

Orissa Co-Operative Societies Act, 1962

2 of 1963

[03 February 1963]

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Orissa Co-Operative Societies Act, 1962

2 of 1963

[03 February 1963]

An Act to consolidate and amend the law relating to Co-operative Societies. Be it enacted by the Legislature of the State of Orissa in the Thirteenth Year of the Republic of India as follows : * Orissa Gazette Ext. No. 99-D./15.2.1963, Notfn. No. 968 Legis. Dt. 13.2.1963.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Orissa Co-operative Societies Act, 1962.
- (2) It extends to the whole of the State of Orissa.
- (3) It shall come into force on such date as the State Government may, by notification appoint.

2. Definitions :-

In this Act, unless the context otherwise requires.

1[(a) Apex society means a Society having the whole of the State of Orissa as its area of operation and declared as such by the Registrar;

2[(a-1) Auditor-General means a person appointed as such to perform the functions of the Auditor General of Co-operative Societies under this Act, and includes any person appointed to assist the Auditor-General when exercising all or any of the powers of the Auditor General.]

(b) bye-laws means the registered bye-laws for the time being in

force, 3(in relation to a Society)

4[(b-1) Central Co-operative Bank shall have the same meaning as assigned under the Reserve Bank of India Act 2 of 1934 :

1[(b-2) Central Society means a Society, declared as such by the Registrar;

(c) Committee means the managing committee of a Society by whatever name called, to which the management of the affairs of the Society is entrusted by or under this Act or by the Bye-Laws of the Society;

4(c-1) Co-operative Bank shall have the same meaning as assigned under the Deposit Insurance Corporation Act 47 of 1961;]

(d) Co-operative fanning society means a society in which, with object of increasing agricultural production employment and income and better utilisation of resources. Lands are pulled together and are jointly cultivated by the members on behalf of the Society;

1[(d-1) Co-operative year means the period commencing on the first day of April of any year and ending with the 31st day of March of the succeeding year, and in the case of any registered Society or class of registered Societies, the accounts of which are made up to any other date with the previous approval of the Auditor-General, the year ending with such date;]

5[(d-2) Co-operative principles means the principles specified in Schedule-II;]

5[(d-3) Family means an individual, his or her spouse, sons, daughters and other near relatives dependant on, and jointly residing with him or her,]

1[(e) Financing Bank in relation to a Society means a society engaged in Banking business under the Banking Regulation Act, 1938, or a Scheduled Bank as defined under the Reserve Bank of India Act, 1934 or the Reserve Bank of India, the National Bank for Agriculture and Rural Development, the Industrial Development Bank of India or any similar Bank and includes such financing institutions like the National Dairy Development Board and National Co-operative Development Corporation, to which the Society is indebted in cash or in kind;]

4[(e-1) Joint Member means a husband and wife-team joining as such in an application for registration of a Society which is subsequently registered, or admitted as joint member after the registration of a Society in accordance with the provisions of this Act. Rules and Bye-Laws of a Society and holding a shares or shares in the Society jointly;]

6[(f) Member means a person joining in the application for the

registration of a Society and a person admitted to membership after such registration in accordance with this Act, the Rules and the Bye-Laws, and includes 2(joint and a nominal member);]

7((f-1) near relative means father, mother, husband, wife, son, daughter, undivided brother, unmarried sister and sons wife;]

8[(f-2) nominal member means a person admitted as such to a Society after its registration, in accordance with the Bye-Law;]

6[(g) Officer means any officer of a Society who is appointed under this Act, Rules of the Bye-Laws of a Society, and competent to give directions in regard to the business of the Society :

Provided that the expression officer occurring in any provision of this Act as it stood prior to the commencement of the Orissa Co-operative Societies (Amendment) Act, 1991 not amended by the said Amendment Act, or, having been so amended not been brought into force, shall carry the same meaning as assigned to it prior to such commencement, until such provision is amended, or, as the case may be, such amended provision is brought into force;

(g-1) Office-bearer means a person elected or nominated to the committee or appointed under this Act, Rules or the Bye-Laws of a Society to give directions in regard to the policy concerning the affairs or business of the society, and includes the President and members of Preliminary Committee of a Society;]

(h) Prescribed means prescribed by Rules under this Act;

9[(h-1) President of the Committee means a person elected or nominated as such in accordance with the provisions of this Act, Rules and Bye-Laws of the Society who shall be responsible, foremost among the members of the Committee, for the over-all development and progress of the Society and its members, the implementation of the policy decisions of the Committee and due observance by the Society of the provisions of this Act, Rules and Bye-Laws;

(h-2) Primary Society means a Society, membership of which consists of individuals and may include the State or Central Government, or both such Government, as the case may be, or a person admitted as joint or nominal member;]

(i) Registrar means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

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

(k) Society means a Co-operative Society registered or deemed to be registered under this Act;

(l) Society with limited liability/ means a 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, in accordance with such Bye-Laws, respectively, undertake to contribute to the assets of the Society;

(m) Society with unlimited liability means a Society, the members of which are, in the event of its being wound up jointly and severally liable for and in respect of all its obligation to contribute to any deficit in the assets of the society; and

7[(m-1) Standard acre shall have the same meaning as assigned to it under the Orissa Land Reforms Act, 16 of 1960;]

(n) State Co-operative Union means the Society registered under the Orissa Co-operative Societies Act, 11 of 1951 by the name of the Orissa State Co-operative Union Limited;

10[(o) Tribunal means Co-operative Tribunal constituted under Section 67-A.]

1. Substituted by Orissa Act 7 of 1996 dated 22.4.1996.

2. Substituted by Orissa Act 28 of 1991 dated 31.12.1991 w.e.f. 11.9.1992.

3. Substituted by ibid.

4. Inserted by Orissa Act 5 of 1970 dated 5.3.1970.

5. Inserted by Orissa Act 28 of 1991, dated 31.12.1991.

6. Substituted by Act 28 of 1991, dated 31.12.1991.

7. Inserted by Orissa Act 21 of 1970 dated 26.10.1970.

8. Inserted by Orissa Act 19 of 1983 dated 11.10.1983.

9. Substituted by Orissa Act 28 of 1991, dated 31.12.1991.

10. Inserted by Orissa Act 19 of 1985 dated 11.10.1985

CHAPTER 2 REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar :-

(1) The State Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint other persons with prescribed designation to assist him.

(2) The State Government may, by general or special order, confer on any person appointed to assist the Registrar all or any of the powers of the Registrar under this Act to be exercised within such local limits as may be assigned by the Registrar.

(3) The State Government may also, by order, appoint any Society

or local authority to assist the Registrar who shall exercise in the prescribed manner such powers of the Registrar, as may be specified in the said order.

(4) Every person appointed to assist the Registrar shall exercise the powers conferred on him under Sub-section (2) or (3), as the case may be, subject to the general superintendence and control of the Registrar.

3A. Auditor-General :-

1[(1) The State Government may appoint a person to be the Auditor-General of Co-operative Societies for the State, and may, also appoint other persons with such designations as may, subject to rules, if any, be specified in the order in that behalf to assist him.

(2) The State Government may, by general or special order, confer on any person appointed to assist the Auditor-General, all or any of the powers of the Auditor-General under this Act to be exercised within such local limits as may be assigned by the Auditor-General.

(3) The State Government may also, by order, appoint any Society or local authority to assist the Auditor-General who shall exercise in the prescribed manner such powers of the Auditor-General as may be specified in the said order.

(4) Every person, Society or local authority appointed to assist the Auditor-General shall exercise the powers conferred on him or it under Sub-section (2) or Sub-section (3) as the case may be, subject to the general superintendence and control of the Auditor-General.

1. Inserted by Orissa Act 28 of 1991 Dt. 31.12.1991 w.e.f. dt. 1.5.1993.

4. Societies Which May Be Registered :-

Subject to the provisions of this Act, a Co-operative society which has, as its object the promotion of economic interests of its members in accordance with 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.

5. Registration With Limited Or Unlimited Liability :-

(1) A Co-operative Society may, subject to the provisions of Sub-section (2), be registered with limited or unlimited liability.

(2) Unless the State Government, by general or special order otherwise direct, no society shall be registered after the commencement of this Act with unlimited liability, if it has any society as its member.

(3) The word limited or its equivalent in any Indian language shall be the last word in the name of Co-operative society registered under this Act with 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 as the Registrar may, from time to time, specify, 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 Society :

1[(b) Where the application is for registration of

2(i) a Primary Society, the number of individuals joining in the application shall not be less than fifty-one, except in the case of a society the object of which is housing where such minimum number shall be fifteen, so however that, in either case, such minimum number of individuals shall include three members from the Scheduled Castes including one woman, three from Scheduled Tribes including one woman, four from Other Backward Classes including one woman and five from other categories of members including two women; and

Provided that no such individual shall be a near relative of another :

Provided further that in the case of a society organised exclusively for the promotion of the economic interest of any particular professional or occupational group of individuals, the individuals joining in the application for registration shall be pursuing such profession or occupation.

2["Provided also that in the event of non-availability of the minimum number of individuals from the Scheduled Castes, the Scheduled Tribes, Other Backward Classes or women so required for registration, the Registrar may exempt the proposed society from the requirement of such category of individuals.]"

Explanation - A husband and wife of two individuals joining in the application as a joint Member shall be deemed to be one individual

for the purpose of this clause.

(ii) a Central Society including a Central Co-operative Bank, or an apex Society, the number of societies joining in the application shall not be less than five and ten, respectively.

(c) Persons joining in the application for registration shall belong to the area of operation of the proposed society as defined in its Bye-Laws.]

(d) the application shall be signed by everyone of the applicants who is an individual and in the case of applicants other than individuals by a person duly authorised by such applicant in that behalf.

3[(e) the application shall indicate the names and addresses of the applicants who shall be the members and President of the Preliminary Committee of the society as referred to in Sub-section (1-c) of Section 28 :

Provided that the number of applicant to be so indicated shall, in no case, exceed the limit specified for that purpose in Sub-section (2) of Section 28.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 11.9.1992.

2. Substituted by Orissa Act 10 of 2001.

3. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 11.9.1992.

7. Registration :-

If the Registrar is satisfied -

(a) that the application complies with the provisions of this Act and the Rules;

(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 proposed Bye-Laws are not contrary to the provisions of this Act and the Rules; and

(e) that the proposed society complies with the requirement of sound business and has reasonable chances of success;

the Registrar may 1[after consultation with the Apex or Central Society to which the proposed society intends to be affiliated as per its Bye-Laws and, upon such registration, shall issue a certificate of registration signed by him in the manner prescribed to the society;] and

2[Provided that the Registrar may register the proposed society provisionally for a period of three months if it fulfils all the conditions except those specified in Clause (e), and give such directions to it as he may deem proper for securing fulfilment for the conditions of that Clause.]

(2) Where the Registrar refuses to register a Co-operative Society, he shall communicate the order of refusal together with the reasons therefor, to such of the applicants as may be prescribed.

1[(3) If no order either registering or refusing registration is communicated to the proposed society within a period of three months from the date of its application for registration, the proposed society shall be deemed to have been registered provisionally for a period of three months with effect from the date following the date of the former period.

(4) In every case where a proposed society is registered under the proviso to Sub-section (1) or deemed to have been registered under Subsection (3), the Registrar shall issue a provisional certificate of registration in the manner prescribed, and the society shall, notwithstanding anything to the contrary be entitled to undertake such business as may be permitted to it by the Registrar during the period of its provisional registration or deemed provisional registration, as the case may be.

(5) If no certificate of registration is finally issued or order refusing the registration is communicated to a proposed society registered provisionally or deemed to have been so registered during the period of its provisionally or deemed provisional registration, as the case may be, it shall be deemed that the proposed Society has been duly registered under Sub-section (1) with effect from the date following the date of expiry of the aforesaid period.

(6) The consultation referred to in Sub-section (1) shall be made within fifteen days from the date of receipt of the application for registration, and if no opinion is received from the society consulted within fifteen days from the date of the reference to that effect, it shall be deemed that such society has no objection of the proposed Society is registered]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

2. Inserted by ibid, w.e.f. 01.05.1993.

8. Registration Certificate :-

1[A Certificate of registration issued under Section 7 shall be

conclusive evidence of the fact that the Co-operative society mentioned therein is a society dully registered under this Act.]

1. Substituted by Orissa Act 28 of 1991 dated 31.12.1991, [S. 9, w.e.f. 10.06.1997, S. 8, w.e.f. 01.05.1993.]

9. Co-Operative Societies To Be Bodies Corporate :-

A Co-operative society registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to 1[acquire and hold property and to dispose in the manner prescribed, of its "property"] enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it was constituted.]

1. Substituted by Orissa Act 28 of 1991 dated 31.12.1991, [S. 9, w.e.f. 10.06.1997, S. 8, w.e.f. 01.05.1993.]

10. Change Of Name Of A Society :-

(1) A society may, be an amendment of its Bye-Laws, change its name.

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

(3) The change of name of a 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 society may, by an amendment of its Bye-Laws, change the form or extent of its liability.

(2) When a 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 the contrary, any member or creditor shall, during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans,

as the case may be.

(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 Bye-Laws of a 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 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 Society :-

(1) No amendment of any Bye-Law of a society shall be valid unless such amendment has been registered under this Act.

(2) 1[***]

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

(4) Where the Registrar refuses to register an amendment of the Bye Laws of a society, he shall communicate the order of refusal, together with the reasons therefor to the society.

2[(4-a. If the certificate referred to in Sub-section (8) or order of refusal referred to in Sub-section (4), as the case may be, is not communicated to the society within a period of three months from the date of its application for registration, the amendment of the Bye-Laws, shall be deemed to have been registered with effect from the date following the date of expiry of the said period, and upon such registration the Registrar shall forward to the society a certificate of registration of such amendment along with a copy of the registered amendment within seven days from the date of such registration.]

(5) Where in the case of an Apex Society, Central Society, Co-operative bank or financing bank or in the case of any other society assisted by the State or Central Government in any of the forms specified in Sub-section (1) of Section 31, the Registrar is of the opinion that an amendment of the Bye-Laws of any such society is necessary or desirable in the interest thereof, he may, in the prescribed manner, call upon the society to make such amendment

within such period as he may specify in that behalf.

(6) If the society fails to make the amendment within the period aforesaid the Registrar may, after giving the society a reasonable opportunity of being heard, register the amendment and shall forward to the society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

1. Omitted by Orissa Act 28 of 1991, Dt.31.12.1991, w.e.f. 10.06.1997

2. Inserted by ibid, w.e.f. 10.06.1997

13. When Amendments Of Bye-Laws Come Into Force :-

An amendment of the Bye-Laws of societies shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

1[Provided that an amendment made with the prior approval of the Registrar shall come into operation with effect from the date on which the resolution in respect thereof is passed at the general meeting of the society]

1. Added by Orissa Act 5 of 1970 - See O.G.E., dated 05.03.1970.

14. Amalgamation, Transfer Of Assets And Liabilities And Division Of Societies :-

(1) A society may 1[***] by a resolution passed by a majority of the members present and voting at a general meeting of the society-

(a) transfer its assets and liabilities in whole or in part to any other society which is required to accept them; or

(b) divide itself into two or more societies.

(2) Any two or more societies may, 1[***] by a resolution passed by a majority of the members present at an ordinary general meeting of each such society specially convened for the purpose which at least seven days clear notice has been to each member and subject to the other condition of this section amalgamate into single Co-operative society.

(3) 2[***]

(4) The resolution of a society under Sub-sec. (1) or Sub-sec. (2) 2[***] shall contain all particulars of the transfer, divisions or amalgamation, as the case may be.

(5) When a society has passed any such resolution under Sub-sec.

(1) or Sub sec (2) 2[***] the Society concerned shall give notice thereof in writing in the prescribed manner to all its members and creditors and, notwithstanding, any Bye-Laws or contract to the contrary, any member or creditor shall, during the period of the month from the date of issue of the notice, have the option of withdrawing his shares, deposits or loans, as the case may be.

(6) Any member or creditor who does not exercise his option within the period specified in Sub-sec. (5) shall be deemed to have assented to the proposals contained in the resolution 2[***].

(7) A resolution 2[***] passed under this section shall not take effect until all claims of members and creditors who exercise the option referred to in Sub-sec. (5) within the period specified therein, have been met in full.

(8) Where a resolution 2[***] passed under section involves the transfer of any assets and liabilities, the resolution 2[***] 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.

(9) The amalgamation or division of societies shall not affect any rights or obligation of the Societies so amalgamated or divided or render defective any legal proceedings which might have been continued or commenced by or against the Societies which have been amalgamated or divided and accordingly such legal proceedings may be continued or commenced by or against the amalgamated Society or, as the case may be, the new societies.

1. Omitted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 01.05.1993.

2. Deleted by Orissa Act 19 of 1983 - See O.G.E., dated 11.10.1983.

14A. Compulsory Re-Organisation Or Amalgamation Of Societies :-

1[(1) Notwithstanding anything contained in this Act, if the Registrar, for reasons to be recorded, is of the opinion that-

- (a) for ensuring viability of any society or societies; or
- (b) for avoiding over-lapping or conflict or jurisdiction of the Society in any area; or
- (c) in order to secure proper management of any Society; or
- (d) in the public interest; or
- (e) in the interest of depositors; or
- (f) in the interest of co-operative movement in the State as a

whole; or

(g) in the interest of the Co-operative credit structure in the State as a whole, it is necessary to re-organise any society or societies or to amalgamate any two or more societies into a single society, the Registrar may, after consulting the financing bank of the Society or Societies, by order published in the Official Gazette, direct such re-organisation, or amalgamation, as the case may be.

(2) The order under Sub-section (1) may provide for-

(a) reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in or against any such Society to be re-organised or amalgamated to such extents as the Registrar considers necessary in the interest of such persons for the maintenance to the business of that Society having due regard to the proportion of the assets of such Society and its liability;

(b) such incidental, consequential and supplemental matters as may, in the opinion of the Registrar, be necessary to give effect to the re-organisation or amalgamation of the society or societies.

(3) No order Sub-section (1) shall be made unless the Registrar-

(a) has given every society concerned an opportunity of stating its objection and suggestions on the order proposed to be made; and

(b) has considered the objections and suggestions so made by every such society, or its members, depositors, creditors, employees, or any other persons concerned, within such period, not being less than fifteen days from the date of receipt of the proposed order, as the Registrar may fix in that behalf.

(4) An order issued under Sub-section (1) shall, notwithstanding anything contained in this Act, or in any other law or in any contract, award or instruments for the time being in force, be binding on all societies and their members, depositors, creditors, employees and other persons having any rights, assets or liabilities in relation to all or any of the concerned societies.

(5) On and from the date the re-organisation or amalgamation takes effect, the assets and liabilities referred to therein shall stand re-organised or amalgamated, as the case may be, with the assets and liabilities of the resulting society or societies formed out of such re-organisation or amalgamation, and the members, creditors and debtors, as the case may be, of such resulting society or societies as ordered by the Registrar.

(6) In case of the society or societies directed to be re-organised or amalgamated, the registration of the re-organised or merged society or societies, as the case may be, shall be deemed to be

cancelled from the date on which re-organisation or amalgamation takes effect.

(7) Notwithstanding anything contained in the Transfer of Property Act, 4 of 1882 or the Registration Act, 16 of 1608, an order issued under this section shall be sufficient conveyance to transfer the assets and liabilities of the society or societies covered by any order passed under Sub-section (1)]

1. Inserted by Orissa Act 19 of 1983- See O.G.E. Dt. 11.10.1983.

14B. Special Provision In Respect Of Certain Sick Societies :-

1[2[(1) (a) Subject to the provisions of Section 123, and notwithstanding anything to the contrary contained in any other provisions of this Act and the Rules or Bye-Laws framed thereunder, or any other law, for the time being in force, where the Registrar, for reasons to be recorded, is of the opinion that a Co-operative society in which majority of the shares have been subscribed or liabilities by way of guarantee for borrowing exceeding fifty percentum of the working capital of the society have been undertaken by the State Government.

(i) has become sick and it is not possible to rehabilitate it or run it in a viable manner; or

(ii) being in processing, manufacturing or other industrial sector, has its processing, manufacturing or other units lying either incomplete for want of required funds for completing those, or idle, or under utilised, for want of working capital for running it, or for any other reasons; or

(iii) being in a marketing, trading, commercial or any other sector, has ceased to undertake necessary operations, or cannot undertake such operations in a viable manner.

and it is necessary, in the public interest, to transfer the assets and liabilities of the said society, to any other society or person, or a company, firm or body, whether incorporated or not, the Registrar may, after consulting the financing banks and other institutions to which such society is indebted and the State Government, on the choice of a transferee, nature of transfer and other incidental, consequential and supplemental matters by notice in writing, call upon the committee of the society to transfer, within such time, as may be specified therein, its assets and liabilities to any other society or person, or a company, firm or body, whether incorporated or not, on such - terms and conditions as may be

formulated by the Registrar.

Provided that no such consultation shall be made without determining the value of the assets and liabilities of the society concerned by a valuer to be appointed, and through a procedure to be adopted with the previous approval of the Government.]

(b) If, within the time specified in the notice referred to in Clause (a), the Committee fails to make the transfer directed therein, the Registrar shall, by order published in the Gazette, make such transfer, and with effect from the date of publication of the order the assets and liabilities of the society shall stand so transferred :

Provided that no order under this clause shall be made, unless the Registrar has given an opportunity to the General Body, creditors, depositors, employees of the society and any other persons concerned to state their objections, or make representation, if any, within such time, from the date of receipt of the proposed order as may be specified by the Registrar in his notice containing the said order to such persons, and has considered the objections and representations, if any, so made.

3[(c) The Registrar shall, within such time and in such manner as may be consider reasonable by him, the Registrar shall, within such time and in such manner as may be consider reasonable by him, in the facts and circumstances of the transfer under clause (b) settle the claims, if any, of the members, depositors, creditors, employees of the society and other persons concerned having any right, assets or liabilities in relation to the society in accordance with law, so however that no such right, asset or liability of any of the persons aforesaid, existing as on the date of the transfer, is increased, and make payment due, if any, under the settlement, to the society or any such persons.]

(2) An order issued under Sub-section (1) shall, notwithstanding anything contained in this Act, the rules or Bye-laws framed thereunder or in any other law or in any contract, award or instrument for the time being in force, be binding on all members, depositors, creditors, employees of the society and other persons concerned having any right, assets or liabilities in relation to the society.

(3) The order under Sub-section (1) may provide for -

(a) Reduction of the interest or right which the members, depositors, creditors, employees and other persons concerned may have in or against the society, to such extent as the Registrar considers necessary, having due regard to the proportion of the assets of the society to its liabilities, and

(b) Such incidental, consequential and supplemental matters as may, in the opinion of the Registrar, be necessary to give effect to the said transfer.

2[(4) For the purpose of this section, at any stage of proceeding thereunder, it shall be competent for the State Government to give such directions to the Registrar, as it may deem proper in the facts and circumstances of every case, and such directive shall be binding on the Registrar;

2[(5) Notwithstanding anything contained in the Transfer of Property Act, 1882 or the Registration Act, 1908, an order issued under this Section shall be sufficient conveyance to transfer the assets and liabilities of the society].

3[Explanation- For the purposes of this Section -

(i) Company shall mean a company as defined in the Companies Act, 1956;

(ii) Sickness in respect of a society shall ordinarily mean non-viability, and may bear such other meaning as assigned to it under sick Industrial Companies (Special Provisions) Act, 1985 or any other law in force; and

(iii) Transfer shall include transfer by way of management contracts, lease or any other mode.]

1. Inserted by Orissa Act 1 of 1995.

2. Substituted by Orissa Act No. 7 of 1997, Dt. 23.07.1997.

3. Inserted by Orissa Act No. 7 of 1997, dt. 23.07.1997.

15. Cancellation Of Registration Certificates Of Societies In Certain Cases :-

(1) Where the whole of the assets and liabilities of a society are transferred to another society in accordance with the provisions of section 14 the registration of the first mentioned society shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body.

1[(2) Where two or more societies are amalgamated into a new society in accordance with the provisions of section 14 or 14-A,-

(i) the registration of the amalgamating societies shall stand cancelled;

(ii) it shall be deemed that the amalgamating societies have been dissolved; and

(iii) the resulting new society shall be deemed to have been registered, with effect from the date of such amalgamation.

(3) Where a society is divided into two or more societies in accordance with the provision of Section 14 or 14-A,-

(i) the registration of the society so divided shall stand cancelled;

(ii) it shall be deemed that the society so divided has been dissolved; and

(iii) the societies resulting from such division shall be deemed to have been registered, with effect from the date of such division.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 01.05.1993

15A. Partnership Of Societies :-

1[(1) Any two or more societies may, by resolutions passed by a majority of members of present and voting at their respective general body meeting enter into a contract of partnership for carrying out any specific business permissible under the Bye-Laws on such terms and conditions as may be mutually agreed upon.

(2) Where such partnership requires the creation of a new organisation the participating societies shall be its members and the new organisations may be registered under any law for the time being in force.

1. Inserted by Orissa Act 28 of 1991, dated 31.12.1991.

15B. Promotion Of Subsidiary Organisation :-

(1) Any society may, by resolution passed by a majority of members present and voting at its general body meeting promote one or more subsidiary organisations for the furtherance of its stated objectives, and such organisation or organisations may be registered under any law for the time being in force.

(2) The annual reports and account of any such subsidiary organisation shall be placed before the general body meeting of the promoting society, every year.]

CHAPTER 3 MEMBERS OF THE CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

16. Persons Who May Become Members :-

1[(1) No person shall be admitted as a member of-

(a) a primary Society, except individuals competent to enter into a contract under Section 11 of the Indian Contract Act 1872, residing

in the area of operation of the society as specified in its Bye-Laws, and the State or Central Government, or both such Government, as the case may be;

Provided that nothing in this clause shall debar a student, who is a minor, from becoming a member of a society formed for the benefit of the students of an educational institution, or a person who is not an individual, from becoming a nominal member :

Provided further that not more than three individuals from the same family shall be admitted as members :

2[Provided also that nothing in this clause shall debar the Co-operative Societies to admit the Self Help Groups as nominal member with such conditions, which the State Government may, by order, specify from time to time.]

Explanation- A Joint Member consisting of two individuals related to each other as husband and wife shall be deemed to be one individual for the purpose of this clause;

(b) a society other than a Primary Society, except the following namely;

(i) any society;

(ii) the State Government;

(iii) the Central Government;

(iv) any other person as may be prescribed;

3[***]

4["(1-a) Notwithstanding anything to the contrary contained in any other provisions of this Act, and the rules or bye-laws framed thereunder, the members of the Committee including the co-opted members, if any, but excluding the members nominated or appointed under clause (ii) of sub-section (1-b) of section 28, sub-section (1) of section 31 and sub-section (1) of section 32, of the Primary Societies affiliated to the Central Society or an Apex Society, shall be deemed to be the members of their respective Central Society or, at the case may be, the Apex Society or both, with effect from the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1997 so long as they continue as member of the Committees of Primary Societies.

(1-b) (i) The members of the Primary Societies who were deemed to be the members of their respective Central Society or, as the case may be, the Apex Society or both, prior to the date of the commencement of the Orissa Co-operative Societies (Amendment) Act, 1997 shall be deemed to have ceased to be members of such societies with effect from the date of such, commencement.

(ii) Upon such cessation -

(a) the central or apex society, as the case may be, shall refund the share capital contribution made and membership fees paid, if any, to the said members.

(b) the member shall liquidate the liabilities incurred, if any, in the capacity as deemed member of the Central Society or as the case may be, Apex Society in accordance with the schedule of repayments determined or to be determined by the said society.]

5[(2) No society shall, without sufficient cause, refuse admission as a member to any person who is duly qualified therefor and the decision refusing admission shall be communicated by the society to the person concerned with reasons for such refusal within 1[ninety days] from the date of the application for membership failing which such person shall be deemed to have been admitted as a member of the Society with effect from the date following the date of expiration of the said period of 1[ninety days].]

(2-a) Where a person is deemed to have been admitted as a member of a Society in pursuance of the preceding sub-section, the society may file an application before the Registrar within sixty days from the date with effect from which such person is deemed to have been admitted as a member for cancellation of the membership, where upon the Registrar shall, after making such enquiry as he deems fit, pass such order as he thinks proper.]

1((3) Notwithstanding anything contained in Sub-section (1) no individual shall be eligible to become a member of a society-

(a) which is organised for promotion of the economic interests of any particular professional or occupational group of individuals, unless such individual, pursue such profession or occupation; or

(b) if he or any member of his family having common economic interest with him carries on any business as is likely to be prejudicial to the business or interest of the society.

Explanation- For the purpose of this sub-section-

(a) the business of money-lending shall be deemed to be prejudicial to the business or interest of a Primary Agricultural Credit Society, Co-operative Bank or a 6[Co-operative Agricultural and Rural Development Bank;

(b) the business carried on by a trader shall be deemed to be prejudicial to the business or interest of a Marketing Co-operative Society and Consumers Co-operative Society;

(c) the business carried on by a contractor shall be deemed to be prejudicial to the business or interest of a Labour Contract Co-operative Society and a Forest Marketing Co-operative Society;

(d) the business in milk and milk products carried on by a person

shall be deemed to be prejudicial to the business or interest of a Milk Co-operative Society :

(e) the business in oil-seeds and oil-seed-products carried on by a person shall be deemed to be prejudicial to the business or interest of an Oil-seed Growers Co-operative Society; and

(f) a family member of an individual shall, unless the contrary is proved be deemed to have common economic interest with such individual.

(4) Any person continuing as a member of a society in contravention of the provision of this section shall cease to be such member with effect from the date of commencement of Section 12 of the Orissa Co-operative Societies (Amendment) Act, 1991;] and

(5) 7[***]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992

2. Inserted by Orissa Act 11 of 2004.

3. Omitted by Orissa Act 7/19% dt. 22.04.96.

4. Substituted by Orissa Act 4 of 1997, dt. 23.05.1997.

5. Substituted by Orissa Act 25 of 1975 dated 16.05.1975.

6. Substituted by Orissa Act 23 of 1994 dt. 4.11.1994.

7. Omitted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.

16A. Admission And Continuance As Members :-

1[(1) No person shall be eligible for being admitted or for continuing as a member of a Society, if he-

(a) does not satisfy the requirements of this Act, Rules and Bye-Laws made thereunder; or

(b) has been sentenced for an offence involving moral turpitude, or sentenced to fine or imprisonment or both for any other offence by a Court in India, unless any such sentence is annulled or reversed or, in the latter cases until expiry of a period of five years from the date the fine is paid if the sentence is for fine, or where the sentence is for imprisonment or both fine and imprisonment, from the date he is released from the imprisonment, as the case may be; or

(c) is an applicant to be adjudicated as a bankrupt or an insolvent or is an undischarged bankrupt or insolvent; or

(d) is a paid employee of the Society or its Financing Bank :

Provided such an employee may be admitted or retained as a nominal member; or

(e) has been expelled by the society or any other society, unless a

period of two years has expired from the date of such expulsion.

(2) Any member of a society incurring any of the disqualifications specified in Sub-section (1) shall cease to be such member with effect from the date he incurs such disqualification.]

1. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.

17. Affiliation To The State Co-Operative Union :-

Notwithstanding anything in. Section 16 in respect of the membership in the State Co-operative Union such of the Societies shall be bound to affiliate themselves to and become members of the Union as may subject to the rules made in that behalf, be declared from time to time by State Government, having regard to their income and activities and the number and nature of their members to be liable to become such members of the Union :

Provided that if any, such society as aforesaid fails to comply with the requirements of this sub-section within such time as may be prescribed, the Registrar shall have the power to declare such Society to have become affiliated to and a member of the Union and thereupon the Society shall remain subject to all the obligations and entitled to all rights and privileges as a member of the Union and be liable to pay all fees and contributions in accordance with the Bye-Laws of the Union.

18. Nominal Or Associate Members :-

(1) A society may admit any person as a nominal 1[***] member.

2[(2) A nominal member shall not be entitled-

(a) to any share in any form whatsoever, in the assets or profits of the society :

(b) to attend the general body of the society; and

(c) to be elected to the Committee of the society.]

(3) Save as provided in this section, a nominal 1[***] member shall have such privileges and rights of a member and be subject to such liabilities of a member, as be specified in the Bye-Laws of the society.

1. Omitted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 11.09.1992.

2. Substituted by Orissa Act 19 of 1983 - See Orissa Gazette Ext. dt. 11.10.1983.

19. Exercise Of Membership Rights :-

1[No member of a society shall be entitled to exercise his right as such unless he has made such payments to the Society in respect of membership, acquired such interest in the society or fulfilled such-obligation of members, as is required by this Act or as may be provided in Rules and Bye-Laws.]

2[Provided that the provisions of this section shall not apply to the members of the Committee of the Primary Societies who shall be deemed to be members of the Central Society or as the case may be, the Apex Society in accordance with the provisions of sub-section (1-a) of section 16]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 11.09.1992.

2. Inserted by Orissa Act 4. of 1997, dt. 19.05.1997.

20. Vote Of Members :-

Every member of a Society shall have one vote in the affairs of the Society :

1[Provided that-

(a) 2[***]

(b) where two individuals have been admitted as joint members, they shall have one vote which may be exercised by any one of them;

(c) where the State Government or the Central Government is a member of the Society, each person nominated by or on behalf of such Government on the Committee shall have one vote.

(d) where there is an equality of votes at a meeting on the affairs of the Society other than election of its office-bearers or amendment of its Bye-Laws, the person presiding over the meeting shall have a second and deciding vote; and

(e) Where a member of the Society is simultaneously electing the President and the member of the Committee from his constituency, he shall have one vote for electing the President and another for the member.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 11.09.1992.

2. Omitted by Orissa Act 7 of 19%, dated 22.04.1996.

21. Manner Of Exercising Vote :-

(1) Every member of a society shall exercise his vote in person and

no member shall be permitted to vote by proxy.

1[Provided that such vote shall be exercised-

2["(a) Where the member is a society, through its--

(i) President; or

(ii) Vice-President, in case such member society does not have a President, or having a President, such President is unable to exercise the vote; or

(iii) representative, in case such member society does not have a President or Vice-President or having a President and Vice-President, none of them is able to exercise the vote;"]

(b) Where the member is a Local Authority or a Body Corporate, through the head of such Authority or Body, as the case may be; and

(c) where the member is the State or the Central Government through its nominees to the Committee; and

(2) 3[***]

1. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 11.09.1992.

2. Substituted by Orissa Act 7 of 1996, dated 22.04.1996.

3. Omitted by Orissa Act 28 of 1991, dt. 31.12.1991, force w.e.f. 11.09.1992.

21A. Power Of General Body To Expel Member :-

1[(1) Any society may, by resolution passed by two thirds majority of the members present at a meeting of the general body, expel a member who acts adversely or whose continuance is considered detrimental or prejudicial to the interest of the society;

Provided that no such resolution shall be valid unless the member concerned is given an opportunity of representing his case before the general body, in the prescribed manner.

(2) A copy of the resolution passed shall be communicated to the member concerned and also shall be published in the notice-board of the society.]

Procedure for expulsion of members explained when the provisions provide that where the society proposes to expel a member from the membership not only that the member shall be individually served with a notice, which would contain an agenda of the said proposal of general body meeting but the said meeting has to be held not earlier than a period of one month from the date to such notice. (as per Maharashtra Act and Rules) A.I.R. 1994 Bom. 239 (In

Orissa Act no such period of one month is provided, but an opportunity of representation is to be extended before passing any resolution for expelling a member).

1. Inserted by Orissa Act 19 of 1983- dated 11.10.1983.

22. Restriction Of Holdings Of Shares :-

In any Society no member belonging to the category mentioned in Clause (a) of Sub-section (1) of Section 16 shall-

- (a) hold more than such portion of the total share capital of the Society not exceeding one-tenth thereof as may be prescribed; or
- (b) have or claim any interest in the shares of the society exceeding five thousand rupees;

Provided that the State Government may, by notification, specify in respect of any class of societies a higher maximum than one-tenth of share capital or a higher amount than five thousand rupees, as the case may be.

23. Restrictions On Transfer Of Shares Or Interest :-

(1) The transfer of a share or interest of a member in the capital of a society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in Section 22.

(2) No transfer by a member of his share or interest in a 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;
- (c) the transfer is approved by the Committee of the Society.

(3) Where a member of a Co-operative Farming society has pooled lands in favour of the society no such land shall be withdrawn from the society within such period as may be specified in the Bye-Laws of such society.

1[(4) Notwithstanding anything contained in the preceeding sub-section where a person ceases to be a member of any society by reason of a resignation or expulsion or by reason of incurring any disqualification provided under this act or the Rules or under the Bye-Laws of the society, the society may retire the shares of or the interest in the share capital held by such person on payment of the face value of such share or in interest.]

1. Substituted by Orissa Act 21 of 1970 - dated 29.10.1970.

24. Transfer Of Interest On Death Of Member :-

(1) On the death of a member, the Society shall transfer the share or interest of the deceased member to the person or persons nominated in accordance with the rules, or, if no person has been so nominated, to such person as may appear to the committee after such enquiry as he deems fit to be the heir or legal representative of the deceased member;

Provided that such nominee, their 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 or a person suffering from any other disqualification, if any, under the Bye-Laws from acquiring by inheritance or otherwise the share or interest of a deceased member in a society or from receiving dividend or benefit accruing in respect of such share or interest.

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

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 for the debts of the society as they existed-

(a) in the case of 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 society is ordered to be wound up under Section 72, the liability of a past member or of estate 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 of death, as the case may be.

26. Restriction On Transfer Of Possession Of And Interest In Land Held Under The Society :-

(1) Notwithstanding any thing contained in this Act or in any other law for the time being in force, a member of a society, the object of which is the reclamation and colonisation of land or the acquisition of land and the leasing out thereof to its members, shall not be entitled to transfer possession of or interest in any land held by him under the society, to any person except to the society or with the previous approval of the Society given in accordance with the Bye-Laws to a member thereof or to a person whose application for membership has been accepted by the society.

(2) No land held under a society specified in Sub-section (1) by a member thereof shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or a member thereof.

CHAPTER 4 MANAGEMENT OF SOCIETIES

27. Final Authority In A Society :-

The final authority in a society shall vest in the general body of members :

1[Provided that where the area of operation or the membership of a society exceeds such limits as may be prescribed, a representative, smaller General Body shall be constituted in the manner prescribed which shall exercise all the powers of the General Body except the power of electing office-bearers 2[***]

Provided further that nothing in this section shall affect any powers conferred on a committee or any officer of a society by the rules of the Bye-Laws.

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, [(1(a) xiii force w.e.f. 10.06.1997) force w.e.f. 1.5.1993 excepting 1 (a) viii and xiii).

2. Omitted by Orissa Act 7 of 1996, dated 22.04.1996.

28. Society To Have A Committee :-

1[(1) The management of a society shall vest in a Committee constituted in accordance with this Act, Rules and Bye-Laws, and

the Committee so constituted shall exercise such powers and perform such duties as may be necessary or expedient for the purpose of carrying out its functions under this Act which shall include-

(a) the power to-

- (i) admit members and dispose of applications for shares;
- (ii) interpret the organisational objectives and set specific goals to be achieved towards those objectives.
- (iii) prepare annual and supplementary budgets and get approval of the General Body thereto;
- (iv) raise and invest funds in accordance with the Bye-Laws;
- (v) sanction all expenditure above the prescribed level, and the plan of capital development for the coming year or years;
- (vi) enforce any debt or demand of the society and institute, defend or compromise legal proceeding for or against the society;
- (vii) assess the existing man-power resources and future requirements in the context of changes of that might have taken place and the measures to be taken to ensure availability of the required resources consider and remove constraints in the process or progress of manpower planning atleast once at the beginning of every year;

2[(viii) appoint officers or other staff to conduct the business of the society and define inter alia their duties, service conditions, leave concessions and disciplinary matters subject to the provisions in this regard in the Bye-Laws;]

(ix) arrange for the education and training of members and employees and review the programmes and the progress, relating thereto, at least once at the beginning of every year;

(x) dispose of applications for loans in the case of Credit of the Reserve Bank of India and the National Bank for Agriculture and Rural Development and determine securities to be taken for such loans;

(xi) appoint Sub-Committees as may be deemed necessary;

(xii) make periodical appraisal of its operations;

(xiii) acquire, hold and dispose, in the prescribed manner of property; and

(xiv) take such other measures or do such other acts as may be prescribed or required under this Act, Rules and Bye-Laws; and

(b) the duty of-

(i) observing, in all affairs, the provisions of this Act, Rules and Bye-Laws;

(ii) causing-

- (a) proper receipt and disbursement of moneys of the society and maintenance of the accounts, assets and liabilities of the society;
- (b) preparation of Annual Report of the Society for every year;
- (c) preparation of Annual Returns prescribed by the Registrar and the Auditor General;
- (d) preparation of the statement of accounts required at audit and placement of the same before the auditors;
- (e) preparation of all other statements and returns and submission of the same to the Registrar and the Auditor-General in such forms as they may direct;
- (f) maintenance of the accounts of the Society regularly in proper Books;
- (g) maintenance of the Registrar of members up-to-date;
- (iii) formulating recommendation for appropriation of the net profits declared as distributable under the provisions of this Act and Rules, and submitting the same to the General Body;
- (iv) facilitating the inspections, inquiries and audits under this Act and considering the Audit, Inspection and Inquiry Reports received from the concerned authorities and furnishing compliance thereto in accordance with the provisions of this Act and Rules;
- (v) convening the meeting and special meeting of the General Body in time;
- (vi) watching that the loans and advances are utilised for the purposes for which they are meant and also that they are repaid punctually;
- (vii) examining and taking prompt action in cases of all arrears and defaults in repayment of loans and advances;
- (viii) liaising with the members in all matters of the society and ensuring the observance of the Co-operative principles;
- (ix) making arrangements for holding elections in time; and
- (x) performing such other functions as may be entrusted to it by the General Body or required by or under this Act, Rules and the Bye-Laws;]

3[(1-a) There shall be a President, and a Vice-President of the committee who shall have such powers, duties and responsibilities as may be prescribed.

4[(1-aa) The term of office of the committee shall be four years from the date of assumption of office by the committee.

Explanation - The date of election of the President shall be deemed to be the date of assumption of office by the committee.

(1-b) The expiration of the period of four years shall operate as a dissolution of the committee and thereupon --

(i) the members including the President (1) 5[and Vice-President if any] of the committee shall be deemed to have vacated their offices;

6[(ii) if the election of a new committee is not completed by the date of such dissolution, the management of the society shall vest in the Registrar, and upon such vesting, the Registrar, or any officer of the State Government, the society or the Apex or Central Society to which it is affiliated, authorised by the Registrar in that behalf in writing, shall manage the affairs of the society, 6[and if necessary take all or any policy decision including admission of members in relation to the society) and constitute, the committee in accordance with the provisions of this Act, Rules and the Bye-Laws within a period of six months from the date of such dissolution;]

8[(iii) the Registrar or, subject to the superintendence and control of the Registrar, the officer authorised under Clause (ii) shall be competent to exercise and perform all or any of the powers and functions of the Committee or of any Office-bearer of the Society and shall be deemed, for the purposes of this Act, Rules and the Bye-Laws, to be the Committee of such Society;]

7[(1-c) Notwithstanding anything contained in this Act, in the case of a Society registered after the commencement of the Orissa Co-operative Societies (Amendment) Act, 1991, a preliminary Committee consisting of the President and members indicated in the application for registration of the society shall manage the affairs of the society, 2[and if necessary take all or any policy decision including admission of members in relation to the society] for a period not exceeding one year or till a Committee is constituted in accordance with the provisions of this Act, Rules and the Bye-Laws, whichever is earlier;

Provided that if such society is an Apex or a Central Society, including a Central Co-operative Bank, and is assisted by the State or Central Government in any manner specified in Sub-section (1) of Section 31, the State Government or any person authorised it may nominate the members and president of the Preliminary Committee to manage the affairs of the society 6[and if necessary take all or any policy decision including admission of members in relation to the society] for a period not exceeding two years so, however, that not less than half of the members thereof shall be from among the members of the society.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, [(1(a) xiii force w.e.f. 10.06.1997) force w.e.f. 1.5.1993 excepting 1 (a)

viii and xiii).

2. Substituted by Orissa Act 11 of 2004, dated 23.12.2004.
3. Substituted by Orissa Act 7 of 1996, dated 22.4.1996.
4. Renumbered by ibid.
5. Substituted by Orissa Act 23 of 1994, dated 04.11.1994.
6. Inserted by Orissa Act 11 of 2002, dated
7. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, [w.e.f. 01.05.1993 (Sub-sections 1(c), 2, (w.e.f. 11.09.1992))].
8. Inserted by Orissa Act No. 28 of 1991, dated 31.12.1991, w.e.f. 01.05.1993.

28A. Election Of Members Of Committee :-

1[(1) *(i) The President of the Committee of every Society shall be indirectly elected in the manner prescribed, by and from among the members of the Committee, and]

(ii) Other members of the Committee shall be elected in the prescribed manner 2[by and from among the general body of members of the society qualified for the purpose] so however that, where the membership of the Society is required to be organised into different constituencies in accordance with its Bye-Laws, only the members belonging to any such constituency shall elect the member of the Committee from that constituency.]

3[(iii) 1[The Vice-President of the Committee] shall be elected by, and from among, the elected members of the Committee in the prescribed manner.]

Provided that where the President of the Committee of such a Society elected under this section is not a woman, the office of the Vice-President of the Committee shall be reserved for woman.]

1. Substituted by Orissa Act 7 of 1996, dated 22.04.1996.

* Substituted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992

2. Inserted by Orissa Act 24 of 1997, dated 19.05.1997.

3. Inserted by Orissa Act 23 of 1994.

28B. Election Process Not To Be Held Up :-

1[Notwithstanding anything contained in this Act and rules, election process of a society, once started, shall not be held up, and no matter relating to election of the President or members of the Committee shall be called in question before any authority under this Act until the declaration of the result of such election.]

2[Provided that the Government shall have power to withhold the election process of any Co-operative Society at any stage with reasons to be recorded in writing.]

1. Inserted by Orissa Act 28 of 1991, dated 31.12.1991.

2. Added by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

29. Meeting Of General Body :-

1[2[(1) The meeting of General Body of members of a Society shall be held at least once in every Co-operative Year.

(2) Subject to the provisions of this Act, Rules and the Bye Laws, the following matters shall be dealt with by the General Body-

(a) approval of the programme of activities of the Society and Annual and Supplementary budgets;

(b) review of the programme for the year and its implementation;

(c) matters concerning the election of office-bearers;

(d) review of loans advanced to office-bearers and their near relatives or family members and direction for recovery of such loans;

(e) consideration of reports of Audit, Inspection, an Inquiry, Annual Reports including the Annual Report of the Auditor-General, and directives of the Government, if any, and action taken by the Committee thereon;

(f) review of the Reports of the Committee, Sub-Committees and the Chief Executive;

(g) creation of Reserve and other funds and review of utilisation thereof; (h) disposal of the net profits and review thereof;

(i) review of operational deficits, if any, and allocation of liability on members in proportion to their transactions :

(j) membership of the Society in other Societies, partnership with other Societies and review of reports and accounts in respect of such partnership, if any;

(k) promotion of Subsidiary Organisations and review of Annual Reports and Accounts of Subsidiary organisations, if any;

(l) amendments of the Bye-Laws;

(m) formulation of code of conduct for the members, office bearers, officers and other employees of the Society;

(n) liquidation of the Society;

(o) acquisition of property and disposal, in the manner prescribed of its property;

(p) fixation of remuneration and other facilities to be allowed to the

office bearers in connection with duties performed and meetings attended in their capacity as such;

(q) fixation of the date of the next meeting of the General Body;

3[(q-1) admission of members to the society when the committee of the society is suspended under sub-section (7) of Section 32;

(r) any other matter as may be placed in accordance with the provisions of this Act, Rules or the Bye-Laws.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991.

2. Substituted by Orissa Act 11 of 2004.

3. Inserted by Orissa Act 11 of 2002, w.e.f. 29.06.2002.

30. Special Meeting Of General Body :-

1[(1) The Committee may, at any time, convene a special meeting of the general body of the members of the Society, and shall convene such meeting on receipt of a requisition, in writing, from the Registrar, Auditor-General or any authority competent under this Act to make such requisition, or its Financing Bank, or such number of members or such proportion of the total number of members of the Society as may be prescribed, within the period specified in the requisition.

(2) If a special meeting is not convened in accordance with any such requisition, the requisitioning authority or any person authorised by such authority in that behalf shall have the power to convene such meeting and the meeting so convened shall be deemed to be a meeting convened by the Committee.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05:1993.

30A. Dissolution Of Committee On Failure To Convene Special Meeting On Requisition :-

1[(1) If the Committee does not convene a special meeting of the General Body on requisition under Section 30, it shall stand dissolved from the date following the date by which such meeting was due, and upon such dissolution.

(a) the office bearers shall be deemed to have vacated their office and the management of the Society shall vest in the Registrar on the date of the dissolution; and

(b) thereafter, the provisions of Clause (ii), Sub-section (1-b) of Section 28 in regard to management of the affairs of the society and constitution of its Committee shall apply.

(2) The office-bearers of the Committee dissolved under Sub-section (1) shall not be eligible for being chosen as office-bearer of any society until expiry of a period of two years from the date of such dissolution.]

1. Inserted by Orissa Act 28 of 1991 dated 31.12.1991.

31. Nominees Of The Government In The Committee Of A Society :-

(1) Where the State Government or Central Government --

1[(a) has subscribed to the share capital of a Society; or has granted any assistance in cash or in kind or in any other manner; or]

(b) has assisted indirectly in the formation or argumentation of the share capital of a society as provided in Chapter VI; or

(c) has guaranteed the repayment of principal and payment of interest on debentures issued by a society; or

(d) has guaranteed the repayment of principal and payment of interest on loans and advances to a society;

the State Government or the Central Government as the case may be, or any authority specified by such Government, in this behalf shall have the right to nominate one-third of the total number of members of the Committee of such Society;

2[Provided that the number of members so nominated shall, in no case exceed four, of whom, one shall be a representative of any of the Financing Banks of the Society, if any, and two shall be professionals.

Explanation - The term "professional" shall include the profession of Accountancy, Banking, Agriculture, Co-operation, Law and Economics.]

(2) A member nominated in the Committee of a Society under Sub-section (1), shall hold office during the pleasure of the State Government or the Central Government or the specified authority, as the case may be.

3[(3) A person nominated to the Committee of a society under Sub-section (1) shall not be eligible to 4[vote at or] contest any election for the office of the President or any other office-bearer of the Committee of a society.]

1. Substituted by Orissa Act 5 of 1970- See Orissa Gazette Exty., dated 05.03.1970.

2. Substituted by Orissa Act 11 of 2004, dated 23.12.2004.

3. Inserted by Orissa Act 19 of 1983 See O.G.E., dated 11.10.1983.

4. Inserted by Orissa Act 28 of 1991, dated 31.12.1991.

32. Supersession Of Committee And Power To Disqualify Officers Of The Society :-

1(1) If in the opinion of the Registrar, the Committee of any Society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the Bye-Laws or commit any act which is prejudicial to the interest of the society or its members, or is otherwise not functioning properly the Registrar may, after giving the Committee 2[a reasonable opportunity of being heard within twenty-one days from the date of issue of the notice in that behalf and after consulting the Financing Bank of the Society] by order in writing stating reasons therefor, remove the Committee; and appoint-

(a) a new Committee consisting of not less than three and not more than five members of the society in its place :

(b) one or more Administrators who need not be members of the Society; or

(c) any other Society with its consent;

to manage the affairs of the society 3[and if necessary, take all or any policy decision including admission of members in relations to the society) for a period not exceeding two years as may be specified in the order and the said period may, at the discretion of the Registrar, be extended from time to time so however that, the aggregate period does not exceed four years :

Provided that, for any sufficient cause to be recorded, the Registrar may, in any case, extend the aforesaid period of twenty-one days so however that, the total period does not exceed thirty days from the 2[date of issue] of the notice;]

(2) The Committee or the Administrator or Administrators or the society so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give him power to exercise all or any of the functions of the Committee or of any 3[office-bearer] of the society and take all such actions as may be expedient in the interest of the society and shall be deemed for all purposes of this Act and the rules and Bye-Laws to be Committee of such society.

(3) The Committee or Administrators or the Society shall, 3[before] expiry of its or their term of office, arrange for the constitution of a

new Committee in accordance with the Bye-Laws of the Society.

4[(4)] If the Financing Bank of the Society does not tender its opinion in writing within thirty days of a reference made to it under Sub-section (1), it shall be deemed that it has no objection if the Committee is removed.]

(5) If the Registrar, while making an order under Sub-section (1), is of the opinion that any past or present officer of the society has been party to, or responsible for the mismanagemnet thereof or has failed to perform any duty lawfully assigned to him, he may, by order in writing after giving such officer an opportunity to state his objection, disqualify him from being a member of a Committee in respect of the society for a period not exceeding three years to be specified in the order and every order made under the Sub-sections shall state the reasons for which it is made and shall be communicated to the society and the officer concerned.

(6) In cases where the Registrar makes an appointment under Clause (b) or (c) of Sub-section (1) he may, by the order made under that Sub-section fix the remuneration to be paid to the Administrator or the Society, as the case may be, and the remuneration so fixed shall be paid from out of the funds of the Society whose affairs are managed by such Administrator or Society.

5[(7) Notwithstanding anything contained in this section, if in the opinion of the Registrar, the Committee of any society is acting in a manner prejudicial to the interest of the Society or its members, or has committee such serious irregularities or illegality that further continuance of the committee would be detrimental to the interest of the society, the Registrar may, at any time before or, as the case may be, after issue, of a notice under sub-section (1), suspend the Committee, and make such arrangements as he thinks proper for the management of the affairs of the Society during the period of suspension of the Committee:

Provided that if the Committees suspended is reinstated the period of suspension shall count towards its term.]

(8) Notwithstanding anything contained in this section, if, in the opinion of the Registrar, any member of the Committee of a society, delegated or entrusted with any of the powers or responsibilities of such Committee, persistently makes default or is negligent in exercise of powers or in discharge of responsibilities or commits any act prejudicial to the interest of the society or its member, the Registrar may after giving an opportunity to state his objections, if any, by order in writing stating reasons therefor

remove him from office.

1. Substituted by Orissa Act 19 of 1983, w.e.f. 05.11.1980- See Orissa Gazette Exty., dated 11.10.1983.
2. Substituted by Orissa Act 28 of 1991, dated 31.12.1991.
3. Inserted by Orissa Act 11 of 2002, dated 29.06.2002.
4. Substiuted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 12.08.1944.
5. Inserted by Orissa Act 7 of 1996, dated 22.04.1996.

33. Securing Possession Of Records Etc. :-

(1) If the Committee of a Society is reconstituted at a general meeting of the Society or is removed by the Registrar under Sec. 32 or if the Society is ordered to be wound up under the Section 72 and the outgoing members of the Committee refuse to hand over charge of the records and property of the Society to the new Committee or the Administrators or the society appointed under Section 32 or the Liquidator, such Committee, Administrators, society or Liquidator, as the case may be, may apply through the Registrar or any person empowered by the Registrar to the Subdivisional Officer having jurisdiction for securing such records and property.

(2) The Registrar may, if he has reason to believe that any records of any Society are likely to be tampered with or suppressed or that any property of any Society is likely to be removed or misappropriated : authorise any person to enter and search any place where such records or property are kept or are believed to be kept and to seize such records and property and in the event of such person being prevented from making any such entrance, search or seizure, the Registrar may apply to the Sub-divisional Officer having jurisdiction for securing such records and property.

(3) On receipt of an application under Sub-section (1) or (2) the Sub-divisional Officer may, by a warrant authorise any Police Officer, not below the rank of a sub-inspector, to enter and search any place where the records and property are kept or are believed to be kept and to seized such records and property and the records and property so seized shall be handed over to the applicant.

Explanation- For the purposes of this section "Sub-divisional Officer" means the Principal Revenue Officer of the Sub-division.

33A. Power To Appoint And Determine Conditions Of Service Of Employees Of Society :-

the Registrar shall -

- 1[(a) fix the number and designation of the employees to be employed by the Co-operative Societies; and
(b) make rules, regulating the qualification, remuneration, allowances and other conditions of service of such employees.]
1. Orissa Modified by Orissa Act 11 of 2004.

33B. Omitted :-

1. Omitted by Orissa Act 11 of 2004.

CHAPTER 5 PRIVILEGES OF SOCIETIES

34. First Charge Of Society On Certain Assets :-

1[(1) Notwithstanding anything contained in any law for the time being in force, but subject to any claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a society by any member or past or deceased member shall be first charge upon the land or interest in any land, crops and other agricultural produce, cattle, except, those required or ploughing the field of the member, fodder of 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 such deceased member, as the case may be.

(2) Any member owing any land or other immovable property or having interest in any land or in such property, who applies to the society for a loan, shall make a declaration in the prescribed form declaring that thereby he creates in favour of the society, a charge on such land or other immovable property or his interest in any such land or property, as the case may be, to secure the loan to be granted to him by the society including the interest thereon.

(3) The declaration made under Sub-section (2) may be varied cancelled by the member at any time with the consent of the society whose favour such declaration has been made.

(4) The declaration made under Sub-section (2) and any variation or cancellation thereof made under Sub-section (3) shall be sent by registered post by the Society concerned to the Sub-Registrar having jurisdiction over the area in which such land or property situates, on receipt of which the Sub-Registrar shall, if it is in order,

register such declaration or the variation or cancellation thereof and issue a copy thereof to the said society. Where it is not in order, he shall return it to that society without registration. The declaration or any variation or cancellation thereof shall have effect only on the date of registration.

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

(6) 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 (5) shall be void.

(7) Notwithstanding anything contained in the Provincial Insolvency Act 5 of 1920 or any corresponding law for the time being in force, the dues of a society from a member in insolvency proceedings against him shall rank in order of priority next to the dues payable by him to Government.

(8) Without prejudice to the provisions of Sub-section (7), the charge created under Sub-section (1) or Sub-section (2) shall have priority over any claim of the Government in respect of a loan granted under the Land improvement Loans Act, 19 of 1883 or the Agriculturists Loans Act 12 of 1884 or the Orissa State Aid to Industries Act, 32 of 1978 after the grant of the loan by the Society anything contained in Sub-section (1) notwithstanding.

(9) The provisions contained in Section 87 shall mutatis mutandis apply in respect of a charge created in favour of society under Sub-section (1) of Sub-section (2).]

1. Substituted by Orissa Act 19 of 1983- See O.G.E. dated 11.10.1983.

35. Deduction Of Dues Of Society From Salaries Of Members :-

(1) Notwithstanding anything contained in any law for the time being in force a member may execute an agreement in favour of the Society to the effect that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount in such period as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such an agreement the employer shall, if so required by the society by requisition in writing and so long as such

debt demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society within fourteen days from the date of the execution.

(3) If an employer, 1[***] fails to deduct or having deducted fails to pay amount as required under Sub-section (2), the Registrar may, on the application of the Society and after giving such employer a reasonable opportunity of being heard, direct him to pay to the Society within such period as has been specified in the agreement executed under Sub-sec. (1) a sum not exceeding the amount which he has failed to deduct or pay, as the case may be : Provided that nothing in Sub-section (1) shall apply to persons employed in railways within the meaning of the Constitution and to persons employed in mines and oil-fields.

1. Deleted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.

35A. Deduction Of Dues Of A Society Of A Reciprocating State :-

1[Where a requisition in writing from any society registered or deemed to be registered in any reciprocating State in respect of a member of that society, who has executed an agreement of the nature described in Sub-section (1) of Section 35 in favour of that Society and who for the time being is employed in the State of Orissa, is received by his employer, the requisition shall be acted upon as if it had been made by a society registered under this Act in the same manner as is provided in the said section.

Explanation - For the purposes of this Section reciprocating State means any State which the State Government may by notification, declare to be a reciprocating State.]

1. Inserted by Orissa Act 26 of 1976- See Orissa Gazette Exty., dated 12.05.1976.

36. Charge And Set-Off In Respect Of Share Or Interest Of Member In The Capital Of A Society :-

A society shall, in respect of any debt or outstanding demand owing to it, have a charge upon the share or interest in the capital of and on the deposits made by a member, a past member or deceased member and on any dividend, rebate, bonus or profits payable to any such member 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 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.

37. Shares Or Interest Not Liable To Attachment :-

Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of Section 36 the share or interest of a member, a past member or a deceased member in the capital of a Society shall not be liable to attachment or sale under any decree or order of a Court in respect of any debt or liability incurred by such member 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.

38. Exemption From Certain Taxes, Fees And Duties :-

(1) The Government may, by notification in the official gazette, remit in respect of any class of societies --

(a) the stamp duty chargeable under any law for the time being in force in respect of any class of instruments executed by or on behalf of a society or by an officer or member thereof and relating to the business of such society, or in respect of any award or order made under this Act, in cases where, but for such remission the society, officer or member as the case may be, would be liable to pay such stamp duty;

(b) any fee payable under any law for the time being in force relating to the registration of documents of courtfees :

Provided that nothing in Clause (a) shall apply in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policy of insurance, transfer of shares, debentures, proxies and receipts.

(2) The State Government may, by notification exempt any class of societies from taxes on-

(a) agricultural income :

(b) sale or purchase of goods; or

(c) professions, trades, calling and employments.

39. Exemption From Compulsory Registration Of Instruments :-

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

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

(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 a 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 debenture issued by any such society.

CHAPTER 6 STATE AID TO SOCIETIES

40. Promotion Of Co-Operative Movement :-

It shall be the State Government to encourage and promote the Co-operative movement in the State and to take such steps in this direction as may be necessary.

41. Direct Partnership Of State Government In Societies :-

(1) The State Government may subscribe directly to the share capital of a society.

(2) Notwithstanding any agreement to the contrary, the State Government shall not be entitled to a dividend on the shares of any such 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 Societies :-

The State Government may provide moneys to an Apex Society for the purchase of shares in other societies.

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 only for the purpose of-

- (a) directly purchasing shares in other societies;
- (b) providing moneys to a society (hereinafter in this chapter referred to as Central Society) to enable that society to purchase shares in other societies (hereinafter in this chapter referred to as Primary Societies), and
- (c) making payment to the State Government in accordance with the provisions of this chapter.

44. Subsidiary State Partnership Fund :-

(1) A Central Society which is provided with moneys by an Apex Society from the 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 only for the purpose of-

- (a) purchasing shares in Primary Societies; and
- (b) making payment to the Apex Societies in accordance with the provisions of this chapter.

45. Approval Of State Government For Purchase Of Shares :-

No shares shall be purchased in a 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 Society by-

- (a) the State Government; or
- (b) an Apex Society or Central Society from the Principal State Partnership Fund or the Subsidiary State Partnership Fund respectively;

the liability in respect of such shares shall, in the event of the 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 societies from the moneys in the Principal State Partnership Fund", and a Central Society which has purchased shares in Primary Societies from the moneys in 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 share-holders of that Society.

48. Indemnity Of Apex And Central Societies :-

(1) If a 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 Central Society in liquidation proceeding or in dissolution, as the case may be.

(2) If a 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 Apex Society shall be entitled to any moneys received by the Central Society in liquidation proceedings or in 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 Societies purchased from the moneys in the Principal State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall 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 dividends or otherwise, shall, in the first instance, be credited to that Fund and then be 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 be paid to the State Government from out of the Principal State Partnership Fund.

(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 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 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 money 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 be deemed to form part of the assets of the Apex Society or the Central Society, as the case may be.

52. Agreement By The 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 43;

(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 Societies :-

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

(a) give loan or make advances to societies;

(b) guarantee the repayment of principal and payment of interest

on debentures issued by a Society;

(c) guarantee the re-payment of share capital of a society and dividends thereon at such rates as may be specified by the State Government.

(d) guarantee the re-payment of principal and payment of interest on loans and advances to and deposits with a Co-operative Society; and

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

54. Provision Of This Chapter To Over Ride Other Laws :-

The provisions of Section 42 to 52 of this Chapter shall have effect not withstanding anything inconsistent therewith contained in any other law, for the time being in force.

CHAPTER 7 PROPERTIES AND FUNDS OF SOCIETIES

55. Funds Not To Be Divided :-

(1) No part of the funds other than the net profits of society shall be paid by way of bonus or dividend or otherwise distributed among its members :

Provided that a member may be paid remuneration on such scale as may be laid down by the Bye-Laws for any services rendered by him to the society.

(2) Nothing in Sub-section (1) shall be construed so as to debar any payment from being made out of such fund to a member as wages or as piece of the product of such member supplied to the society.

56. Disposal Of Net Profits :-

1(1) A Society shall, out of its net profit in any year-

(a) transfer an amount not less than ten per cent in the case of a Co-operative Farming Society and not less than twenty five per cent in any other case, of the profits to the reserve fund; and

2[(b) credit four per cent such profits to be Co-operative Education Fund constituted under Section 56-A;]

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

(a) payment of dividend to members on their paid-up share capital at a rate not exceeding twelve per cent of such share capital;

(b) 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;

(c) constitution of or contributions to such special fund as may be specified in the Bye-Laws;

(d) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in Section 2 of the Charitable Endowments Act, 6 of 1890;

(e) payment of bonus to employees of the Society, to the extent and in the manner specified in the Bye-Laws;

(f) payment of bonus to Government servants who are sent on deputation to the Society or are engaged whole-time in connection with the affairs of the Society; and

(g) payment of honorarium to members of the Committee for rendering specific services provided that the aggregate of such honorarium paid during any year does not exceed an amount equal to ten per centum of the net profits of that year.

3[(3) Notwithstanding anything contained in this section, a Co-operative Society shall contribute annually to the Co-operative Education Fund constituted under Section 56-A a sum as the State Government may, by notification, specify from time to time or four per cent of the net profit (earned) by the Society whichever is more:

Provided that the state Government may, for reasons to be recorded in writing, by general or special order, exempt any Society or class of Societies from payment of such contribution.]

1. Deleted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.

2. Substituted by *ibid*.

3. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, Sub-section (2) (a) force w.e.f. 07.01.1993.

56A. Co-Operative Education Fund :-

1[(1) There shall be constituted a Co-operative Education Fund which shall vest in the State Co-operative Union and shall be administered by the said Union in the prescribed manner.

(2) The Co-operative Education Fund shall consist of all contribution made by Government or by any institution or Society in additions to the amount specified in clause (b) of Sub-section (1) or in Sub-section (2) of Section-56.]

1. Inserted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.

57. Investment Of Funds :-

A society may subject to such conditions or limitations, if any be as may be prescribed, invest or deposit its funds which are not utilised in its operations -

- (a) in Government Saving Bank;
- (b) in its Financing Bank;
- (c) in any of the securities specified in Section 20 of the Indian Trusts Act, 2 of 1882;
- (d) with the general or special orders of the Registrar and subject to such conditions as he may impose-
- (i) in the shares, debentures or securities of or as deposits with any other Society, or
- (ii) any other bank approved by the Registrar in that behalf; or
- (e) in any other manner as may be prescribed.

58. Restrictions On Borrowings :-

(1) A 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) Without prejudice to the provision of Sub-section (1) a Co-operative Farming Society may receive loans on the security of lands pooled together for purpose of the Society.

59. Restrictions Of Loans :-

(1) A society shall not advance a loan to any person other than a member except with the general or sanction of the Registrar.

(2) Notwithstanding anything contained in Sub-section (1) a Society may advance a loan to a depositor on the security of his deposit.

59A. Restriction In Interest :-

1[Notwithstanding anything contained in any law or agreement for the time being in force, a society shall not charge on account of interest of any short term loan, whether advanced before or after the commencement of the Orissa Co-operative Societies (Amendment) Act, 19 of 1983 a sum greater than that of the principal.

Explanation- For the purpose of this section the expression "short term loan" shall mean a loan repayable within period of fifteen

months.]

1. Inserted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.

60. Restrictions On Other Transactions With Non-Members

:-

Save as is provided in Section 58 and 59, the transactions of a society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

61. Provident Fund :-

(1) A 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 the Society in accordance with the Bye-Laws of the Society.

(2) A contributory provident fund established by a 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 liable to attachment or be subject to any other process of any Court or other authority.

CHAPTER 8 AUDIT, INQUIRY, INSPECTION AND SURCHARGE

62. Audit :-

1[(1) (i) The Auditor-General shall audit, or cause to be audited by an Auditor duly authorised by him in that behalf, the accounts of every society for each Co-operative year, and complete such audit within six months of the closure of the year, at least once or for such number of times as may be directed by the State Government from time to time in respect of any Society or class of societies.

2[Provided that the Auditor General of Co-operative Societies, Orissa may engage one or more Chartered Accountants to cause the audit of the accounts of the Co-operative Society and the fees shall be paid by the Society both to the Chartered Accountant and the Government for the audit of its accounts for each Co-operative year at such rate as may be fixed by the Government.]

(ii) The Auditor-General may, of his own motion or on a requisition from the Registrar and shall, on a directive from the State

Government, arrange for special audit, re-audit or concurrent audit of the accounts of any society or class of Societies on day-to-day or such other basis as may be directed.

(iii) The Auditor-General shall so arrange the audit that the same Auditor shall not audit the accounts of the same society for two consecutive Co-operative years.

(iv) A Society having an annual business turnover of more than twenty-five lakhs, shall arrange for internal audit of its accounts on a day-to-day basis or on such basis as may be directed by the Auditor-General.]

(2) The Audit under Sub-section (1) shall be conducted according to the rules and shall include-

(a) a verification of cash balances and securities;

(b) a verification of the balances at the credit of the depositors and creditors and of the amounts due from the debtors of the society;

(c) an examination of overdue debts, if any;

(d) a valuation of the assets and liabilities of the society;

(e) an examination of the transaction, including the monetary transactions of the Society within such limits as may be prescribed :

(f) an examination of the statement of accounts, including the statement or receipts and charges, the balance-sheet, the profits and loss account and the statement of net profits available for distribution in accordance with this Act and the rules for the preceding year, to be prepared by the Committee in such form as may be directed by the 1[Auditor-General] 3[***]

1[(f-1) an examination of the irregularity in terms of this Act, Rules and the Bye-Laws discovered, if any, in the constitution, functioning and business of the society, affecting the financial position or otherwise of the society;]

(g) any other matter that may be prescribed or directed by the 1[Auditor-General.]

(3) The statement of accounts including the balance-sheet, the statement of profit and loss and statement of net profits thus audited together with the modifications, if any, made therein by the 1[Auditor-General] and certified by him shall be final and binding on the society.

(4) (a) The Registrar or the Auditor shall, at all times, have access to all the books, accounts, document papers, securities, cash and other properties belonging to or in the custody of the society and shall, in so far as is necessary for carrying out any of the purposes of this Act, have power to summon and enforce and enforce the

attendance of any person and to examine him on oath or affirmation and to compel the production of any books, accounts, documents, securities cash and other properties at any place at the headquarters of the society or any branch thereof and to issue commission for the society or any branch thereof and to issue commission for the examination of witness by the same means and so far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 5 of 1908.

(b) The Registrar or the Auditor may require any person present before him to furnish any information or to produce any documents in his possession or power.

(c) The Registrar or the Auditor shall have power to take or to authorise the taking of such copies of the document or of any entries therein as may be considered necessary. Copies so taken shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein.

(5) 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 1[Auditor-General] or the Auditor may require.

4[(6) If the Auditor-General has reason to believe that the continuance in office of any Officer or office-bearer of society during audit of its accounts will be detrimental either to the ascertainment of facts relevant to the audit, or to the furnishing of compliance to the audit objections or his directives, if any, in that regard, he may, notwithstanding anything to the contrary contained in this Act, Rules and the Bye-Laws, by order, assigning reasons therefor suspend the Officer or office-bearer concerned for the whole or such portion of the period of audit as he may deem proper :

Provided that the period of such suspension shall, in no case, exceed six months.

(7) The Auditor-General, or any person authorised by him to conduct audit, under this section shall, during the course of any such audit, have the same powers as the Registrar is competent to exercise under Clause (c) of Sub-section (3) and Sub-section (5) of Section 65.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 25.05.1999.

2. Inserted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

3. Omitted by ibid.

4. Inserted by ibid.

63. Communication, Consideration And Compliance Of Audit Report :-

1[The Report of every audit conducted under Section 62 shall be Communicated, considered and complied with the manner prescribed.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 25.05.1999.

63A. Annual Audit Report Of Auditor-General :-

1[(1) The Auditor-General shall furnish to the State Government an annual report for every Co-operative year within nine months of the closure of the year. Incorporating therein a classification of the societies in the State on the basis of the Audit findings for the year, and such other particulars as may be prescribed.

(2) The annual report shall, as soon as it is received, be laid before the State Legislature for a period of fourteen days, comprised in one session or more than one sessions thereof.]

1. Inserted by ibid.

64. Inspection Of Records Of Society :-

1[(1) The records of every society shall be inspected by the Registrar, or any person authorised by him in that behalf, at least once in every Co-operative year, and the report thereof communicated to the Society, its Financing Bank and the Auditor-General, within one month from the date of commencement of the inspection.

(2) (a) The Registrar may, on his own motion or on the application of a creditor of a Society, either himself inspect or direct any person authorised by him by order in writing in that behalf to inspect, any record of a Society :

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

(i) Satisfies the Registrar that the debt claimed is subsisting and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

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

(b) The Registrar shall communicate the report of any inspection conducted under Clause (a) to the society, its creditor and Financing Bank and the Auditor-General, within one month from the date of commencement of the inspection.

(3) (a) Inspection of the records of a society may also be made by its Financing Bank, or the Apex or Central Society including a Central Co-operative Bank which either own shares in it or has advanced any money to it.

(b) The inspecting society shall communicate the report of its inspection to the Society inspected, the Registrar and the Auditor General, within one month from the date of commencement of the inspection.

(4) Inspecting authorities under this section shall have the same powers as the Registrar is competent to exercise under Sub-sections (3) and (5) of Section 65.]

1. Substituted by *ibid.* w.e.f. 01.05.1993.

65. Enquiry By Registrar :-

(1) The Registrar may, at any time of his own motion, by himself or by a person authorised by him by order in writing, hold an enquiry into the constitution, working and financial condition of a Society.

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

(a) a 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 to the total number of members of the society.

(3) The Registrar, or the person authorised by him under Sub-section (1) shall for the purposes of an inquiry under Sub-section (1) or Sub-section (2) 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 place 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 the society to appear before him at any place 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-Laws, specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the head-quarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the officers of the society refuse or fail to call such a meeting he shall have powers to call it himself :

Provided that no such meeting shall be called without giving notice of at least five days prior to the date of the meeting;

(ii) a meeting called under Sub-clause (i) shall for all purposes be deemed to be a general meeting called under the Bye-Laws of the Society and its proceedings shall be regulated by such Bye-Laws except that no quorum shall be necessary for such meeting;

(d) if he has reasons to believe that the continuance of any officer of the society in office will be detrimental to the interests of the society, he may, by order assigning reasons therefor, suspend such officer or member from holding the office during the pendency of the enquiry :

Provided that in no case the suspension as aforesaid shall extend over a period of more than six months :

Provided further that an order of suspension shall be passed by any officer below such rank as may be prescribed unless he happens to be the Registrar.

1[(4) When an inquiry is made under this section, the Registrar shall communicate the report of the inquiry, within three months from the date of commencement thereof, to-

(a) the society, or societies to which it is affiliated and its financing Bank; and

(b) the Auditor-General, alongwith his requisition, if any, for such further investigation of any affair or verification of accounts or recovery of the dues of the society as may be deemed necessary.]

(5) Where the Registrar or any person authorised by him is, in the course of an inquiry under Sub-section (1) or Sub-section (2), satisfied that the books and records of a society are likely to be tampered with or the funds and property of the society are likely to be misappropriated or misapplied, he may issue an order directing a person to seize and take possession of such books, records, funds or property and the officer or officers of the society responsible for the custody of such books, records, funds or property shall give delivery thereof to the person as directed and in the event of such person being prevented from making the seizure the provisions of Sub-sections (2) and (3) of Section 33 shall, mutatis mutandis,

apply.

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

66. Costs Of Inquiry :-

Where an inquiry is held under Section 65, or an inspection is made under Section 64 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 society to which the society concerned is affiliated, the society, the member or creditor demanding an inquiry or inspection, and the officers or former officers 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.

67. Surcharge :-

1[(1) If, in the course of any audit, enquiry, inspection or the winding up of a Society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an Officer, officer-bearer or employee of the society, has made any payment contrary to this Act, Rules or the Bye-laws, or has caused any deficiency in the assets of the society by breach of trust, wilful negligence or otherwise, or has misappropriated or fraudulently or unauthorisedly retained any money or other property belonging to the Society, the Auditor-General or a person authorised by him by an order in writing in that behalf, on his own motion or on the application of a liquidator, the Committee or any creditor, after giving the person concerned a reasonable opportunity of being heard, may make an order in the manner prescribed, requiring him to repay or restore the money or property or any part thereof, with interest at such rates, or to pay such contribution, costs or compensation as he may consider just and equitable, and all such orders shall have effect without prejudice to any other action that may be lawfully taken against him :

Provided that no proceedings under this section shall be initiated after the expiry of a period of four years from the date any act or

omission as aforesaid is first detected during audit, inspection, inquiry or the winding up of a society, as the case may be.

(2) Notwithstanding anything to the contrary in Sub-section (1) any authority competent to initiate, institute or dispose of any proceedings under this section as it stood prior to the date of commencement of Section 35 of the Orissa Co-operative societies (Amendment) Act, 1991 shall continue to be so competent until appointment of the Auditor-General and upon such appointment, all proceedings pending before any such authority as on the date of the said appointment shall stand transferred to the Auditor-General who shall dispose of the same in accordance with law.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

67A. Constitution Of Co-Operative Tribunal :-

1[2[(1) (i) The State Government shall, by notification, constitute a Tribunal, to be called the Co-operative Tribunal, consisting of such number of members with such qualification, as may be prescribed, so however that-

(a) if there are more than one member, one among them shall be from the Orissa Superior Judicial Service (Senior Branch) who shall be the Chairman; and

(b) if there is only one member, he shall be from the Orissa Superior Judicial Service (Senior Branch).

(ii) The Tribunal may sit at such place or places as it may find convenient for the transaction of its business].

(2) The Tribunal constituted under Sub-section (1) shall exercise such powers and perform such functions as are or may be conferred by or under the provisions of this Act.

1. Inserted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.

2. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

67B. Powers Of The Tribunal :-

1[2[(1) (i) Notwithstanding anything contained in any law for the time being in force, any dispute arising in connection with the election of any office-bearer of a Society, or the disciplinary action taken by a society or its committee against any paid servant of the society who is not a workman within the meaning of Clause (s) of Section (2) of the Industrial Disputes Act, 1947, shall be referred to

the Tribunal in the manner and within the period prescribed in that behalf.

(ii) If any question arises as to whether a dispute referred to the Tribunal under Clause (i) is a dispute within the meaning of that clause, the decision of the Tribunal thereon shall be final and shall not be called in question in any Court.

(iii) All disputes arising in connection with the election of any office-bearer of a society or the disciplinary action taken by society or its Committee against any paid servant of the society, with whatever authority under this Act, Rules or any Regulations framed under this Act pending as on the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1991 shall stand transferred to the Tribunal which shall dispose of the same in accordance with law.]

(2) The Tribunal may, pending the decision of the dispute, make such interlocutory orders as it may deem necessary in the interest of justice.

(3) The Tribunal may call for and examine records of proceeding in which appeal lies to it, but appeal has not been filed, for the purpose of satisfying itself as to the legality or propriety of any order passed or decision made therein and if any such case it appears to the Tribunal that any order or decision should be revised, modified or annulled, it may make such order as it thinks fit, after affording to the person likely to be affected adversely by such order an opportunity of being heard.

(4) While deciding appeals, the Tribunal may exercise all the powers conferred upon the Appellate Court by Order XLI of the first Schedule of the Code of Civil Procedure, 5 of 1908.

1. Inserted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.

2. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

67C. Section 67C :-

All orders and decisions of the Tribunal shall be final and shall not be questioned in any Court of law.

67D. Section 67D :-

Alternative remedy available - writ not maintainable. Order of suspension & initiation of disciplinary proceedings challenged in a

writ application - The dispute against such order is maintainable before the Co-operative Tribunal -the petitioner was directed to approach the Co-operative Tribunal. 2004 (I) OLR 69(Pravas Chandra Das Vrs. The Urban Co-operative Bank Ltd. Cuttack).

CHAPTER 9 SETTLEMENT OF DISPUTES

68. Disputes Which May Be Referred To Arbitration :-

1[(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or the business of a society, other than a dispute required to be referred to the Tribunal and a dispute required to be adjudicated under the Industrial Disputes Act, 1947, 2[and a dispute relating to non-payment of contribution to the Co-operative Education Fund referred to in sub-section (3) of Section 56] shall be referred to the Registrar if the parties thereto are among the following, namely :

(a) the Society, its committee, past Committee, any past or present Officer or office-bearer, any past or present agent, any past or present servant or the nominee, legal heir or representative of any deceased Officer, office bearer, deceased agent or deceased servant of the Society; or

(b) a member, past member, or a person claiming through a member, past member or deceased member of the society, or of a society which is a member of the society; or

(c) a surety of a member, past member or a deceased member, whether such surety is or is not a member of the society; or

(d) any other society.

Explanation I-A claim in respect of any sum payable to or by a society, by or to a person or society mentioned in Clauses (a) to (d) shall be a dispute touching the business of the society within the meaning of this section, even in case such claim is admitted and the only points at issue are the ability to pay and the manner of enforcement of payment.

Explanation II-A claim by a Financing Bank against a member of a society which is a member of the Financing Bank and indebted to it for the recovery of dues payable by such member to the Society shall be a dispute touching the business of the Financing Bank within the meaning of this section.

Explanation III- The question whether a person is or was a member

of a society or not shall be a dispute within the meaning of this section.

Explanation IV- A claim by a surety for any sum or payment due to him from the principal borrower in respect of a loan advanced by a society shall be a dispute within the meaning of this section.

Explanation V- The question whether a person or any one of his family members is carrying on any business prejudicial to the business or interests the society, or whether such family member has common economic interest with such person shall be a dispute within the meaning of this section.]

(2) Any person, society, 1[or Financing Bank] referring a dispute to the Registrar under Sub-section (1) shall deposit in advance such fees as may be prescribed.

(3) No dispute referred to in this section shall be entertained in any Civil Court and decision of the Registrar in this respect shall, subject to the provisions of Section 70, be final.

(4) 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 society, the decision thereon of the Registrar shall be final and shall not be called in question in any Court.

(5) Nothing in this section shall, where the disputes relate to the recovery of the dues of any society from any of its member be construed to debar any Financing Bank of such society from referring such dispute to the Registrar.

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

2. Inserted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

69. Limitation :-

1[(1) When the dispute is between a society or its committee and any past committee, past officer, past agent or past servant or the nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society and when the dispute relates to any act or omission on the part of either party to the dispute, the period of limitation shall be four years from the date on which such act or omission with respect to which the dispute arose was first detected during the course of any inspection, enquiry, audit or winding up of the society.

(2) When the dispute relates to any sum including interest thereon, if any, due to a society by a member thereof, it may be referred

within a period of four years from the date of death or cessation of membership of such member.

1. Substituted by Orissa Act 19 of 1983, w.e.f. 05.11.1980-See Orissa Gazette Exty., dated 11.10.1983.

70. Reference Of Disputes To Arbitration :-

(1) The Registrar, may, on receipt of a reference of a dispute under Section 68-

(a) decided 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) Registrar.

(2) The Registrar may withdraw any reference transferred under Clause (b) of Sub-section (1) or referred under Clause (c) of the said sub-section and decide it himself or transfer the same to another person so invested or to another Arbitrator so appointed.

(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.

71. Loan Taken Or Mortgage Executed By Members Of Joint Hindu Families :-

Where in the course of settlement of a dispute under Section 70 or any proceedings under this Act, or in any suit, a loan taken from or a mortgage executed in favour of a society whether before or after the commencement of this Act, is called in question on the ground that it is taken or executed by the manager of a joint Hindu family for a purpose not binding on the members thereof, whether major or minor, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force rest upon the party which calls such loan or mortgage in question.

CHAPTER 10 WINDING UP AND DISSOLUTION OF SOCIETIES

72. Winding Up Of Societies :-

(1) If the Registrar, after an inquiry has been held under Section 65 or inspection has been made under Section 94 or upon perusal of the audit report or on receipt of 1[a resolution passed] by not less than three-fourths of the members of a 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 society-

1[(a) its membership has fallen below the minimum number required for its registration]; or

(b) where the society has not commenced working within a period of eighteen months from the date of its registration or has ceased to work.

2[(2-a) Except on the basis of a resolution specified in Sub-section (1) no order directing the winding up a society under this section shall be passed without giving an opportunity to the society to state objections, if any, to the proposed winding up, through its Chief Executive, within thirty days from the date of issue of a notice by the Registrar in that regard.)

(3) The Registrar may cancel an order for the winding up of society, at any time, in any case where, in his opinion the society should continue to exist.

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

2. Inserted by *ibid*.

73. Liquidator :-

(1) Where the Registrar has made an order under Section 72 for the winding up of a society, he may appoint a Liquidator for the purpose and fix his remuneration, which shall be paid from out of the funds of the society and may also remove any Liquidator and appoint another in his place.

1[(2) A Liquidator appointed under Sub-section (1) shall forthwith take such action as may be prescribed.]

(3) Where an order of winding up society is cancelled by the Registrar under Sub-section (3) of Section 72 or set aside in appeal, the property, effects and actionable claims of the society shall revest in the society.

1. Substituted by Orissa Act 28 of 1991, Dt. 31.12.1991, Sec. 73 force w.e.f. 10.06.1997.

74. Priority Of Contribution Assessed By A Liquidator :-

Notwithstanding anything contained in the Provincial Insolvency Act. 1920, the debts due to a society under orders 5 of 1920 being wound up and the contribution assessed by the Liquidator shall rank next to debts due to the Government or to any local authority

in order of priority in insolvency proceedings.

75. Powers Of Liquidator :-

(1) Subject to any rules made in this behalf, the whole of the assets of a 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 1[***]

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

(b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officer or former officers, to the assets of the society;

(c) to 2[settle, compromise or determine] all claims against the society and subject to the provisions of this Act to decide questions of priority arising between claimants :

(d) to pay claims against the society including interest up to the date of winding up according to their respective priorities, if any, in full or rateable, 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, to 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 direction 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 any claim, present or future, where by the society may be rendered liable; and

(j) to 2[settle, compromise or determine] all calls of liabilities to calls 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 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 in security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

3[(2-a) The Liquidator shall submit such reports and returns on the progress of liquidation of the society and in such form and manner, as the Registrar may, from time to time, require.]

(3) When the affairs of 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 and shall make over the surplus assets of the society to the Registrar.

3[(4) Notwithstanding anything contained in this Act-

(a) no dispute touching the constitution, management or business of a society, in respect of which an order for winding up has been made under Sub-section (1) shall, on and after the date commencement of Section 41 of the Orissa Co-operative Societies (Amendment) Act, 1991, be raised before any authority other than the Liquidator of the society, and for the purpose, the Liquidator shall have powers to start on his own motion, proceedings on behalf of the society; and

(b) all proceedings under Section 68 concerning such society, with whatever authority pending as on the said date of commencement, shall stand transferred to the Liquidator on that date; and the Liquidator shall decide the disputes so raised/started or transferred, as the case may be, in accordance with law]

1. Omitted Ibid force w.e.f. 01.05.1993.

2. Substituted by Orissa Act 28 of 1991, Dt. 31.12.1991, Sec. 73 force w.e.f. 10.06.1997.

3. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

76. Disposal Of Surplus Assets :-

The surplus assets of a society made over by the Liquidator to the Registrar shall not be divided among its members, but shall be applied by the Registrar, in whole or in part to all or any of the following objects, namely :

(a) any object specified in that behalf in the Bye-Laws of the society;

- (b) an object of local public utility;
- (c) a charitable purpose as defined in Section 2 of the Charitable Endowments Act, 6 of 1890;
- (d) any union of Co-operative Societies the object of which is the development of the Co-operative movement; and
- (e) reserve fund of a new society, if and when established with the same object and the same area of operation of the society wound up.

77. Cancellation Of Registration Of A Society :-

Where in respect of a 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 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 CO-OPERATIVE AGRICULTURAL & RURAL DEVELOPMENT BANK

78. Definitions :-

1[2[(1) In this Chapter-

(a) Board means the Board of Directors of the 1[State Co-operative Agricultural & Rural Development Bank].

3[(b) 1[Co-operative Agricultural and Rural Development Bank.] means a 1[Co-operative Agricultural and Rural Development Bank] registered or deemed to be registered under this Act and includes a Co-operative Society or a body corporate admitted as a member of the 1[State Co-operative Agricultural and Rural Development Bank] or as an agent of the 1[Co-operative Agricultural and Rural Development Bank]; and.

(c) 1[State Co-operative Agricultural and Rural Development Bank] means the Orissa State Co-operative 1[Co-operative Agricultural and Rural Development Bank] Limited; and

(d) "Trustee" means the Trustee referred to in Section 79.

4[(2) 5[Co-operative Agricultural and Rural Development Bank] may advance loans, other than short-term loans, for purposes

connected with-

(a) improvement of land;

(b) productivity of land;

(c) development of agriculture;

(d) objects allied to agriculture, such as-

(i) dairy;

(ii) poultry; and

(iii) fishery;

(e) Such other occupation of the agriculturist as the State Government may, by notification from time to time specify.]

6[(3) 5[Co-operative Agricultural and Rural Development Bank] may also advance loans other than short-term loans, for such other occupations or purposes, and subject to such terms and conditions as the State Government may, by notification from time to time specify.]

1. Substituted by Orissa Act 23 of 1994-See Orissa Gazette Exty., No 1372, dated 09.11.1994.

2. Renumbered by Orissa Act 5 of 1970-See O.G.E. dated 05.03.1970.

3. Substituted by Orissa Act 19 of 1983 See Orissa Gazette Exty., dated 11.10.1983.

4. Substituted by Orissa Act 19 of 1983-See Orissa Gazette Exty., dated 11.10.1983.

5. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

6. Substituted by Orissa Act 23 of 1994.

79. Appointment Of Trustee And His Powers And Functions

:-

(1) The Registrar, or where the State Government appoint any other person in this behalf, such person shall be the Trustee for the purpose of securing the fulfilment of the obligation of the 1[State Co-operative Agricultural & Rural Development Bank] to the holders of debenture 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 Bank and the Trustee.

1. Substituted by Orissa Act 23 of 1994.

80. Trustee To Be A Corporation Sole :-

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

81. Issue Of Debentures By The Board :-

(1) With the previous sanction of the Trustee, the Board may from time to time issue debentures of one or more denominations for such periods as it may deem expedient on the security of the mortgages and assets held by or transferred or deemed under the provisions of Section 87 to have been transferred by the 1[Co-operative Agricultural & Rural Development Bank] to the 1[State Co-operative Agricultural & Rural Development Bank] and other properties of such Bank.

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

(3) The total amount due on the debentures issued by the Board and outstanding at any time shall not exceed the aggregate of-

(a) the total amount due on the mortgages held by the 1[State Co-operative Agricultural & Rural Development Bank] or transferred or deemed under the provisions of Section 87 to have been transferred to it by the 1[Co-operative Agricultural & Rural Development Bank] and the value or the assets in respect of the land mortgage business held by the 1[State Co-operative Agricultural & Rural Development Bank] and subsisting at such time; and

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

(4) Notwithstanding anything contained in this Chapter-

(a) the Board may, with the previous sanction of the Trustee, issue debentures on the security of mortgages executed in favour of the 1[State Co-operative Agricultural & Rural Development Bank]; and

(b) all mortgages executed in favour of the said Bank prior to the coming into force of this Act, shall be deemed to be mortgages executed under Clause (a).

(5) The provisions contained in this Chapter, which are applicable to mortgages executed in favour of a 1[Co-operative Agricultural

and Rural Development Bank], shall mutatis mutandis, apply to mortgages executed or deemed to be executed in favour of the 1[State Co-operative Agricultural and Rural Development Bank], under Sub-section (4).

1. Substituted by Orissa Act 23 of 1994.

82. Charge Of Debenture-Holder 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 81;

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

(c) the other properties of the 1[State Co-operative Agricultural and Rural Development Bank].

1. Substituted by Orissa Act 23 of 1994.

83. Guarantee By State Government Of Principal And Interest On Debentures :-

(1) The principal of, and interest on, the debentures issued under Section 81 shall, in respect of such maximum amount as it may be fixed by the State Government and subject to such condition as may think fit to impose, carry the guarantee of the State Government.

(2) The State Government may, subject to any law made by the Legislature 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 as the State Government may select in this behalf; discontinue any guarantee given by it or restrict the maximum amount thereof or modify the condition, subject to which it is given, with effect from a specified date, not being earlier than six months from the date 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.

83A. Grant Of Loan By Co-Operative Agricultural And Rural Development Bank :-

1[2[Any Land Development Bank] may grant loan to its members against the creation of a charge on or mortgage of land free on encumbrances.]

1. Substituted by Orissa Act 1 of 1979- See Orissa Gazette Exty., dated 25.09.1979.

2. Substituted by Orissa Act 23 of 1994.

83B. Applicant For Loan To Make A Declaration :-

1[2[(1) Every applicant for a loan to a 3[Co-operative Agricultural and Rural Development Bank] shall make a declaration in the form prescribed by the 3[Co-operative Agricultural and Rural Development Bank], before an officer authorised by the Registrar in this behalf, on solemn affirmation that the land sought to be mortgaged is free from all encumbrances and that the mortgagor is in possession thereof and has the right to create the mortgage.

(2) The declaration made under Sub-section (1) shall be conclusive, final and binding.

(3) If at any time a declaration made under Sub-section (1) is found to be false or defective, the 3[Co-operative Agricultural and Rural Development Bank] shall subject to the provisions of Section 85, 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 mortgage deed and the Development Bank may proceed against all such properties of mortgagor under Section 91.

Explanation- A charge created under Section 34 shall not constitute an encumbrance for the purposes of this Section and Section 83-A.

(4) Only those applications which confirm to the requirements of Sub-section (1) shall, in accordance with the rules made in that behalf, be taken into consideration by the bank.]

1. Substituted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 05.03.1970.

2. Substituted by Orissa Act 1 of 1979- See Orissa Gazette Exty.,

dated 25.09.1979.

3. Substituted by Orissa Act 23 of 1994.

83C. Order Granting Loan Conclusive Of Certain Matters :-

1[A written order by the 1[Co-operative Agricultural & Rural Development Bank or any committee or other person authorised by this Act or the Bye-Laws of the bank to grant loans for any of the purposes specified in the Bye-Laws of the concerned bank, granting, either before or after the commencement of this Act, a loan for the benefit of the land or for any productive purpose specified therein shall, for the purposes of this Act, be conclusive of the following matters, namely:

(a) that the work described or the purposes for which the loan is granted is an improvement or productive purpose, as the case may be, within the meaning of the Bye-Laws of the society;

(b) that the person had, on the date of the order, a right to make such an improvement or to incur expenditure for productive purposes, 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 by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 05.03.1970.

83D. Charge How Created And Its Effect :-

1[(1) Every applicant for a loan to be given by a 2[Co-operative Agricultural and Rural Development Bank] against the creation of a charge on any land which he owns or in which he has an interest shall, on his application being granted, make a declaration in the prescribed form declaring that thereby he creates in favour of that bank a charge on such land or his interest therein, as the case may be, to secure the loan.

(2) A declaration made under Sub-section (1) may be varied from time to time by the applicant with the consent of the bank in whose favour the declaration has been made and any such variation shall take effect from such date on which the variation if it had been an original declaration, would have effect under Sub-section (3).

(3) Notwithstanding anything contained in the Registration Act, 16 of 1908, a charge in respect of which a declaration has been made under Sub-section (1) or in respect of which a variation has been

made under Sub-section (2) by an applicant in favour of the bank in respect of loan given by that bank shall be deemed to have been duly registered in accordance with the provisions of that Act, with effect from the date of the charge or variation, as the case may be, provided that the bank sends to the Sub-registrar within the local limits of whose jurisdiction the whole or any part of the property charged is situated within a period of thirty days, by registered post with acknowledgement due, two copies of the documents creating such charge or variation duly certified to be true by an employee of the bank authorised to sign on its behalf.

(4) Notwithstanding contained in any law for the time being in force an applicant who has availed of a loan from a 2[Co-operative Agricultural & Rural Development Bank] by creating a charge on land or interest therein, shall not, so long as the loan continues to be outstanding lease out or create any tenancy right on such land or interest without prior permission in writing of the bank.

(5) Any lease granted or tenancy rights created in contravention of this section shall be void.

1. Inserted by Orissa Act 1 of 1979-See Orissa Gazette Exty., dated 25.01.1979.

2. Substituted by Orissa Act 23 of 1994.

83E. Charge Created Or Mortgage Executed By A Member Of Hindu Joint Family Or Co-Owners :-

1[(1) Notwithstanding anything contained in any other law, when a mortgage is executed or a charge is created in favour of a 2[Co-operative Agricultural & Rural Development Bank] by one or more of the co-sharers of a Hindu joint family or by any co-owner or by any purchaser from them, who is or are in possession of the said property on the date of the mortgage or charge and such possession is certified by a Revenue Officer not below the rank of a Revenue Inspector in the form to be prescribed by the 2[State Co-operative Agricultural and Rural Development Bank] the same shall remain a first charge on the said land, and the certificate of possession so granted shall be conclusive and binding and shall not be called in question in any Court or Tribunal.

(2) Notwithstanding anything contained in any other law, custom or usage to the contrary, any loan given by a 2[Co-operative Agricultural & Rural Development Bank] shall remain a first charge on the property so mortgaged till it is fully satisfied and discharged,

notwithstanding a partition, settlement, sale, gift, transfer, encumbrance, charge or any other liability made or created, whether by or through Court, or under any Act, mutual agreement, arbitration or by any other means, and any person who acquires the said property in any manner whatsoever, shall be liable to discharge the loan.

(3) The aforesaid provisions shall apply notwithstanding the provisions of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 21 of 1972 and the Orissa Land Reforms Act, 16 of 1940.

1. Inserted by Orissa Act 1 of 1979-See O.G.E., No. dated 25.01.1979.

2. Substituted by Orissa Act 23 of 1994.

84. Other Guarantees By State Government :-

Where the 1[State Co-operative Agricultural & Rural Development Bank] or a 1[Co-operative Agricultural and Rural Development Bank] has given a loan to a member for the development of any in excess of the amount of the loan to which such member would be entitled on the basis of the value of the land as determined in accordance with the principles of valuation approved by the State Government, the Government may, if they think fit, guarantee for a specified period the repayment of the loan to the extent of the excess.

1. Substituted by Orissa Act 23 of 1994, Orissa Gazette Exty., dated 04.11.1994.

85. Priority Of Mortgage Over Certain Claims :-

1[(1) Notwithstanding anything contained in any law for the time being in force but subject to any claim of the Government in respect of land revenue or any money recoverable as arrears of land revenue and to the provisions of Sub-section (2), any debt or outstanding demand due to the 2[State Co-operative Agricultural & Rural Development Bank] or any 2[Co-operative Agricultural & Rural Development Bank] on account of a mortgage executed by any member or past or deceased member in favour of such bank shall be a first charge upon the land so mortgaged.

(2) Any such mortgage as aforesaid shall also have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 19 of 1883, or the Agriculturists Loans

Act, 12 of 1884, granted after the execution of the mortgage.]

1. Substituted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 05.03.1970.

2. Substituted by Orissa Act 23 of 1994, Orissa Gazette Exty., dated 04.11.1994.

85A. Mortgages Executed By Managers Of Joint Hindu Families :-

1[(1) Mortgages executed in favour of 2[Co-operative Agricultural and Rural Development Bank] either before or after the commencement of this Act, by the manager of a Hindu joint family shall, notwithstanding any law to the contrary, be binding on all the members thereof, if the loan secured by the mortgagor was granted for any purpose of agricultural development of the land in accordance with the Bye-Laws of the bank.

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

1. Substituted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 05.03.1970.

2. Substituted by Orissa Act 23 of 1994, Orissa Gazette Exty., dated 04.11.1994.

85B. Section 8 Of Act 32 Of 1956 To Apply To Mortgages :-

1[Section 8 of the Hindu Minority and Guardianship Act, 32 of 1956 shall apply to mortgages in favour of a 2[Co-operative Agricultural and Rural Development Bank] subject to the modification that reference to the Court made therein shall be construed as reference to the Collector or his nominee and, the appeal against the order of the Collector or his nominee shall lie to the Revenue Divisional Commissioner having jurisdiction.]

1. Substituted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 05.03.1970.

2. Substituted by Orissa Act 23 of 1994.

86. Right Of [Co-Operative Agricultural And Rural Development Bank] Or The [State Co-Operative Agricultural And Rural Development Bank] To Purchase Mortgaged

Property :-

(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a 1[Co-operative Agricultural & Rural Development Bank] or the 1[State Co-operative Agricultural 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 the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960) fixing a maximum limit of agricultural holding shall apply to the acquisition of land by a 1[Co-operative agricultural & Rural Development Bank] or the 1[State Co-operative Agricultural and Rural Development Bank] under Sub-section (1).

1. Substituted by Orissa Act 23 of 1994.

87. Mortgages Executed In Favour Of [Co-Operative Agricultural & Rural Development Bank] To Stand Vested In [State Co-Operative Agricultural And Rural Development Bank] :-

The mortgages executed in favour of, and all other assets transferred to a 1[State Co-operative Agricultural 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 1[Co-operative Agricultural and Rural Development Bank] to the 1[State Co-operative Agricultural & Rural Development Bank.] and shall vest in the Trustee.

1. Substituted by Orissa Act 23 of 1994.

87A. Transfer Of Mortgages :-

1[(1) Notwithstanding anything contained in this Act or in the relative mortgage bonds, the mortgages executed in favour of the 1[State Co-operative Agricultural and Rural Development Bank] by the individual members thereof shall be deemed to be mortgages executed in favour of the 1[Co-operative Agricultural and Rural Development Bank] operating in the area where in the mortgaged properties are situate and the said members shall be deemed to be members and debtors of such 1[Co-operative Agricultural and Rural Development Bank] with effect from the date on which the 2[State Co-operative Agricultural and Rural Development Bank] transfers the amounts due thereon, and the shares held by the members to

the 2[Co-operative Agricultural and Rural Development Bank.] concerned.

(2) Notwithstanding anything contained in this Act or in the relative mortgage bonds, mortgage executed in favour of a 2[Co-operative Agricultural and Rural Development Bank] in respect of properties situated within the area of operation of another 2[Co-operative Agricultural and Rural Development Bank] newly or subsequently established shall be deemed to be executed in favour of such other bank and the mortgagor shall be deemed to be a member and debtor of such other bank with effect from the date on which the former bank transfers the amounts due thereon and the shares held by the member to the later bank.

(3) All moneys due under a mortgage transferred under this section shall be payable to the 2[Co-operative Agricultural and Rural Development Bank] to which the mortgaged is transferred under Sub-Section (1) or Sub-section (2) and such bank shall be entitled to receive money, to grant valid discharge and to sue on the mortgage or take any other proceedings for the recovery of money due thereunder.]

1. Substituted by Orissa Act 5 of 1970- See Orissa Gazette Exty., dated 05.03.1970.

2. Substituted by Orissa Act, 23 of 1994.

88. Powers Of Co-Operative Agricultural And Rural Development Bank To Receive Money And Grant Discharge :-

1[Notwithstanding that mortgage executed in favour of 2[Co-operative Agricultural and Rural Development Bank] has been transferred, or is deemed under the provisions of Section 57, to have been transferred to the 2[State Co-operative Agricultural 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 of Trustee and communicated to the mortgagor, be payable to such 2[Co-operative Agricultural and Rural Development Banks] and such payment shall be as valid as if the mortgage had not been so transferred; and

(b) the 2[Co-operative Agricultural and Rural Development Bank] shall, in the absence of any specific direction to the contrary issued by the Board of Trustee and communicated to it, be entitled to use on the mortgage or take any other proceedings for the recovery of

the moneys due under the mortgage.

1. Substituted by Orissa Act 5 of 1970- See Orissa Gazette Exty., dated 05.03.1970.
2. Substituted by Orissa Act, 23 of 1994.

89. Right Of Co-Operative Agricultural And Rural Development Bank To Pay Prior Debts Of Mortgagor :-

(1) Where a mortgage is executed in favour of a 1[Co-operative Agricultural and Rural Development Bank] for payment or prior debts of the mortgagor, the bank may, notwithstanding the provisions of Sections 83 and 84 of the Transfer of Property Act, 4 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 1[Co-operative Agricultural 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.

1. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

90. Distraint When To Be Made :-

(1) If any instalment payable under a mortgage executed in favour of a 1[Co-operative Agricultural & Rural Development Bank] or the 1[State Co-operative Agricultural and Rural Development Bank] or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the Committee, or the Board, as the case may be, 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 manner prescribed for the purpose of distraining and selling such produce.

2[***]

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

1. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

2. Deleted by Orissa Act 5 of 1970-See O.G.E. dated 05.03.1970.

91. Powers Of Sale When To Be Exercised :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 4 of 1882 where a power of sale without the intervention of the Court is expressly conferred on the 1[State Co-operative Agricultural and Rural Development Bank] or the 1[Co-operative Agricultural and Rural Development Bank] by the mortgage deed the Board or the Committee of such bank, as the case may be, or any person authorised by such Board or 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 after hearing the objections, if any, of the mortgagor.

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

(a) notice in writing requiring payment of such mortgage money or any part thereof, as the case may be, has been served upon-

(i) 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

(b) default has been made in payment of such mortgage money or part thereof for three months after such service.

1. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

92. Powers Of Co-Operative Agricultural And Rural Development Bank Where Mortgaged Property Is Destroyed Or Security Becomes Insufficient :-

Where any property mortgaged to the 1[State Co-operative Agricultural and Rural Development Bank] or 1[Co-operative Agricultural 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 Board or the Committee of such bank, as the case may be, for providing further security to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Board or 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 Board or the Committee, as the case may be, entitled to take action against the mortgagor under Section 90 or 91 for the recovery thereof.

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 1[State Co-operative Agricultural & Rural Development Bank] or the 1[Co-operative Agricultural & Rural Development Bank] as the case may be.

1. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

93. Power Of Board Of Trustee To Distrain And Sell Property, Etc. :-

The Board or the Trustee may direct the Committee of a 1[Co-operative Agricultural & Rural Development Bank] to take action against a defaulter, under Section 90, 91 or 92 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 provision of this Chapter and of any rules made in this behalf shall apply in respect therto as if all references to the 1[Co-operative Agricultural and Rural Development Bank], or to its Committee in the said provisions were references to the 1[State Co-operative Agricultural and Rural Development Bank] and the Board, respectively.

(b) Where such action is taken by the Trustee, the provisions of this Act, and of any rules made thereunder shall apply in respect therto as if all references to the 1[Co-operative Agricultural and Rural Development Bank] or to its Committee in the said provisions were references to the Trustee.

1. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

94. Title Of Purchaser Not To Be Questioned :-

Where any property is sold in exercise or purported exercise of a power of sale under Section 90 or 91, the title of the purchaser shall not be questioned on the ground that-

- (a) the circumstances required for authorising the sale had not arisen;
- (b) due notice of the sale was not given; or
- (c) the power of sale was otherwise improperly or irregularly exercised;

but any person who has suffered any damage by an unauthorised, improper or irregular exercise of any such power shall have a remedy in damages against the 1[State Co-operative Agricultural and Rural Development Bank] or, as the case may be, 1[Co-operative Agricultural and Rural Development Banks.]

1. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

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

Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of the 1[State Co-operative Agricultural & Rural Development Bank] or a 1[Co-operative Agricultural 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 such bank a preference over the other creditors of the mortgagor.

1. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

96. Appointment Of Receiver And His Powers :-

(1) The Board may, on the application of a 1[Co-operative Agricultural and Rural Development Bank] and under circumstances in which the powers of sale conferred by Section 81 may be exercised, appoint in writing a receiver of the produce and income of the mortgage 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 may be 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, 4 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 by Orissa Act, 23 of 1994, dated 04.11.1994.

97. Mortgagors Powers To Lease :-

(1) Notwithstanding anything contained in the Transfer of Property Act, 4 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 Sub-section (1) shall be void.

98. Registration Of Documents Executed On Behalf Of A Co-Operative Agricultural And Rural Development Bank Or Of The State Co-Operative Agricultural And Rural Development Bank :-

1 [(1) Notwithstanding anything contained in the Indian Registration Act, 16 of 1908-

(a) it shall not be necessary to register a mortgage executed in favour of the 2[State Co-operative Agricultural and Rural Development Bank], or any 2[Co-operative Agricultural and Rural Development Bank] where the concerned bank sends within such time and in such manner as may be prescribed a copy of the mortgage deed to the registering officer having jurisdiction, who shall file such copy in the book maintained under Section 51 of the said Act; and

(b) it shall not be necessary for any officer of the 2[State Co-operative Agricultural and Rural Development Bank] or any 2[Co-operative Agricultural and Rural Development Bank], to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 58 of the said Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration or a copy of such instrument is sent for being filed may, if he thinks fit, refer to the officer who has executed the instrument for information respecting the same, and being satisfied of the execution thereof, shall register the instrument or as the case may be, file the copy thereof.

1. Substituted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 5th March, 1970.
2. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

98A. Mortgage By Members Of Scheduled Castes And Tribes :-

1[Notwithstanding anything contained in any other law for the time being in force, it shall not be necessary for persons belonging to the Scheduled Tribes or Scheduled Castes for obtaining the permission of any authority as required by any such law for mortgaging any immovable property belonging to him in favour of any society including 2[Co-operative Agricultural and Rural Development Bank.]

1. Substituted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 5th March, 1970.
2. Substituted by Orissa Act, 23 of 1994, dated 04.11.1994.

99. Delegation Of Certain Powers By Board :-

The Board may, if it thinks fit delegate all or any of its powers under Sections 91, 93 and 96 to Executive Committee constituted by it and consisting of two or more of its members.

100. 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, 4 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 section shall, so far as may be, apply in respect of all notices to be served under this Chapter.

101. Power Of The Board To Make Regulations :-

- (1) The Board may, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Chapter-
- (a) for fixing the period of debentures and the rate of interest payable thereon;
 - (b) for calling in debentures prior to the date fixed for redemption after giving notice to debenture-holders;
 - (c) for the issue of new debentures in place of debentures damaged

or destroyed;

(d) for converting one class of debentures into another bearing a different rate of interest;

(e) for the inspection of the account books and proceedings of 1[Co-operative Agricultural and Rural Development Bank.]

(f) for the submission of returns and reports by 1[Co-operative Agricultural & Rural Development Bank] in respect of their transaction;

(g) for the periodical settlement of accounts between 1[Co-operative Agricultural and Rural development Banks] and for the payment of amounts recovered by 1[Co-operative Agricultural and Rural development Bank] on mortgages transferred or deemed under the provisions of Section 87 to have been transferred to the 1[State Co-operative Agricultural and Rural Development Bank.]

(h) for specifying the form in which applications to 1[State Co-operative Agricultural and Rural Development Bank] for loans should be made and for the valuation of the properties afforded as security for such loans;

(i) for the investment of moneys realised from mortgages; and

(j) generally for the purpose of carrying out the provisions of this chapter.

1 . Substituted by Orissa Act, 23 of 1994- See O.G.E., dated 04.11.1994.

101A. Certain Provisions To Apply To Charge :-

1[The provisions contained in Sections 85, 86, 87, 87-A, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98-A and Section 101, shall mutatis mutandis, apply to charges (including any variations thereto) created in favour of a 2[Co-operative Agricultural and Rural Development Bank].

1. Inserted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 5th March, 1970.

2. Substituted by Orissa Act, 23 of 1994- See O.G.E., dated 04.11.1994.

CHAPTER 12 EXECUTION OF AWARDS, DECREE, ORDERS AND DECISIONS

102. Enforcement Of Charge :-

1[(1) Notwithstanding anything contained in Chapter IX or in any

other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the 2[Registrar] or any person empowered by the 2[Registrar] in that behalf may, on the application of a society or otherwise, 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 or any interest therein which is subject to a charge under Section 34 :

Provided that no order shall be made under this section, unless the member, past member or the nominee, or legal heir or representative of the deceased member has been served with a notice of the application or intention, as the case may be, and has failed to pay the debt or outstanding demand within seven days from the date of such service.

3[***]

1. Substituted by Orissa Act, 28 of 1991, dated 31.12.1994, force w.e.f. 01.05.1993. Renumbered by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

2. Substituted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

3. Omitted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

103. Execution Of Order, Etc. :-

1[(1) Every order made under Section 67, Sub-section (1) of Section 102 or Sub-section (1) of Section 108, every decision or award made under Section 70, and every order made under Sections 75, 109, 111, 112, 113 and 114 shall, if not carried out-

(a) on a certificate signed by the 3[Registrar], or any person authorised by him in that 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:

(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 any application for the recovery in such manner of any sum shall be made to the Collector 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, decisions or award, as the case may be, and shall be accompanied by a certificate signed by the 3[Registrar] or any person authorised by him in that behalf; or

(c) be executed by a 3[Registrar] or any person empowered by him in that behalf by the attachment and sale, or sale without attachment of any property of the person or a society against

whom the order, decision or award has been obtained or passed];

(2) The provisions of Clause (c) of Sub-section (1) 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 societies registered or deemed to be registered in and other State of India under any law relating to societies for the time being in force in that State as if such Societies had been registered in the State of Orissa under this Act.

(3) In the case of recovery under Clause (b) of Sub-section (1) the 2[Auditor-General] or any person 1[empowered] by him in this behalf by general or special order shall be deemed to be the person to whom the arrear of land revenue, as the case may be, is due or payable.

(4) The provisions contained in the Schedule shall apply in respect of execution proceedings taken under Clause (c) of Sub-section (1).

4[***]

1. Substituted by Orissa Act, 28 of 1991, dated 31.12.1994, force w.e.f. 01.05.1993.

2. Substituted by Orissa Act 28 of 1991, dated 30.12.1991.

3. Substituted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

4. Omitted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

104. Registrar Or Person Empowered By Him To Be A Civil Court For Certain Purposes :-

The 1[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 purpose of Article 182 of the First Schedule to the Indian Limitation Act, 9 of 1908.

1. Re-inserted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

105. Attachment Of Property Before Award Or Order :-

If the Registrar, 1[Auditor-General or Liquidator] is satisfied on an application, report, inquiry 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 2[Auditor-General] 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.

1. Substituted by Orissa Act, 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

2. Substituted by Orissa Act, 28 of 1991, dated 31.12.1991, force w.e.f. 25.05.1999.

106. Rights Of Transfer Of Land Of A Society In Certain Area And The Societys Right To Bring It To Sale :-

(1) Notwithstanding anything contained in the Central Provinces Tenancy CP Act, 11 of 1898, or the Central Provinces Tenancy Act, 1 of 1920, or the Angul Laws, Regulation, 1936, or the Khandmalas Laws Regulation, 1936, or any other law for the time being in Orissa Regulation 5 of 1936, in force, defining the rights of tenants on the land and the relation between Government and tenant or the landlord and tenant, it shall be lawful in an area in the State of Orissa, where any of the Orissa Regulation 4 of 1936, above enactments is in force, for-

(a) a member of a society or a person other than a member to whom loan has been made in accordance with provisions of Section 59, whether such member is an occupancy tenant or otherwise, to mortgage to the society his rights in his holdings as a security for the loan advanced to him or to sell such right for the purpose of repaying such loan or advance; or

(b) the 1[Registrar] or a person authorised by him in this behalf to recover the sum due under an award, decision or order under this Act from any person in accordance with the provisions of Clause (c) of Sub-section (1) of Section 103; or

(c) the Collector to recover the sum under an award, decision or order under this Act from any person in the same way as if it were an arrear of land revenue; or

(d) the Co-operative Agricultural & Rural Development Bank to bring to sale under Section 91 the property mortgaged to it.

1. Substituted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

107. Recovery Of Sums Due From A Salary Earner :-

Notwithstanding anything contained in the Code of Civil Procedure, 5 of 1908, or any other law for the time being in force, any sum

payable in accordance with an award or decision made under Section 79 in respect of default in the payment of a loan taken under Section 35 or of any instalment of such a loan, shall be recoverable if the salary (including other emoluments) of the member exceeds rupees one hundred per mensem, by the attachment of such salary to the extent of a instalment in respect of which the default has been made or one half of the difference between such salary and hundred rupees whichever is less.

108. Property From Which Sums Due From A Society To Government And Others Can Be Recovered :-

1[(1) (i) All sums due from a Society to the Government other than audit fees, or from a Society to the Orissa Khadi and Village Industries Board established under the Orissa Khadi and Village Industries Board Act, 1955, including any cost awarded under any provision of the Act and the contribution to the Co-operative Education Fund referred to in sub-section (3) of Section 56 due from a Society to the Orissa State Co-operative Union Limited, Bhubaneswar, may be recovered on an order issued by the Registrar, and

(ii) the audit fees due from a Society to the Government may, on an order issued by the Auditor General be recovered.

In the same manner as provided under sub-section (1) of Section 103.]

(2) All sums recoverable from a society in accordance with order, decision or award under this Act may be recovered-

(i) from the property of the Society; or

(ii) from members, past members or the estates of deceased members of the society or their societies, to such extent and in such proportion as may be determined by the Registrar subject to the extent of the indebtedness of such members, past members and deceased members to the society and to the provisions of Section 69.

1. Substituted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

CHAPTER 13 APPEAL, REVISION AND REVIEW

109. Appeals :-

(1) An appeal shall lie under this section against the following orders and decision, namely;

(a) an order of the Registrar made under Sub-section (2) of Section

7 refusing to register a society;

1[(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 Society, or an order made under Sub-section (6) of that section registering an amendment of such Bye-Laws;]

2[(c) an order directing reorganisation or amalgamation under Sub-section (1) of Section 14-A;]

2[(d) a decision of a Society refusing to admit any person as a member of the Society or expelling any member of the Society
3[***].

4[(d-1) an order of the Registrar passed under Sub-section (2-a) of Section 16;]

5[(e) an order of the Registrar passed under Sub-section (5) of Section 28];

(f) an order of the Registrar disqualifying or removing an office-bearer or a Committee of a Society under Section 32;

(g) an order of suspension of an Officer or office-bearer of a society passed under Section 62 or Section 64 or Section 65;

(h) an order made by the Registrar under Section 66, apportioning the cost of an enquiry held under Section 65 or an inspection made under Section 64;

(i) an order of surcharge made by the 5[Auditor-General] under Section 67;

(j) a decision or award under Section 70;

(k) an order made by the Registrar under Section 72 directing winding up of a society;

(l) any order made by the Liquidator of a society in exercise of the powers conferred on him under Section 75;

(m) an order made by the 6[Registrar] under Section 103;

(n) an order for attachment of any property made 2[***] under Section 105; or

10[(n-1) a reference of the Auditor General of Co-operative Societies Orissa made under Section 112-A.]

(o) any other order or decision as may be prescribed.

8[(2) An appeal under Sub-section (1) shall be made within sixty days from the date of pronouncement or communication of the order or decision, as the case may be, to-

6[(a) the Tribunal, if it is an order or decision specified in Clauses (e), (f), (i), (j), (k), (l), (m), (n) 6[and (n-1)]; and]

(b) such authority as may be prescribed, if it is an order or decision specified in clause other than those specified in Clause (a);]

7[***]

9[***]

(3) No appeal shall lie under this section from any decision or order made by the State Government or the Registrar in appeal, as the case may be.

(4) An appeal against an order specified in Clause (a) or (b) of Sub-section (1) 9[x x x] shall be disposed of within two months from the date of filing of the appeal.

1[(5) No appeal against a decision or award requiring payment of an amount of rupees two thousand or more shall be entertained under Clause (j) of Sub-section (1) unless the appellant deposits fifty per cent of such amount with the appellate authority :

Provided that the appellate authority may, for reasons to be recorded in writing, reduce the aforesaid amount in any case.]

1. Substituted by Orissa Act 28 of 1991 dated 31.12.1991, [Clause (i) force w.e.f. 25.05.19991 force w.e.f. 01.05.1993.

2. Omitted by O.A. 28 of 1991.

3. Substituted by O.A. 19 of 1983, O.G.E. 11.10.1983.

4. Deleted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.

5. Inserted by O.A. 19 of 1983- See O.G.E. dated 11.10.1983.

6. Substituted by Re-inserted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

7. Substituted by Orissa Act 5 of 1970-See Orissa Gazette Exty., dated 05.03.1970.

8. Deleted by Orissa Act 25 of 1975-See Orissa Gazette Exty., dated 16.05.1975.

9. Inserted by by Orissa Act 25 of 1975 See Orissa Gazette Exty. dated 16.05.1975.

10. Inserted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

110. Delegation Of Power To Hear Appeals :-

The State Government may, by general or special order delegate their power of hearing appeals under the provisions of this Act 1[***] to any authority specified in such order.

1. Omitted by Orissa Act 28 of 1991, dated 31.12.1991.

111. Review :-

(i) Any authority may, on the application of any party interested, review any order or decision or award made by him in any case and pass such order as he thinks fit :

112. Power Of Revision By Registrar And Additional Registrar :-

1[(1) The Registrar or an Additional Registrar appointed under Sub-section (1) of Section 3 may, of his own motion or application by any person considering himself aggrieved and after giving the parties concerned a reasonable opportunity of being heard, call for and examine the record of any proceedings before any authority subordinate to him in which no appeal lies, for the purpose of satisfying himself as to the legality or propriety of any decision made or order passed and may pass such order thereon as he deems fit.

(2) The Registrar shall assign the local limits within which an Additional Registrar shall exercise powers under this section.

(3) A revision against any decision or order made by an Additional Registrar under this section shall not lie to the Registrar.]

(4) An application under Sub-section (1) shall be made within ninety days from the date of the decision or order sought to be revised."

1. Substituted by Orissa Act 14 of 1985-See Orissa Gazette Exty., No. 1404, dated 10.10.1985.

112A. Section 112A :-

1[The Auditor General of Co-operative Societies, Orissa of his own motion or on application by any person may, call for and examine the records of any proceedings under Section 67 of the Act, pending before any authority subordinate to him or disposed of by such authority in which appeal has not been filed and may, after giving the parties a reasonable opportunity of being heard, make a reference within period of four years from the date of his knowledge, to the Co-operative Tribunal with his views for adjudication and final decision under sub-section (1) of Section 109 of the Act.)

1. Inserted by Orissa Act 11 of 2004, w.e.f. 23.12.2004.

113. Power Of Revision By State Government :-

(1) The State Government may, of their own motion or on application by any person considering himself aggrieved and after giving the parties concerned a reasonable opportunity of being

heard, call for and examine the record of any proceeding before the Registrar 1[or any proceeding under Section 112 before an Additional Registrar] in which no appeal lies, for the purpose of satisfying themselves as to the legality or propriety of any decision made or order passed and may pass such order thereon as they may deem fit.

Explanation- For the purpose of this Sub-section Registrar shall not include any person exercising all or any of the powers of the Registrar.

2[(2) An application under Sub-section (1) shall be made within ninety days from the date of the decision or order sought to be revised :

Provided that an application under Sub-section (1) against any decision made or order passed prior to the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1980, shall be made within a period of ninety days next after the commencement of the said Act, or within one year from the date of the decision or order sought to be revised, whichever period expires earlier]

1. Inserted by Orissa Act 14 of 1985-See Orissa Gazette Exty., No. 1404, dated 10.10.1985.

2. Substituted by Orissa Act 10 of 1980-See Orissa Gazette Exty., dated 05.11.1980.

113A. Delegation Of Powers Of Revision :-

1[The Government may by general or special order, delegate their powers under Section 113 to any authority specified in such order.]

1. Inserted by Orissa Act 21 of 1970-See Orissa Gazette Exty., dated 26.10.1970.

114. Interlocutory Orders By Government Or Registrar :-

Where an appeal or revision or review is made under Section 109, 111, 112 or 113 the State Government or the Registrar, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal, revision or review as may be deemed fit.

CHAPTER 14 OFFENCES AND PENALTIES

115. Offences :-

(1) Any person other than a 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 the fine which may extend to 1[ten thousand rupees].

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a Society who contravenes the provisions of Section 34 by disposing of any property in respect of which the Society is entitled to have a first charge under that Section or does any other act to the prejudice of such claim, shall be punishable with fine, which may extend to 1[ten thousand rupees] or with simple imprisonment which may extend to one month or with both.

(3) A Society or an officer or a member thereof wilfully making a false return or furnishing false information; or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to 1[ten thousand rupees].

(4) Any employer 2[***] who, without sufficient cause, fails to pay to a society the amount deducted by him under Section 35, 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 fine which may extended to 1[twenty thousand rupees].

(5) (a) An officer or member who destroys, mutilates, alters, falsifies or abets the destruction, mutilation, alteration, falsification of any book, paper or security or makes or abets the making of any false or fraudulent entry in any register, book of account or document belonging to a society and such action is not done in good faith; or

(b) Another member of a society or any other person who does any act or omission declared by the rules to be an offence, shall be punishable with fine which may extend to 1[ten thousand rupees].

(6) Any officer of a society who having ceased to hold office and having remained in possession at the time of such cessation of any document, cash, valuable security or other property which belongs to society or the custody whereof lawfully belongs to such society,

without sufficient cause refuses, neglects or fails to deliver up the same to his successor in office shall be punishable with fine which may extend to 1[fifteen thousand rupees] or with simple imprisonment which may extend to three months or with both.

(7) Any officer of society who having the power, by or under the Bye-Laws of the Society, to remain in custody, of any cash belonging to the society keeps in his custody, without reasonable cause, any such money in excess of the permissible limit beyond the period allowed under the said Bye-Laws or any other manner not permitted thereunder shall be punishable with fine which may extend to 1[fifteen thousand rupees] or with imprisonment which may extend to one year or with both.

3[(8) If any officer of a society or any of his near relatives having common economic interest fails to repay the total demand of the society outstanding against him by the due date, the Registrar will be informed within fifteen days of such due date failing which the officer or employee of the society responsible for sending such information shall be punishable with fine which may extend to 1[ten thousand rupees].

(9) If the Secretary or the Executive Officer of the society fails to send the intimation in due time as required by Sub-section (3) of Section 28-A, he shall be punishable with fine which may extend to 1[eighteen thousand rupees] or with simple imprisonment which may extend to two months.]

4[(10) An applicant for a loan from a Land Development Bank, who wilfully makes a false or defective declaration, shall be punishable with fine which may extend to 1[eighteen thousand rupees] or with imprisonment which may extend to six months or with both.]

5[(11) Any person disobeying a lawful written directive of the Chief Electoral Officer of the Co-operative Societies, issued under Section 28-A in connection with the holding or conduct of any election under this Act, shall be punishable with fine which may extend to 1[fifteen thousand rupees], or with imprisonment which may extend to one year, or with both.

(12) Any person wilfully indulging in any corrupt practice, prohibited by Act, disorderly conduct or misconduct within the meaning of Section 28-A shall be punishable with fine which may extend to 1[eighteen thousand rupees], or with imprisonment which may extend to one year, or with both.

(13) Any person required under this Act, Rules or the Bye-Laws to hold or conduct elections for constituting a Successor-Committee of an outgoing Committee or a Committee ceasing to exist or standing

dissolved in accordance with the provisions of this Act or for filling up a vacancy in an existing Committee in the manner and within the time prescribed, wilfully avoiding to take action as aforesaid shall be punishable with fine which may extend to 1[eighteen thousand rupees], or imprisonment which may extend to one year, or with both.

(14) Save as provided under this Act, or Rules, any member or President of a Committee, wilfully continuing in his office as such after ceasing to be so or incurring the disqualifications specified under this Act, and also any person wilfully avoiding the continuance in office of such member or President, shall be punishable with fine which may extend to 1[eighteen thousand rupees] or imprisonment which may extend to one year or with both.

(15) Any present or past office-bearer, officer or employee of a society, causing any deficiency in the assets of a society by breach of trust, wilful negligence, misappropriation, fraudulent or unauthorised retention, or by making payment contrary to the provisions of this Act, Rules or the Bye-Laws, or by any other act or omission not lawful or done in good faith, shall be punishable with fine which may extend to 1[eighteen thousand rupees], or with imprisonment which may extend to one year, or with both]

6[(16) any office bearer, member, officer, employees of the Co-operative Society, causing wilful negligence, in maintenance and preservation of book; and accounts of the Society and in submission of the records to the Registrar, Auditor General and other authorities requiring the same under this Act, and the rules, shall be punishable with fine which may extend to five thousand rupees or with imprisonment which may extend to one year or with both.]

1. Substituted by Orissa Act of 11 2004, w.e.f. 23.12.2004.

2. Deleted by Orissa Act 19 of 1983-See Orissa Gazette Exty., dated 11.10.1983.

3. Inserted by Orissa Act 21 of 1970-See Orissa Gazette Exty., dated 26.10.1970.

4. Inserted by Orissa Act 1 of 1979-See Orissa Gazette Exty., dated 25.01.1979.

5. Inserted by Orissa Act 28 of 1991, dated 31.12.1991.

6. Inserted by Orissa Act of 11 2004, w.e.f. 23.12.2004.

116. Cognizance Of Offence :-

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

1[(2) Offences specified in Sub-sections (5) (a), (6), (10), (11), (12), (13) and (15) of Section 115 shall be cognizable.

(3) Without prejudice to the provisions of any other law for the time being in force, in regard to the institutions of prosecutions, the Registrar, 2[Auditor General] or any member of the concerned society, shall be the person competent to institute prosecution for any offence under this Act.]

3[Provided that where any member of the concerned society intends to institute prosecution against,-

(i) the Registrar, he shall obtain prior approval of the State Government, and

(ii) any officer subordinate to the Registrar, he shall obtain prior approval of the Registrar.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 11.09.1992.

2. Inserted by Orissa Act of 11 2004, w.e.f. 23.12.2004.

3. Inserted by Orissa Act of 11 2002, w.e.f. 29.06.2002.

CHAPTER 15 MISCELLANEOUS

117. Prohibition Against The Use Of Word "Co-Operative" :-

No person other than a 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 1[without the sanction the government] :

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 2 of 1912, came into operation.

1. Inserted by Orissa Act of 11 2004, w.e.f. 23.12.2004.

118. Address Of A Society :-

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

119. Copy Of Act, Rules And Bye :-

Laws to be opened to reference-

Every society shall keep a copy of this Act, the Rules and its Bye-Laws open for the purpose of reference free of charge at all reasonable times at the registered office of the society.

120. Power Of Civil Court :-

1[(1) In exercising the powers conferred on it, by or under this Act, the Registrar, Auditor-General, any person authorised by the Registrar or Auditor-General, a Liquidator or an Arbitrator, or any authority deciding a dispute or conducting any audit, surcharge proceeding, inspection or enquiry under this Act, shall have all the powers of a Civil Court under the Code of Civil Procedure 1908 in respect of the following matters, namely :

- (a) summoning and enforcing the attendance of any person and examining him an oath;
- (b) requiring the discovery and production of any document.
- (c) proof of facts by affidavits; and
- (d) issuing commissions for examination of witness.

(2) In case of affidavit, the Registrar, Auditor-General or any person appointed or authorised by the Registrar or Auditor-General, any person deciding a dispute or a surcharge proceeding, or conducting any audit, inspection or enquiry under this Act or a Liquidator of a society, as the case may be, may administer oath to the deponent.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991.

121. Bar Of Jurisdiction Of Courts :-

1[Save as provided under this Act, no Civil or Revenue Court shall have any jurisdiction on any ground whatsoever in respect of any proceeding under this Act or Rules or any order, decision, determination or award, by whatever expression called, made or given thereunder.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

122. Power To Exempt Societies From Conditions Of Registration :-

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

123. Power To Exempt Class Of Societies :-

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

1 . Inserted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 07.01.1993.

123A. Power To Inspect, Enquire And To Issue Directions :-

1[Notwithstanding anything contained in this Act, if the State Government is satisfied that-

(a) in the public interest; or

(b) in the interest of securing proper-

(i) linkage or co-ordination between related Co-operative activities like production, marketing or credit support; or

(ii) implementation of Co-operative production and other development programmes approved or undertaken by the Government: or

(c) in the interest of proper management of the business of any society or class of societies, generally, or of preventing the affairs of any society or class of societies from being conducted in a manner detrimental to the interests of the members, depositors or creditors thereof;

it is necessary for the Government to issue directives to any society or class of societies, or the Committee or Committees thereof, or inspect the records, or enquire into the affairs of any society or class of societies, it may issue such directives as it may deem proper to such society or societies, or the Committee or Committees thereof, or make the required inspection or enquiry, or authorise any person in writing in that behalf to make such inspection or enquiry; and it shall be the duty of the Society or Societies or the Committee or Committees thereof subjected to such directives, inspection or enquiry, to comply with the directives or the findings of the inspections, or enquiry, as the case may be, in the manner and within the time to be specified by the Government in that regard.

(2) (a) In the event of a failure to comply with any directive or finding, as the case may be, made or issued under Sub-section (1), the Government may direct the Registrar to take such remedial

measures including the removal of the concerned Committee or Committees as the Registrar may deem proper, for securing proper compliance of the directive or finding, as the case may be, and thereupon, the Registrar shall take such measures forthwith :

Provided that no such measures shall be taken by the Registrar, without giving an opportunity of being heard to the Society or Societies or the Committee or Committees thereof, as the case may be, which are likely to be affected by the measures and in every case where any Committee is removed under this Sub-section, the management of the society shall vest in the Registrar on and from the date of such removal, and upon such vesting, the provisions of Clause (ii) of Sub-section (1-b) of Section 28 shall, mutatis mutandis, apply in regard to the management of the affairs of the society and constitution of the Committee thereof.

(b) Any measure taken by the Registrar under Clause (a) shall be deemed to be measure duly taken by the concerned Society or Societies, or the Committee or Committees thereof, as the case may be.

(3) While conducting an enquiry or inspection under Sub-section (1), the State Government or any person authorised by it in that behalf shall have the same powers as the Registrar is competent to exercise-

(a) under Section 64, for the purposes of such inspection; and

(b) under Section 65, for the purposes of such enquiry.]

1. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 07.01.1993.

124. Registrar Of Members :-

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

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

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

125. Proof Of Entries In Societys Books :-

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

same manner and to the same extent as the original entry itself is admissible.

(2) A Society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

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

126. Service Of Notice Under The Act :-

Service of every notice on order issued or made under this Act, shall be made in the prescribed manner.

127. Omitted :-

128. Acts Of Societys Etc. Not To Be Invalidated By Certain Defects :-

(1) No act of a society or of a committee or of any officer or Liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reasons only of some defect subsequently discovered in the organisation of the society or in the constitutions of committee, or in the appointment or election of the Officer or Liquidator or on the ground that such Officer or Liquidator was disqualified for his appointment or election.

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

1[(3) The Registrar, in respect of the Acts referred to in Sub-section (1), and the Registrar or the Auditor-General, as the case may be, in respect of the Acts referred to in Sub-section (2), shall be the authority to decide whether any act was done to good faith by persons acting under their respective authorities or in respect of

matters pertaining to their respective jurisdictions.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

129. Indemnity :-

1[No suit, prosecution or other legal proceedings shall lie against the Registrar, Auditor-General or any person subordinate to, or, acting on the authority of, any of them in respect of anything in good faith done or purporting to have been done under this Act.

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

130. Registrar And Auditor-General To Be Public Servants :-

1[The Registrar, Auditor-General and any person exercising the powers of the Registrar or Auditor-General shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.]

1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, force w.e.f. 01.05.1993.

131. Companies Act, 1956 Not To Apply :-

The provisions of the Companies Act, 1 of 1956 shall not apply to any society.

132. Limitation :-

Save as otherwise provided in Sections 69, 109, 111, 112 and 113 the provisions of the Indian Limitation Act, 9 of 1908 shall apply to all disputes, appeals, reviews and revisions made under this Act.

133. Saving Of Existing Societies :-

(1) Any Society now existing which has been registered under the Co-operative Credit Societies Act 10 of 1904 or under the Co-operative Societies Act, 2 of 1912, or under the Orissa Co-operative Societies Act, 1951 (Orissa Act II of 1952) shall be deemed to be registered under this Act, and its Bye-Laws shall, so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded.

(2) All appointments, rules and orders made, notifications and notices issued, all transactions entered into and suits and other

proceedings instituted under any of the said Acts, shall, so far as may be deemed to have been respectively made, issued, entered into and instituted under this Act.

133A. Special Provisions Relating To Insured Co-Operative Bank-
Notwithstanding Anything Contained In This Act, In This Case Of
An Insured Co-Operative Bank :-

1[2[(i) an order or approval to pass a resolution winding up, amalgamation, division, compromise or transfer of assets and liabilities of the bank shall not take effect unless previous sanction therefor has been accorded in writing by the Reserve Bank of India; and

(ii) an order for winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances mentioned in Section 13-D of the Deposit Insurance Corporation Act, 47 of 1961;

(iii) if so required by the Reserve Bank of India in writing in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management thereof, the Registrar shall pass an order for the removal of the Committee of the bank and for appointment of an Administrator, for such period not exceeding five years in the aggregate, as may, from time to time, be specified by the Reserve Bank] :

3[***];

(iv) no appeal, revision or review shall lie against an order referred to in Clause (i), (ii) or (iii) made or passed with the previous sanction in writing or on the requisition of the Reserve Bank of India and no such order or sanction shall be liable to be called in question in any manner:

(v) the Liquidator of the insured Co-operative Bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 47 of 1961, in the circumstances, to the extent and in the manner provided in Section 21 of that Act.

Explanation- For the purposes of this section-

(i) "Insured Co-operative Bank" means society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 47 of 1961;

(ii) "Transferred Bank" in relation to an insured Co-operative Bank means a Co-operative Bank-

- (a) with which such insured Co-operative Bank means amalgamated; or
 - (b) to which the assets or liabilities of such insured Co-operative Bank are transferred; or
 - (c) into which such insured Co-operative Bank is divided or converted under the provisions of Section 14;
 - (iii) "Reserve Bank of India" means the Reserve Bank of India established under the Reserve Bank of India Act 2 of 1934.]
1. Inserted by Orissa Act 25 of 1975-See Orissa Gazette Exty., dated 16.05.1975.
 2. Substituted by Orissa Act 19 of 1983- See Orissa Gazette Exty., dated 11.10.1983.
 3. Deleted by ibid.

134. Power To Make Rules :-

- (1) The State Government may, after previous publication, make rules to carry out the purposes of this Act.
- (2) All rules made under this Section shall as soon as they are laid before the State Legislature for a period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Legislature may make therein during the said period.
- (3) 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 society may be sent by the Registrar;
 - (b) the procedure and conditions for charge in the form and extent of the liability of a society;
 - (c) the matters in respect of which a society shall or may make Bye-Laws;
 - (d) the procedure to be followed for amendment of Bye-Laws by a society;
 - (e) the qualifications or disqualifications of individuals who may be admitted as members of societies :
 - (f) the provisions for a second or casting vote by the Chairman of a meeting of a society;
 - (g) the appointment by a society of one its members to represent and vote on its behalf at a meeting of another society of which it is a member;

- (h) the maximum number of shares or portion of the share capital of a society which may be held by an individual member;
- (i) the procedure for 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 members share shall be ascertained;
- (k) the election of members of Committee by the general body of a Society and election of preliminary committee by the applicants for the registration of the society to conduct the affairs of the Society for certain period;
- (l) the requisitioning of a general meeting of a society;
- (m) the remuneration payable to a new committee or administrators appointed in place of a committee removed by the Registrar;
- (n) the qualification of employees of societies;
- (o) the prohibition against officers of a society being interested in contracts with the society;
- (p) the matters connected with the direct and indirect partnership of the State Government in societies;
- (q) the rate at which dividend may be paid by societies;
- (r) the payment to be made to the Co-operative Education Fund by a society out of its net profits and the mode of its investment;
- (s) the mode of investment of funds of a society;
- (t) the objects of the reserve fund of a society and mode of its investment;
- (u) the mode of disposal of reserve fund of a society on its winding up;
- (v) the extent and conditions subject to which a society may receive deposits and loans;
- (w) the restrictions on transactions by a society with non-members;
- (x) the restrictions on transactions by a society against its shares;
- (y) the form and standards of fluid resources to be maintained by societies accepting deposits and granting cash credits;
- (z) the levy of audit fees on societies;
- (aa) procedure to be followed in proceedings before the Registrar, Arbitrator or other person deciding disputes;
- (bb) The conditions subject to which assets of a society shall vest in a Liquidator and the procedure to be adopted in winding up of society.
- (cc) the procedure for recovery of amounts due or payable to society;

- (dd) the mode of making attachment before judgment;
 - (ee) the procedure for the distraint and sale of property mortgaged to 1[Co-operative Agricultural Rural Development Bank :]
 - (ff) the manner of registering the address of a society;
 - (gg) the account books and registers to be kept by a society and power of Registrar to direct the accounts and books to be written up;
 - (hh) the manner of certification of entries in the book of a society and of copies of documents kept by it in the course of its business;
 - (ii) the statements and returns to be furnished by societies to the Registrar, Financing Bank and the Apex Society;
 - (jj) these restrictions on persons appearing as legal practitioners;
 - (kk) the inspection of documents and the levy of fees for granting certified copies thereof;
 - (ll) inspection by Financing Bank and Apex Societies and calling of general meeting and right or free access to books, accounts, securities, etc, and issue summons for their productions;
 - (mm) the furnishing of information by members as to their financial position and alienation of their immovable properties and creditors of members to furnish statement of their claim;
 - (nn) the contents to be included in the audit report;
 - (oo) the fee payable for filing memorandum of appeal of application for revision or review; or
 - (pp) any other matter which has to be or may be prescribed.
1. Substituted by Orissa Act 23 of 1994, dated 04.11.1994.

135. Co-Operative Council :-

There shall be a State Co-operative Council constituted by the State Government, for the State of Orissa, whose function will be to formulate plan and policies for the development of Co-operative movement in the State as may be prescribed.

136. Construction Of References To Co-Operative Societies Act, 1912 Etc. In Enactments :-

All references to the Co-operative Societies Act, 5 of 1912 occurring in any enactment made by any authority in India and for the time being in the State of Orissa, shall, in the application of any such enactment to the said State, be construed as reference to this Act.

137. Power To Remove Difficulties :-

(1) If any doubt or difficulty arises in giving effect to the provision of this Act, the State Government may, as occasion may require, by order do anything not inconsistent with the provisions of this Act or the rules made thereunder which appears to them necessary for the purposes of removing the doubt or difficulty.

(2) An order made under Sub-section (1) shall be laid as soon as may be before the State Legislature.

138. Repeal :-

The Orissa Co-operative Societies Act, 1951 (Orissa Act 11 of 1952) is hereby repealed.

SCHEDULE 1

SCHEDULE I

(See Section 103 (4))

1. Application to set aside sale-

(1) When immovable property has been sold by the 1[Registrar] under Clause (c) of Sub-section (1) of Section 193, any person owing such property or holding an interest therein or when property sold has been mortgaged to the 2[State Co-operative Agricultural & Rural Development Bank] or a 2[Co-operative Agricultural & Rural Development Bank], any person entitled to a notice under Section 91, may, within thirty days of the date of the sale, apply to the Registrar to have the sale set aside on his depositing with him-

(a) for payment to the purchaser as compensation a sum equal to five per centum of the purchase money :

(b) for payment to the State Government, the society, the 2[State Co-operative Agricultural & Rural Development Bank] or the 2[Co-operative Agricultural & Rural Development Bank] or the Liquidator in consequence of whose application the sale was held, the amount specified in the proclamation of sale for the recovery of which the sale was ordered to be held together with interest thereon and the expenses of attachment, if any, and sale and other costs due, in respect of such amount less any amount which may since the date of such proclamation have been received by the State Government, the society, the 2[State Co-operative Agricultural & Rural Development Bank], the 2[Co-operative Agricultural & Rural Development Bank] or the Liquidator, as the case may be.

(2) At any time within thirty days from the date of sale of immovable property, under Section 103 the Society, the 2[State Co-operative Agricultural & Rural Development Bank], the 2[Co-operative Agricultural & Rural Development Bank] or the Liquidator at whose instance the sale was held, or any person entitled to share in rateable distribution of assets or whose interest are affected by the sale, may apply to the 1[Registrar] to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it :

Provided that no sale shall be set aside on the ground of irregularity, mistake or fraud, unless, upon the facts proved, the 1[Registrar] is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(3) The purchaser at any such sale may also, within the period of thirty days from the date of sale apply to the 1[Registrar] to set aside the sale on the ground that the person from whom the sum is recoverable under the award, decision or order in execution of which the sale was held, had no saleable interest in the property

sold.

(4) When the 1[Registrar] has reason to think that the sale ought to be set aside on the ground of irregularity, mistake or fraud, notwithstanding that no application to set aside the sale has been made or on grounds other than those mentioned in any application made and rejected, he may, after giving an opportunity to all parties concerned of being heard and after recording his reasons in writing, set aside the sale at any time before it is confirmed.

(5) When a person applies under sub-paragraph (2) to set aside the sale of immovable property in which he is interested he shall not, unless he withdraws his application, be entitled to make an application under sub-paragraph (1).

(6) On receipt of application and deposit under sub-paragraph (1), the 1[Registrar] shall set aside the sale and shall pay back to the purchaser the purchase money so far it has been deposited together with the five per cent of such money deposited by the applicant.

(7) If the sale is set aside under Sub-paragraphs (2), (3) or (4) the 1[Registrar] shall return the purchase money to the purchaser with or without interest as he may decide and may direct a fresh sale.

Explanation- For the purposes of this Schedule 1[Registrar] shall include any other person empowered by the Registrar under Clause (c) of Sub-section (1) of Section 103.

2. Conformation of sale-

On the expiration of thirty days from the date of the sale, if no application to have the sale set aside has been made under paragraph (1) or if such application has been made and rejected and if the 1[Registrar] has not taken action under Sub-paragraph (4) of that paragraph, he shall make an order confirming the sale which shall thereupon become absolute.

3. Title of purchaser not to be questioned-

When a sale has been made under Section 103 and has been confirmed and made absolute under Paragraph (2) the title of the purchaser shall not be questioned in any Court by any person, whose interest has sold, or his successor in interest, on any ground whatsoever.

4. Distribution of proceeds of sale-

(1) The proceeds of sale under Section 103 shall be applied as follows :

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

Secondly, in payment of all interest due on account of the principal sum under the award, decision or order, as the case may be;

Thridly, in payment of the principal money due under the award, decision or order, as the case may be; and

Lastly, the residue, if any, thereafter remaining shall be paid to the person whose property was sold or to his successor-in-interest.

(2) All payments of such residue made in accordance with sub-paragraph (1) shall be valid and effectual against any demand relating thereto, made by any person upon the Registrar of the society, the 1[State Co-operative Agricultural & Rural-Development Bank], the 1[Co-operative Agricultural & Rural Development Bank] or the Liquidator, as the case may be, in consequence or whose application the sale was held.

5. Certificate of sale-

(1) When the sale is confirmed under paragraph (2) the 1[Registrar] shall, on application grant a certificate in the prescribed form specifying who, at the time of the sale, is declared to be the purchaser and such certificate shall bear the date on which the sale was made absolute.

(2) The Registrar shall send a copy of every certificate granted under sub-paragraph (1) to the registering officer appointed under the Indian Registration Act, 16 of 1908, within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situated, notwithstanding anything contained in the said Act, such registering officer shall enter the contents of such copy in his register of non-testamentary document relating to immovable property.

(3) Notwithstanding anything contained in the Orissa Tenancy Act, 1913. Bihar and Orissa Act 2 of 1913, the purchaser of any immovable property, sold under Section 102 shall, if the property sold or any portion of it is an occupancy holding or part of an occupancy holding to which the said Act applies, file along with his application for grant of certificate under Sub-paragraph (1) a notice giving particulars of the transfer in the forms prescribed therein for the service of it and the Registrar shall there upon transmit the notice to the Collector who shall cause it to be served on the landlord in the manner prescribed under the said Act.

6. Delivery of property to purchaser -

(1) When the immovable property sold is in the occupancy of the persons, whose right, title and interest in the property have been sold, or of some person on behalf of such person of mortgagor, or of some person claiming under a title created by such person subsequently to the attachment of such property other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the 2[State Co-operative Agricultural & Rural Development Bank] or the 2[Co-operative Agricultural & Rural Development Bank, as the case may be, and certificate in respect thereof has been granted under Paragraph (5), the 1[Registrar] granting the certificates shall on the application of the purchaser or 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 and if need be, by removing any person who refuses to vacate the same.

(2) 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 Paragraph (5), the 1[Registrar] granting the certificate shall, on the application of the purchaser, and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the person from whom the sum under the award, decision or order, as the case may be, was recoverable, has been transferred to the purchaser.

1. Substituted by Orissa Act 11 of 2004, dated 23.12.2004.

2. Substituted by Orissa Act 23 of 1994, dated 04.11.1994.

SCHEDULE 2

SCHEDULE II

[See Clause (d-2) of Section II]

The following shall constitute the Co-operative Principles, namely :

(1) Membership of a Co-operative Society shall be voluntary and available without artificial restriction or any social, political, or racial or religious discrimination to all persons who can make use of its services and are willing to accept the responsibilities of membership.

(2) Co-operative Societies are democratic organisation. Their affairs shall be administered by persons elected or appointed, as the case may be, in a manner accountable to the members and in accordance with the democratically expressed will of the members.

Members of the primary societies shall enjoy equal rights of voting (one member one vote) and participation in decisions affecting their societies.

In other than primary societies, the management shall be conducted on democratic basis in a suitable form.

(3) The share capital of a society shall receive a strictly limited rate of interest (that is to say dividend).

(4) (i) Surplus or savings, if any, arising out of the operations of the society belong to the society as a whole and no individual member has a claim to the surplus.

(ii) The surplus should be utilised for all or any of the following purposes, namely :

(a) providing for development of the business of the society;

(b) providing services for the common enjoyment of members;

(c) distribution among the members in proportion to their transactions with the society.

(5) All co-operative Societies shall make provision for the education of their members, office bearers, officers and employees and of the general public, in the principles and techniques of co-operative, both economic and democratic.

(6) All Co-operative organisations, in order to best serve the interest of their members and their communities, shall actively co-operate in every practical way with other Co-operative at local, national and international levels having as their aims the achievement of unity of action by co-operators throughout the world.

1. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.

SCHEDULE 3

SCHEDULE III

[See Sub-section (3-a) of Section 28-A]

1. The following shall constitute "corrupt practices", namely: (1) "Bribery" that is to say-

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his agent, of any gratification, to any person whomsoever with the object of directly or indirectly inducing-

(a) a person to stand or not to stand as or to withdraw or not to withdraw from being a candidate at an election; or

(b) an elector to vote or refrain from voting at an election or as a reward, to-

(i) a person for having so stood or not stood or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting :

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward-

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation- For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses bona fide incurred at, or for the purpose of, any election and duly entered in the account of election expenses.

(2) Under influence, that is to say any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any

electoral right :

Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who threatens any candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community, or divine displeasure or spiritual censure shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause :

Provided further that a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clauses;

Provided further that the use of any public transport vehicle or vessel or railway carriage by any elector at his own cost for the purpose of going to or coming from any polling station shall not be deemed to be a corrupt practice.

Explanation- In this clause and in the next succeeding clause, the expression "vehicle" means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise and used for drawing other vehicles or otherwise.

(4) The use of vehicles belonging to a society for the purpose of any election.

(5) The incurring or authorising of expenditure by a candidate at or in connection with any election of a society in excess of the limits as the State Government may, by general or special order publish in the Official Gazette, specify, or non-maintenance of accounts or non-submission of reports and returns by such candidate in the manner prescribed.

(6) Making special advances of loans or otherwise favouring any elector or group of electors between the date of declaration of programme for an election and the date of declaration of the result thereof.

(7) Non-maintenance or non-aiding the maintenance of the secrecy of voting or unauthorised or unlawful communication of information to any person calculated to violate such secrecy, by any officer, employee, agent or other person performing any duty in connection with the conduct of or recording or counting of votes at an election.

(8) The doing of any act other than the giving of his vote, for the furtherance of the prospects of election of a candidate, by the Election Officers, or any person appointed to perform any duty, in connection with the election, or endeavour on the part of any such person to-

(a) persuade any person to give his vote or dissuade him from giving his vote at an election; or

(b) influence the voting of, in any person at an election in any manner.

2. "Prohibited Act" shall mean-

(i) canvassing for, or soliciting the vote of any elector, or persuading such elector not to vote at the election, or not to vote for any particular candidate; and

(ii) exhibition of any notice or sign, other than official notice, relating to the election by any person on the date of poll at any place of polling or any public or private place within one hundred metres of such place of polling.

3. The following shall constitute "Disorderly conduct" namely :

(i) use or operation of loudspeaker and other voice amplifying or reproducing devices; or

(ii) shouting or acting otherwise, in-a manner disturbing the tranquility and order at a place of polling or any public or private place within the periphery of such place of polling so as to cause annoyance to, or to interfere with, any person, visiting the place of polling or on election duty.

4. The following shall constitute "Misconduct", namely :

- (i) disobedience of the lawful directives of the Chief Electoral Officer or the Election Officer or any other person authorised by the Chief Electoral Officer or Election Officer in regard to the Election; and
- (ii) acts, designed to influence or disturb or actually influencing or disturbing any process of election at, or within the periphery of, the place of election.