

Madras Co-Operative Societies Act, 1932

06 of 1932

[05 July 1932]

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SCHEDULE 1 :- SCHEDULE

Madras Co-Operative Societies Act, 1932

06 of 1932

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PREAMBLE

An Act to consolidate and amend the law relating to Co-operative Societies in the Presidency of Madras.

Whereas it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Madras:

And whereas the previous sanction of the Governor-General has

been obtained to the passing of this Act; It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, dated 17th March 1931--Part IV, pages 71-72.

This Act was extended to the merged State of Pudukkottai with modification by section 9 of the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

Permanent effect to the reconstitution and formation of State Co-operative Societies in the State of Madras consequent on the separation of Andhra has been given by the State Co-operative Societies (Re-constitution and Formation) Act, 1954 (Madras Act IV of 1954).

This Act, subject to the omission of sub-section (5) of section 65, has been extended to the State of Pondicherry in the Ministry of External Affairs Notification S.R.O. No. 239 published at page 175 of Part II, section 3 of the Gazette of India Extraordinary dated 25th January 1955. By virtue of the above notification, throughout this Act, in its application to Pondicherry any reference by whatever form of words to the Presidency of Madras has to be construed as including a reference to the State of Pondicherry.

CHAPTER 1 PRELIMINARY

1. Short title and extent :-

(1) This Act may be called the Madras Cooperative Societies Act, 1932.

(2) It extends to the whole of the Presidency of Madras.

2. Definitions :-

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

"By laws."

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

" Committee."

(b) "committee" means the governing body of a registered society to whom the management of its affairs is entrusted;

"Financing bank."

(c) "financing bank" means a registered society the main object of which is to lend money to other registered societies;

" Member."

(d) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and rules;

"Officer."

(e) "officer" includes a president, vice-president, chairman, vice-chairman, secretary, assistant secretary, treasurer, member of committee, and any other person empowered under the rules or the by-laws to give directions in regard to the business of the society;

"Registered society."

(f) "registered society" means a society registered or deemed to be registered under this Act;

"Registrar."

¹[(g) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act, and includes a person on whom all or any of the powers of a Registrar under this Act have been conferred under section 3; and]

"Rules."

(h) "rules" means rules made under this Act.

1. This clause was substituted for the Original clause (g) by section 2 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956.)

CHAPTER 2 REGISTRATION

3. The Registrar :-

The ¹[State Government] may appoint a person to be Registrar of Co-operative Societies for the Presidency of Madras or any portion of it ²[. . .] and may, by general or special order, confer ³[on any other persons] all or any of the powers of a Registrar under this Act.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2. The words "and may appoint persons to assist such Registrar" were omitted by section 3 of the Madras Co-operative Societies (Amendment) Act 1936 (Madras Act V of 1937).

3. These words were substituted for the words "on any such persons" by ibid.

4. Societies which may be registered :-

¹[(1) Subject to the provisions of this Act, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability;

Provided that--

(i) the liability of a society of which a registered society is a member shall be limited; and

(ii) unless the Registrar otherwise directs, the liability of a society of which the primary object is the creation of funds to be lent to its members and of which the majority of the members are agriculturists, shall be unlimited and the members of such a society shall, on its liquidation, be jointly and severally liable for and in respect of all its obligations.

(2) Whether the liability of the members of a registered society is unlimited or limited by shares, the liability of the State Government or of a financing bank, which has taken shares in such registered society, shall be limited to the share capital subscribed by the State Government or such financing bank.]

1. The section was substituted for the original section 4 by section 3 of Madras Act XLIII of 1956, *ibid*.

5. Change of liability :-

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

Provided that--

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

(ii) any member or creditor shall, notwithstanding any by-law or contract to the contrary, have the option of withdrawing his shares, deposits or loans, as the case may be, within three months of the service of such notice on him and the change shall not take effect until all such claims have been satisfied; and

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

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

and creditors assent thereto.

6. Restrictions on interest of member of society with limited liability and a share capital :-

¹[Where the liability of the members of a society is limited by shares, no member other than a registered society, or the State Government shall--

(a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as maybe prescribed; or

(b) have or claim any interest in the shares of the society exceeding, in the case of a society the primary object of which is the creation of funds to be lent to its members one thousand rupees, and, in the case of any other society, five thousand rupees.]

1. This section was substituted for the original section by section 4 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956).

7. Conditions of registration :-

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

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

(b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

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

8. Power of Registrar to decide certain questions :-

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

9. Application for registration :-

(1) For purposes of registration an application to register shall be made to the Registrar.

(2) The application shall be signed--

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of section 7; and

(b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and, where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

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

10. Registration :-

If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws. In case of refusal, an appeal shall lie to the ¹[State Government] within two months from the date of the issue of the order of refusal by registered post.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

11. Evidence of registration :-

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

12. Amendment of the bylaws of registered society :-

(1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the

Registrar.

(3) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment. In case of refusal, an appeal shall lie to the ¹[State Government] within two months from the date of the issue of the order of refusal by registered post.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

13. Division and amalgamation of societies :-

(a) (1) Any registered society may, at a meeting of its general body specially called for the purpose of which at least seven clear days notice shall be given to its members, resolve to divide itself into two or more societies. The resolution (hereinafter in this subsection referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operations of, and specify the members who will constitute, each of the new societies.

(2) (i) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(ii) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society, a meeting of the general body of the society, of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such

meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5) and section 10, register the new societies and the by-laws thereof. On such registration the registration of the old society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the meeting referred to in clause (3) provision shall be made by another resolution for--

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2) :

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new societies.

(6) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under clause (3).

(b) (1) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least seven clear days notice shall be given to their respective members, resolve to amalgamate into one society. This resolution is hereinafter in this sub-section referred to as the preliminary resolution.

(2) (i) A copy of the preliminary resolution of each society shall be sent to all the members and creditors thereof.

(ii) Any member of any such society may, notwithstanding any by-law to the contrary, by notice given to the society of which he is a member within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of the new society.

(iii) Any creditor of any such society, may, notwithstanding any agreement to the contrary, by notice given to the society of which

he is a creditor within the said period intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of all the societies, a joint meeting of the members of such societies of which at least fifteen clear days notice shall be given to them, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5) and section 10, register the new society and the by-laws thereof. On such registration, the registration of the old societies shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the joint meeting referred to in clause (3), provision shall be made by another resolution for--

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new society.

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

¹[(c) (1) Where, in the opinion of the Registrar, the amalgamation of two or more registered societies is necessary or desirable for increasing their strength or usefulness, he may, after consulting in the manner prescribed the financing bank to which the societies are indebted, call upon such societies to amalgamate within such time as may be specified by him into one society in accordance with the procedure specified in sub-section (b).

(2) If the societies fail to amalgamate into one society within the time specified by the Registrar, he may, after giving an opportunity

to the committee of each of the societies to state its objections, if any, direct the amalgamation of the societies into one society.

(3) Every registered society so directed shall within one month of the receipt of the Registrars direction give notice of the direction to all its members and creditors.

(4) (i) Any member of any of the societies so directed may, notwithstanding any by-law to the contrary, by notice given to the society of which he is a member intimate his intention not to become a member of the now society and shall have the option of withdrawing his shares, deposits, or loans, as the case may be, within a period of one month of the service of such notice.

(ii) Any creditor of any of the societies so directed may, notwithstanding any agreement to the contrary by notice given to the society of which he is a creditor demand a return of the amount due to him, within a period of one month from the service of such notice.

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

(6) After the repayment of the share capital of the members and the claims of the creditors, if any, under clause (4) by the societies directed to be amalgamated or after a majority of the members and creditors of such societies have assented to the amalgamation, the Registrar may register the new society. On such registration, the registration of the old societies shall be deemed to have been cancelled.

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

(7) The directions of the Registrar under clause (2) or any other order passed by him under this sub-section shall be final and shall not be called in question in any civil court.]

1. Sub-section (c) was added by section 5 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956).

CHAPTER 3 RIGHTS AND LIABILITIES OF MEMBERS

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

(1) No member of a registered society shall, save as otherwise provided in sub-section (2), exercise the rights of a member unless or until he has made such payment to the society in respect of

membership or acquired such interest in the society as may be prescribed by the rules and by-laws.

(2) In the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may elect a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider desirable:

Provided that the committee shall cease to function as soon as the members of the society have elected a committee in accordance with its by-laws.

15. General meetings :-

(1) The committee may at any time call a general meeting of the society and shall call such a meeting within one month after receipt of a requisition in writing from the Registrar or from a financing bank to which the society is indebted or from such number of members or proportion of the total number of members as may be specified in the by-laws of the society.

(2) If a general meeting is not called in accordance with such requisition, the Registrar shall have power to call a general meeting of the society himself.

16. Votes of members :-

(1) No member of any registered society shall have more than one vote in the affairs of the society provided that in the case of an equality of votes the Chairman shall have a casting vote.

(2) A registered society which has invested any part of its funds in the shares of another registered society may appoint any of its members not disqualified for such appointment under any rules prescribed in that behalf to vote in the affairs of such other registered society.

17. Restrictions on transfer of share or interest :-

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

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

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

and

(b) the transfer is made to the society or to a member of the society.

CHAPTER 4 DUTIES OF REGISTERED SOCIETIES

18. Address of society :-

Every registered 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 every change thereof.

19. Copy of Act, rules and by laws to be open to inspection :-

Every registered society shall keep a copy of this Act and of the rules governing such society and of its by-laws open to inspection free of charge at all reasonable times at the registered address of the society.

CHAPTER 5 PRIVILEGES OF REGISTERED SOCIETIES

20. Societies to be bodies corporate :-

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

21. Prior claim of society :-

¹[(1) Subject to the prior claim, if any, of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand due to a registered society from any member or past member or the estate of a deceased member shall be a first charge--

(i) upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the society by such member and

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture,

supplied, or purchased in whole or in part out of the loan of money given by the society, or on any articles manufactured from raw materials so supplied or purchased or on any workshop, godown, or place of business, constructed or purchased out of any such loan.

(2) No property or interest in property which is subject to a charge in favour of a registered society under sub-section (1) shall be sold or otherwise transferred or converted in any manner without the previous written permission of the society.

(3) A member or a past member or the nominee, heir or legal representative of a deceased member of a registered society, shall, if so required by the society, deposit with or entrust to the custody of the society such property as is subject to a charge under sub-section (1) at such place and in such manner as may be prescribed until the debt or outstanding demand due to the society is fully paid and shall also pay towards all expenses incidental to the removal, transport or maintenance of the property so deposited or entrusted to custody. The charges connected with removal, transport or maintenance of such property shall be recovered from the member or the past member or the estate of the deceased member, as the case may be, in accordance with such scale as may be proscribed.

(4) Notwithstanding anything contained in any law, any transaction made in contravention of sub-section (2) shall be void.

(5) The charge created by sub-section (1) in favour of a registered society shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883 (Central Act XIX of 1883) after the grant of the loan by the society.]

1. This section was substituted for the original section 21, by section 6 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956).

22. Charge and set-off in respect of shares or interest of members :-

A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past or deceased member and upon any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set off any sum credited or payable to a member or past or deceased

member or the estate of a deceased member in or towards payment of any such debt.

23. Shares or interest not liable to attachment :-

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

24. Transfer of interest on death of member :-

(1) Subject to the provisions of section 22, a registered society may on the death of a member transfer his share or interest in the capital to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such members share or interest, as ascertained in accordance with the rules or by-laws:

Provided that--

(i) in the case of a society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid; and

(ii) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) Subject as aforesaid a registered 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.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other

person.

25. Liability of past member or of the estate of a deceased member :-

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

¹[Provided that the State Government or a financing bank which has taken shares in a registered society shall not be liable for the debts of such society.]

1. This proviso was added by section 7 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956.)

26. Register of members :-

Any register or list of members or shares kept by any registered society shall be prima facie evidence of any of the following particulars entered therein :--

- (a) the date on which the name of any person was entered in such register or list as a member; and
- (b) the date on which any such person ceased to be a member.

27. Proof of entries in societies books :-

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

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

28. [Omitted] :-

¹[* * * * .]

1. Section 28 was omitted by section 2 of the Madras Co-operative Societies (Second Amendment) Act, 1934 (Madras Act V of 1935).

29. Exemption from compulsory registration of instruments relating to shares and debentures of registered society :-

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

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

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

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

29A. Right to set off where a registered society purchases immovable property at a sale under Madras Act II of 1864, for any sum due to it :-

¹[Where, under this Act or any rule made thereunder, any sum due to a registered society from any person is recoverable as an arrear of land revenue and the immovable property of such person is brought to sale under the provisions of the Madras Revenue Recovery Act, 1864 (Madras Act II of 1864), and the society is the purchaser at such sale, the provisions of section 36 of the said Act shall apply thereto as if for the third and fourth clauses thereof the following clauses were substituted, namely:--

"Third--The sum due to the purchaser shall be set off, in whole or in part, against the purchase money and the remainder, if any, of the purchase money shall be paid to the Collector or other officer empowered by the Collector in that behalf within thirty days of the date of sale.

"Fourth--Where the purchaser refuses or omits to complete the payment of the remainder, if any, of the purchase money, the property shall be resold at the expense and hazard of such purchaser and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the property, on the second sale, sells for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made."]

1. Section 29-A was inserted by section 2 of the Madras Co-operative Societies (Amendment) Act, 1933 (Madras Act VIII of 1933).

30. Power to exempt from income-tax, stamp duty and registration fees :-

(1) The ¹[Central Government] by notification in the ²[Official Gazette] may, in the case of any registered society or class of registered societies, remit the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits.

(2) The ³[Government], by notification in the ⁴[Official Gazette], may in the case of any registered society or class of registered societies remit--

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

(b) any fee payable under the law of registration for the time being in force.

⁵[In this sub-section, the word "Government" has the meaning assigned to it in sub-section (2) of section 9 of the Indian Stamp Act, 1899 (Central Act II of 1899).]

1. These words were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937.

2. These words were substituted for the words "Gazette of India" by *ibid*.

3. This word was substituted for the words "Local Government" by

the Adaptation Order of 1937.

4. These words were substituted for the words "Fort St. George Gazette" by *ibid*.

5. These words and figures were substituted for the words and figures "In this sub-section Government in relation to stamp duties means the Government which is the Collecting Government for the purposes of the Indian Stamp Act, 1899, and, save as aforesaid, means the Provincial Government" by the Adaptation (Amendment) Order of 1950.

31. Government aid to registered societies :-

Notwithstanding anything contained in any other enactment, the ¹[State Government] may, subject to such rules as may be prescribed in this behalf, grant loans to-, take shares in, or give financial assistance in any other form to any registered society.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

CHAPTER 6 PROPERTY AND FUNDS OF Registered SOCIETIES

32. Restrictions on loans :-

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

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

(2) Save with the sanction of the Registrar, a registered society shall not lend money on the security of movable property other than agricultural produce.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a registered society may make a loan to a depositor on the security of his deposit.

(4) The ¹[State Government] may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

33. Restrictions on borrowings :-

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

34. Investment of funds :-

(1) Subject to the provisions of sub-section (4) of section 32, a registered society may invest or deposit its funds--

(a) in the Government Savings Bank, or

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

¹[(c) in the shares or securities of any other registered society, provided that no such investment shall be made in the shares of any society with unlimited liability except with the general or special sanction of the Registrar and subject to such limits as may be specified by him from time to time, or]

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

(e) in any other mode permitted by the rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

1. This clause was substituted for the original clause (c) by section 8 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956).

35. Funds not to be divided among members :-

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

Provided that payment may be made to a member for work done by him as Secretary or as clerk on such scale as may be prescribed by the by-laws:

Provided also that after at least one-fourth of the net profits in any year ¹[has been carried] to a reserve fund, payments from the remainder ²[of such profits] and from any profits of past years available for distribution may be made--

(i) as a bonus to a member for any specific service rendered by him to the society including work done as Secretary or as clerk, and

(ii) among the members to such extent and under such conditions as may be prescribed by the rules or by-laws.

1. These words were substituted for the words "have been carried" by section 3 of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951)
2. These words were substituted for the words "or such profits" by ibid.

36. Contribution to charitable purpose :-

Any registered society may, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding 10 per cent of the remaining net profits to any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 (Central Act VI of 1890).

37. Audit :-

- (1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.
- (2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society.
- (3) The Registrar or the person authorized by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society, and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.
- (4) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorized by him under sub-section (1) may require.

CHAPTER 7 INQUIRY AND INSPECTION

38. Inquiry by Registrar :-

- (1) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the committee or of not less than one-third of the members, hold an

inquiry, or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) The Registrar or the person authorized by him under sub-section (1) shall have the following powers, namely:--

(a) He shall, at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same 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.

(c) (i) He may, notwithstanding any rule or by-law prescribing 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 headquarters of the society or any branch thereof and to determine such matters as may be directed by him. If the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself.

(ii) Any meeting called under clause (i) shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws.

(3) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the financing bank, if any, to which the society is indebted.

39. Inspection of books by Registrar :-

(1) The Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorized by him in this behalf by a general or special order in writing to inspect the books of the society and the Registrar or the person so authorized shall have all the powers of the Registrar when holding an inquiry under section 38.

(2) No inspection shall be made or directed under sub-section (1) unless the creditor--

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

satisfaction within a reasonable time; and

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

(3) Where an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor and to the financing bank, if any, to which the society is indebted.

40. Inspection of books by financing bank :-

A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

41. Costs of inquiry and inspection :-

Where an inquiry is held under section 38 or an inspection is made under section 39, the Registrar may after giving the parties an opportunity to be heard, apportion the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, the officers or former officers of the society. Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 40, by the financing bank.

42. Recovery of costs :-

Any sum awarded by way of costs under section 41 may be recovered as if it were an arrear of land revenue.

CHAPTER 8 SUPERSESSION OF COMMITTEE OF SOCIETY

43. Supersession of committee :-

(1) If, in the opinion of the Registrar, the committee of any registered society is not functioning properly, he may, after giving

an opportunity to the committee to state its objections, if any, by order in writing, dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding two years. The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than four years in the aggregate.

¹[(2) The person or persons so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society, and to take all such action as may be required in the interests of the society.]

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and the other costs, if any, incurred in the management of the society, shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the by-laws of the society.

²[(5) Before taking any action under sub-section (1) in respect of a financing bank or in respect of a society indebted to a financing bank, the Registrar shall consult in the former case the Madras ³(State) Co-operative Bank, and in the latter case the financing bank concerned, regarding such action.]

(6) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under section 44.

1. This sub-section was substituted for the original sub-section by section 2 of the Madras Co-operative Societies (Amendment) Act, 1934 (Madras Act VI of 1934).

2. This sub-section was substituted for the original sub-section by section 2 of the Madras Co-operative Societies (Amendment) Act, 1935 (Madras Act II of 1936.)

3. The word "State" was substituted for the word "Provincial" by section 4 of, and the Third Schedule to, the Madras Repealing and Amending Act, 1957 (Madras Act XXV of 1957).

CHAPTER 9 DISSOLUTION OF SOCIETY

44. Dissolution :-

(1) If the Registrar, after an inquiry has been held under section 38 or after an inspection has been made under section 39 or section 40 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may by order in writing cancel the registration of the society. A copy of the order shall forthwith be communicated to the society by registered post.

(2) Any member of the society may, within two months from the date of the order made under sub-section (1), appeal to the ¹[State Government] from such order.

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

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the ¹[State Government] and such confirmation is communicated to the society by registered post.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

45. Cancellation of registration of society :-

Where it is a condition of the registration of a society that it should consist of at least ten members who have attained the age of majority the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten such members.

46. Effect of cancellation of registration :-

Where the registration of a society is cancelled, the society shall cease to exist as a corporate body--

(a) in the case of cancellation in accordance with the provisions of section 44, from the date the order of cancellation takes effect;

(b) in the case of cancellation in accordance with the provisions of section 45, from the date of the order.

47. Winding up :-

- (1) Where the registration of a society is cancelled under section 44 or section 45, the Registrar may appoint any person to be liquidator of the society.
- (2) Subject to any rules that may be made under this Act, the whole of the assets of the society shall, on the appointment of a liquidator under sub-section (1), vest in such liquidator and he shall have power to realize such assets by sale or otherwise.
- (3) Such liquidator, shall also have power, subject to the control of the Registrar--
- (a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office;
 - (b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society, such contribution including debts due from such members or persons;
 - (c) to investigate 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 cancellation of registration) according to their respective priorities, if any, in full or rateably, as the assets of the society permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case;
 - (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;
 - (f) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society; and
 - (g) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same.
- (4) Subject to any rules that may be made under this Act, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of

Civil Procedure, 1908 (Central Act V of 1908).

(5) Any sum ordered under this section to be recovered as a contribution to the assets of the society or as costs of liquidation may be recovered, on a requisition being made in this behalf to the Collector by the Registrar, in the same manner as arrears of land revenue.

(6) Save as provided in sub-section (5), orders made under this section shall, on application, be enforced by any Civil Court having local jurisdiction in the same manner as a decree of such Court.

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

(8) Any person aggrieved by any order of the liquidator may appeal to the Registrar against such order within two months from the date of the issue of the order by registered post.

48. Bar of suit in certain cases :-

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

CHAPTER 10 SURCHARGE AND ATTACHMENT

49. Surcharge :-

(1) Where in the course of an audit under section 37 or an inquiry under section 38 or an inspection under section 39 or the winding up of a society, it appears that any person who has taken part in the organization or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the committee or liquidator or of any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the

Registrar thinks just.

(2) The order of the Registrar under sub-section (1) shall be final unless it is set aside by the District Court having jurisdiction over the area in which the headquarters of the society are situated or if the headquarters of the society are situated in the City of Madras, by the City Civil Court, on application made by the party aggrieved within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Collector by the Registrar in the same manner as arrears of land revenue.

(4) This section shall apply notwithstanding that such person or officer may have incurred criminal liability by his act.

50. Attachment of property :-

Where the Registrar is satisfied on the application of the liquidator or otherwise that any person with intent to defeat or delay the execution of any order that may be passed against him under clause (b) of sub-section (3) of section 47 or section 49--

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

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar,

the Registrar may unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court.

CHAPTER 11 ARBITRATION

51. Disputes :-

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

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

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

¹[(c) between the society or its committee and any past committee, any officer, agent or servant, or any past officer, past

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

(d) between the society and any other registered society, such dispute shall be referred to the Registrar for decision.

Explanation.--A claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not, is a dispute touching the business of the society within the meaning of this sub-section.

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

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by the ²[State Government] with powers in that behalf, or

(c) subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators.

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

(4) Where the Registrar is satisfied that a party to any reference made to him under sub-section (1), with intent to defeat or delay the execution of any decision that may be passed thereon--

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

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

(5) The Registrar, may, of his own motion or on the application of a party to a reference, revise any decision thereon by the person to whom such reference was transferred or by the arbitrator or arbitrators to whom it was referred.

(6) (a) Any decision passed by the Registrar under clause (a) of sub-section (2) or under sub-section (5) shall be final and shall not be called in question in any civil or revenue Court.

(b) Any decision that may be passed by the person to whom a reference is transferred or by the arbitrator or arbitrators to whom it is referred shall, save as otherwise provided in sub-section (5), be final and shall not be called in question in any civil or revenue court.

1. This clause was substituted for the original clause by section 4 of the Madras Co-operative Societies (Amendment) Act, 1936 (Madras Act V of 1937).

2. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

CHAPTER 12 OFFENCES AND PENALTIES

52. Offences :-

It shall be an offence under this Act if--

- (a) a registered society or an officer or member thereof wilfully makes a false return or furnishes false information; or
- (b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorized in this behalf under the provisions of this Act.

53. Punishment for disposing of property in contravention of section 21 :-

¹[Any person who acts in contravention of sub-section (2) of section 21 or fails to deposit or entrust to custody when required to do so by any society under sub-section (3) of that section shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.]

1. This section was substituted for the original section 53 by section 9 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956).

54. Prohibition of the use of the word co-operative :-

(1) No person other than a registered society shall trade or carry on business under any name or title of which the word co-operative is part without the sanction of the ¹[State Government]:

Provided that nothing in the section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act II of 1912), came into operation.

(2) Whoever contravenes the provisions of sub-section (1) shall be

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

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

55. Punishment for offences not otherwise provided for :-

Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

56. Cognizance of offences :-

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

(2) Every offence under this Act shall, for the purposes of the Code of Criminal Procedure, 1898 (Central Act V of 1898), be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar. Such sanction shall not be given without giving the party concerned an opportunity to be heard.

CHAPTER 13 MISCELLANEOUS

57. Power of Government and Registrar to call for proceedings and pass orders thereon :-

The ¹[State Government] or the Registrar may call for and examine the record or any enquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to the ²[State Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled, or reversed, the ²[State Government] or the Registrar, as the case may be, may pass such order thereon as to it or him, may seem fit.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the

word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

57A. Power of Registrar to recover certain sums by attachment and sale of property :-

²[The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the ¹(State Government) and without prejudice to any other mode of recovery provided by or under this Act, recover--
(a) any amount due under a decree or order of a Civil Court, a decision or an award of the Registrar or arbitrator, or an order of the Registrar, obtained by a registered society including a financing bank or liquidator; or
(b) any sum awarded by way of costs under section 41 to a registered society including a financing bank or to the Government; or
(c) any sum ordered under section 47 to be recovered as a contribution to the assets of a society or as costs of liquidation; or
(d) any sum ordered under section 49 to be repaid to a society or recovered as a contribution to its assets, together with the interest, if any, due on such amount or sum and the costs of process, by the attachment and sale, ³(or by the sale without attachment) of the property of the person against whom such decree, decision, award or order has been obtained or passed.]

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2. Section 57-A was inserted by section 3 of the Madras Co-operative Societies (Second Amendment) Act, 1934 (Madras Act V of 1935).

3. These words were inserted by section 5 of the Madras Co-operative Societies (Amendment) Act, 1936 (Madras Act V of 1937).

57AA. Recovery of debts :-

¹[Notwithstanding anything contained in this Act or in any other law and without prejudice to any other mode of recovery which is being taken or may be taken, the Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed and on application from a registered society for the purpose, recover any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property or interest in property which is subject to a charge under sub-section (1) of section 21:

Provided that no sale shall be ordered under this section unless the member or past member or the nominee, heir or legal representative of the deceased member has been served, in the manner prescribed, with a notice of the application to sell and has failed to pay the debt or outstanding demand within seven days from the date of such service.]

1. Section 57-AA was inserted by section 10 of the Madras Co-operative Societies (Amendment) Act, 1956 (Madras Act XLIII of 1956).

57B. Registrar or person empowered by him to be a Civil Court for certain purposes :-

¹[The Registrar or any person empowered by him in that behalf, shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made to him for such recovery or to take some step-in-aid of such recovery, to be a Civil Court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908.]

1. This section was inserted by section 6 of the Madras Co-operative Societies (Amendment) Act, 1936 (Madras Act V of 1937). It should be deemed to have come into force on the 1st August 1933 by virtue of section 2 of Madras Act V of 1937, *ibid*.

57BB. Recovery of certain debts due to Pudukkottai societies :-

¹[(1) Where, on the 1st April 1949, any debt or demand was due to any registered society in the area which formerly formed part of the State of Pudukkottai and in respect of which the Registrar has made a declaration in pursuance of section 62, sub-section (1),

then, notwithstanding anything contained in this Act or in any rule made there-under or in any other law relating to limitation for the time being in force, the debt or demand may be recovered by instituting proceedings in that behalf before the expiry of one year from the commencement of the Madras Co-operative Societies (Amendment) Act, 1953 (Madras Act XIX of 1953).

(2) If, in any proceeding instituted for the recovery of any such debt or demand, any order, decision or award has been passed which would not have been passed if sub-section (1) had been in force at the time, the authority who passed the order, decision or award shall, on application made in that behalf within six months from the commencement of the Madras Co-operative Societies (Amendment) Act, 1953, vacate the said order, decision or award and pass a fresh order, decision or award as if such proceeding had been instituted after the commencement of that Act.]

1. Section 57-BB was inserted by section 2 of the Madras Co-operative Societies (Amendment) Act, 1953 (Madras Act XIX of 1953).

58. Recovery of sums due to Government :-

(1) All sums due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to the Government including any costs awarded to the Government in any proceeding under this Act may be recovered in the same manner as arrears of land revenue.

(2) Sums due from a registered society to the Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society, secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies from the members, past members or the estates of deceased members:

Provided that the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of section 25.

59. Power to exempt societies from conditions as to registration :-

Notwithstanding anything contained in this Act, the ¹[State Government] may, by special order in each case and subject to

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

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

60. Power to exempt registered societies from provisions of the Act :-

The ¹[State Government] may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

61. Indian Companies Act, 1913, not to apply :-

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

*. See now the Companies Act, 1956 (Central Act I of 1956).

62. Saving of existing societies :-

(1) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904 (Central Act X of 1904), or under the Co-operative Societies Act, 1912 (Central Act II of 1912), shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

¹[Every society which has been registered under the law applicable to co-operative societies in the areas which formerly formed part of the State of Pudukkottai, ²[] and the by-laws of which are not inconsistent with the express provisions of this Act or any rule made thereunder, shall, if the Registrar by an order in writing so declares, be deemed to be registered under this Act and its by-laws shall continue in force until they are altered or rescinded.]

(2) All appointments, rules and orders made, notifications and

notices issued and suits and other proceedings instituted under the said Acts shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

1. This paragraph was added by section 9 (2) of the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949) which came into force on 1st January 1950.

2. The words "Banganapalle or Sandur" were omitted by the Madras Adaptation of Laws Order, 1954.

63. Acts of societies, etc., not to be invalidated by certain defects :-

No act of a registered society or any committee or of any officer of the society, shall be deemed to be invalid by reason only of some defect in the organization of the society or in the formation of the general body or in the appointment or election of the officer or on the ground that he was disqualified for his office.

64. Construction of references to Co-operative Societies Act, 1912, in enactments :-

All references to the Co-operative Societies Act, 1912 (Central Act II of 1912), occurring in any enactment made by any authority in ¹[. . .] India and for the time being in force in the Presidency of Madras shall, in its application to the said Presidency, be construed as references to this Act.

1. The word "British" was omitted by the Adaptation (Amendment) Order of 1950.

65. Rules :-

(1) The ¹[State Government] may, for the whole or any part of the Presidency of Madras, and for any registered society or class of such societies, make rules to carry out all or any of the purposes of this Act.

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

(a) subject to the provisions of section 6 prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(b) prescribe the forms to be used and the conditions to be

complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

- (c) subject to the provisions of section 5 prescribe the procedure to be followed when societies change their form of liability;
- (d) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation;
- (e) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership;
- (f) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (g) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;
- (h) prescribe in the case of a financing bank--
- (i) the proportion of individual members to society members in the constitution of its general body or of its committee; and
- (ii) the maximum number of members of its committee;
- (i) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers;
- (j) prohibit a society from appointing a defaulting member of any society to its committee or to the committee of any other society and allowing him to exercise his rights of membership in the society or to represent it in another society and vote;
- (k) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;
- (l) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such return for the levy of the expenses of preparing it;
- (m) provide for the persons by whom and the form in which copies of entries in books of societies may be certified and for the charges to be levied for the supply of such copies;

- (n) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;
- (o) provide for--
 - (i) the appointment of an arbitrator or arbitrators to decide disputes;
 - (ii) the procedure to be followed in proceedings before the Registrar, arbitrator or arbitrators or other person deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests;
 - (iii) the levy of the expenses incidental to such proceedings; and
 - (iv) the enforcement of the decisions or awards in such proceedings;
- (p) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members or the estates of deceased members;
- (q) prescribe the prohibitions and restrictions subject to which societies may trade with persons who are not members;
- (r) provide for the mode in which the value of a deceased members interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred;
- (s) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made and the amount which may be lent, to an individual member;
- (t) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society;
- (u) prescribe the extent to which a society may limit the number of its members;
- (v) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;
- (w) prescribe the procedure to be followed by a liquidator appointed under section 47, and provide for the disposal of the surplus assets, if any of the society;
- (x) subject to the provisions of this Act, determine the oases in which an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of all appeals under this Act;

(y) prescribe the period for which and the terms under which aid may be given by the ¹[State Government] to societies and the terms under which the ¹[State Government] may guarantee the payment of interest on debentures issued by societies;

(z) provide for the custody of property attached under this Act;

(aa) provide for the issue and service of processes and for proof of service thereof;

(bb) provide for the inspection of documents in the Registrars office and the levy of fees for granting certified copies of the same;

(cc) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or an officer empowered by him;

(dd) provide for the recovery of costs awarded against the Government in cases under section 49;

(ee) prescribe the procedure for the attachment and sale of property under ²[section 57-A]; and

(ff) provide for all matters expressly required or allowed by this Act to be prescribed by rules.

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

(4) All rules made under this section shall be published in the ³[Official Gazette] and on such publication shall have effect as if enacted in this Act.

⁴(5) All such rules shall be laid ⁵[before both ⁶[Houses] of the ⁷(State) Legislature].

1. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2. The word, figures and letter within square brackets were substituted for the word and figures "section 28" by section 4 of the Madras Co-operative Societies (Second Amendment) Act, 1934 (Madras Act V of 1935).

3. These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

4. This sub-section has no application to the State of Pondicherry. Please see foot note 1 at page 294.

5. These words were substituted for the words "on the table of the Legislative Council" by the Adaptation Order of 1937.

6. This word was substituted for the word "Chambers" by the

Adaptation (Amendment) Order of 1950.

7. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

CHAPTER 14 REPEALS

66. Repeals :-

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

SCHEDULE 1

SCHEDULE

SCHEDULE.
Enactments repealed.

Year.	Number.	Short title.	Extent of repeal.
(1)	(2)	(3)	(4)
Acts of the Governor-General in Council.			
1912	.. II ..	The Co-operative Societies Act, 1912.	The whole.
1920	.. XXXVIII.	The Devolution Act, 1920.	So much as relates to Act II of 1912.
Act of the Governor of Madras in Council. 1920	.. X ..	The Co-operative Societies (Amendment) Act, 1920.	The whole