1860).

(4) The amount of loan that may be sanctioned on the basis of an affidavit made under sub-section (1) shall be subject to such limit as may be prescribed.

19. Priority Of Claims Over Securities :-

(1) Any amount payable under a security furnished in favour of the State Development Bank or a District Development Bank shall have priority over any claim of the Government arising from a loan, under the Land Improvement Loans Act, 1883 (XIX of 1883) or the Agriculturists Loans Act, 1884 (XII of 1884) or under any other law for the time being in force, granted after the security is furnished in favour of the State Development Bank or a District Development Bank, as the case may be.

(2) Notwithstanding anything contained in any law for the time being in force, a security furnished in favour of the State Development Bank or a District Development Bank shall take precedence over any attachment or mortgage or charge over the properties, where, after publication of a notice in such form and manner as may be prescribed, the claim or interest under such attachment or mortgage or charge has not been notified to the State Development Bank or the District Development Bank as the case may be within the time specified in the said notice.

(3) Notwithstanding anything contained in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) or any other law for the time being in force, where a security furnished in favour of a District Development Bank is in respect of land in which an occupancy tenant has an interest, the mortgage or hypothecation may be against the security of such interest, and the rights of the State Development Bank or District Development Bank shall not be affected by the failure of the occupancy tenant to comply with the requirements of the said Code, and the sale of the land and his interest therein under the said Code shall be subject to the prior charge of the State Development Bank or the District Development Bank.

20. Transfer And Vesting Of Security With State Development Bank :-

Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882), a security furnished or deemed to have been furnished in favour of, and all other assets transferred or deemed to have been transferred to a District Development Bank shall, with effect from the date of such furnishing or transfer or with effect from the date of such execution or transfer, as the case may be, be taken to have been transferred by such District Development Banks to the State Development Bank.

21. Money Borrowed For Development Of Land :-

Where a District Development Bank has granted a loan for improvement of any land situated in any area or areas covered by any specific programme of Agricultural Development to a person appearing to the District Development Bank to have title to the said land or to be in lawful possession thereof, and the money has been either in whole or in part utilised for such improvement, any person acquiring title to such land on any ground whatsoever, shall be liable to repay to the District Development Bank so much of the loan as has been utilised for the improvement of the land together with interest thereon.

22. Omitted :-

1[* * *]

1 Omitted by M.P. Act No. 29 of 2000 (w.e.f. 6-9-2000).

CHAPTER 4

DISTRAINT AND SALE OF PRODUCE

23. Distraint When To Make :-

(1) If any instalment or any part thereof payable under a security furnished in favour of the State Development Bank or a District Development Bank has remained unpaid for more than one month from the date on which it fell due, the State Development Bank or the District Development Bank may, in addition to any other remedy available to it, apply to the Registrar for recovery of such instalment or part thereof by distraint and sale of the produce of the land or products to which the security relates, including standing crops thereon and other movable property of the defaulter.

(2) On receipt of such application, the Registrar may, notwithstanding anything contained in the Sale of Goods Act, 1930

(3 of 1930) or any other Law for the time being in force take such action as is necessary to distrain and sell such produce or products or movable property.

(3) The State Government may, by general or special order published in the Gazette, declare that such portion of the produce referred to in sub-section (1), or raw material required to maintain the income generating activity involved as may appear to the State Government to be necessary for the purpose of providing until the next harvest for the due cultivation of the land or till completion of current cycle of production for the support of the loanee and his family, shall be exempted from liability to distraint and sale under this Act.

(4) (a) Cattle distrained as movable property of a loanee may be kept in custody in a cattle pound by the distrainer at his cost.

(b) In such cases, notwithstanding anything contained in the Cattle Trespass Act, 1871 (No. 1 of 1871), cattle shall be released from the pound only on the order of distrainer and, in the event of such cattle being auctioned according to the provisions of Cattle Trespass Act, the sale proceeds, after deduction of expenditure incurred by pound, shall be deposited with the District Development Bank.

(5) Nothing in this section shall permit the distraint and sale of following, namely :--

(i) the necessary wearing apparel, cooking vessels, beds, and bedding of the defaulter and his wife and children, and such personal ornaments as cannot be parted with by any woman in accordance with her religious usage;

(ii) tools of artisans, implements of husbandry except an implement driven by mechanical power and such cattle and seed-grain as may, in the opinion of the Registrar be necessary to enable the defaulter to earn his livelihood as such;

(iii) articles set aside exclusively for the use of a religious endowment.

(6) The distraint shall not be excessive and 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 cost of the sale :

Provided that any mistake, defect or irregularity in this respect shall not invalidate a distraint or sale under this Act.

24. Distraint How To Make :-

(1) When a distraint is made under Section 23, the distrainer shall serve or cause to be served upon the defaulter a written demand specifying the amount for which the distraint is made.

(2) The notice of demand shall be dated and signed by the distrainer and shall be served upon the defaulter by delivering a copy thereof to him or to some adult male member of his family at his usual place of residence or office or Registered Office or to his authorised agent, or if such service cannot be effected, by affixing a copy of the notice of demand on some conspicuous part of his residence or office or registered office or of the land to which the security relates.

25. Sale Of Property Distrainted :-

(1) If, within fifteen days from the date of service of the notice of demand referred to in Section 24, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell by auction the distrainted property or such part thereof as may, in his opinion, be necessary to satisfy the demand together with the expenses of the distraint and the cost of the sale.

(2) A deduction of account of the costs of the sale shall be made from the proceeds of such sale at such rates as may be fixed by the Registrar from time to time.

(3) The expenses incurred on account of the distraint by the distrainer shall be deducted from the balance.

(4) The remainder, if any, shall be applied to the discharge of the amount for which the distraint was made.

(5) Surplus, if any, shall be delivered to the person whose property has been sold and he shall also be given a receipt for the amount discharged from the proceeds of the sale.

CHAPTER 5

SALE OF PROPERTY WITHOUT INTERVENTION OF COURT

26. Power To Sell Property Charged Without Intervention Of Court :-

(1) Notwithstanding anything contained in the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) or the Trustees and Mortgagees Power Act, 1886 (No. 28 of 1886) or any other law for the time being in force, where a security has been furnished in respect of movable or immovable property in favour of the State Development Bank or a District Development Bank, the Bank or any person authorised for the purpose shall, in case of default in

the payment of sums due to the Bank, have power, in addition to any other remedy available to it to bring to sale the property to which the security relates without intervention of any Court of law.

(2) No such power shall be exercised by a District Development Bank unless and until the State Development Bank has previously authorised such sale in exercise of the power conferred on it under sub-section (1) :

Provided that the State Development Bank shall be deemed to have authorised the exercise of such power if no reply is received from it within thirty days of making a reference by the District Development Bank or any person authorised by it for the purpose :

Provided further that approval shall not be necessary in case where the loan is advanced by the District Development Bank out of their own fund.

(3) No such power shall be exercised by the State Development Bank or a District Development Bank unless and until--

(a) notice requiring payment of sums due to the District Development Bank or any part thereof has been served upon--

(i) the loanee;

(ii) any person who has any interest or charge upon the property to which the security relates or any other right to redeem the same;

(iii) any surety for the payment of the sums due to the District Development Bank;

(iv) any creditor of the loanee who has, in a suit for the administration of his estate, obtaining a decree for sale of the property to which the security relates; and

(b) there has been default in payment of such sums due to the District Development Bank for a period of two months after service of the notice referred to in clause (a) :

Provided that the obligation to give such notice to the persons mentioned in sub-clauses (ii) and (iv) of clause (a) shall be confined to cases where the State Development Bank or the District Development Bank has notice of such claims.

(4) Any balance remaining due after the sale of the property may also be recovered in the manner provided under this Act from any other assets of the loanee.

27. Application For Sale And Manner Of Sale :-

(1) For exercising the power to sell conferred in sub-section (1) of Section 26, the State Development Bank or a District Development Bank or any person duly authorised by the State Development

Bank or a District Development Bank as the case may be, may apply to the sale officer appointed in that behalf under Section 35 to sell the property to which the security relates or any part thereof, and such officer shall, after giving notice in writing as required by sub-section (3) of Section 26, sell such property in such manner as may be prescribed.

(2) The sale shall be by public auction and shall be held in the village where the property to which the security relates is situated or at the nearest public place if the sale officer is of the opinion that the property is likely to be sold to better advantage at such place.

(3) The Sale Officer shall forthwith deposit the proceeds of sale with the State Development Bank or the District Development Bank, as the case may be.

28. Confirmation Of Sale :-

(1) When a property has been sold under this Chapter, any person having a right or interest therein affected by the sale may, at any time within thirty days from the date of the sale, apply to the Sale Officer concerned to have the sale set aside on depositing with the Sale Officer--

(a) for payment to the State Development Bank or the District Development Bank, as the case may be, the amount specified in the proclamation of sale together with subsequent interest and the costs and expenses, if any incurred by the Bank in bringing the property to sale, and

(b) for payment to the purchaser a sum equal to five percent of the purchase money and interest on his deposit at the rate applicable to savings accounts.

(2) If such deposit is made, the sale officer shall make an order setting aside the sale.

(3) Notwithstanding anything contained in any law for the time being in force, where no application with deposit is made under sub-section (1) or where such application is made and disallowed, the Sale Officer may apply to the Registrar or any other officer empowered by him in this behalf (not below the rank of Assistant Registrar to make an order confirming the sale and on the Registrar or such officer confirming the sale, it shall become absolute and the property shall be deemed to have vested in the purchaser from the time the property is sold.

(4) The final order passed under sub-section (3) shall not be

subject to appeal or revision in accordance with the provisions of Section 77 and Section 80 of the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961).

29. Distribution Of Sale Proceeds :-

The proceeds of every sale under this Chapter shall be applied by the Sale Officer--

Firstly, in payment of all costs, charges and expenses properly incurred by him as incidental to the sale or any attempted sale;

Secondly, in payment of all interest due on account of the loan in consequence whereof the property was sold;

Thirdly, in payment of the principal amount of the loan;

Fourthly, in payment to any creditor of the loanee who has, in a suit for the administration of his estate, obtained, a decree for Sale of the property to which the security relates; and

Lastly, the residue, if any, 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, according to their respective interest therein or upon their joint receipt:

Provided that the sale officer shall not distribute such residue until thirty days have elapsed from the date of communication of his decision to all the persons concerned.

30. Grant Of Sale Certificate :-

(1) Where a sale of property has become absolute and the sale proceeds have been received in full by the sale officer, he shall grant a certificate to the purchaser in such form as may be prescribed specifying the property sold, the sale price, the date of the sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute.

(2) Upon production of such a certificate in respect of immovable property the Sub-Registrar concerned shall enter the contents of such certificate in his register relating to immovable property.

(3) Upon production of such a certificate in respect of landed property, the land record entries shall be duly mutated by the Revenue Authority concerned.

31. Possession Of Property :-

If the property sold is in occupation of the loanee or of some person

on his behalf or of some person claiming under a title created by the loanee subsequent to the offering security in favour of the State Development Bank or a District Development Bank and the certificate in respect thereof has been granted under Section 30, the Collector shall, on the application of the purchaser, put him or any person authorised in this behalf, in possession of the property.

32. Right Of State Development Bank Or District Development Bank To Purchase Property At Sale :-

It shall be competent for the State Development Bank or a District Development Bank to purchase any property sold under this Chapter :

Provided that the property so purchased shall be disposed of by such Bank by sale within such period as may be fixed by the Trustee.

33. Appointment And Power Of Receiver :-

(1) Notwithstanding anything contained in sub-section (4) of Section 7, the State Development Bank on its own motion or on the application of any of its branches, or a District Development Bank may appoint in writing a receiver of the produce and income from the property offered as security or any part thereof and such receiver shall be entitled either to take possession of this property or collect its produce and income, as the case may be, and to retain out of any money realised by him, his expenses of management including his remuneration, if any as may be fixed by the State Development Bank or a District Development Bank 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 (IV of 1882).

(2) The State Development Bank or a District Development Bank may, on its own motion or on an application made by the loanee and on sufficient cause remove a receiver appointed under sub-section (1).

(3) A vacancy in the office of the receiver may be filled up by the State Development Bank or a District Development Bank.

(4) Nothing in this section shall empower the State Development Bank or a District Development Bank to appoint a receiver where the property is already in the possession of a receiver appointed by a Civil Court :

Provided that the State Development Bank through its Managing Director or a District Development Bank through its General

Manager may file a petition in Civil Court to direct the receiver appointed by it to apply any part or whole of the balance of the amount realised by him to the discharge of the amount due to the State Development Bank or a District Development Bank, as the case may be.

34. Title Of Purchaser Not To Be Impeachable :-

When a sale has been made and confirmed under this Chapter, the title of the purchaser shall not be impeachable on the ground that no cause had arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised; but any person damnified by an unauthorised or improper or irregular exercise of the power shall have his remedy in damages against the State Development Bank or the District Development Bank, as the case may be.

35. Appointment Of Sale Officer :-

The Registrar may appoint Sale Officer for the purpose of conducting sales under this Act.

CHAPTER 6

MISCELLANEOUS

36. Powers Of State Development Bank Or District Development Bank In Case Of Insufficient Security Or Misutilisation Of Loan :-

(1) Where any property offered as security to the State Development Bank or a District Development Bank is rendered insufficient the whole of the loan shall be deemed to have fallen due at once and the State Development Bank or the District Development Bank, as the case may be, shall be entitled to take action under Section 23 or Section 26 for its recovery :

Provided that no action shall be taken unless the loanee has been given reasonable opportunity of furnishing further security sufficient to cover the gap or of repaying such portion of the loan as may be determined by the State Development Bank or a District Development Bank and the loanee has failed to avail of such opportunity.

Explanation :-- A security shall become insufficient within the meaning of this section if the value of the property falls below the amount for the time being due to the State Development Bank or

the District Development Bank by such proportion as may be specified in the regulations of the State Development Bank or the bye-laws of the District Development Bank, as the case may be.

(2) In case of misutilisation of loan, the whole of the loan amount shall be deemed to have fallen due at once and the State Development Bank or a District Development Bank, as the case may be, shall be entitled to take action under Section 23 or Section 26 for its recovery.

37. Powers Of State Development Bank And Trustee To Direct Distraint And Sale Of Produce And Sale Of Property :-

(1) The Trustee may direct the State Development Bank to take action against a defaulter under Section 23 or Section 26 or Section 36 and if the State Development Bank neglects or fails to do so the trustee may take such action.

(2) The State Development Bank or the trustee may direct the District Development Bank to take action against a defaulter under Section 23 or Section 26 or Section 36 and if the District Development Bank neglects or fails to do so, the State Development Bank or the trustee may take such action.

(3) Where action is taken by the State Development Bank under sub-section (2), then the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the District Development Bank in the said provisions were references to the State Development Bank.

(4) Where action is taken by the trustee under sub-section (1) or (2) then the provisions of this Act and of any rules or regulations made thereunder shall apply in respect thereto as if all references to the State Development Bank or the District Development Bank as the case may be, in the said provisions were references to the trustee.

38. Banks Right To Improvements Effected To The Security :-

Notwithstanding anything contained in any law for the time being in force, the improvement, if any, made by the owner or lessee as the case may be of the property furnished as security subsequent to the date of the advancement of loan by the State Development Bank or a District Development Bank, shall be treated as accession to the property and shall be available to such Bank for realisation of the loan advanced.

39. Deduction From Sale Proceeds Of Agricultural Produce In Certain Cases :-

(1) Notwithstanding anything contained in any law for the time being in force an applicant for a loan from a District Development Bank may execute an agreement in favour of that Bank providing that it shall be lawful for the marketing co-operative societies or any other institutions constituted under law through which the agricultural produce belonging to the applicant is marketed, to deduct such amount as may be specified in the agreement from the sale proceeds of such agricultural produce marketed through such co-operative societies or institutions and to pay the amount so deducted to such District Development Bank in satisfaction of any debt or other demand due from the applicant to that Bank.

(2) (a) On execution of an agreement as provided in sub-section (1), the marketing co-operative society or any other institutions referred to in that sub-section shall, on a requisition, in writing by the District Development Bank and so long as such debt or demand or any part of it remains unpaid, make a deduction, in accordance with the requisition, from the sale proceeds of the agricultural produce belonging to the applicant and marketed through them and pay the amount so deducted to the District Development Bank within such period as may be prescribed from the date of deduction.

(b) If the marketing co-operative society or any other institutions referred to in sub-section (1) fails to make the payment to the Bank within aforesaid time, the marketing co-operative societies or any other institutions referred in sub-section (1) shall be liable to pay interest on the amount so recovered at the same rate which is recoverable from the borrower, in case of default.

(c) After receipt of the aforementioned deducted amount by the State Development Bank or District Development Bank, as the case may be, the obligation of the borrower shall be discharged upto such extent.

(3) Any payment made by a marketing co-operative society or any other institutions under sub-section (2) shall be valid and effective against any demand upon such society or institution.

(4) Notwithstanding anything contained in sub-section (1) the amount of deduction from the sale proceed shall not be more than the percentage declared by the Registrar by general or special order in this behalf.

(5) Where loans have been taken by the borrower from more than

one Bank the distribution of the deducted amount shall be apportioned amongst different Banks at such rate as may be fixed by the Registrar from time to time.

40. Security Not To Be Questioned In Insolvency Proceedings :-

Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (5 of 1920), any security furnished to the State Development Bank or a District Development Bank shall not be called in question on the ground that it was not furnished in good faith for valuable consideration or on the ground that it was furnished in order to give such Bank a preference over the other creditors of the loanee.

41. Restriction On Power To Encumber Or Transfer The Property Offered As Security :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882) or any other enactment for the time being in force no property offered as Security shall be encumbered otherwise or transferred thereafter.

(2) Provisions of Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) shall apply to a property offered as security under this Act.

(3) Notwithstanding anything contained in any law for the time being in force, security submitted as guarantee in favour of State Development Bank or District Development Bank shall not be attached in execution of decree of any Court.

42. Power To Summon Witnesses And Requisition Documents :-

(1) Subject to such restrictions, limitations and conditions as may be prescribed, the Registrar and such of his subordinate officers and other officers of the State Development Bank and District Development Banks as are authorised by him in this behalf by a general or special order in writing, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit, and exercise them in respect of the following matters; namely :--

(a) enforcing attendance of any person and examining him on oath or affirmation;

(b) compelling production of documents; and

(c) issuing commission for examination of witnesses.

(2) Any of the officers authorised by or under sub-section (1) may require any person to be present before him to furnish any information or to produce any document then and there in his possession or power.

(3) Any officer before whom any document is produced in compliance of an order issued under sub-section (1) or sub-section (2) shall have the power to take, or to authorise the taking of, such copies of the documents or of any entries therein as such officer may consider necessary and the copies so taken shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein, as the case may be, is admitted.

(4) Any person who wilfully or without reasonable excuse disobeys any summons, requisition or order issued under sub-section (1) or sub-section (2) shall be punishable by the officer concerned with fine which may extend to five hundred rupees for each such default :

Provided that no such fine shall be imposed without giving the party concerned an opportunity of being heard.

43. Registration Of Document By State Development Bank Or District Development Bank :-

(1) Notwithstanding anything contained in the Indian Registration Act, 1908 (XVI of 1908) or any other law for the time being in force, it shall not be necessary to register the security furnished in favour of the State Development Bank or a District Development Bank, provided that the State Development Bank or a District Development Bank, concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged for the purpose of securing repayment of the loan to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged is situated and such Registering Officer shall file the copy in his Book No. 1 as prescribed under Section 51 of the Indian Registration Act, 1908 (XVI of 1908).

(2) One copy of every mortgage deed executed shall also within thirty days of its receipt be forwarded by the State Development Bank or a District Development Bank, as the case may be, to the

Tehsildar or any other officer as may be specified by the State Government in this behalf within whose jurisdiction the land or property is situated for the purpose of making necessary entries in the land records under sub-section (3).

(3) Notwithstanding anything contained in the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959), the Land record maintained under the said Code or record maintained under any other law, shall also include the particulars of every charge on the land or property or interest created under the mortgage deed or document executed and a copy of each entry so made shall, within thirty days of the date on which it is made be sent to the Bank concerned.

44. Power Of District Development Bank To Receive Money And Grant Valid Discharges :-

Notwithstanding that a security furnished in favour of a District Development Bank has been transferred or is deemed to have been transferred under Section 20 to the State Development Bank :--

(a) all moneys due under the security shall, in the absence of any specific direction to the contrary issued by the State Development Bank or the Trustee and communicated to the loanee shall be payable to the District Development Bank and such payment shall be valid as if the security furnished had not been so transferred; and

(b) the District Development Bank shall, in the absence of any specific direction to the contrary issued by the State Development Bank or the Trustee, be entitled to sue or take any other proceedings for the recoveries of moneys due on the security furnished.

45. Proof Of Documents Or Entries In Documents :-

The State Development Bank or any District Development Bank may grant copies of any document obtained and kept by it in the course of its business or any entries in such documents 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, is admitted.

46. Application Of Chapters Iii, Iv And V To Loans Advanced By District Development Banks From Fund Not Borrowed

From State Development Bank :-

The provisions of Chapters III, IV and V shall apply also to loans advanced by a District Development Bank from funds which have not been borrowed by it from the State Development Bank.

47. Services Of Notices :-

Wherever under the provisions of this Act, a notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post.

48. Application Of Provisions Of Transfer Of Property Act, 1882 To Notices :-

The provisions of Sections 102 and 103 of the Transfer of Property Act, 1882 (No. IV of 1882), and of any rules made under Section 104 thereof 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 Act.

49. Officers Of Banks And Sale Officers Not To Bid At Sales :-

At any sale of movable or immovable property made under this Act in order to recover any money due to the State Development Bank or a District Development Bank, no officer or employee of such Bank (except on behalf of the Bank of which he is an officer or employee) and no sale officer or other 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.

50. Officers, Employees Or Persons To Be Public Servant, And Their Indemnity For Acts Done In Good Faith :-

(1) Every officer, employee or person of the State Development Bank or a District Development Bank or an authority exercising or authorised to exercise the powers under this Act or the Rules made thereunder or under the Co-operative Societies Act, 1960 (No. 17 of 1961) or the Rules or Bye-laws made thereunder shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

(2) No suit, prosecution or other legal proceedings shall lie against

any such officer, employee, person or authority for anything which is in good faith done or intended to be done under this Act.

51. Delegation Of Powers By The State Development Bank :-

The State Development Bank may, if it thinks fit, delegate all or any of its powers under Section 26, 27 or 33 to a Committee consisting of not more than three members, one of whom shall be the Registrar or his nominee, not below the rank of Joint Registrar.

52. Opening Of Branches :-

The State Development Bank or a District Development Bank may, from time to time, with the previous sanction of the Registrar or any such authority as is necessary, in such manner as may be prescribed, open branches or Regional Offices of the State Development Bank or a District Development Bank at such convenient places as it thinks fit and carry on operations through them.

53. Special Provisions For Security Furnished By Karta Of A Hindu Undivided Family :-

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

(i) the Security furnished in respect of loans by the State Development Bank or a District Development Bank either before or after commencement of this Act by the Karta of a Hindu Undivided Family for improvement of agricultural land or for other purposes enumerated in this Act, shall be binding on every member of such Hindu Undivided Family;

(ii) where a security furnished is called in question the burden of proof shall be on the objector.

54. Section 8 Of Act 32 Of 1956 To Apply To District Development Bank Subject To Certain Modifications :-

(1) Section 8 of the Hindu Minority and Guardianship Act, 1956 (XXXII of 1956), shall apply to security furnished in favour of a District Development Bank, subject to the modification that reference to the Court therein shall be construed as reference to the District Collector or his nominee, and the appeal against the order of the Collector or his nominee shall lie to the Divisional

Commissioner.

(2) Where a minor has a joint interest in the property of a Hindu Undivided Family, it shall not be necessary to seek permission to mortgage his interest in favour of the District Development Bank for advancing loan against the security of such property.

55. Cognizance Of Offences :-

No Court inferior to that of a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

56. Power To Make Rules :-

(1) The State Government may, make rules to carry out all or any of the purposes 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 terms and conditions for constitution and operation of guarantee fund under Section 9(1);

(b) the rate at which the contribution shall be made under Section 9(2);

(c) the manner in which the fund shall be maintained and utilised under Section 9 (3);

(d) the manner in which recovery shall be made under Section 15 (3);

(e) the manner in which, the authority by which and the time within which the application shall be disposed of under Section 16;

(f) the form of declaration in which affidavit shall be given under Section 18 (1);

(g) the limit upto which the loan shall be sanctioned under Section 18 (4);

(h) the form of notice which shall be published under Section 19 (2);

(i) the manner in which the property shall be sold under Section 27

(j) the form of certificate which shall be granted under Section 30 (1);

(k) the period within which the amount shall be paid under Section 39 (2);

(l) the restrictions, limitations and conditions subject to which the Registrar shall have powers under Section 42 (1);

(m) the manner in which the copies shall be certified under Section 42 (3);

- (n) the time within which and the manner in which the copies of the instrument shall be sent under Section 43 (1);
 - (o) the manner in which the copies shall be certified under Section 45;
 - (p) the manner in which previous sanction shall be obtained under Section 52;
 - (q) any other matter which is required to be or may be prescribed or in respect of which rules may be made under this Act.
- (3) All rules made under this Act shall be published in Official Gazette and laid on the table of the Legislative Assembly.

57. State Development Banks Power Of Supervision And Of Making Regulations :-

- (1) The State Development Bank may have general powers of supervision over the District Development Banks and may subject to the prior approval of the State Government make regulations, in this behalf in conformity with this Act and Rules made thereunder and not inconsistent with the provisions of the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) or the rules made thereunder.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the following matters, namely :--
- (a) for inspection of the account books and proceedings of District Development Banks;
 - (b) for submission of returns and reports by District Development Banks in respect of their transactions;
 - (c) for periodic settlement of accounts between District Development Banks and the State Development Bank and for payment of the amounts recovered by District Development Banks on securities transferred or deemed to have been transferred to the State Development Bank;
 - (d) for the form in which application to District Development Banks for loans should be made and for the valuation of the properties offered as security for such loans;
 - (e) for prescribing procedure for application for grant of certified copies;
 - (f) for investment of moneys realised from loanees;
 - (g) for the programme and policy to be followed by District Development Banks for advancing loans, the duration of loans and the rates of interest to be charged thereon;

- (h) for the types and extent of security to be obtained by the District Development Banks for advancing loans; and
- (i) generally, for carrying out the purposes of this Act.

58. Repeal And Savings :-

(1) The Madhya Pradesh Sahakari Bhoomi Vikas Bank Adhiniyam, 1966 (No. 28 of 1966) is hereby repealed.

(2) Notwithstanding such repeal, all rules made, orders and notifications issued under the Act hereby repealed shall be deemed to have been respectively made, or issued under this Act.

(3) Notwithstanding anything contained in any law for the time being in force, or in any contract, on and from the commencement of this Act, the entire assets and liabilities, rights, title, interest and obligations of the Madhya Pradesh State Co-operative Land Development Bank and Primary Land Development Banks shall stand transferred to and vested in the State Development Bank and District Development Banks, as the case may be, and thereupon the State Development Bank and District Development Banks may enforce the mortgages vested in them as if the properties mortgaged to the Madhya Pradesh State Co-operative Land Development Bank and its Primary Land Development Banks were mortgaged to the State Development Bank and its District Development Banks.

(4) The Share-holders, debenture-holders and depositors of the Madhya Pradesh State Co-operative Land Development Bank and the Primary Land Development Banks shall be deemed to be the share-holders, debenture-holders and depositors respectively of the State Development Bank and District Development Banks, as the case may be, from the date of commencement of this Act and they shall enjoy all the rights and privileges of the share-holders, debenture-holders and depositors of the State Development Banks and its District Development Banks.

(5) All contracts, bonds, deeds, agreements and other instruments of whatever nature subsisting or having effect on the date of commencement of this Act and to which the Madhya Pradesh State Co-operative Land Development Banks or any Primary Land Development Bank is a party shall from such date be of full force and effect against or in favour of the State Development Banks or the corresponding District Development Bank, as the case may be, and may be enforced as fully and effectually by the State Development Bank and the District Development Bank.

(6) The regulations made by the Board of Directors of the Madhya Pradesh State Co-operative Land Development Bank Limited under the Act repealed by sub-section (1) shall in so far as they are not inconsistent with the provisions of this Act and the Rules made hereunder, continue in force until altered or rescinded under this Act.

(7) All notices issued and legal proceedings instituted by or against the Madhya Pradesh State Co-operative Land Development Bank Limited, pending on the commencement of this Act shall, from such date be deemed to have been issued or instituted by or against the State Development Bank.