

GUJARAT ACT No. X OF 1962

The Gujarat Co-operative Societies Act, 1961  
As extended to Union Territory of Dadra and Nagar Haveli.

PRINTED IN INDIA BY THE MANAGER, GOVERNMENT PRESS AND STATIONERY DEPARTMENT, BARODA; PUBLISHED BY  
THE DIRECTOR, GOVERNMENT PRINTING, PUBLICATIONS AND STATIONERY, GUJARAT STATE, AHMEDABAD.  
1972.

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The Gujarat Co-operative  
Societies Act, 1961 as extended to Union Territory of Dadra and Nagar Haveli.

THE GUJARAT CO-OPERATIVES SOCIETIES ACT. 1961  
CONTENTS.

PREAMBLE  
SECTIONS.

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

REGISTRAR AND REGISTRATION.

3. Registrar and other officers and their powers.
4. Societies which may be registered.
5. Registration with limited or unlimited liability.
6. Conditions of Registration.
7. Power to exempt societies from conditions as to registration.
8. Application for registration.
9. Registration and provisional registration, certificate of registration.
10. Register of societies.
11. Power of Registrar to decide certain questions.
12. Classification of societies.
13. Amendment of by-laws of society.
14. Power to direct amendment of by-laws.
15. Change of name.
16. Change of liability.
17. Amalgamation, transfer, division on conversion of societies.
18. Cancellation of registration of amalgamated, divided or converted societies.
19. Reconstruction of societies.
20. Cancellation of registration.
21. Partnership of societies.

CHAPTER III.

MEMBERS AND THEIR RIGHTS AND LIABILITIES.

22. Person who may become member
23. Removal from membership in certain circumstances.
24. Open membership.
25. Nominal associate and sympathizer member.
26. Cessation of membership.
27. No rights of membership to be exercised till due payments are made.
28. Voting powers of members.
29. Restrictions of holding on shares.
30. Restrictions on transfer of share or interest.
31. Transfer of interest on death of member.
32. Share or interest no liable to attachment.
33. Rights of members to see books, etc.
34. Liability of person who has ceased to be member.
35. Insolvency of member.
36. Expulsion of members.

## CHAPTER IV.

### INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES.

37. Societies to be bodies corporate.
38. Address of societies.
39. Register of members.
40. Copy of Act etc.; to be open to inspection.
41. Admissibility of copy of entry as evidence.
42. Exemption from compulsory registration of instruments relating to shares and debentures of society.
43. Power to exempt from taxation.
44. Restriction of borrowings.
45. Restrictions on making loans.
46. Restrictions on other transactions with non-members.
47. Change and set-off in respect of share or interest of member.
48. Prior claim of society.
49. Charge on immovable property of members borrowing from certain societies.
50. Deduction from salary to meet society's claim in certain cases.

## CHAPTER V.

### STATE AID TO SOCIETIES.

51. Direct partnership of State Government in societies.
52. Indirect partnership of State Government in societies.
53. Principal State Partnership Fund.
54. Subsidiary State Partnership Fund.
55. Approval of State Government for purchase of share.
56. Liability to be limited in respect of certain shares.
57. Restriction on amount of dividend.
58. Indemnity of Apex and Central Societies.
59. Disposal of share capital and dividend etc.
60. Disposal of Principal or Subsidiary State Partnership Fund on winding up of Apex or Central Society.
61. Principal or Subsidiary State Partnership Fund not to form part of assets.
62. Agreement by State Government and Apex Societies.
63. Other forms of State aid to societies.
64. Provisions of this chapter to override other laws.

## CHAPTER VI.

### PROPERTY AND FUNDS OF SOCIETIES

65. Fund not to be divided.
66. Appropriation of profits.
67. Reserve Fund.
68. Restriction on dividend.
69. Contribution to Educational Fund of the Gujarat State Co-operative Union.
70. Contribution to public purpose.
71. Investment of Funds.
72. Employees Provident Fund.

## CHAPTER VII.

### MANAGEMENT OF SOCIETIES

73. Final authority of society.
74. Committee, its powers and functions.
75. Handing over records and property to new Chairman on election.
76. Appointment of officers and employees and their conditions of service.

77. Annual general meeting.
78. Special general meeting.
79. Acts of societies etc., not to be invalidated by certain defects.
80. Power to appoint Government nominee.
81. Suppression of committee.
82. Registrar's power to enforce performance of obligations.
83. Registrar's power to seize records etc.

## CHAPTER VIII.

### AUDIT INQUIRY, INSPECTION AND SUPERVISION.

84. Auditor.
85. Rectification of defects in accounts.
86. Inquiry by Registrar.
87. Inspection of books of indebted society.
88. Inspection of books by Financing Bank.
89. Suspension of officer or servant of society.
90. Costs of inquiry and inspection.
91. Mode of recovery of sums imposed as penalty or awarded as costs.
92. Registrar to bring defects disclosed in inquiry or inspection to notice of society.
93. Power of Registrar to assess damages against delinquent promoters, etc.
94. Power to enforce attendance etc.
95. Constitution or recognition of federal society to supervise working of societies.

## CHAPTER IX.

### PROCEDURE FOR DECIDING DISPUTES.

96. Disputes.
97. Limitation.
98. Settlement of disputes.
99. Procedure for settlement of disputes and power of Registrar, his nominee or board of nominees.
100. Attachment before award.
101. Decision of Registrar or his nominee, or board of nominees.
102. Appeal against decision of Registrar or his nominee or board of nominees.
103. Money how recovered.
104. Private transfer of property made after issue of certificate void against society.
105. Transfer of property which cannot be sold.
106. Recovery of crop loans.

## CHAPTER X.

### LIQUIDATIONS

107. Winding up.
108. Appointment of liquidator.
109. Appeal against order of winding up.
110. Powers of Liquidator.
111. Effect of order of winding up.
112. Bar or suit in winding up and dissolution matters.
113. Audit of Liquidator's accounts.
114. Termination of liquidation proceedings.
115. Disposal of surplus assets.

## CHAPTER XI.

### LAND DEVELOPMENT BANKS.

116. Application of chapter to certain Land Development Banks.
117. Definitions.

118. Appointment, powers and functions of Trustee.
119. Issue of debentures.
120. Guarantee by State Government.
121. Vesting of property in trustee and debenture holder's charge on assets.
122. Priority of mortgage.
123. Order granting loans conclusive of certain matters.
124. Mortgages executed in favour of Primary Land Development Banks to stand vested in State Land Development Bank.
125. Registration of mortgage in favour of Land Development Banks.
126. Mortgage not to be questioned on insolvency of mortgagors.
127. Right of land development bank to pay prior debts of mortgagor.
128. Mortgages executed by managers of joint Hindu families.
129. Restrictions on lease.
130. Section 8 of Act XXXII of 1956 to apply to mortgages to Land Development Banks, subject to certain modifications.
131. Power of Primary Land Development Bank to receive money and give discharge.
132. Powers of land development bank where mortgaged property is destroyed or security becomes insufficient.
133. Power to distain.
134. Sale of mortgaged property.
135. Right of development bank to buy mortgaged property.
136. Confirmation of sale.
137. Disposal of sale proceeds.
138. Certificate to purchaser, delivery of property and title of purchaser.
139. Recovery of loans on certificate by Registrar.
140. Collector to make recoveries during certain period.
141. Provision or guarantee funds to meet certain losses.
142. Agreements executed by embers for loans advanced by Land Development Banks to be conclusive evidence.
143. Exemption of officer of Land Development Banks from personal appearance before registering officers.
- 143A. Transfer of rights and liabilities of Government in respect of schemes sanctioned under Bom. XXVIII of 1942.
144. Service of notice.
145. Officers of banks not to bid at sales.

## CHAPTER XII.

### OFFENCES AND PENALTIES.

146. Prohibition of use of the word "Co-operative".
147. Offences.
148. Punishments for offences under section 147.
149. Cognizance of offences.

## CHAPTER XIII.

### APPEALS, REVIEW AND REVISION.

150. Gujarat State Co-operative Tribunal.
151. Review of orders of Tribunal.
152. Tribunal to have power of Civil Court.
153. Appeals.
154. Extension of period of limitation of appellate authority in certain cases.
155. Power of State Government and Registrar to call for proceedings of subordinate officers to pass orders thereon.

## CHAPTER XIV.

### MISCELLANEOUS.

156. Constitution of State Co-operative Council, its functions, etc.
157. Recovery of sums due to Government.
158. Competency of a member to transfer land or interest therein to society.
159. Registrar's powers to recover certain sums by attachment and sale of property.
160. Registrar's powers to issue directions.
161. Power to exempt societies from provisions of Act.
162. Delegation of powers of State Government and of Registrar.
163. Branches etc. of societies outside the State.
164. Registrar and other officers to be public servants.
165. Indemnity for acts done in good faith.
166. Bar of Jurisdiction of Courts.
167. Notice necessary in suits.
168. Rules.
169. Repeal, saving and construction.
170. Companies Act not to apply.

ANNEXURE

GUJARAT CO-OPERATIVE SOCIETIES ACT, 1961 AS EXTENDED TO THE UNION TERRITORY OF DADRA AND NAGAR HAVELI. (GUJARAT ACT NO X OF 1962)

CHAPTER I  
PRELIMINARY

1. (1) This Act may be called the Gujarat Co-operative Societies Act, 1961. : Short title extent and commencement.
- (2) It extends to the whole of the U.T. of Dadra and Nagar Haveli.
- (3) It shall come into force on such date as the Administrator may, by notification in the official Gazette, appoints and different dates may be appointed for different provisions of the Act.
2. In this Act, unless the context otherwise requires, “Administrator” means the Administrator of the union territory of Dadra and Nagar Haveli.
- (1) “auditor” means a certified auditor appointed either by the Registrars by a society to audit the accounts of the society;
- (2) “by-laws” means by-laws registered under this Act and for the time being in force and include registered amendments of such by-laws;
- (3) “Central Bank” means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies;
- (4) “certified auditor” means a person who possesses the proscribed qualifications and is authorized by the Registrar as an auditor under section 84;
- (5) “committee” means the committee of management, or other directing body to which the management of the affairs of a society is entrusted;
- (6) “company” means a company as defined in the Companies Act, 1956, and includes a Banking Company and also any board, corporation or other corporate body, constituted or established by any Central, State or Provincial Act for the purpose of the development of any industry;

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1 For Statement of Objects and Reasons, see Gujarat Government Gazette, 1961, Part V, Pages, 369-372, for Report of the Select Committee, see ibid, Pages 787-796. \* Section 3 of Gujarat 24 of 1964 reads as under : -

“3. (1) Any references to the expression “land mortgage bank” with its grammatical variations and cognate expressions if any, in an existing law or any instrument or document shall, unless the context otherwise requires, be construed as if references there into that expression were references to the expression “land development bank” with the corresponding grammatical variations and cognate expressions, if any.

(2) With effect from the commencement of this Act and until such time as the names of the Land Mortgage Banks and societies functioning in the State at the commencement of this Act are changed into Land Development Banks, all acts done by them or mortgages and other documents executed by them, or in their favour and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Land Development Banks.

Explanation. - For the purposes of this section “existing law” means any enactment of a Legislature or other competent authority in relation to matters specified in Lists II and III in the Seventh Schedule to the Constitution of India in force in any part of the State of Gujarat immediately before the commencement of this Act and includes any rule, by-law, regulation, order, notification scheme, form or other instrument having the force of law made, prescribed or issued under any such enactment.”

Construction of reference to land mortgage banks in existing laws and instruments or documents.



- (7) "co-operative bank" means a society registered under this Act and doing the business of banking, as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949;
- (8) "dividend" means the amount paid, out of the profits of a society to a member in proportion to the shares held by him;
- (9) "federal society" means a society, not less than five members of which are themselves societies;
- (10) "firm" means a firm registered under the Indian Partnership Act, 1932;
- (11) "Land Revenue Code" organizacao Agraria for Nagar Haveli in force in the union territory of Dadra and Nagar Haveli immediately before the commencement of this Act therein or any other corresponding law for time being in force.
- (12) "Liquidator" means a person appointed as a liquidator under this Act;
- (13) "member" means a person joining in an application for the registration of a co-operative society which is subsequently registered or a person duly admitted to membership of a society after registration and includes a nominal, associate or sympathizer member;
- (14) "officer" means a person elected or appointed by a society to any office of such society according to its by-laws; and includes a chairman, vice-chairman, president, vice-president, managing director, manager, secretary, treasurer, member of the committee, and any other person elected or appointed under this Act, the rules or the by-laws, to give direction in regard to the business of such society;
- (15) "prescribed" means prescribed by rules;
- (16) "rebate" means any payment made in cash or kind, out of the profits of a society, to a member or any other person, on the basis of his contribution to the business of the society;
- (17) "Registrar" means a person appointed to be the Registrar of Co-operative Societies under this Act; and includes to the extent of the powers of the Registrar conferred on any other person under this Act, such person and includes an Additional or Joint Registrar;
- (18) "rules" means rules made under this Act;
- (19) "society" means a co-operative society registered, or deemed to be registered under this Act;
- (20) "society with limited liability" means a society having the liability of its members limited by its by-laws;
- (21) "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 its obligations and to contribute to any deficiency in the assets of the society;
- (22) "the State Co-operative Council" means the council constituted under section 156 of this Act;
- (23) "tribunal" means the Dadra and Nagar Haveli Co-operative Tribunal constituted under this Act;
- (24) "Working capital" means funds at the disposal of a society inclusive of paid-up share capital, funds built out of profits, and money raised by borrowing and by other means.

Cancelled

## CHAPTER II

### REGISTRAR AND REGISTRATON.

3. (1) For carrying out the purposes of this Act, the Administrator shall appoint a person to be the Registrar of Co-operative Societies for the State. : Registrar and other officers and their powers.
- (2) To assist the Registrar in his functions under this Act, the Administrator may appoint such number of Additional Registrars, Joint Registrars, Deputy Registrars, Assistant Registrars and other persons with such designations as it may think fit.
- (3) The State Government may, by general or special order, conform on a persons or persons appointed under sub-section (2) all or any of the powers of the Registrar under this Act.
- (4) Every person appointed under sub-section (2) shall work under the general guidance, and the superintendence and control of the Registrar.
4. A society, which has as its object the promotion of the economic interests or general welfare of its members, or of the public, in accordance with co-operative principles, or a society established with the object of facilitating the operations of any such society, may be registered under this Act; Societies which may be registered.
- Provided that it shall not be registered if, in the opinion of the Registrar. It is economically unsound, or its registration may have an adverse effect upon any other society or it is opposed to, or its working is likely to be in the contravention of public policy.
5. A Society may be registered with limited or unlimited liability. Registration with limited or unlimited liability.
6. (1) No society other than a federal society shall be registered under this Act unless it consists of at least ten persons (each of such persons, being a member of different family), who are qualified to be members under this Act and who reside in the area of operation of the society. Conditions of Registration.
- (2) No society with unlimited liability shall be registered, unless all persons forming the society reside in the same town or village, or in the same group of village.
- (3) No federal society shall be registered, unless it has at least five societies as its members.
- (4) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.
- (5) The word "limited" or "unlimited" shall be the last word in the name of every society with limited or unlimited liability as the case may be, which is registered or deemed to be registered under this Act.
- Explanation. - For the purposes of this section the expression "member of a family" means a wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half-brother, half-sister and wife of a brother or half-brother.

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| 7.     | Notwithstanding anything contained in this Act, the Administrator, by special order in each case, exempt subject to such conditions, if any, as it may impose, any society from any of the requirements of this Act as to registration.   | Power to exempt societies from conditions as to registration.          |
| 8. (1) | For the purpose of registration, an application shall be made to the Registrar in the prescribed form, and shall be accompanied by four copies of the proposed by-laws of the society. The person by whom or, on whose behalf, such application is made, shall furnish such information in regard to the society, as the Registrar may require.   | Application for registration.  |
| (2)    | The application shall be signed --  |  |
|        | (a) in the case of a society other than a federal society, by at least ten persons (each of such persons being a member of different family) who are qualified under this Act, and  |  |
|        | (b) In the case of federal society, by at least five societies.   |  |
| (3)    | No signature to an application on behalf of a society shall be valid unless the person signing is a member of the committee of such society and is authorized by the committee by resolution to sign on it behalf the application for registration of the society and its by-laws; and a copy of such resolution is appended to the application.  |  |
| 9. (1) | On receipt of an application for registration from a society -  | Registration and provisional registration certificate of registration. |
|        | (a) if the Registrar is satisfied that the society has complies with the provisions of this Act and the rules as to registration and that its by-laws are not contrary to this Act and the rules, he shall register the society and its by-laws; and  |  |
|        | (b) if the Registrar is of opinion that the application complies with the requirements of section 8 but that its by-laws are no in conformity with the provisions of this Act and the rules, he may provisionally register the society and by an order in writing permit the society to perform such functions subject to such conditions as he may specify in the order and may also by an order in writing direct the society to amend within the period prescribed in this behalf its by-laws so as to bring them in conformity with this Act and the rules. |  |
| (2)    | When a society has been provisionally registered, the Registrar shall on its compliance with the order made under clause (b) of sub-section (1) finally register it and its by-laws; and on its failure to comply with the order shall cancel its provisional registration.   |  |
| (3)    | A provisionally registered society shall not be deemed to be a society registered under this Act.   |  |
| (4)    | On the registration of a society, the Registrar shall issue to it a certificate of registration signed by him.  |  |
| (5)    | A certificate of registration issued under sub-section (4) shall be conclusive evidence that the society therein mentioned is duly registered, unless, it is proved that the registration has been cancelled.   |  |
| (6)    | If the Registrar refuses to register the society, he shall forthwith communicate his decision with reasons therefore, to the person who has signed first on the application.  |  |

10.	The Registrar shall maintain a register in the prescribed form of all societies registered or deemed to be registered under this Act.	Register of societies.
11.	When any question arises whether for the purpose of the formation or registration or continuance of a society or the admission of a person as a member of a society under 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 or occupation, the question shall be decided by the Registrar.	Power of Registrar to decide certain questions.
12.	The Registrar may classify all societies in such manner, and into such classes, as he thinks fit; and the classification of a society under any head of classification by the Registrar shall be final.	Classification of societies.
13.(1)	No amendment of the by-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the by-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar.	Amendment of by-laws of society.
(2)	If the Registrar is satisfied that the amendment so forwarded is not contrary to this Act or the rules, he may register the amendment; Provided that no order refusing to register the amendment shall be passed except after giving an opportunity of being heard.	
(3)	When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of its registration.	
(4)	Where the Registrar refuses to register an amendment of the by-laws of a society, he shall communicate the order of refusal, together with his reasons therefore, to the society.	
14.(1)	If it appears to the Registrar that an amendment of the by-laws except in respect of the name or objects of a society is necessary or desirable in the interest of such society, he may call upon the society, in the prescribed manner, to make the amendment within such time as he may specify.	Power to direct amendment of by-laws.
(2)	If the society fails to make the amendment within the time so specified, the Registrar after giving the society an opportunity of being heard, and with the prior approval of the Administrator, may register the amendment, and shall thereupon issue to the society a copy thereof certified by him. With effect from the date of the registration of the amendment in the manner aforesaid the by-laws shall be deemed to have been duly amended accordingly; and the by-laws as amended shall be binding on the society and its members.	
15.(1)	Subject to the provisions of the rules a society may, by resolution passed at a general meeting, and with the approval of the Registrar, change its name but such change shall not affect any right or obligation of the society, or any of its members, or of any of the persons who have ceased to be members; and any legal proceedings pending before any person, authority or court may be continued by or against the society under its new name.	Change of name

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

- 16.(1) Subject to the provisions of this Act and the rules, a society may by passing a resolution and by amending its by-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, anything in any by-law or contract to the contrary any member or creditor shall, during a period of one month from the date of service of such notice upon him, have the option of withdrawing his investment in its shares, and his deposits and loans and of demanding the payment of his other dues, if any.
  - (3) Any member or creditor who does not exercise his option within the period specified in sub-section (2), shall be deemed to have assented to the change.
  - (4) An amendment of the by-laws of a society, changing the form or extent of its liability, shall not be registered or take effect until, either -
    - (a) all members and creditors have assented, or deemed to have assented, thereto as aforesaid; or
    - (b) All claims of members and creditors exercising the option under sub-section (2) have been met in full.

Change of liability.

- 17.(1) Subject to the provisions of the rules and the previous sanction of the Registrar a society may, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide -
  - (a) to amalgamate with another society;
  - (b) to transfer its assets and liabilities, in whole or in part, to any other society;
  - (c) to divide itself into two or more societies;
  - (d) to convert itself into another class of society; or
  - (e) To change its object.
- (2) Where the amalgamation, transfer, division or conversion referred to in sub-section (1) involves a transfer of the liabilities of a society to any other society, the Registrar shall not sanction the resolution of the society unless he is satisfied that -
  - (i) the society, after passing such resolution has, given notice thereof in writing to all its members, creditors, and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons") giving them the option, to be exercised within one month from the date of the receipt of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or of withdrawing their investments in its shares, their deposits and loans and demanding payment of their other dues, if any,

Amalgamation, transfer, division or conversion of societies.

- (ii) all the members and creditors and other interested persons, have assented to the decision, or are deemed to have assented thereto by having failed to exercise the option within the period specified in clause (I), and
- (iii) All claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full.
- (3) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, in the event of division or conversion, the registration of new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.
- (4) The amalgamation, transfer, division or conversion made under this section shall not affect any right or obligation of the societies so amalgamated, or of the society so divided or converted, or of the transferee, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly such legal proceedings may be continued or commenced by or against the amalgamated society, the converted society, the new societies or the transferee as the case may be.
18. Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society as the case may be, shall be cancelled on the date of registration of the new society or societies so formed.
19. Where a compromise or arrangement is proposed -  
 (a) between a society and its creditors, or  
 (b) between a society and its members  
 The Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the liquidator, order reconstruction in the prescribed manner of the society.
- 20.(1) The Registrar shall make an order canceling the registration of a society if it transfers the whole of its assets and liabilities to another society or amalgamates with another society or divides itself into two or more societies, or if its affairs are wound up or its has not commenced business within a reasonable time of its registration or has ceased to function.
- (2) An order made under sub-section (1) shall be published in the Official Gazette.
- (3) The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.
- IV of 1882  
XVI of 1908
- Cancellation of registration of amalgamated, divided or converted societies.
- Cancellation of registration.

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| 21.(1) | Any two or more societies may, with the prior approval of the Registrar, by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses, provided that each member of each society has had clear ten days' written notice of the resolution, and the date of the meeting. | Partnership of societies. |
| (2)    | Nothing in the Indian Partnership Act, 1932 and the Indian Companies Act, 1956 shall apply to such partnership.  | XI of 1932.<br>I of 1956  |

CHAPTER III.  
MEMBERS AND THEIR RIGHTS AND LIABILITIES.

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| 22.(1) | Subject to the provisions of section 25, no person shall be admitted as a member of a society except the following, that is to say -<br>(a) an individual, who is competent to contract under the Indian Contract Act, 1872;<br>(b) a firm, company, association or a society registered under the Societies Registration Act, 1860;<br>(c) a society, registered or deemed to be registered, under this Act<br>(d) The Central Government.<br>Provided that, the provisions of clause (a) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or college:<br>Provided further that subject to such terms and conditions as may be laid down by general or special order a firm or a company may be admitted as a member only of such society as may be prescribed. | Person who Pay become member.<br><br>IX of 1872<br><br>XXI of 1860 |
| (2)    | Where a person is refused admission as a member of a society, the decision refusing admission shall be communicated by the society to him within fifteen days of the date of the decision.   |  |
| 23.(1) | Where a person becomes a member of any society on his making a declaration as required by the by-laws of the society or otherwise and such declaration is found to be false, then such person shall be disqualified to continue as a member of the society.  | Removal from membership in certain circumstances.                  |
| (2)    | Where a person continues as the member of the society notwithstanding the disqualification incurred by him under sub-section (1), he shall be removed from the society by the Registrar:<br>Provided that the Registrar shall, before making an order of removal give the person an opportunity of being heard.  |  |
| 24.(1) | No society of such class as may be prescribed shall without, sufficient cause; refuse admission to membership to any person duly qualified therefore under the provisions of this Act, and its by-laws.  | Open membership  |
| (2)    | Any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar.  |  |
| (3)    | The decision of the Registrar in appeal shall be final.  |  |

- 25.(1) Notwithstanding anything contained in section 22, a society of such class as may be prescribed may admit any person as a nominal, associate or sympathizer member:
- Nominal associate and sympathizer member.
- Provided that the total number of associate and sympathizer members in a society shall not exceed ten per cent of the total number of members thereof.
- (2) A nominal, associate or sympathizer member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society. Subject to the provisions of sub-section (6) of section 28 a nominal associate or sympathizer member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the by-laws of the society.
26. A person shall cease to be a member of a society on his resignation from the membership thereof being tendered in writing to the society and accepted by the society or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society.
- Cessation of membership.
- Provided that, the resignation of a person from the membership of a society, if such member is not in debt to the society or is not a surety for an unpaid debt due to the society, shall unless it is accepted earlier be deemed to have been accepted on the expiry of one month from the date of his tendering his resignation in writing to the society.
27. No person shall exercise the rights of a member of a society, 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, or the by-laws of such society.
- No rights of membership to be exercised till due payments are made.
- 28.(1) No member of any society shall have more than one vote in its affairs:  
Provided that, in the case of an equality of votes the chairman shall have a casting vote.
- Voting powers of members.
- (2) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate, shall have the right to vote.
- (3) A society, which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of the other society, and accordingly such member shall have the right to so vote.
- (4) A company which has invested any part of its funds in the shares of a society may appoint one of its directors or officers to vote on its behalf in the affairs of the other society, and accordingly shall have the right to so vote.



- (5) Where a firm has invested any part of its funds in the shares of a society any one of its partners shall be entitled to vote in the affairs of the society on behalf of the firm.
- (6) A nominal, associate, or sympathizer member of a society shall have the right of vote if such right is conferred on him by the bye-laws.
- (7) The voting rights of members of a federal society shall be regulated by the rules, and by the by-laws of the society.
- 29.** In any society, no member other than the Central Government or a social, shall hold more than such portion not exceeding one fifth of the total share capital of the society as may be prescribed:  
 Provided that, the Administrator may, by notification in the Official Gazette, specify in respect of any class of societies a higher maximum than one fifth of the share capital.
- 30.(1)** Subject to the provisions of section 29 and sub-section (2) a transfer of, or charge on, the share or interest of a member in the capital of a society shall be subject to such conditions as may be prescribed.
- (2) A member shall not transfer any share held by him, or his interest in the capital or property of any society, or any part thereof, unless—
- (a) he has held such share or interest for not less than one year;
  - (b) the transfer or charge is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the society; and
  - (c) The committee has approved such transfer.
- 31.(1)** On the death of a member of a of a society the society shall subject to the provisions of sub-section (2) transfer his share or interest in the society to a person or persons nominated by such member in accordance with the rules or, in the absence of such nomination to such person as may appear to the Committee to be the heir or legal representative of such member.
- (2) No such transfer shall be made unless such nominee, heir or legal representative, as the case may be, is duly admitted as a member of the society.
- (3) Notwithstanding anything contained in sub-section (2), 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 as prescribed.
- (4) 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.
- (5) All transfer and payments duly 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.
- Restrictions of holding on shares.
- Restrictions on transfer of share of interest.
- Transfer of interest on death of member.

- (6) (a) Nothing in the foregoing provisions of this section or section 22 shall be construed to prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member of a society, but his liability in consequence of such acquisition shall be limited to his interest in the shares of the society and the unpaid dividends as also the loan, stock, bonds, if any, and the interest earned on them which is unpaid and he shall not have the right of voting.
- (b) A person under any such disability as is referred to in clause (a) shall, on his disability ceasing, furnish to the society a declaration of his willingness to become a member. On receipt of such declaration the society, notwithstanding anything contained in this section may, and if it is a co-operative housing society such society shall admit him as a member if he is not otherwise disqualified. A person so admitted shall become entitled to all the rights and privileges of a member and become subject to liabilities like any other member of the society.

- 32. The share or interest of a member in the capital of a society or in the loan-stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposits shall not be liable to attachment or sale under any decree or order of a Court for or in respect of any debt or liability incurred by the member; and accordingly, neither a Receiver under the Provincial Insolvency Act, 1920, nor any such person or authority under any corresponding law for the time being in force, shall be entitled to or have any claim on such share or interest. Share or interest not liable to attachment.
  
- 33.(1) Every member of a society shall be entitled to inspect, free of cost, at the society's office during office hours, or any time fixed for the purpose by the society, a copy of the Act, the rules, and the by-laws, the last audited annual balance sheet, the profit and loss account, a list of the members of the committee, a register of members, the minutes of general meetings and those portions of the books and records in which his transactions with the society have been recorded. Rights of members to see books etc.
  
- (2) A society shall furnish to a member, on request in writing and on payment of such fees as may be prescribed therefore, a copy of any of the documents mentioned in sub-section (1).
  
- 34.(1) Where a person has ceased to be a member of a society under section 26, Liability of person who has ceased to be member.
  - (a) His liability in respect of any debt due by him to the society and in respect of any outstanding demand owing to the society by him shall continue as if he had not ceased to be a member.
  - (b) His liability for the debts of the society as they stood immediately before the date of such cessation shall, save as otherwise provided in sub-section(2), continue for a period of three years from such date as if he had not ceased to be a member.

Provided that the liability shall attach to the estate of such person, if such cessation was due to his death or such person dies after his ceasing to be a member.

- (2) Where a society is ordered to be wound up under any provisions of this Act, then the liability under clause (b) of sub-section (1) of a person who has ceased to be a member thereof within three years immediately preceding the date of the order of winding up; shall continue, until the entire liquidation proceeding are completed.
35. Notwithstanding anything contained in the Provisional Insolvency Act, 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 his dues to Government or to a local authority. Insolvency of members.
- 36.(1) A society may, by resolution passed by three-fourths majority of all the members present and voting at a general meeting of members held for the purpose, expel a member for acts which are detrimental to the proper working of the society:  
 Provided that, no resolution shall be valid, unless the member concerned is given opportunity of representing his case to the general body, and no resolution shall be effective unless it is submitted to the Registrar for his approval and approved by him:  
 Provided further, that the approval or disapproval of the Registrar shall be communicated to the society within a period of three months from the date of such submission, and in the absence of such communication the resolution shall be effective.
- (2) No member of a society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society , or for admission as a member of any other society, for a period of two years from the date of such expulsion:  
 Provided that, the Registrar may, in special circumstances, sanction the re-admission or an admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.

CHAPTER IV.  
 INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES.

37. A society on its registration shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all such things as are necessary for the purpose for which it is constituted. Societies to be bodies corporate.
38. Every society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent; and the society shall send notice in writing to the Registrar of any change in the said address, within thirty days thereof. Address of societies.
- 39.(1) Every society shall keep a register of its members, and enter therein the following particulars, that is to say—  
 (a) the name, address and occupation of each member; Register of members.

- (b) in the case of a society having share capital, the share held by each member;
- (c) the date on which each person was admitted as member;
- (d) the date on which any person ceased to be a member and
- (e) such other particulars as may be proscribed:

Provided that, where a society has by or under this Act, permitted a member to transfer his share or interest on death to any person, the register shall also show against the member concerned the name of the person entitled to the share or interest of the member, and the date on which the nomination was recorded.

- (2) The register shall be prima facie evidence of the date on which any person was admitted to membership, and of the date on which he ceased to be a member.

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| 40.    | Every society shall keep, at the registered address of the society, a copy of this Act and the rules and of its by-laws, and a list of members, open to inspection to he public, free of charge, during office hours or any hours fixed by the society therefore.   | Copy of an Act. etc. to be open to inspection.  |
| 41.(1) | A copy of any entry in any book, register or list, regularly kept in the course of business and in the possession of a society shall, if duly certified in such manner as may be prescribed, be admissible in evidence of the existence of the entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters.   | Admissibility of copy of entry as evidence.   |
| (2)    | In the case of such societies, as the Administrator may by general or special order direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions and accounts therein recorded, except by order of the Court or a Judge made for special cause.   |   |
| 42.    | Nothing in clauses (b) and (c ) of sub-section (1) of section 17 of the Indian Registration Act, 1908, shall apply - <ul style="list-style-type: none"> <li>(a) to any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or</li> <li>(b) to any debenture issued by any 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</li> <li>(c) To any endorsement upon, or transfer of, any debenture issued by any society.</li> </ul> | Exemption from compulsory registration of instruments relating to shares and debentures of society. |

43.	<p>The Central Government, by notification in the Official Gazette, may in the case of any society or class of societies, remit -</p> <p>(a) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments, executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or awards of the Registrar or his nominee or board of nominee under this Act, are respectively chargeable;</p> <p>(b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to court-fees, for the time being in force; and</p> <p>(c) any other tax or fee or duty (or any portion thereof ) payable by or on behalf of a society under any law for the time being in force, which the Central Government is competent to levy.</p>	Power to exempt from taxation.
44.	<p>A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the by-laws of the society.</p>	Restriction on borrowings.
45.(1)	<p>No society shall make a loan to any person other than a member or on the security of its own shares, or on the security of any persons who is not a member:</p> <p style="padding-left: 40px;">Provided that, with the special sanction of the Registrar, a society may make loans to another society.</p>	Restrictions on making loans.
(2)	<p>Notwithstanding anything contained in sub-section (1), a society may make a loan to a depositor on the security of his deposit.</p>	
46.	<p>Save as is provided in this Act, the transactions of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.</p>	Restrictions on other transactions with non-members.
47.	<p>In respect of any debt due to a society by any member thereof, the society shall have a charge upon the share or interest of such member in the capital of the society, upon the deposits of such member with the society and upon any dividend, rebate or profits payable to such member; and the society may set off any sum credited or payable to such member in or towards the payment of any such debt:</p> <p style="padding-left: 40px;">Provided that, no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund established by it under section 72, and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.</p>	Charge and set off in respect of share or interest of member.
48.(1)	<p>Notwithstanding anything contained in any other law for the time being in force, but subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue and to the provisions of sections 60 and 61 of the Code of Civil Procedure, 1908, --</p> <p>(a) any debt or outstanding demand, owing to a society by any member or a person who has ceased to be a member shall be a first charge upon—</p> <p style="padding-left: 40px;">(i) The crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by him.</p>	Prior claim of society.

- (ii) Cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or workshop, godown or place of business, supplied to, or purchased by him in whole or in part, from any loan whether in money or goods made to him by the society, and
  - (iii) Any movable property which may have been hypothecated pledged or otherwise mortgaged by him with the society, and remaining in his custody;
- (b) any outstanding demands or dues payable to a society by any member or a person who has ceased to be a member, in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society;

Provided that, the prior claim of Government in respect of dues other than land revenue, shall be restricted for the purpose of this sub-section to the assets created by a member out of the funds in respect of which the Government has a claim.

- (2) No property or interest in property, which is subject to a charge under sub-section (1), shall be transferred in any manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may impose.
- (3) Any transfer made in contained in sub-sections (2) shall be void.
- (4) Notwithstanding anything contained in sub-sections (2) and (3), a society, which has as one of its objects the disposal of the produce of its members, may provide in its by-laws, or may otherwise contract with its members, --
  - (a) that every such member shall dispose of his produce through the society, and
  - (b) That any member, who is found guilty of a breach of the by-law or of any such contract, shall reimburse the society for any resultant loss, determined in such manner as may be specified in the by-laws.

- 49.(1) Notwithstanding anything contained in this Act or in any other law for the time being in force,--
- (a) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the prescribed form. Such declaration shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application, and for all future advances, if any, required by him which the society may make to him as such member, subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;
  - (b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Act, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (a); and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;

Change on immovable property of members borrowing from certain societies.

- (c) a declaration made under clause (a) or (b) may be varied at any time by a member, with the consent of the society in favour of which such charge is created;
- (d) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (a) or (b) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

Provided that, it shall be lawful for a member to execute a mortgage bond in favour of a mortgage bank or the Central Government in respect of such land or any part thereof, under the rules made under the Bombay Irrigation Act, 1879 or under any corresponding law for the time being in force, for the supply of water from a canal to such land:

Provided further that, if a part of the amount borrowed by a member is paid, the society may, on an application from the member, release from the charge created under the declaration made under clause (a) or (b) such part of the movable or immovable property specified in the declaration as it may deem proper, with due regard to the adequacy of the security for the balance of the amount remaining due from or outstanding against the member.

- (e) Any alienation made in contravention of the provisions of clause (d) shall be void;
  - (f) Subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue and to the charge, if any, created under an award made under the Bombay Agricultural Debtors Relief Act, 1947 or any corresponding law for the time being in force in any part of the State and to any mortgages created in favour of a <sup>1</sup>[land development bank] by its members there shall be a first charge in favour of the society on the land or interest specified in the declaration made under clause (a) or (b) for and to the extent of the dues owing by him on account of the loan; and.
  - (g) The record of rights relating to the land shall include the particulars of every change on land or interest created under a declaration under clause (a) or clause (b).
- (2) For the purpose of this section, the expression “society” means -
- (i) any society, the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members, or
  - (ii) Any society or any society of the class of societies, specified in this behalf by the Administrator by a general or special order.

50.(1) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay to the society the amount so deducted in satisfaction of any debt or other demand of the society against the member.

Deduction from salary to meet society's claim in certain cases.

- (2) On the execution of such agreement, the employer shall, if by a requisition in writing so required by the society and so long as the society does not intimate that the whole of such debt or demand has been paid,

make the deduction in accordance with the agreement notwithstanding anything to the contrary contained in the Payment of Wages Act, 1936 and pay the amount so deducted to the society, as if it were a part of the wages payable by him as required under the said Act on the day on which he makes payment. In making such deduction and payment, it shall not be open to the employer to question the validity or otherwise of such debt or demand.

- (3) If after receipt of a requisition made under sub-section (2) the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment thereof; and the amount shall be recoverable on behalf of the society from him as an arrear of land revenue on a certificate being issued by the Registrar after holding such inquiry as he deems fit, and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears. A certificate so issued by the Registrar shall not be questioned in any court.
- (4) Nothing contained in this section shall apply to persons employed in any railway (within the meaning of the Constitution) and in mines and oil fields.

CHAPTER V.

STATE AID TO SOCIETIES.

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| 51.    | The Central Government may subscribe directly to the share capital of a society with limited liability.   | Direct partnership of State Government in societies.     |
| 52.    | The Central Government may, under appropriation made by law, provide moneys to a society for the purchase directly or indirectly, of shares in other societies with limited liability. A society to which moneys are so provided for the aforesaid purpose is hereinafter in this Act referred to as an "Apex society". | Indirect partnership of Central Government in societies. |
| 53.(1) | A Apex society shall, with the moneys provided under section establish a Fund to be called the "Principal State Partnership Fund"   | Principal State Partnership Fund.                        |
| (2)    | An Apex society shall utilize the Principal State Partnership Fund for the purpose of -   |  |
|        | (a) directly purchasing shares in other societies with limited liability;   |  |
|        | (b) providing moneys to a society to enable that society (hereinafter in this Chapter referred to as a "Central society") to purchase shares in other societies with limited liability (the latter societies being hereinafter in this Chapter referred to as "Primary societies");                                     |  |
|        | (c) making payments to the Central Government in accordance with the provisions of this Chapter;  |  |
|        | And for no other purpose.   |  |



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| 54.(1) | A Central society which is provided with moneys by an Apex society from the Principal State Partnership Fund shall, with such moneys establish a Fund to be called the "Subsidiary State Partnership Fund".   | Subsidiary State Partnership Fund.                     |
| (2)    | A Central society shall utilize the Subsidiary State Partnership Fund for the purpose of -<br>(a) purchasing share in primary societies;<br>(b) making payments to the Apex society in accordance with the provisions of this Chapter; And for no other purpose.  |  |
| 55.    | Shares shall not 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 of the Central Government.   | Approval of Central Government for purchase of shares. |
| 56.    | Where any shares are purchased in a society by -<br>(a) the Central Government, or<br>(b) an Apex society from the Principal State Partnership Fund, or a Central society from the Subsidiary State Partnership Fund, as the case may be,<br>Then in the event of the winding up of such society the liability in respect of such shares shall be limited to the amount paid in respect of such shares.   | Liability to be limited in respect of certain shares.  |
| 57.    | 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 the Subsidiary State Partnership Fund, shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society.   | Restriction on amount of dividend.                     |
| 58.(1) | If a society in which shares are purchased out of the Principal State Partnership Fund is wound up or dissolved, the Central 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 Central Government shall be entitled to any moneys received by the Apex society in liquidation proceedings or on dissolution, as the case may be.   | Indemnity of Apex and Central Societies.               |
| (2)    | If a society in which shares are purchased out of the Subsidiary State Partnership Fund is wound up or dissolved, neither the Central Government nor the Apex society shall have any claim against the Central society which purchased the shares. In respect of any loss arising from such purchase but the Apex society shall be entitled to any moneys received by the Central society in liquidation proceedings or on dissolution, as the case may be and such moneys shall be credited to the Principal State Partnership Fund. |  |
| 59.(1) | All moneys received by an Apex society in respect of the redemption of shares of other societies purchased out of the moneys in the Principal State Partnership Fund, or by way of dividends or otherwise or by way of interest, dividend or otherwise on the balance of that fund shall be credited to that Fund.  | Disposal of share capital and dividend etc.            |

- (2) All moneys received by a Central society in respect of the redemption of shares of Primary societies purchased out of the moneys in the Subsidiary State Partnership Fund, or by way of dividends or otherwise or by way of interest, dividend or otherwise on the balance of that fund shall in the first instance be credited to that Fund, and then transferred to the Apex society which shall credit them to the Principal State Partnership Fund.
- (3) All moneys and dividends referred to in sub-sections(1) and (2) shall notwithstanding that the shares stand in the name of the Apex society or the Central society, as the case may be, be paid to the Central Government.
- (4) Save as provided in sub-section (3), the Central Government shall not be entitled to any other return on the moneys provided by it to an Apex society under section 52.
- 60.**(1) If an Apex society which has established a Principal State Partnership Fund is wound up or dissolved, all moneys at 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 at the credit of, or payable to that Fund, shall be paid and credited to the Principal State Partnership Fund form which it received moneys under clause (b) of sub-section (2) of section 53.
- 61.** Any amount at the credit of a Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the assets of the Apex society or the Central society, as the case may be.
- 62.** 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 52;
- (b) An Apex society may, with the previous approval of the 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 53.
- 63.** Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the Central Government by general or special order may specify in this behalf the State Government may, --
- (a) give loans to a society;
- (b) guarantee the payment of the principal of debentures issued by a society or of interest thereon, or both, or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the Central Government;
- Disposal of Principal or Subsidiary State Partnership Fund on winding up of Apex or Central society.
- Principal or Subsidiary State Partnership Fund not to form part of assets.
- Agreement by Government and Apex societies.
- Other forms of State aid to societies.

- (c) Guarantee the repayment of the principal of, and the payment of interest on, means given by a Co-operative Bank to a society;
- (d) Guarantee the repayment of the principal of and payment of interest on, loans and advances given by the Reserve Bank of India, or the Industrial Finance Corporation of India, or any other authority constituted under any law for the time being in force, or
- (e) Provide financial assistance, in any other form (including subsidies to a society.)

**64.** The provisions of sections 52 to 62 (both inclusive) in this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Provisions of this Chapter to override other laws.

## CHAPTER VI.

### PROPERTY AND FUNDS OF SOCIETIES

- 65.(1)** No part of the funds or assets of a society, other than the dividend equalization fund, if any, and the net profits thereof, shall be paid by way of rebate or dividend or otherwise distributed, to its members.  
 Provided that in the case of a member, who is also a salaried servant of the society payment on such scale as may be laid down by the by-laws may be made to him for work done as such servant.
- (2) No honorarium shall be paid out of the funds and assets of a society other than the net profits and such honorarium shall not exceed the prescribed limit.

Fund not to be divided.

- 66.(1)** A society earning profit, shall calculate its annual net profit by deducting from the gross profits for the year, all accrued interest while is overdue for more than six months, establishment charges, contribution if any, towards the provident fund and gratuity fund of its employee interest payable on loan and deposits, audit fees, working expenses including repairs, rents, taxes and depreciation, and after providing for or writing off bad debt and losses not adjusted against any fund created out of profit. A society may, however, add to the net profits for the year, interest in the preceding years, but actually recovered during the year. The profits thus arrived at, together with the amount of profits brought forward from the previous year shall be available for appropriation.
- (2) A society may appropriate its profits to its reserve fund or any other fund created by it to payment of dividends to members on their shares

Appropriation of profits.

and to any other purpose which may be specified in the rules or by-laws:

Provided that, no part of the profits shall be appropriated except with the approval of the annual general meeting and in conformity with the Act, rules and by-laws.

- 67.**(1) Every society which does, or can derive a profit from its transactions, shall maintain a reserve fund.
- (2) At least one-fourth of the net profits of the society each year, shall be carried to the reserve fund; and such reserve fund may be used in the business of the society or may, subject to the provisions of section 71, be invested, as the Administrator by general or special order direct, or may, with the previous sanction of the State Government, be used in part for some public purpose likely to promote the objects of this Act, or for some such purpose of the State, or of local interest:
- Provided that if the Registrar is satisfied that financial condition of the society is such that it is unable to carry to its reserve fund an amount upto the aforesaid limit of one-fourth of its net profits, he may by order in writing for such period as he may specify in the order, fix for the society a limit lower than the aforesaid limit but not lower than one-tenth of its net profits.
- (3) Where the reserve fund of a society exceeds its authorized share capital, then notwithstanding anything contained in sub-section (1), the society may, with the previous permission of the Registrar carry to its reserve fund each year an amount which may be less than one-fourth but not less than one-tenth of its net profit.
- 68.** No society shall pay a dividend to its members at a rate exceeding 9 per cent.
- 69.** (1) Every society which declares, out of the current year's profit a dividend to its members at a rate of 3 percent or more, shall contribute towards the educational fund of the Gujarat State Co-operative Union at such rates as may be prescribed.
- (2) No society, liable to contribute towards the educational fund, shall pay a dividend to its members, unless the said contribution is made to the Gujarat State Co-operative Union. An officer willfully failing to comply with the requirement of this section, shall be personally liable for making good the amount to the Gujarat State Co-operative Union.
- 70.** After providing for the reserve fund as provided in section 67 and a society may set aside a sum not exceeding twenty per cent of its net profits, and utilize from time to time, with the approval of the Administrator.

Revenue fund.

Restriction on dividend.

Contribution to educational fund of the Gujarat State Co-operative Union.

(Cancelled )

Contribution to public purposes.

- 71.(1) A society may invest, or deposit its funds - Investment of funds.
- (a) in a Central Bank, or the State Co-operative Bank,
  - (b) in the State Bank of India,
  - (c) in the Postal Savings Bank,
  - (d) in any of the securities specified in section 20 of the Indian Trusts Act, 1882,
  - (e) in shares, or security bonds, or debentures, issued by any other society with limited liability, or
  - (f) in any co-operative bank or in any banking company approved for this purpose by the Registrar, on such conditions as the Registrar may from time to time impose,
  - (g) in any other mode permitted by the rules, or by general or special order of the Administrator.

- (2) Notwithstanding anything contained in sub-section (1), the Registrar may, with the approval of the Administrator, order a society or a class of societies to invest any funds in a particular manner, or may impose conditions regarding the mode of investment of such funds.

- 72.(1) Any society may establish for its employees a provident fund, into which shall be paid the contributions made by its employees and by the society. Such provident funds shall not be used in the business of the society, nor it form part of the assets of the society; but shall be invested under the provisions of sections 71 and shall be administered in the prescribed manner. Employees provident fund.
- (2) Notwithstanding anything contained in sub-section (1) a provident fund established by a society to which the Employees Provident Funds Act, 1952, is applicable, shall be governed by that Act.

## CHAPTER VII.

### MANAGEMENT OF SOCIETIES.

73. Subject to the provisions in this Act and the rules, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the by-laws. Final authority of society.

Provided that, where the by-laws of a society provide for the election of delegates of such members, the final authority may vest in the delegates, of such members elected in the prescribed manner, and assembled in general meeting.

74. The management of every society shall vest in a Committee, constituted in accordance with this Act, the rules and by-laws, which exercise such powers and perform such duties as may be conferred or imposed on it respectively by this Act, the rules and the by-laws. Committee, its powers and functions.
- 75.(1) On the election of a new committee and its Chairman, the retiring Chairman in whose place the new Chairman is elected shall hand over charge of the office of the committee and all papers and property, if any, of the society in possession of the committee or any officer thereof, to the new Chairman of the committee. Handing over records and property to new Chairman on election.
- (2) If the retiring Chairman fails or refuses to hand over, charge or to hand over the papers and property of the society as aforesaid the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property and the Registrar may, on the retiring Chairman's failure to comply with such direction, make order for seizing the records and property and handing them over to the New Chairman, in the manner provided in section 83.
- 76 The qualifications for the appointment of a manager, secretary, accountant or any other officer or employee of a society and the conditions of service of such officers and employees shall be such as may from time to time, be prescribed: Appointment of officers an employees and their conditions of service.  
 Provided that no qualification shall be prescribed in respect of any officer not in receipt of any remuneration.
- 77.(1) Every society shall, within a period of three months next after the date fixed for drawing up its accounts for the year under the rules for the time being in force, call a general meeting of its members: Annual general meeting.  
 Provided that, the Registrar may, by general or special order, extend the period for holding such meeting for further period not exceeding three months :  
 Provided further that, if in the opinion of the Registrar no such extension is necessary, or such meeting is not called by the society within the extended period, if any, the Registrar or any person authorized by him in that behalf may in the prescribed manner call such meeting which shall be deemed to be a general meeting duly called by the society.
- (2) At every annual general meeting of a society, the committee shall lay before the society a balance sheet and profit and loss account for the year in the manner, prescribed by the Registrar by general or special order for any class or classes of societies.

Explanation: In the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account; and all references to profit and loss account, and to "profit" or "loss" in this Act, shall be constructed in relation to such society as references respectively to the "excess of income over expenditure" and "excess of expenditure over income".

- (3) There shall be attached to every balance sheet laid before the society in general meeting, a report by its committee, with respect to (a) the state of the society's affairs; (b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and (c ) the amounts if any, which it recommends for payment by way of dividend, bonus or honoraria to honorary workers. The committee's report shall also deal with any changes in the nature of the society's business which have occurred during the year for which the accounts are drawn up. The committee's report shall be signed by its Chairman, or any other member authorized to sign on behalf of the committee.
- (4) At every annual general meeting, the balance sheet, the profit and loss account, the auditor's report and the committee's report, shall be placed for adoption, and such other business will be transacted as may be laid down in the by-laws and of which duesotoc has been given.
- (5) Where any officer of the society, whose duty it was to call a general meeting within the period specified in sub-section (1) or, as the case may be the period extended by the Registrar under that sub-section or to comply with sub-sections (2), (3) or (4) fails without reasonable excuse to call such meeting or to comply with sub-section -(2), (3) or (4), then -
  - (i) If such officer is a servant of the society, the Registrar may by an order in writing impose on him a penalty of an amount not exceeding one hundred rupees, and
  - (ii) if such officer is not a servant of the society, the Registrar may by an order in writing declare such officer to be disqualified for being an officer, or a member of the Committee, of the society or for being elected or appointed to any office of the society, for such period not exceeding three years as he may specify in the order.

Provided that, before making an order under this sub-section, the Registrar shall give or cause to be given, a reasonable opportunity to the officer to show cause against the action proposed to be taken in regard to him.

- 78.(1)** A special general meeting may be called at any time by a majority of the committee, and shall be called by the committee within one month -
- (i) on a requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the by-laws for the purpose, whichever is lower, or
  - (ii) on a requisition from the Registrar, or
  - (iii) in the case of society, which is a member of a federal society, on a requisition from the committee of such federal society.
- (2) Where any officer or a member of the committee, whose duty it was to call such meeting, without reasonable excuse, fails to call such meeting, the Registrar may by order declare such officer or member disqualified for being a member of the committee for such period not exceeding three years, as he may specify in such order; and if the officer is a servant of the society he may impose on him a penalty not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.
  - (3) If a special general meeting of a society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorized by him in that behalf, shall have power to call such meeting which shall be deemed to be a meeting duly called by the committee.

Special  
general  
meeting.

- (4) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (3) shall be paid out of the funds of the society or by such person or person or persons who, in the opinion of the Registrar, were responsible for refusal or failure to convene the meeting.
- 79.(1) No act of a society or a committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organization of the society, or in the constitution of the committee, or in the appointment or election of an officer, or on the ground that such officer was disqualified for his office. Acts of societies etc. Not to be invalidated by certain defects.
- (2) No act done in good faith by any person appointed under this Act, the rules or by-laws shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently passed there under.
- (3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of the society; and his decision thereon shall be final.
80. Where the Central Government has subscribed to the share capital of a society, directly or through another society, or has guaranteed the repayment of the principal of and payment interest on, debentures issued or loans raised by a society, the Central Government shall have the right to nominate (not more than three) representatives on the committee of such society, in such manner as may be determined by the Central Government from time to time. The members so nominated shall hold office during the pleasure of the Central Government, or for such period as may be specified in the order by which they are appointed, and any such member on assuming office shall have all rights, duties, responsibilities and liabilities as if he were a member of the committee duly elected. Power to appoint Government nominee.
- 81.(1) If, 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 rules or the by-laws, or does anything which is prejudicial to the interests of the society or its members, then subject to the rules, the Registrar may, after giving the committee an opportunity of stating its objections, if any, within fifteen days from the date of issue of notice, by order in writing remove the committee; and Supersession of committee.
- (a) appoint a committee, consisting of one or more members of the society, in its place or
- (b) appoint one or more special officers who need not be members of the society,
- to manage the affairs of the society for a period not exceeding two years specified in the order, which period may, at the discretion of the Registrar be extended from time to time, so however, that the total period does not exceed four years in the aggregate.
- (2) The committee or Special Officer 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 take all such action as may be required in the interests of the society.



- (3) If at any time during any period or extended period referred to in clause (b) sub-section (1), it appears to the Registrar that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, he may, by an order published in the Official Gazette, direct that the management shall terminate; and on such order being made, the management of the society shall be handed over to a new committee duly constituted.
- (4) The committee or Special Officer shall, at the expiry or termination of its or his term of office, arrange for the constitution of a new committee in accordance with the by-laws of the society.
- (5) All acts done or purported to be done by the committee or Special Officer during the period during which the affairs of the society are carried on by the committee or Special Officer appointed under sub-section (1), shall be binding on the new committee.
- (6) Before taking any action under sub-section (1) in respect of a society the Registrar shall consult any co-operative financing institution to which it is indebted.

**82.(1)** It shall be the duty of every society to keep the prescribed books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place, all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and such records to the Registrar as the Registrar may by order direct from time to time, and the officer or officers of the society shall be bound to comply with the order within the period specified therein.

Registrar's power to enforce performance of obligations.

(2) Where any society is required to take any action under this Act, the rules or the by-laws or in compliance with an order made under sub-section (1) and such action is not taken -

within the time provided in this Act, the rules or the by-laws, or the order, as the case may be, or

where no time is so provided, within such time having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing,

the Registrar may himself, or through a person authorized by him, take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were an arrear of land revenue.

(3) Where the Registrar takes action under sub-section (2), he may call upon any officer of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the by-laws, or the order made under sub-section (1), and, after giving him an opportunity of being heard, may require him to pay to the society the expenses paid or payable by it to the Central Government as a result of his failure to take action, and to lay to the assets of the society such sum not exceeding fifteen rupees as the Registrar may think fit for each day until Registrar's directions are carried out.

83. Where the Registrar is satisfied that the books and records of a society are likely to be tampered with or destroyed, or the funds and property of a society are likely to be misappropriated or misapplied, the Registrar may issue an order directing a person duly authorized by him in writing to seize and take possession of such books and records, funds and property of the society, and the officer of the society responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorized.
- Registrar's power to seize records, etc.

## CHAPTER VIII

### AUDIT, INQUIRY, INSPECTION AND SUPERVISION.

- 84.(1) The Registrar shall audit, or cause to be audited by a person possessing prescribed qualifications and authorized by the Registrar by general or special order in writing in this behalf, the accounts of every society at least once in each year. The person so authorized shall be an auditor for the purposes of this Act.
- Auditor.
- (2) The audit under the foregoing sub-section 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 and the auditor shall, for the purpose of audit, at all times have access to all the books accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society, and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities cash or other properties, to produce the same at any place at the head-quarters of the society or any branch thereof.
- (4) Every person who is, or has at any time been, an officer or employee of the society, and every members and past members of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the auditor may require.
- (5) The auditor shall have the right to receive all notices, and every communication relating to the annual general meeting of the society and to attend such meeting and to be heard thereat, in respect of any part of the business with which he is concerned as auditor.
- (6) If it appears to the Registrar, on an applications by a society or otherwise, that it is necessary or expedient to re-audit any accounts of the society, the Registrar may by order provide for such re-audit and the provision of this Act applicable to audit of accounts of the society shall apply to such re-audit.
- (7) For auditing the accounts of a society under this section, the society shall be liable to pay audit fee at such scale as may be prescribed.

85. If the result of the audit held under section 84 discloses any defects in the working of a society, the society shall within three months from the date of the audit report, explain to the Registrar the defects or the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities, and report to the Registrar the action taken by it thereon. The Registrar may also make an order directing the society or its officers to take such action and within such time as may be specified there into remedy the defects. Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society. Rectification of defects in accounts.
- 86.(1) The Registrar may of his own motion himself, or by a person duly authorized by him in writing in this behalf, hold an inquiry into the constitution, working and financial conditions of a society. Inquiry by Registrar.
- (2) The Registrar shall hold such an inquiry -
- (a) on the requisition of a society duly authorized by rules made in this behalf to make such requisition, in respect of any of its members, such member being itself a society, or
  - (b) on the application of a majority of the committee of a society, or
  - (c) on the application of one-third of the members of a society.
- (3) (a) Every officer, member and past member of the society in respect of which an inquiry is held, and any other person who is in possession of information, books and papers relating to the society, shall on being so required furnish such information as is in his possession, and produce all books and papers relating to the society which are in his custody or power, and otherwise give to the officer holding the inquiry all assistance in connection with the inquiry which he can reasonably give.
- (b) If any such person refuses to produce to the Registrar or any person authorized by him under sub-section (1), any book or paper which it is his duty under clause (a) to produce or to answer any question which is put to him by the Registrar or the person authorized by the Registrar in pursuance of sub-clause (a), the Registrar or the person authorized by the Registrar may certify the refusal and the Registrar may impose on the defaulter a penalty of an amount not exceeding five hundred rupees. Before imposing such penalty, the Registrar shall give, or cause to be given a reasonable opportunity to the defaulter, of showing cause against the action proposed to be taken in regard to him.
- (4) (a) If at any stage of the inquiry under this section the Registrar is satisfied that in the interest of the members of the society, it is necessary to take over all books and papers relating to the society during the period of inquiry, he may make an order in writing to that effect and directing the society to hand over all books and papers relating to the society to such officer as may be specified in the order. The Registrar may also issue activities as may be specified in the direction.
- (b) The society shall be bound to comply with any direction issued to it under clause (a).

- (c) The books and papers taken over under clause (a) shall be returned to the society on the completion of the inquiry.
- (5) When an inquiry is held under this section the Registrar shall communicate the result of the inquiry -
- in case the Central Government have subscribed directly to the share capital of the society or in case any moneys are due from the society to the Principal State Partnership Fund or to the Subsidiary State Partnership Fund, to the Central Government or to any officer appointed by it in this behalf;
- (ii) to the federal co-operative society concerned, and
- (iii) to the society concerned.
- (6) It shall be competent for the Registrar to withdraw any inquiry from the officer to whom it is entrusted, and to hold the inquiry himself or entrust it to any other person as he deems fit.
- 87.(1)** On the application of a creditor of a society who -
- (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 reasonable time, and
- (b) deposits with the Registrar such sum as the Registrar may require as security for the costs of any inspection of the books of the society, the Registrar may, if he thinks it necessary, inspect or direct a person authorized by him by order in writing in this behalf to inspect, the books of the society.
- (2) The Registrar shall communicate the result of any such inspection to the applicant and to the society whose books have been inspected.
- (3) It shall be competent for the Registrar to withdraw any inspection from the officer to whom it is entrusted, and to carry out the inspection himself or entrust it to any other person as he deems fit.
- 88.** Where a society is indebted to any co-operative financing bank such bank shall have the right to inspect the books of that society. The inspection may be made either by an officer of the bank authorized by the committee of such 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 bank.
- 89.(1)** Where in the course of an audit section 84 or an inquiry under section 86 or an inspection under section 87 or section 88 it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriate,

Inspection of books of indebted society.

Inspection of books by financing bank.

Suspension of officer or servant of society.

branch of trust or other offence, in relating to the society, the Registrar may, if in his opinion, there is prima facie evidence against such paid officer or servant is necessary in the interests of the society, direct the committee of the society pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

- (2) On receipt of a direction from the Registrar under sub-section (1) the committee of the society shall, notwithstanding any provision to the contrary in by-laws, place or cause to be placed the paid officer or servant under suspension forthwith.
- (3) The Registrar may direct the committee to extend from time to time the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.
- (4) If the committee fails to comply with the direction issued under sub-section(1), the Registrar may make an order placing such paid officer or servant, under suspension from such date and for such period as he may specify in the order and thereupon the paid officer or servant, as the case may be, shall be under suspension.

**90.(1)** The cost of an inquiry under section 86 or, as the case may be o an inspection under section 87 shall be met in the first instance from the Consolidated Fund of India and shall be recovered in accordance with sub-section (2) and section 91.

Costs of inquiry and inspection.

- (2) The Registrar shall determine the total amount of the cost referred to in sub-section (1) and by order apportion the cost or such part thereof as he may think just between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members of the society:

Providing that where a person has ceased to be a member on his death, the order of apportionment shall be made against his estate if such person was liable for the costs :

Provided further that, no order of apportionment of costs shall be made under this section without -

- (a) having heard, or given a reasonable opportunity of being heard to the society or person or in the case of an estate its legal representative, as the case may be, against whom or which such order is proposed to be made; and
  - (b) setting out in the order the ground on which the apportionment is made.
- (3) No expenditure from the funds of a society shall be incurred, for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under sub-section (1).

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| 91.    | Any sum imposed as penalty under sections 77, 78 or 86 or awarded by way of costs under section 90 may, on an application by the Registrar or a person authorized by him in that behalf to a Magistrate having jurisdiction in the place where the person from whom the penalty or costs are recoverable resides or carries his business, be recovered by the Magistrate as if it were a fine imposed by himself; and such Magistrate shall proceed to recover the same in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines.   | Mode of recovery of sums imposed as penalty or awarded as costs.                    |
| 92.(1) | If the result of any inquiry held under section 86 or inspection made under section 87, discloses any defects in the constitution, working or financial condition or the books of a society, the Registrar may bring such defects to the notice of the society. The Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.  | Registrar to bring defects disclosed in inquiry or inspection to notice of society. |
| (2)    | The society concerned may make an appeal against an order made by the Registrar under sub-section (1) to the Administrator within two months from the date of the communication of the order to the society.   |   |
| (3)    | The Administrator may, in deciding the appeal, annul, reverse, modify or confirm the order of the Registrar.   |   |
| (4)    | Where the society fails to rectify the defects as directed by the Registrar and where no appeal has been made to the Administrator under sub-section (2) or where on the appeal so made the Administrator has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the costs from the officer of the society who, in his opinion, have failed to rectify the defects.   |   |
| 93.(1) | Where, in the course of or as a result of an audit under section 84, or an inquiry under section 86 or an inspection under section 87, or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorized to make inquiry under section 86, or the person authorized to inspect the books under section 87, or the Liquidator under section 110, that any person who has taken any part in the organization or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of such audit, inquiry, inspection or order for winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorized by him in that behalf may investigate the conduct of such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, 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 or the person authorized under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine. | Power of Registrar to assess damages against delinquent promoters etc.              |

- (2) The Registrar or the person authorized under sub-section (1) in making any order under this section, may provide therein for the payment of costs or any part thereof of such investigation, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.
- (3) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible.

**94.** The Registrar or the person authorized by him, when acting under section 86, 87 or 93 shall have the power to summon and enforce the attendance of any person to give evidence or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908. Power to enforce attendance, etc.

**95.(1)** The Administrator may constitute committees or recognize one or more co-operative federal societies in such manner as may be prescribed and subject to such conditions as the Administrator may impose, for the supervision of a society or a class of societies and may frame rules for making grants to any such committee or federal society. Constitution or recognition of federal society to supervise working of societies.

(2) The Central Government may, by general or special order, require of society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupment of expenditure which the Central Government or any person authorized or a committee in that behalf has incurred or is likely to incur, in respect of the supervision of societies.

(3) A society to which sub-section (2) is applicable shall pay to such authority such fee as may be prescribed within a reasonable time and if it fails to pay such fee within a reasonable time, the authority may recover it as if it were an arrear of land revenue.

CHAPTER IX.

PROCEDURE FOR DECIDING DISPUTES.

**96.(1)** Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or business of a society shall be referred in the prescribed form either by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, to the Registrar, if the parties thereto are from amongst following:-- Disputes

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, of the Liquidator of the society;

- (b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society;
- (c) as person, other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions under the provisions of section 46, and any person claiming through such a person;
- (d) a surety of a member, past member or a deceased member, or a person other than a member who has been granted a loan by the society under section 46, whether such a surety is or is not a member of the society;
- (e) any other society, or the Liquidator of such a society.

(2) When any question arises whether for the purposes of sub-section (1) a matter referred to for decision is a dispute or not, the question shall be considered by the Registrar, whose decision shall be final.

Explanation I. - For the purposes of this sub-section, a dispute shall include -

- (i) a claim by a 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 a debt or demand be admitted or not;
- (ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not;
- (iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its committee, past or present, whether such loss be admitted or not;
- (iv) a refusal or failure by a member, a past member or a nominee, heir or legal representative of a deceased member, to deliver possession to a society of land or any other asset resumed by it for breach of conditions of the assignment.

Explanation II : - for the purposes of this section, the expression "agent" includes in the case of a housing society, an architect, engineer or contractor engaged by the society.

97.(1) Notwithstanding anything contained in the Indian Limitation Act 1963 but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under section 96 shall -

Limitation.

- (a) when the dispute relates to the recovery of any sum, including interest thereon, due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;



- (b) When the dispute is between a society or its committee, and any past or present officer, or past or present agent or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;
  - (c) When the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 107, or in respect of which a nominated committee or an administrator has been appointed under section 81, be six years from the date of the order issued under section 107, or section 81, as the case may be;
  - (d) When the dispute is in respect of an election of any office-bearer of a society, be two months from the date of the declaration of the result of such election.
- (2) The period of limitation in the case of any dispute other than those mentioned in sub-section (1) which are required to be referred to the Registrar under section 96 shall be regulated by the provisions of the Indian Limitation Act 1963, as if the dispute were a suit, and the Registrar a Civil Court.
  - (3) Notwithstanding anything contained in sub-sections (1) and (2), the Registrar may admit a dispute after the expiry of the period of limitation if the applicant satisfies him that he had sufficient cause for not referring the dispute within such period, and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.
- 98.(1)** If the Registrar is satisfied that any matter, referred to him is a dispute, within the meaning of section 96 the Registrar shall, subject to the rules, decide the dispute himself, or refer it for disposal to a nominee, or a board of nominees, appointed by the Registrar:
- Provided that no person who is connected with a dispute or with the society at any stage or has previously inspected the society or audited its accounts shall be appointed as a nominee or as member of the board of nominees to settle the dispute.
- (2) Where any dispute is referred under sub-section (1) for decision to the Registrar's nominee or board of nominees, the Registrar may at any time, for reasons to be recorded in writing withdraw such dispute from his nominee, or board of nominees, and may decide the dispute himself, or refer it again for decision to any other nominee, or board of nominees, appointed by him.
  - (3) Notwithstanding anything contained in section 96, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated question of law or fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted within two months from the Registrar order suspending proceedings, the Registrar shall take action as is provided in sub-section (1).
- Settlement of disputes.

- 99.(1) The Registrar, or his nominee or board of nominees, hearing a dispute under section 98 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as provided in the case of a Civil Court by the Code of Civil Procedure, 1908.
- Procedure for settlement of disputes and power of Registrar, his nominee or board of nominee.
- (2) Except where a dispute involves complicated question of law or fact, no legal practitioner in his capacity as a legal practitioner or as a person holding a power of attorney shall be permitted to appear on behalf of any party at the hearing of a dispute.
- (3) (a) If the Registrar or his nominee or board of nominees is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may join as a party to the dispute; and any decision that may be passed on the reference by the Registrar or his nominee or board of nominees shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.
- (b) Where a dispute has been instituted, in the name of the wrong person or where all the defendants have been not included, the Registrar or his nominee or board of nominees may, at any stage of the hearing of the dispute if satisfied that the mistake was bonafide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.
- (c) The Registrar, his nominee or board of nominees may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Registrar, his nominee or board of nominees, as the case may be, to be just, order that the name of any party improperly joined whether as plaintiff or defendant be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, his nominee or board of nominees, as the case may be, may be necessary in order to enable the Registrar, his nominee or board of nominees effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.
- (d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such relief; but if he omits to claim all such relief, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar, his nominee or board of nominees.
- 100.(1) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 98 or under section 110, or where the Registrar or the person authorized under section 93 hears a person against whom charges are framed under that section, the Registrar or his nominee or board of nominees, or as the case may be, the person so authorized under section 93 if satisfied on enquiry or otherwise that a party to such dispute or against whom proceedings are pending under section 93 with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made,--
- Attachment before award.
- (a) is about to dispose of 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,

may, unless adequate security is furnished, direct conditional attachment of the said property and such attachment shall have the same effect as if made by a competent Civil Court.

- (2) Where a direction a to attach property is issued under sub-section (1) the Registrar, his nominee or board of nominees or the person authorized, under section 93 shall issue a notice calling upon the person whose property is so attached to furnish such security within such period as may be specified in the notice; and if the person fails to provide the security so demanded, the Registrar or his nominee or board of nominees or, as the case may be, the person authorized under section 93 may confirm the order and after the decision in the dispute or the completion of the proceedings referred to in sub-section (1) may direct the disposal of the property so attached towards the claim if awarded.
- (3) Attachment made under this section shall not affect the rights subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree prior to such attachment against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

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| 101. | When a dispute is referred to the Registrar for decision, he or his nominee or board of nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute on the expenses incurred by the parties to the dispute in connection with the proceedings, and the fees and expenses payable to the Registrar or his nominee or, as the case may be, board of nominees. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed by the Registrar, for deciding the dispute and shall, subject to appeal or review or revision, be binding on the parties to the dispute.  | Decision of Registrar or his nominee, or board of nominees.               |
| 102. | Any party aggrieved by any decision of the Registrar or his nominee or board of nominees under section 101 or an order passed under section 100 may, within two months from the date of the decision or order, appeal to the Tribunal.  | Appeal against decision of Registrar or his nominee or board of nominees. |
| 103. | Every order passed by the Registrar or a person authorized by him under section 93, or by the Registrar, his nominee or board of nominees under section 100 or 101, every order passed in appeal under section 102 every order passed by a Liquidator under section 110, every order passed by the Administration in appeal against orders passed under section 110, and every order passed in revision under section 155, shall, if not carried out, --<br>(a) on a certificate signed by the Registrar or a Liquidator be deemed to be a decree of a Civil Court, as defined in clause (2) of section 2 of the Code of Civil Procedure, 1908 and shall be executed in the same manner as a decree of such Court, or<br>(b) be executed according to the provisions of the Land Revenue Code and the rules there under for the time being in force for the recovery of arrears of land revenue : | Money how recovered.  |

Provided that, any application for the recovery in such manner of any such sum shall be made to the Mamlatdar, and shall be accompanied by certificate signed by the Registrar, or by any Assistant Registrar to whom the said power has been delegated by the Registrar, Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

104. Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be under section 103 shall be null and void as against the society on whose application the said certificate was issued. Private transfer of property made after issue of certificate void against society.
- 105.(1) When an execution of an order sought to be executed under section 103 any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (a) or (b) of section 103, the Court or the Mamlatdar or the Registrar, as the case may be, may direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed. Transfer of property which can not be sold.
- (2) Where property is transferred to the society under sub-section (1), or is sold under the provisions of section 103, the Court, the Collector or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, as the case may be, in possession of the property transferred or sold.
- (3) Subject to the rules made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Mamlatdar or the Registrar, as the case may be, and the said society. Subject to the general or special orders of the Administrator the Mamlatdar or the Registrar may delegate to an officer, not below the rank of an Assistant or Deputy Collector or an Assistant Registrar powers exercisable by the Mamlatdar or the Registrar under this section.
- 106.(1) Notwithstanding anything contained in sections 96, 98 and 103 on an application made by a society undertaking the financing of crops and seasonal finance as defined under the Bombay Agricultural Debtors Relief Act, 1947, for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears. Recovery of crop loans.
- (2) Where the Registrar is satisfied that society has failed to take action under sub-section (1) in respect of such arrears the Registrar may, of his own motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as such arrears, and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

- (3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, which shall be recoverable according to the provisions of the Land Revenue Code and of the Rules there under for the time being in force for the recovery of land revenue.
- (4) Until the arrears due to society together with interest and any incidental charges incurred in the recovery of such arrears are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar it shall be lawful for the Mamlatdar and Registrar take the following precautionary measures, namely :-
  - (i) to prevent the crop being removed from the land;
  - (ii) (a) to require that the crop growing on any land liable to the payment or arrears due to the society shall not be repaid until a notice in writing is given to the Mamlatdar or the Registrar, as the case may be, in this behalf with an acknowledgement of its receipt.
  - (b) to direct that no such crop shall be removed from the land on which it has been reaped or from any place in which it may have been deposited without the written permission of the Mamlatdar or the Registrar.
  - (c) to cause watchman to be placed for any such crop to prevent the unlawful reaping or removed of the same, and to realize the amount required for the remuneration of the said watchman as such rate not exceeding the rate of pay received by such watchman as an arrear of land revenue due in respect of the land to which such crop belongs.
- (5) The Mamlatdar's or Registrar's orders under sub-clause (a) or (b) of clause (ii) of sub-section (4) may be issued generally or in individual cases. If the order be general, it shall be made known by public proclamation to be made by beat of drum in one village and by affixing a copy of the order in the Patelad or some other public building in the village. If it be to individual holders a notice thereof shall be served on each holder concerned.
- (6) Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall within the meaning of the Indian penal code, abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry before the Mamlatdar, to a fine not exceeding double the amount of the land revenue due on the land to which the crop belongs in respect of which the offence is committed.
- (7) The Mamlatdar or Registrar, as the case may be, shall not defer the reaping of the crop not prolong its deposit unduly, so as to damage the produce, and if within two months after the crop has been deposited the dues have not been discharged, he shall either release the crop and proceed to realize, the revenue in any other manner authorized by law, or take such portion thereof as he may deem fit for sale in the prescribed manner and realize the rest.

## CHAPTER X.

### LIQUIDATION.

- 107.(1) If the Registrar, --
- (a) after an inquiry has been held under section 86 or an inspection has been made under section 87, or on the report of the auditor auditing the accounts of the society, or
  - (b) on receipt of an application made upon a resolution carried by three fourths of the members of a society present at a special general meeting called for the purpose, or

Winding  
up.

- (c) of his own motion, in the case of a society which -
- (i) has not commenced working, or
  - (ii) has ceased working, or
  - (iii) possesses shares or members' deposits not exceeding five hundred rupees, or
  - (iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the by-laws,
- is of the opinion that a society ought to be wound up, he may make an interim order directing it to be wound up.
- (2) Where an interim order is made on a ground specified in clause (a) or sub-clause (iv) of clause (c) of sub-section (1) a copy thereof shall be communicated, in the prescribed manner to the society calling upon it to submit its explanation to the Registrar within a month from the date of the issue of such order.
  - (3) The Registrar, after giving an opportunity to the society of being heard, shall make a final order, vacating or confirming the interim order.
- 108.** (1) When an interim or final order is made under section 107 for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the liquidator of the society and fix his remuneration. Appointment of Liquidator.
- (2) Where an interim order is made the officers of the society shall hand over to the liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society and, shall have no access to any of them.
  - (3) When a final order is made confirming the interim order, the officer of the society shall vacate their offices, and while the winding up order remains in force, the general body of the society shall not exercise any powers.
  - (4) The liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 110. The Registrar may remove him from his office and appoint another in his place, without assigning any reason.
  - (5) The whole of the assets of the society shall on the appointment of the liquidator vest in him and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by him on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effected, and no Court shall question the title on the ground of dispossession, want or possession or physical delivery of possession.
  - (6) In the event of the interim order being vacated, the liquidator shall hand over the property, effects, actionable claims, books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by the liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been vacated under section 107 be continued by the officers of the society.
- 109.** (1) The committee, or any member of the society ordered to be wound up, may within two months from the date of the communication to the society of the order made under section 107 appeal, if the order is made by the Registrar, Additional Registrar or Joint Registrar to the Administrator or if the order is made by any other person on whom the powers of the Registrar are conferred to the Registrar: Appeal against order of winding up.

Provided that no appeal shall lie against an order issued under sub-clause (i), (ii) or (iii) of clause (c ) of sub-section (1) of section 107:

Provided further that no appeal shall lie against an order passed by the Registrar on appeal.

- (2) No appeal under this section shall be entertained from a member unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

- 110.** The Liquidator appointed under section 108 shall have power, subject to the rules and the general supervision, control and direction of the Registrar, --
- (a) to institute and defend suits and other legal proceedings, civil or criminal, on behalf of the society in the name of this office;
  - (b) to carry on the business of the society, so far as may be necessary for the beneficial winding up of the same;
  - (c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body corporate, or sell the same in parcels;
  - (d) to raise, on the security of the assets of the society, any money required;
  - (e) to investigate all claims against the society and subject to the provisions of the Act, to decide questions of priority arising out of such claims and to pay any class or classes of creditors in full or rateably according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate approved by the Registrar, but not exceeding the contract rates;
  - (f) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, whereby the society may be rendered liable;
  - (g) to compromise all calls or liabilities to calls and debts and liabilities capable or 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 any security for the discharge of any such call, liability, debt, or claim, and give a complete discharge in respect thereof;
  - (h) to determine, from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the estate, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, heirs, or legal representatives of a deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;
  - (i) to make applications under section 103;
  - (j) to get disputes referred to the Registrar for decision by himself or is nominee or board of nominees;
  - (k) to determine by what persons and in what proportion the costs of the liquidation shall be borne;
  - (l) to fix the time or times within which the creditors shall prove their debts and claims or be included for the benefits of any distribution made before those debts or claims are proved;

Powers of Liquidator.

- (m) 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 in the same manner as provided in the case of a Civil Court under Code of Civil Procedure, 1908;
- (n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents, as may be necessary to such winding up;
- (o) to take such action as may be necessary under section 19, with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.

111. After the expiry of the period for appeal under section 109 against the order made under sub-section (3) of section 107, or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all creditors and of all the contributories of the society, as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the liquidator shall proceed to realize the assets of the society by sale or otherwise, and no dispute shall be commenced, or if pending at the date of the winding up order, be proceeded with against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose. The Registrar may of his own motion, however, entertain or dispose of any dispute by or against the society.
- Effect of order of winding up.
112. Save as 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 winding up order has been made no suit or other legal proceedings shall lie or be proceeded with against the society or the liquidator, except by leave of the Registrar, and subject to such terms, as he may impose :
- Provided that, where the winding up order is cancelled, the provisions of this section shall cease to operate so far as the liability of the society and of the members thereof to be sued is concerned, but they shall continue to apply to the person who acted as liquidator.
- 113.(1) The liquidator shall, during his tenure of office, at such times as may be prescribed, but no less than twice each year, present to the Registrar, an account in the prescribed form of his receipts and payments as liquidator. The Registrar shall cause the accounts to be audited in such manner as he thinks fit; and for the purpose of audit, the liquidator shall furnish the Registrar with such vouchers and information as he, or the person appointed by him, may require.
- Audit of Liquidator's accounts.
- (2) The liquidator shall cause a summary of audited accounts to be prepared, and shall send a copy of such summary to every contributory.
  - (3) The liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts and books kept by him in the manner prescribed.
  - (4) The liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of audit in respect of transactions sub-sequent to his taking charge of the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 93:



Provided that no such action shall be take unless irregularities have caused or are likely to cause loss to the society, and have occurred due to gross negligence or wanted omission by the liquidator, in carrying out the duties and functions.

- 114.(1) The winding up proceedings of a society shall be closed within three years form the date of the order of the winding up, unless the period is extended by the Registrar :

Termination  
of  
liquidation  
proceedings.

Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate, and shall immediately after the expiry of seven years from the date of the order for winding up of the society, deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

Explanation.—In the case of a society which is under liquidation at the date of the commencement of this Act, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the said date.

- (2) Notwithstanding anything contained in sub-section (1) the Registrar shall terminate the liquidation proceedings on receipt of the final report from the liquidator. The final report of the liquidator shall state that the liquidation proceedings of the society have been closed, and also state how the winding up has been conducted and the property and claims of the society have been disposed of, and shall include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount, if any, standing to the credit of the society, after paying off its liabilities, including the share or interest of members, and shall suggest how the surplus should be utilized.
- (3) The Registrar, on receipt of the final report from the liquidator, shall direct the liquidator to convene a general meeting of the members of the society for recording the report.

115. Any surplus assets, as shown in the final report of the liquidator of a society which has been wound up, shall not be divided, amongst its members but shall be devoted to any object or objects provided in the by-laws of the society, if they specify that such a surplus shall be utilized for the particular purpose. Where the society has no such by-law, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society to which the surplus belonged was serving :

Disposal of  
surplus  
assets.

Provided that, where no such society exists or is registered within three years of the cancellation of the registration of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus in the manner he thinks best, among any or all of the following : --

- (a)an object of public utility and of local interest as may be recommended by the members in general meeting held under section 114 or where the society has ceased to function and its record is not available or none of its members is forthcoming, as the Registrar thinks proper;

(b ) a federal society with similar objects to which the cancelled society was eligible for affiliation or, where no federal society exists, the Gujarat State Federal Society; and (Cancelled )  
(c )any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

## CHAPTER XI.

### <sup>1</sup>[LAND DEVELOPMENT BANKS]

116. This Chapter shall apply to <sup>1</sup>[Land Development Banks] advancing loans, other than short terms loans, for the purposes herein enumerated that is to any - Application of chapter to certain <sup>1</sup>[Land Development Banks]

- (i) land improvement and productive purpose;
- (ii) the erection, rebuilding or repairing of houses for agricultural purposes;
- (iii) the purchase or acquisition of title to agricultural lands by tenant purchasers or tenants under the Bombay Tenancy and Agricultural Lands Act, 1948 or any corresponding law for the time being in force; or
- (iv) the liquidation of debts under the Bombay Agricultural Debt or Relief Act, 1947, or any corresponding law for the time being in force.

Explanation 1. :- For the purposes of this section a short term loan means a loan for a duration of less than 18 months.

Explanation 2. : - Land improvement and productive purpose mean any work, construction, or activity which adds to the productivity of the land and, in particular, includes the following, that is to say -

- (a) construction and repair of wells (including tube wells), tanks, and other works for the storage, supply or distribution of water for the purpose of agriculture, or for the use of men and cattle employed in agriculture;
- (b) renewal or reconstruction of any of the foregoing works, or alterations there in, or additions thereto;
- (c ) preparation of land for irrigation ;
- (d) drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes, or waste land which is cultivable;
- (e) bunding and similar improvements;

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1. These words, were substituted for the words "Land Mortgage Banks," by Guj. 24 of 1964, s.2.

- (f) reclamation, clearance and enclosure or permanent improvement of land for agricultural purposes;
- (g) horticulture;
- (h) purchase of oil- engines, pumping sets and electrical motors for any of the purposes mentioned herein;
- (i) purchase of tractors or other agricultural machinery;
- (j) increase of the productive capacity of land by addition to it of any special variety of soil;
- (k) construction of a permanent farm-house, cattle sheds and sheds for processing of agricultural produce at any stage;
- (l) purchase of machinery for crushing sugarcane, manufacturing gur or khandasari or sugar;
- (m) purchase of land of consolidation of holdings under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 or any other order pending law for the time
- (n) such other purposes as the State Government may, from time to time, by notification in the Official Gazette declare to be land improvement or productive purposes for the purpose of this Chapter

- 117.** In this Chapter, unless the context otherwise requires : -- Definition
- (1) <sup>1</sup>[Land Development Bank] means, a Co-operative Bank registered or deemed to be registered under this Act, and to which this Chapter applies.
  - (2) <sup>2</sup>[Primary Land Development Banks] means a <sup>1</sup>[Land Development Bank] recognized as <sup>2</sup>[Primary Land Development Bank] by the Registrar.
  - (3) <sup>3</sup>[State Land Development Bank] means, a <sup>1</sup>[Land Development Bank] for the whole of the U.T. of Dadra and Nagar Haveli and recognized as such by the Registrar.
- 118.(1)** The Registrar or where the Administration appoints any other person in this behalf, such person, shall be the Trustee for the purpose of securing the fulfillment of the obligations of the <sup>3</sup>[State Land Development Bank] to the holders of debentures issued by the <sup>3</sup>[State Land Development Bank]. Appointment, powers and functions of Trustee.
- (2) The Trustee shall be a corporation sole, by the name of the Trustee for the debentures in respect of which he is appointed, and as such, shall have perpetual succession and a common seal, and in his corporate name may sue and be sued.
  - (3) The powers and functions of the Trustee shall be governed by the provisions of this Act, and the instrument of trust executed between the <sup>3</sup>[State Land Development Bank] and the Trustee, as modified from the time to time by mutual agreement between the <sup>3</sup>[State Land Development Bank] and the Trustee.
- 119.(1)** With the previous sanction of the Central Government and the Trustee, and subject to the rules, the <sup>3</sup>[State Land Development Bank] in the discharge of its functions issue debentures of such denominations, for Issue of debentures.

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<sup>1</sup> These words were substituted for the words "Land Mortgage Bank" by Guj. 24 of 1964, s.2.

<sup>2</sup> These words were substituted for the words "Primary Land Mortgage Bank", ibid, s.2

<sup>3</sup> These words were substituted for the words "State Land Mortgage Bank", ibid, s.2

such period, and at such rates of interest, as it may deem expedient on the security of the mortgages, or mortgages to be acquired or partly on mortgages held and partly on those to be acquired and properties and other assets of its land mortgage business.

- (2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee and the right to redeem at any time in advance of the date fixed for redemption, after giving to the holder of the debenture not less than three months notice in writing.
- (3) The total amount due on debentures issued by the <sup>1</sup>[State Land Development Banks] and outstanding at any time, shall not exceed -
  - (a) where debentures are issued against mortgages held, the aggregate of -
    - (i) the amounts due on the mortgages ;
    - (ii) the value of the properties and other assets transferred or deemed to have been transferred under section 124 by the <sup>2</sup>[Primary Land Development Bank] to the <sup>1</sup>[State Land Development Bank] and subsisting at such time; and
    - (iii) the amounts paid under the mortgages aforesaid and the unsecured amounts remaining in the hands of the <sup>1</sup>[State Land Development Bank] or the Trustee at the time;
  - (b) where debentures are issued otherwise than on mortgages held the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage.

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| 120.    | The principal of, and interest on, the debentures issued under section 119 shall, to such maximum amount as may be fixed by the Central Government and subject to such conditions as the Central Government may think fit to impose, carry the guarantee of the Central Government.  | Guarantee by Central Government.  |
| 121.    | Upon the issue of debenture under the provisions of section 119, the mortgaged properties and other assets referred to in sub-section (3) section 119 held by the <sup>1</sup> [State Land Development Bank] shall vest in the Trustee; and the holders of debentures shall have a floating charge on all such mortgages and assets and on the amount, paid under such mortgages and remaining in the hands of the <sup>1</sup> [State Land Development Bank] or of the Trustee. | Vesting of property in trustee and debenture holders' charge on assets. |
| 122.(1) | A mortgage executed in favor of a <sup>3</sup> [Land Development Bank] shall have priority over any claim of the Government arising from a loan granted after the execution of the mortgage under the Land Improvement Loans Act, 1883, or the Agricultures' Loans Act, 1884 or any other law for the time being in force.   | Priority of mortgage.   |
| (2)     | Notwithstanding anything contained in the Bombay Tenancy and Agricultural Lands Act, 1948, or any other corresponding law for the time being in force, where a mortgage in favour of a <sup>3</sup> [Land Development Bank]  |   |

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<sup>1</sup> These words were substituted for the words "State Land Mortgage Bank" by Guj. 24 of 1964, s.2.

<sup>2</sup> These words were substituted for the words "Primary Land Mortgage Bank", *ibid*, s.2

<sup>3</sup> These words were substituted for the words "land mortgage bank", *ibid*, s.2

is in respect of land in which a tenant has an interest, the mortgage may be against the security of such interest and the rights of the mortgage shall not be affected by the failure of the tenant to comply with the requirements of such law, and the sale of the land and tenant's interest therein under such law shall be subject to the prior charge of the <sup>1</sup>[Land Development Bank]

123. A written order by the <sup>2</sup>[Land Development Bank] or persons or committees authorized under the bye-laws of the Bank to make loans for all or any of the purposes specified in section 116 granting, either before or after commencement of this Act, a loan to or with the consent of, a person mentioned therein, for the purpose of carrying out the work specified therein, for the benefit of the land or for the productive purpose specified therein, shall for the purpose of this Act be conclusive of the following matters that is to say,--
- (a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 116;
- (b) that the person had at the date of the order a right to make such an improvement, or incur expenditure for productive purpose, as the case may be; and
- (c) that the improvement is one benefiting the land specified and the productive purpose concerns the land offered in security, or any part thereof as may be relevant.
124. The mortgages executed in favour of and all other assets transferred to a <sup>5</sup>[Primary Land Development Bank] by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by it to the <sup>4</sup>[State Land Development Bank] and shall vest in the <sup>4</sup>[State Land Development Bank].
125. Notwithstanding anything contained in the Indian Registration Act, 1908 it shall not be necessary to register mortgages executed in favour of the <sup>6</sup>[Land Development Bank] provided that the <sup>2</sup>[Land Development Bank] concerned sends within such time and in such manners as may be prescribed, a copy of the instrument whereby immovable property is mortgaged for the purpose of securing repayment of the loan to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged is situate. Such Registering Officer shall file copy or copies as the case may be in his Book No. 1 prescribed under section 51 of the Indian Registration Act, 1908.
- Order granting loans conclusive of certain matters.
- Mortgages executed in favour of <sup>3</sup>[Primary Land Development Banks] to stand vested in <sup>4</sup>[State Land Development Bank]
- Registration of mortgage in favour of <sup>6</sup>[Land Development Banks]

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1 These words were substituted for the words " land mortgage bank", by Guj. 24 of 1964, s.2

2 These words were substituted for the words " Land Mortgage Bank", ibid, s.2

3 These words were substituted for the words " Primary Land Mortgage Banks", ibid, s.2

4 These words were substituted for the words " State Land Mortgage Bank", ibid, s.2

5 These words were substituted for the words " Primary Land Mortgage Bank", ibid, s.2

6 These words were substituted for the words " Land Mortgage Bank", ibid, s.2

126. Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909 or the Provincial Insolvency Act, 1920 or any corresponding law for the time being in force, a mortgage, executed in favour of a <sup>1</sup>[Land Development Bank] shall not be called in question on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the bank a preference over other creditors of the mortgagor. Mortgages not to be questioned on insolvency of mortgagors.
- 127.(1) Where a mortgage of executed in favour of <sup>1</sup>[Land Development Bank], for payment of prior debts of the mortgagor, the <sup>1</sup>[Land Development Bank] shall, notwithstanding anything contained in the Transfer of Property Act, 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. Right of <sup>1</sup>[Land Development Bank] to pay prior debts of mortgagor.
- (2) Where any such person fails to accept such notice or, to receive such payments, such debts or part thereof, as the case may be, shall cease to carry interest from the expiry 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 <sup>1</sup>[Land 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.
- 128.(1) Where a mortgage (other than a mortgage to which sub-section (2) applies) executed in favour of a <sup>1</sup>[Land Development Bank] either before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether such members have attained majority or not the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party raising it. Mortgages executed by managers of joint Hindu families.
- (2) A mortgage, executed in favour of a <sup>1</sup>[Land Development Bank] or the <sup>2</sup>[State Land Development Bank] by the manager of a joint Hindu family in respect of a loan advanced by such bank for the improvement of agricultural land or of the methods of cultivation, or for financing any other means to raise the productivity of the land, or for the purchase of land, shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.
- 129.(1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, no mortgage or of property mortgaged to a <sup>1</sup>[Land Development Bank] shall except with the prior consent in writing of the bank and subject to such terms and conditions as the bank may impose, lease or create any tenancy right on any such property : Restrictions of Lease.  
 :  
 Provided that, the rights of the bank shall be enforceable against the lease or the tenant, as the case may be, as if he himself was a mortgagor.

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1 These words were substituted for the words “ land mortgage bank”, by Guj. 24 of 1964, s.2

2 These words were substituted for the words “ State Land Mortgage Bank”, ibid, s.2

- (2) Where land mortgaged with possession to a <sup>1</sup>[Land Development Bank], is in, actual possession of a tenant, the mortgagor or the mortgagee bank shall give notice to the tenant to pay rent to the bank during the currency of the lease and the mortgage, and no such notice being given, the tenant shall be deemed to have attended to the bank.
130. Section 8 of the Hindu Minority and Guardianship Act, 1956 shall apply to mortgages in favour of a <sup>3</sup>[Land Development Bank] subject to the modification that any reference to the court therein shall be construed as reference to the Mamlatdar or his nominee, and the appeal against the order of the Collector or his nominees shall lie to the Collector, DNH. Section 8 of Act XXXII of 1956 to apply to mortgages <sup>3</sup>[Land Development Banks] subject to certain modifications.
131. Notwithstanding anything contained in section 124, all moneys due under the mortgage shall , unless otherwise directed by the <sup>5</sup>[State Land Development Bank] or the Trustee and communicated to the mortgagor, be payable by the mortgagor to the <sup>4</sup>[Primary Land Development Bank] and such payments shall be as valid as if the mortgage had not been to transferred under that section and the <sup>4</sup>[Primary Land Development Bank], shall in the absence of any specific direction to the contrary issued by the <sup>5</sup>[State Land Development Bank] , or the Trustee and communicated to it be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage. Power of <sup>5</sup>[Primary Land Development Bank] to receive moneys and give discharge.
- 132.(1) Where any property mortgaged to a <sup>1</sup>[Land Development Bank], is wholly or partially destroyed, or the security is rendered insufficient for any other reason, and the mortgagor, having been given a reasonable opportunity by the bank of providing further security enough to render the whole security sufficient, or of repaying such portion of the loan as may be determined any the bank, 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 bank shall be entitled to take action against the mortgagor under section 133 or section 134 for the recovery thereof. Power of <sup>1</sup>[Land Development Bank] where mortgaged property is destroyed or security becomes insufficient.
- (2) A security shall be deemed insufficient within the meaning of this section unless the value of the mortgage property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the rules or the by-laws of the <sup>1</sup>[Land Development Bank].
- 133.(1) If any installment, payable under a mortgage executed in favour of a <sup>1</sup>[Land Development Bank] or any part of such installment, has remained unpaid for more than one month from the date on which it fell due, the committee of such bank may, in addition to any other remedy available to the bank, apply to the Registrar for the recovery of such installments or part thereof by distraint and sale of the produce of the mortgaged land, including the standing crops thereon. Power to distain.
- (2) On receipt of such application, the Registrar may, notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the

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3 These words were substituted the words " Land Mortgage Bank", ibid, s.2

4 These words were substituted for the words " Primary Land Mortgage Banks", ibid, s.2

5 These words were substituted for the words " State Land Mortgage Bank", ibid, s.2

manner prescribed for the purpose of distraining and selling such produce subject to the prior charge of the society:

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

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

- 134.(1) Notwithstanding anything contained in the Transfer of Property Act, 1882, the <sup>1</sup>[Land Development Bank] or any person possessing the prescribed qualifications and authorized by the bank in this behalf shall in case of default in 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 by public auction in the village in which the mortgaged property is situated or at the nearest place of public resort, without the intervention of the Court such sale shall be effected in accordance with the prescribed procedure. Sale of mortgaged property.
- (2) No power under sub-section (1) shall be exercised, unless and until
    - (a) notice in writing requiring payment of such mortgage money or part thereof has been served upon -
      - (i) the mortgagor or each of the mortgagors,
      - (ii) any person who has any interest in or charge upon the property mortgaged, or nor upon the right to redeem the same so far as is known to the bank.
      - (iii) any surety for the payment of the mortgaged debt or any part thereof, and
      - (v) any creditor of the mortgagor who has in a suit for administration of his estate obtained a decree for sale of the mortgaged property, and
    - (b) no payment of such mortgaged moneys or part thereof, has been made till the expiry of three months after service of the notice.
  - (3) If the <sup>2</sup>[Primary Land Development Bank] fails to take action against the mortgagor under section 132, section 133 or under this section, the <sup>3</sup>[State Land Development Bank] may direct it to take appropriate action and where no action is taken by the <sup>2</sup>[Primary Land Development Bank] the <sup>3</sup>[State Land Development Bank], may take such action and where the <sup>3</sup>[State Land Development Bank] fails to take action, the Trustee may direct it to take such action and where no action is taken thereupon by the <sup>3</sup>[State Land Development Bank], the Trustee may take such action.
- 135.(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a <sup>1</sup>[Land Development Bank] to purchase any mortgaged property sold under this Chapter and the property so purchased may be disposed of by such bank by sale within such period Right of mortgage bank to buy mortgaged property.

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1 These words were substituted for the words "land mortgage bank", by Guj. 24 of 1964, s.2

2 These words were substituted for the words "Primary Land Mortgage Bank", ibid, s.2

3 These words were substituted for the words "State Land Mortgage Bank", ibid, s.2



as may be fixed by the Trustee, subject to the condition that such sales shall be in favour only of agriculturists eligible to hold land under the Bombay Tenancy and Agricultural Lands Act, 1948, or any corresponding law for the time being in force, or may be leased out by them on such terms and conditions as may be laid down by the State Government from time to time.

- (2) Nothing in any law for the time being in force fixing a maximum limit of agricultural holdings, shall apply to the acquisition of land by a <sup>1</sup>[Land Development Bank] under this section.
- 136.(1) On effecting a sale under section 134, the <sup>2</sup>[Primary Land Development Bank] shall in the prescribed manner, submit to the <sup>3</sup>[State Land Development Bank] and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the <sup>3</sup>[State Land Development Bank] may, with the approval of the Registrar, confirm the sale or cancel it. Confirmation of sale.
- (2) Where the sale is effected by the <sup>3</sup>[State Land Development Bank] or the Trustee under section 134, the <sup>3</sup>[State Land Development Bank] or the Trustee, as the case may be, shall in the prescribed manner, submit to the Registrar a report setting forth the manner in which the sale has been effected and result of the sale, and the Registrar may confirm or cancel the sale:  
Provided that where the Registrar is the Trustee, he shall submit such report to the Administrator and the Administrator may confirm the sale or cancel it.
137. The proceeds of every sale effected under section 134 and confirmed under section 136, shall be applied first in payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of the interest due on account of the mortgage in consequence whereof the mortgaged property was sold, and thirdly in payment of the principal due on account of the mortgage including costs and charges incidental to the recovery. If there remains any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt or according to their respective interest therein, as may be determined by the <sup>1</sup>[Land Development Bank] : Disposal of sale proceeds.
- Provided that, before any such payments are made -
- (a) the unsecured dues owed by the mortgagor to the <sup>3</sup>[State Land Development Bank] or <sup>2</sup>[Primary Land Development Bank] may be adjusted, and
- (b) the unsecured dues owed by any members or past member of either of the abovementioned banks to whom the mortgagor is indebted may also be adjusted under the written authority given by such member and past member, and after holding such inquiry as may be deemed necessary.

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1 These words were substituted for the words " Land Mortgage Bank", by Guj. 24 of 1964, s.2

2 These words were substituted for the words " Primary Land Mortgage Bank", ibid, s.2

3 These words were substituted for the words " State Land Mortgage Bank", ibid, s.2

- 138.(1) Where a sale of mortgaged property has become absolute under section 136 and the proceeds have been received in full by the land mortgagor bank, the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Indian Registration Act, 1908, within the limits of whose jurisdiction the whole or any part of the property specified in such certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.
- Certificate to purchaser, delivery of property and title of purchaser.
- (2) (a) Where the mortgaged property sold is in the occupancy of the mortgagor, or of some person on his behalf, or some person claiming under a title created by the mortgagor, subsequent to the mortgage in favour of the State Land Mortgage Bank or the land mortgage bank, and a certificate in respect thereof has been granted under sub-section (1) the Court shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property.
- (b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under sub-section (1) the Court shall, on the application of the purchaser and after notice to such tenant or other person, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the right, title and interest of the mortgagor have been transferred to the purchaser.
- (3) Where any property is sold in the exercise or purported exercise of power of sale under section 134, the title of the purchaser shall not be questioned on the ground that the circumstances required for authorizing the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised.
- 139.(1) Notwithstanding anything contained in section 96 and 103, on an application made by a Land Mortgage Bank for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.
- Recovery of loan on certificate by Registrar.
- (2) A Certificate by the Registrar under sub-section (1) shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall be recoverable according to the law for the time being in force for the recovery of arrears of land revenue.
- (3) It shall be lawful for the Mamlatdar to take precautionary measures authorized under sub-section (4) of section 106, until the arrears due to the Land Mortgage Bank together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security for such arrears is furnished to the satisfaction of the Registrar.

- (4) It shall be competent for the Registrar or a person authorised by him to direct conditional attachment of the property of the mortgagor until the arrears due to the Land Mortgage Bank together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 100 shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.
- 140.(1) During such period as the Administrator may by general or special order notify in the Official Gazette, it shall be competent for the Collector, on application being made to him in that behalf by a Land Mortgage Bank, to recover all sums due to the Land Mortgage Bank (including the cost of such recovery). Collector to make recoveries during certain period.
- (2) Any amount due to a Land Mortgage Bank shall be recoverable by the Collector, or any officer specially authorized by the Collector in this behalf, in all or any of the following modes, namely : -
- (a) from the borrower - as if they were arrears of land revenue due by him;
- (b) out of the land for the benefit of which the loans has been granted - as if they were arrears of land revenue due in respect of that land;
- (c) from a surety (if any) - as if they were arrears of land revenue due by him;
- (d) Out of the property comprised in the collateral security (if any- according to the procedure for the realization of land revenue by the sale of immovable property other than the land on which the revenue is due.
- 141.(1) It shall be competent for the Central Government to constitute one or more Guarantee Funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the Land Mortgage Banks on titles to immovable property subsequently found to be defective or for any other purpose under this Chapter, for which in the opinion of the Central Government, it is necessary to provide for or create a separate Guarantee Fund. Provision of guarantee funds to meet certain losses.
- (2) The State Land Mortgage Bank and the Primary Land Mortgage Banks shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilization of such funds shall be governed by such rules as may be made by the Central Government in this behalf.
142. Notwithstanding anything contained in this Chapter, where a loan is given by the Land Mortgage Bank to a Co-operative Society for undertaking any work or development of agriculture on condition that the members of such society are jointly and severally liable to the Bank for the payment of the whole amount and an agreement to that effect is entered with and signed by each of such members in the presence of an officer authorized in that behalf by the Registrar that agreement shall be conclusive evidence of the portion of that amount which each of the members is bound to contribute and against which he had mortgaged his lands or a portion of the lands by executing a separate mortgage deed with the Bank. Agreements executed by members for loans advanced by Land Mortgage Banks to be conclusive evidence.
- 143.(1) Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary for any officer of a land mortgage 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 that Act. Exemption of officer of land mortgage banks from personal appearance before registering officers.

- (2) Where any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he thinks fit, refer to such officer for information respecting the same and, on being satisfied of the execution thereof, shall register the instrument.
144. The provisions of sections 102 and 103 of the Transfer of Property Act, 1882, and of any rules made under section 104 thereof, shall apply, so far as may be, in respect of all notices to be served under this Chapter. Service of notice
145. At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee of a land mortgage bank except on behalf of the bank of which he is an officer or an employee, and no person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property. Officers of banks not to bid at sales.

## CHAPTER XII

### OFFENCES AND PENALTIES.

- 146.(1) No person, other than a society registered, or deemed to be registered, under this Act, and a person or his successor in interest of any name or title under which he treated or carried on business at the date on which this Act comes into force, shall without the sanction of the Administrator, function, trade or carry on business under any name or title of which the word "co-operative", or its equivalent in any Indian language, forms part. Prohibition of use of the word "Co-operative".
- (2) Every person contravening the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to five hundred rupees.
- 147.(1) It shall be an offence under this Act, if - Offences
- (a) any person makes a declaration referred to in section 23 which he knows or has reason to believe to be false.
  - (b) any member of a society transfers any property or interest in property in contravention of sub-section (2) of section 48 or any person knowingly acquires, or abets the acquisition of, such property;
  - (c) any employer or any director, manager, secretary or other officer or agent acting on behalf of such employer without sufficient cause, fails to comply with sub-section (2) of section 50;
  - (d) a committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 71;
  - (e) any person, collecting share money for a society in formation, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or an urban co-operative bank, or a postal savings bank;
  - (f) any person, collecting the share money for a society in formation, makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise;
  - (g) a retiring chairman to whom a direction has been issued under sub-section (2) of section 75 fails to comply with such direction;

- (h) a committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-section (2), (3) or (4) of section 77;
  - (i) Any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorized by the Administrator or the Registrar under section 80,81, 84,86,87,99 or 108;
  - (j) Any officer of a society fails to hand over the custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under section 80, 81 or 108;
  - (k) A committee of a society with a working capital of fifty thousand rupees or more, or any officer or a member thereof fails without any reasonable excuse to comply with orders made under section 82 or to give any notice, or to send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done;
  - (l) A committee of a society or an officer or member thereof willfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorized by him in writing in this behalf;
  - (m) A committee of a society, or an officer or member thereof, willfully makes a false return, or furnishes false information, or fails to maintain proper accounts;
  - (n) an officer or a society fails to comply with the order made by the Registrar under section 83;
  - (o) an officer, member, agent or servant of a society fails to comply with the requirements of sub-section (4) of section 84;
  - (p) an officer or a member of a society willfully fails to comply with any decision, award or order passed under section 98;
  - (q) a member of a society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society;
  - (r) An officer of a society willfully recommends or sanctions for his own personal use or benefit or for use or benefit of a person in whom he is interested, a loan in the name of any other person;
  - (s) An officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secretes or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society.
- (2) Where an offence under this Act has been committed by a committee of a society, every person who at the time the offence was committed, was a member of such committee shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:
- Provided that nothing contained in this sub-section shall render any such person liable to any punishment as provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- 148.(1) Every employer, or officer, member, agent or servant, of a society, or any other person, who commits an offence under section 147 shall, on conviction, be punished,-
- Punishment for offences under section 147.
- (a) if it is an offence under clause (a) of that section, with simple imprisonment which may extend to six months or with fine which may extend to five hundred rupees or both;
  - (b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or both;
  - (c) if it is an offence under clause (c) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or both;
  - (d) if it is an offence under clause (d) of that section, with fine which may extend to five hundred rupees;
  - (e) if it is an offence under clause (e) of that section, with fine which may extend to five hundred rupees;
  - (f) if it is an offence under clause (f) of that section, with imprisonment for a term which may extend to one year, or with fine, or with both;
  - (g) if it is an offence under clause (g) of that section, with simple imprisonment which may extend to one month or with fine which may extend to five hundred rupees or both;
  - (h) if it is an offence under clause (h) of that section, with fine which may extend to two hundred and fifty rupees ;
  - (i) if it is an offence under clause (i) of that section, with fine which may extend to five hundred rupees;
  - (j) if it is an offence under clause (j) of that section, with fine which may extend to five hundred rupees;
  - (k) if it is an offence under clause (k) of that section, with fine which may extend to five hundred rupees ;
  - (l) if it is an offence under clause (l) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or both;
  - (m) if it is an offence under clause (m) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or both;
  - (n) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or both;
  - (o) if it is an offence under clause (o) of that section, with fine which may extend to one hundred rupees ;
  - (p) if it is an offence under clause (p) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or both;
  - (q) if it is an offence under clause (q) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or both;
  - (r) if it is an offence under clause (r) of that section, with imprisonment for a term which may extend to two years or with fine or both;
  - (s) if it is an offence under clause (s) of that section, with imprisonment for a term which may extend to three years, or with fine or both;
- (2) No prosecution for an offence under section 147 shall be instituted in respect of the same facts on which a penalty has been imposed by the Registrar under any provisions of this Act.
- 149.(1) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.
- Cognizance of offences.
- (2) Notwithstanding anything contained in the Code of Criminal

Procedure, 1898, it shall be lawful for a Presidency Magistrate or a Magistrate of the First Class to pass a sentence of fine on any person convicted of an offence under clause (c) of sub-section (1) of section 147 as provided under section 148, in excess of his powers under section 32 of that Code.

- (3) No prosecution under this Act shall be lodged, except with the previous sanction of the Administrator in the case of an offence under clause (c) of Sub-section (1) of section 147, and of the Registrar in the case of any other offence under this Act. Such sanction shall not be given, except after hearing the party concerned, by an officer authorized in this behalf by the Administrator by a general or special order.

### CHAPTER XIII.

#### APPEALS, REVIEW AND REVISION.

- 150.(1) The Administrator shall constitute a Tribunal called the Dadra and Nagar Haveli Co-operative Tribunal to exercise the functions conferred on the Tribunal by or under this Act.
- (2) The Tribunal shall consist of a President, and not more than three other members possessing such qualifications as may be prescribed.
- (3) Any vacancy in the membership of the Tribunal shall be filled by the Administrator.
- (4) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members of the Tribunal including himself.  
Provided that, any interlocutory application may be heard by one or more members who may be present.
- (5) Such Benches shall consist of two or more members.
- (6) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority. Where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members the opinion of the President shall prevail; and in other cases the matter shall be referred for hearing to the President, and shall be decided in accordance with his decision.
- (7) Subject to the previous sanction of the Administrator, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.
- (8) The regulations made under sub-section (7), shall be published in the Official Gazette.
- (9) The Tribunal may call for and examine the record of any proceeding in which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case, it appears to the Tribunal that any such decision or order should be modified, annulled or reversed the Tribunal may pass such order thereon as it may deem just.
- (10) Where an appeal is made to the Tribunal under section 102, it

Dadra and  
Nagar Haveli  
Co-operative  
Tribunal.

may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

- (11) An order passed in appeal, or in revision under sub-section (9), or in review under section 151, by the Tribunal, shall be final and conclusive, and shall not be called in question in any Civil or Revenue Court.
- (12) The Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 and Order XLI in the First Schedule of the Code of Civil Procedure, 1908.

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

Review of  
orders of  
Tribunal.

Provided that, no such application made by the party interested shall be entertained, unless the Tribunal is satisfied that there has been discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reason:

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

- (2) An application for review under sub-section (1) by any party, shall be made within ninety days from the date of the communication of the order of the Tribunal.
- 152.(1) In exercising the functions conferred on it by or under this Act, the Tribunal shall have the same powers as are vested in a Court in respect of, --
  - (a) proof of facts by affidavit,
  - (b) summoning and enforcing the attendance of any persons and examining him on oath,
  - (c) compelling the production of documents, and
  - (d) issuing commissions for the examination of witnesses.

Tribunal to  
have power of  
Civil Court.

- (2) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

- 153.(1) An appeal against an order or decision under sections 4,9,11,13,17,19, 36,81 and 160 shall lie, --
  - (a) if made or sanctioned or approved by the Registrar, or an Additional or Joint Registrar on whom powers of the Registrar are conferred, to the Administrator.
  - (b) If made or sanctioned by any person other than the Registrar, or an Additional or Joint Registrar on whom the powers of the Registrar are conferred, to the Registrar.

Appeals.

- (2) An appeal against an order of a liquidator under section 110 shall lie -



- (a) to the Administrator if the order was made with the sanction or approval of the Registrar, and  
 (b) to the Registrar in any other case.
- (3) An appeal against an order or decision under sections 82, 90, 93 and any order passed by the Registrar for paying compensation to a society, and any other order for which an appeal to the Tribunal has been provided under this Act, shall lie to the Tribunal.
- (4) An appeal under sub-section (1), (2) or (3) shall be filed within two months of the date of the communication of the order or decision.
- (5) The procedure to be followed in presenting and disposing of appeals under this section or under any other provisions of this Act shall be such as may be prescribed.
- (6) Save as provided in this Act, no appeal shall lie against any order, decision or award passed in accordance with this Act; and every such order, decision or award shall be final, and where any appeal has been provided for, any order passed on appeal shall be final and no further appeal shall lie against it.
- 154.** In all cases in which it is provided under this Act that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period. Extension of period of limitation by appellate authority in certain cases.
- 155.** The Administrator and the Registrar may call for and examine the record of any inquiry or the proceedings of any other matter of any officer subordinate to them, except those referred to in sub-section (9) of section 150, 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 appears to the Administrator or the Registrar, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Administrator or the Registrar, as the case may be, may after giving persons affected thereby an opportunity of being heard pass such order thereon as it or he may deem just. Power of Administrator and Registrar to call for proceedings of subordinate officers and to pass orders thereon.
- CHAPTER XIV.**
- MISCELLANEOUS.**
- 156.(1)** There shall a Council to be called the Gujarat State Co-operative Council Consisting of the following members, namely : - Constitution of State C-operative Council, its functions etc.
- (A) Chairman
- (i) Minister in charge of the Department dealing with co-operative societies in the State.
- (B) Vice- Chairman.
- (ii) Deputy Minister dealing with the co-operative societies in the State shall be ex-officio Vice-Chairman. If there is no such Deputy Minister, the Vice-Chairman shall be elected by the Council from amongst its members.
- (iii) Chairman of Apex societies.

- (iv) Seven members to be nominated by the State Government out of which one shall be a woman, one a person belonging to a Scheduled Caste and one a person belonging to a Scheduled Tribe.
- (v) Three members to be elected by the Members of the Gujarat Legislative Assembly from amongst themselves.
- (vi) The Secretary to the Government in the Department dealing with co-operative societies.
- (vii) The Registrar of Co-operative Societies, Gujarat State.
- (viii) The Director of Agriculture, Gujarat State.
- (ix) The Director of Industries, Gujarat State.

- (2) Such Officer as the State Government may appoint in its behalf shall act as the Secretary to the Council.
- (3) The functions of the Council so constituted shall be as follows, namely-
  - (a) to advise the State Government on all general questions relating to co-operative movement;
  - (b) to review the co-operative movement and to suggest ways of co-ordinating the activities of co-operative societies in the State;
  - (c) to suggest ways and means to remove the difficulties experienced by the co-operative societies in the State in their administration;
  - (d) to make suo motu recommendations to the State Government in regard to any matter relating to the administration of co-operative societies; and
  - (e) to report to the State Government on such matters as may be referred to it by the State Government for its opinion.
- (4) The State Government may by general or special order provide for -
  - (a) the calling of the meetings of the Council and the procedure at meetings;
  - (b) duties of the Secretary to the Council;
  - (c) sub-committees of the Council;
  - (d) the term of office of nominated members of the council and traveling allowance and daily allowance admissible to the members of the Council.

(Section 156  
Cancelled )

- 157.(1) Unless otherwise provided by this Act, all sums due from a society or from an officer or member or past member or a deceased member of a society as such to the Government, may be recovered as arrears of land revenue.
- (2) Sums due from a 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 of which the liability of the members is limited, from the members or past members or from their estate if they have died, subject to the limit of their liability, and, thirdly, in the case of societies with unlimited liability from the members or past members or their estate, if they have died.
- (3) The liability under this section shall in all cases be subject to the provisions of section 34.

Recovery of  
sums due  
Government

- 158. Notwithstanding anything contained in the Transfer of Property Act, 1882, and the Indian Registration Act, 1908, it shall be lawful for a member of a Co-operative Farming Society to transfer to the society any land and in such manner as may be prescribed.

Competency of  
a member to  
transfer land or  
interest therein  
to society.

- 159.(1) The Registrar or any officer subordinate to him and empowered by him in this behalf may, subject to such rules as may be made by the Administrator but without prejudice to any other mode of recovery provided by or under this Act, recover -
- Registrar's powers to recover certain sums by attachment and sale of property.
- (a) any amount due under a decree or order of a Civil Court obtained by a society.
  - (b) any amount due under a decision, award or order of the Registrar, his nominee or the board of nominees or Liquidator or Tribunal,
  - (c) any sum awarded by way of costs under this Act,
  - (d) any sum ordered to be paid under this Act as a contribution to the assets of the society,

together with interest, if any, due on such amount or sum and the costs of recovering the same by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

- (2) The Registrar or the officer empowered by him shall be deemed when exercising the powers under sub-section (1) or when passing any order on any application made to him for such recovery, to be a Civil Court for the purposes of article 182 in the First Schedule to the Indian Limitation Act, 1963.

- 160.(1) With the prior approval of the Administrator, the Registrar may, from time to time, give all or any of the societies, or any class or classes of societies, such directions as in his opinion are necessary or expedient for the purposes of securing the proper implementation of the production programme, linking and co-ordinating of co-operative activities such as marketing and credit, conforming to co-operative discipline with respect to the implementation of co-operative production and other developmental programme approved or undertaken by the Government or for carrying out any of the purposes of this Act. It shall be the duty of every society to comply with such directions.
- Registrar's powers to issue directions.

- (2) If such directions are not complied with by any society within the prescribed period, the Registrar may call upon any officer of such society whom he considers to be responsible for the carrying out his direction and, after giving such officer an opportunity to be heard, may without prejudice to any other action which may be taken against such society or officer under the provisions of this Act, require him to pay to the assets of the society such sum not exceeding ten rupees as the Registrar may think fit for each day until the Registrar's directions are carried out. Such sum if not paid shall be recoverable as an arrear of land revenue.

161. The Administrator may, by general or special order, to be published in the Official Gazette, exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order :
- Power to exempt societies from provisions of Act.

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

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|---|--|
| <p><b>162.</b> The Administrator may be notification in the Official Gazette and subject to such conditions, as he may think fit to impose, delegate—</p> <p>(a) any power exercisable by it under this Act except the power under sub-section (1) of section 153 and section 168 thereof to the Registrar;</p> <p>(b) all or any of the powers of the Registrar under this Act to any committee constituted or to any co-operative federal society recognized under section 95 or to an officer of such society</p>  | <p>Delegation of powers of Administrator and of Registrar.</p> |
| <p><b>163.</b>(1) No society shall open a branch or a place of business outside the union territory of Dadra and Nagar Haveli, and no cooperative society registered elsewhere in India shall open a branch or a place of business in the union territory of Dadra and Nagar Haveli, without the permission of the Registrar.</p> <p>(2) Every co-operative society registered under any law elsewhere in India and permitted to open a branch or a place of business in the Union Territory of Dadra and Nagar Haveli under sub-section (1) or which has a branch or a place of business in the Union Territory of Dadra and Nagar Haveli at the commencement of this Act, shall, within three months from the date of the opening of such branch or place of business or from the date of the commencement of this Act, as the case may be, file with the Registrar a certified copy of the by-laws and amendments and, if these be not in English a certified translation thereof in English or Hindi and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State or union Territory where such society is registered</p> <p>(3) The provisions of sub-sections (1) and (2) shall not apply to co-operative societies to which the provisions of the Multi-Unit Co-operative Societies Act, 1942 applies.</p> <p>(4) Nothing in sub-section (1) shall affect a society which has a branch or a place of business outside the Union Territory of Dadra and Nagar Haveli at the commencement of this Act.</p> |  |
| <p><b>164.</b> The Registrar, a person exercising the powers of the Registrar, a person authorized to audit the accounts of a society under section 84, or to hold an inquiry under section 86, or to make an inspection under section 87, and a person appointed as a Special Officer under section 81, or as a nominee or board of nominees under section 98, or as a liquidator under section 108, and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.</p>  | <p>Registrar and other officers to be public servants.</p>     |
| <p><b>165.</b> No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority, in respect of anything in good faith done, or purported to be done by him or under this Act.</p>  | <p>Indemnity for acts done in good faith.</p>                  |
| <p><b>166.</b>(1) Save as expressly provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of -</p> <p>(a) the registration of a society or its by-laws, or the amendment of its by-laws or the dissolution of the committee of a society, or the management of the society on dissolution thereof; or</p> <p>(b) any dispute required or be referred to the Registrar, or his nominee, or board of nominees, for decision;</p> <p>(c) any matter concerned with the winding up or dissolution of a society.</p>  | <p>Bar of jurisdiction of Courts.</p>                          |

- (2) While a society is being wound up, no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the society or any member thereof, or any matter touching the affairs of the society, except by leave of the Registrar, and subject to such terms as he may impose.
- (3) All orders, decisions or awards passed in accordance with this Act or the rules, shall, subject to the provisions for appeal or revision in this Act be final; and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any Court upon the merits, or upon any other ground whatsoever except for want of jurisdiction.
- 167.** Save as otherwise provided in this Act, no suit shall be instituted against a society, or any of its officers, in respect of any act touching the business of the society, until the expiration of two months next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left. Notice necessary in suits.
- 168.**(1) The Administrator may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may be made—
- (a) for the whole or any part of the union territory of Dadra and Nagar Haveli and for any society or class of societies, and
  - (b) to 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 laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following. (Cancelled)
- (5) Any modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.
- 169.**(1) The Bombay Co-operative Societies Act, 1925 (hereinafter referred to as “the said Act) is hereby repealed: Repeal, saving and construction.
- Provided that, repeal shall not affect the previous operation of the said At and anything done or action taken (including any appointment or delegation made, application or other document filed, certificate of registration granted, agreements executed, notification, order, direction or notice issued, rule, regulation, form or by-law framed or proceeding instituted before any Registrar, arbitrator, liquidator or tribunal or other officer, authority or person) by or under the provisions of the said Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

- (2) All societies registered or deemed to be registered under the said Act the registration of which was in force immediately before the commencement of this Act, shall on such commencement be deemed to be registered under this Act, and all proceedings pending immediately before such commencement before any Registrar, arbitrator, liquidator or tribunal or other officer, authority or person under the provisions of the said Act shall stand transferred where necessary, to the Registrar, arbitrator, liquidator or tribunal or other corresponding officer, authority or person under this Act, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer, authority or person to such officer, authority or person as the State Government may designate and shall be continued and disposed of by such officer, authority or person in accordance with the provisions of this Act.
- (3) Any reference to the said Act or to any provisions thereof or to any officer, authority or person entrusted with any functions thereunder, in any law for the time being in force or in any instrument or document, shall be constructed, where necessary, as a reference to this Act or its relevant provisions or the corresponding officer, authority or person functioning under this Act, and the corresponding officer, authority or person, as the case may be, shall have and exercise the functions, under such law. Instrument or document.

170. For the removal of doubt, it is hereby declared that the provisions of the Companies Act, 1956, shall not apply to societies registered, or deemed to be registered, under this Act.”

Companies Act  
not be apply.

(Section No. 169 & 170 Cancelled)

[ No. F.10/1/65-4TL/74]  
(Sd/ A. D. Pandey)  
Joint Secretary.

**Note :** In case of any discrepancy or in the matter of dispute etc the original approved version of the above Act/ Rule in hard copy available with the department shall be referred and shall be final.