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ODISHA ACT 2 OF 1963

**\*THE ODISHA**

## **CO-OPERATIVE SOCIETIES ACT, 1962**

*Assented to by the President on the 3rd February 1963, first published in an extraordinary issue of the Orissa Gazette, dated the 15th February 1963.*

*AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO CO-OPERATIVE SOCIETIES.*

BE it enacted by the Legislature of the State of Orissa in the Thirteenth Year of the Republic of India as follows :—

### **CHAPTER - I PRELIMINARY**

**1. Short title, extent and commencement :—** (1) This Act may be called the Orissa Co-operative Societies Act, 1962.

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

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

**Objects and Reasons :—** The provisions of the present Orissa Co-operative Societies Act, 1951 are not adequate to meet the present days' requirement and they are not suited for the repaid development of Co-operatives in the State which is an essential need for the success of various development programmes, particularly those which are meant to help the weaker sections of the community. The question of revising the existing Act thoroughly has been under consideration of the State Government for sometime past A model Co-operative Societies Bill has been prepared by a committee specially constituted by the Government of India for this purpose. Accordingly, after taking this model Bill into consideration and in the light of the circumstances prevailing in the State, the present Bill has been drafted to make the law simple, comprehensive and easily understandable and to specially provide for development of Co-operatives in certain directions; such as Co-operative farms and land mortgage banks, for which adequate provisions do not exist under the present Act. This Bill seeks to achieve the above purpose.

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1. Published vide Orissa Gazette Ext. No. 99-D/15.02.1963, Notfn. No. 968 Legis. dated 13.02.1963.

Similarly, it is necessary that the Auditor-General of Co-operative Societies, to whom all powers of Audit and Surcharge etc., have been transferred under the amendments of 1991, is empowered to have access to the records and property of the Society and exercises all ancillary powers and not the Registrar any longer, as provided under Sub-Section (4) of Section 62 of the Act.

This Bill seeks to achieve *inter alia*, the above objectives.

#### **Act 7 of 1996**

The Bill presented for replacement of the Orissa Co-operative Societies (Amendment) Ordinance, 1996 provides, *inter alia*, for immediate representation of the weaker Sections in the Committees of management of all Central and Apex Societies in the State, dissolution of the exiting Committees of such Societies with effect from the date of promulgation of the Ordinance, vesting of the management of the said Societies in the Registrar, upon such dissolution, entrustment of such management of interim Committees to be nominated by the Registrar giving representation therein to the target group of vulnerable Sections, voluntary amendments of bye-laws and reconstitution of Committees of the Societies concerned within the specified period of six months and compulsory amendment of bye-laws and reconstitution of Committees of the Societies concerned within the specified period of six months, and compulsory amendment of bye-laws and constitution of such Committees by the Registrar in the event of the Society failing to so amend and constitute, within the specified period, deemed membership of the members of Primary Societies in the Central and Apex Societies to which the Primary Societies are affiliated, revised definition of Central and Apex Societies, enabling such Societies to also have individuals as their members, reintroduction of the provision regarding suspension of erring Committees of Societies, pending finalisation of suppression proceedings initiated against them, and also reintroduction of a system of indirect election of Presidents of Committees of management in order to have more cohesively functional Committees.

The Bills seeks to achieve the above objectives.

#### **Act 6 of 1998**

The Orissa Co-operative Societies (Amendment) Bill, 1998 seeks to replace the Orissa Co-operative Societies (Amendment) Ordinance, 1998.

In order to give reasonable time, so as to enable the Registrar to cause amendment of the Bye-Laws of the Central and Apex Co-operative Societies and to reconstitute the Committees of such Societies with adequate representation of weaker Sections belongings to Scheduled Castes, Scheduled Tribes, Other Backward Classes and women by holding election, which could not be completed within the statutory period due to unexpected interruption caused by the General Election to the Lok Sabha, as stated in the Statement explaining the circumstances which had necessitated immediate legislation. It is considered necessary and expedient to amend Section 28 (2) (g) (iv) of the Orissa Co-operative Societies Act, 1962 by enhancing the period specified therein from nineteen months to twenty-five months.

Society or class of registered societies, the accounts of which are made up to any other date with the previous approval of the Auditor-General, the year ending with such date;]

- <sup>1</sup>[(d-2) **"Co-operative Principles"** means the principles specified in Schedule II;
- (d-3) **"Family"** means an individual, his or her spouse, sons, daughters and other near relatives dependent on, and jointly residing with, him or her;]
- <sup>2</sup>[(e) **"Financing Bank"** in relation to a Society means a Society engaged in Banking business under the Banking Regulation Act, 1949 or a Scheduled Bank as defined under the Reserve Bank of India Act, 1934 or the Reserve Bank of India, the National Bank for Agriculture and Rural Development, the Industrial Development Bank of India Limited or any similar Bank or any financial institutions regulated by the Reserve Bank of India and includes such financing institutions like the National Dairy Development Board and National Cooperative Development Corporation, to which the Society is indebted in cash or in kind;'; and]
- <sup>1</sup>[(e-1) **"Joint Member"** means a husband and wife team joining as such in an application for registration of a Society which is subsequently registered, or admitted as joint member after the registration of a Society in accordance with the provisions of this Act, Rules and Bye-laws of a Society and holding a share or shares in the Society jointly;]
- (f) **"Member"** means a person joining in the application for the registration of a Society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a <sup>3</sup>[joint and nominal Member;]
- <sup>4</sup>[(f-1) **"Near relative"** means father, mother, husband, wife, son, daughter, undivided brother, unmarried sister and son's wife;]
- <sup>5</sup>[(f-2) **"Nominal member"** means a person admitted as such to a Society, after its registration in accordance with the bye-law;]
- <sup>6</sup>[(f-3) **"National Bank"** means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;]

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1. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.  
2. Substituted by Orissa Act 1 of 2008, dated 20.03.2008, w.e.f. 29.09.2007.  
3. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.  
4. Inserted by Orissa Act 21 of 1970, dated 26.10.1970.  
5. Inserted by Orissa Act 19 of 1983, dated 11.10.1983.  
6. Inserted by Orissa Act 1 of 2008, dated 20.03.2008, w.e.f. 29.09.2007.

- (ii) to such amount as they may, in accordance with such Bye-laws, respectively, undertake to contribute to the assets of the Society ;
- (m) **"Society with unlimited liability"** means a Society, the members of which are, in the event of its being wound up jointly and severally liable for and in respect of all its obligations to contribute to any deficit in the assets of the Society;
- <sup>1</sup>[(m-1) **"Standard acre"** shall have the same meaning as assigned to it under the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960);]
- (n) **"State Co-operative Union"** means the Society registered under the Orissa Co-operative Societies Act, 1951 (Orissa Act 11 of 1952), by the name of the 'Orissa State Co-operative Union Limited; and
- <sup>2</sup>[(n-1) **"State Co-operative Election Commission"** means the Odisha State Co-operative Election Commission consisting of a Odisha State Co-operative Election Commissioner appointed by the Governor under Section 28-AA;]
- <sup>3</sup>[(o) **"Tribunal"** means Co-operative Tribunal constituted under Section 67-A.]

## CHAPTER - II

### REGISTRATION OF CO-OPERATIVE SOCIETIES

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

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

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

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

**<sup>4</sup>[3-A. Auditor-General :—** (1) The State Government may appoint a person to be the Auditor-General of Co-operative Societies for the State, and

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1. Inserted by Orissa Act 21 of 1970, dated 26.10.1970.
  2. Inserted by Orissa Act 1 of 2013, dated 30.01.2013.
  3. Inserted by Orissa Act 19 of 1985, dated 11.10.1985.
  4. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 01.05.1993.

case of a Society the object of which is housing where such minimum number shall be fifteen, so however that, in either case, such minimum number of individuals shall include three members from the Scheduled Castes including one woman, three from Scheduled Tribes including one woman, four from Other Backward Classes including one woman and five from other categories of members including two women :]

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

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

<sup>1</sup>[Provided also that in the event of non-availability of the minimum number of individuals from the Scheduled Castes, the Scheduled Tribes, Other Backward Classes or women so required for registration, the Registrar may exempt the proposed Society from the requirement of such category of individuals]

**Explanation :—** A husband and wife team of two individuals joining in the application as a Joint Member shall be deemed to be one individual for the purpose of this clause.

- (ii) a Central Society including a Central Co-operative Bank, or an Apex Society, the number of Societies joining in the application shall not be less than five and ten, respectively.
- (c) persons joining in the application for registration shall belong to the area of operation of the proposed Society as defined in its bye-laws;]
- (d) the application shall be signed by every one of the applicants who is an individual and in the case of applicants other than individuals by a person duly authorised by such applicant in that behalf;
- <sup>2</sup>[(e) the application shall indicate the names and addresses of the applicants who shall be the members and President of the Preliminary Committee of the Society as referred to in Sub-Section (1-c) of Section 28:

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

**7. Registration :—** (1) If the Registrar is satisfied –

- (a) that the application complies with the provisions of this Act and the Rules;
- (b) that the objects of the proposed Society are in accordance with Section 4;

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1. Substituted by Orissa Act 10 of 2001, dated 29.08.2001, w.e.f. 03.07.2001.

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

opinion is received from the Society consulted within fifteen days from the date of the reference to that effect, it shall be deemed that such Society has no objection if the proposed Society is registered.]

**8. Registration Certificate :—** <sup>1</sup>[A Certificate of registration issued under Section 7 shall be conclusive evidence of the fact that the Co-operative Society mentioned therein is a Society duly registered under this Act.]

**9. Co-operative Societies to be bodies corporate :—** A Co-operative Society registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and a common seal and with power to <sup>2</sup>[acquire and hold property and to dispose in the manner prescribed of its property,] enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it was constituted.]

**10. Change of name of a Society :—** (1) A Society may, by an amendment of its bye-laws, change its name.

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

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

**11. Change of liability :—** (1) Subject to the provisions of this Act and the Rules a Society may, by an amendment of its bye-laws, change the form or extent of its liability.

(2) When a Society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and notwithstanding any bye-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

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

(4) Any amendment of the bye-laws of a Society changing the form or extent of its liability shall not be registered or take effect until, either—

- (a) the assent thereto of all members and creditors has been obtained;
- or

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

2. Substituted by Orissa Act 28 of 1991, dated 31.12.1991 (S. 9-force w.e.f. 10.06.1997, S.8-force w.e.f. 01.05.1993.

the prescribed manner, call upon the Society to make such amendment within such period as he may specify in that behalf.

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

**13. When amendments of bye-laws come into force :-** An amendment of the bye-laws of Society shall unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

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

**14. Amalgamation, transfer of assets and liabilities and division of Societies :-** (1) A Society may, <sup>2</sup>[ x x x ] by a resolution passed by a majority of the members present and voting at a general meeting of the Society—

- (a) transfer its assets and liabilities in whole or in part to any other Society which is prepared to accept them; or
- (b) divide itself into two or more Societies.

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

(3) <sup>3</sup>[ x x x ]

(4) The resolution of a Society under Sub-Section (1) or Sub-Section (2) <sup>3</sup>[ x x x ] shall contain all particulars of the transfer, division or amalgamation as the case may be.

(5) When a Society has passed any such resolution under Sub-Section (1) or Sub-Section (2) <sup>3</sup>[ x x x ], the Society concerned shall give notice thereof in writing in the prescribed manner to all its members and creditors and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during the period of one month from the date of issue of the notice, have the option of withdrawing his shares, deposits or loans, as the case may be.

(6) Any member or creditor who does not exercise his option within the period specified in Sub-Section (5) shall be deemed to have assented to the proposals contained in the resolution <sup>3</sup>[ x x x ].

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1. Inserted by Orissa Act 5 of 1970, dated 05.03.1970.

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

3. Omitted by Orissa Act 19 of 1983, dated 11.10.1983.

- (b) such incidental, consequential and supplemental matters as may, in the opinion of the Registrar, be necessary to give effect to the re-organisation or amalgamation of the Society or Societies.
- (3) No order under Sub-Section (1) shall be made unless the Registrar–
  - (a) has given every Society concerned an opportunity of stating its objections and suggestions on the order proposed to be made; and
  - (b) has considered the objections and suggestions so made by every such Society, or its members, depositors, creditors, employees, or any other persons concerned, within such period, not being less than fifteen days from the date of receipt of the proposed order, as the Registrar may fix in that behalf.

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

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

(6) In case of the Society or Societies directed to be re-organised or amalgamated, the registration of the re-organised or merged Society or societies, as the case may be, shall be deemed to be cancelled from the date on which the re-organisation or amalgamation takes effect.

(7) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882) or the Registration Act, 1908 (16 of 1908), an order issued under this section shall be sufficient conveyance to transfer the assets and liabilities of the Society or Societies covered by any order passed under Sub-Section (1).]

**<sup>1</sup>[14-B. Special provision in respect of certain sick Societies :–**

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

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1. Inserted by Orissa Act 1 of 1995, dated 11.01.1995.

2. Substituted by Orissa Act 7 of 1997, dated 23.07.1997.

on the date of the transfer, is increased and make payments due, if any, under the settlement, to the Society or any such persons.]

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

(3) The order under Sub-Section (1) may provide for :—

- (a) reduction of the interest or right which the members, depositors, creditors, employees and other persons concerned may have in or against the Society, to such extent as the Registrar considers necessary, having due regard to the proportion of the assets of the Society to its liabilities; and
- (b) such incidental, consequential and supplemental matters as may in the opinion of the Registrar, be necessary to give effect to the said transfer.

<sup>1</sup>[(4) For the purpose of this section, at any stage of proceeding thereunder, it shall be competent for the State Government to give such directions to the Registrar, as it may deem proper in the facts and circumstances of every case, and such directive shall be binding on the Registrar.]

<sup>2</sup>[(5) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882) or the Registration Act, 1908, (16 of 1908) an order issued under this Section shall be sufficient conveyance to transfer the assets and liabilities of the Society.]

<sup>1</sup>[Explanation :— For the purposes of this section,—

- (i) '*Company*' shall mean a company as defined in the Companies Act, 1956 (1 of 1956);
- (ii) '*Sickness*' in respect of a Society shall ordinarily mean non-viability, and may bear such other meaning as assigned to it under Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) or any other law in force; and
- (iii) '*Transfer*' shall include transfer by way of management contracts, lease or any other mode.]

**15. Cancellation of registration certificates of Societies in certain cases :—** (1) Where the whole of the assets and liabilities of a Society are transferred to another Society in accordance with the provisions of Section 14 the registration of the first mentioned Society shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body.

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1. Substituted by Orissa Act 7 of 1997, dated 23.07.1997.

2. Added by Orissa Act 7 of 1997, dated 23.07.1997.

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

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

<sup>1</sup>[Provided also that nothing in this clause shall debar the Co-operative Societies to admit Self-Help Groups as member;]

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

(b) a Society other than a Primary Society, except the following, namely :—

- (i) any Society;
- (ii) the State Government;
- (iii) the Central Government; and
- (iv) any other person as may be prescribed;

<sup>2</sup>[(v) a cooperative registered under the Orissa Self-Help Co-operatives Act, 2001]

<sup>3</sup>[ x x x ]

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

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

(ii) Upon such cessation:—

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1. Substituted by Orissa Act 1 of 2008, dated 20.03.2008, w.e.f. 29.09.2007.
  2. Inserted by Orissa Act 1 of 2008, dated 20.03.2008, w.e.f. 29.09.2007.
  3. Omitted by Orissa Act 7 of 1996, dated 22.04.1996.
  4. Substituted by Orissa Act 4 of 1997, dated 23.05.1997.

- (d) the business in milk and milk products carried on by a person shall be deemed to be prejudicial to the business or interest of a Milk Co-operative Society;
- (e) the business in oil-seeds and oil-seed products carried on by a person shall be deemed to be prejudicial to the business or interest of an Oil-seed Growers' Co-operative Society; and
- (f) a family member of an individual shall, unless the contrary is proved, be deemed to have common economic interest with such individual.

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

<sup>1</sup>[(5) x x x ]

**<sup>2</sup>[16-A. Admission and continuance as members :—** (1) No person shall be eligible for being admitted or for continuing as a member of a Society, if he—

- (a) does not satisfy the requirements of this Act, Rules and Bye-laws made thereunder; or
- <sup>3</sup>[(a-1) has not attended three consecutive general meetings of the society and such absence has not been condoned by the members in the general meeting ; or
- (a-2) has not used for two consecutive years the services, below the minimum level specified in the bye-laws; or]
- (b) has been sentenced for an offence involving moral turpitude; or sentenced to fine or imprisonment or both for any other offence by a Court in India, unless any such sentence is annulled or reversed or, in the latter cases until expiry of a period of five years from the date the fine is paid if the sentence is for fine, or where the sentence is for imprisonment or both fine and imprisonment, from the date he is released from the imprisonment, as the case may be; or
- (c) is an applicant to be, adjudicated as a bankrupt or an insolvent or is an undischarged bankrupt or insolvent; or
- (d) is a paid employee of the Society or its Financing Bank :

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

- (e) has been expelled by the Society or any other Society, unless a period of two years has expired from the date of such expulsion.

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1. Omitted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.  
 2. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.  
 3. Inserted by Orissa Act 1 of 2013, dated 30.01.2013.

**19. <sup>1</sup>[Exercise of membership rights :- <sup>2</sup>[(1)]** No member of a Society shall be entitled to exercise his right as such unless he has made such payments to the Society in respect of membership, acquired such interest in the Society or fulfilled such obligation of members, as is required by this Act or as may be provided in Rules and Bye-laws:]

<sup>3</sup>[(2) Save as provided in sub-section (1), a member of a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall not have the right to vote unless he has deposited such amount for such period as may be specified by the Registrar from time to time.]

<sup>4</sup>[Provided that the provisions of this Section shall not apply to the members of the Committee of the Primary Societies who shall be deemed to be members of the Central Society or as the case may be, the Apex Society in accordance with the provisions of Sub-Section (1-a) of Section 16.]

<sup>5</sup>[(3) Every member of a Society shall have right to access to the books, information and accounts of a Society kept in regular transaction of its business during business hours.]

**20. Vote of members :-** Every member of a Society shall have one vote in the affairs of the Society :

<sup>1</sup>[Provided that –

- (a) <sup>6</sup>[x x x]
- (b) where two individuals, have been admitted as joint members, they shall have one vote which may be exercised by any one of them;
- (c) where the State Government or the Central Government is a member of the Society, each person nominated by or on behalf of such Government on the Committee shall have one vote;
- (d) where there is an equality of votes at a meeting on the affairs of the Society other than election of its office-bearers or amendment of its bye-laws, the person presiding over the meeting shall have a second and deciding vote; and
- (e) where a member of the Society is simultaneously electing the President and the member of the Committee from his constituency, he shall have one vote for electing the President and another for the member.]

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1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.  
2. Renumbered by Orissa Act 1 of 2008, dated 20.03.2008, w.e.f. 29.09.2007.  
3. Inserted by Orissa Act 1 of 2008, dated 20.03.2008, w.e.f. 29.09.2007.  
4. Inserted by Orissa Act 4 of 1997, dated 19.05.1997.  
5. Inserted by Orissa Act 1 of 2013, dated 30.01.2013.  
6. Omitted by Orissa Act 7 of 1996. dated 22.04.1996.

**22. Restriction of holding of shares :—** In any Society no member belonging to the category mentioned in Clause (a) of Sub-Section (1) of Section 16 shall—

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

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

**23. Restrictions on transfer of shares or interest :—** (1) The transfer of a share or interest of a member in the capital of a Society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in Section 22.

(2) No transfer by a member of his share or interest in a Society shall be valid unless—

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

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

<sup>1</sup>[(4) Notwithstanding anything contained in the preceding Sub-Section where a person ceases to be a member of any Society by reason of resignation or expulsion or by reason of incurring any disqualification provided under this Act or the Rules or under the Bye-laws of the Society, the Society may retire the shares of or the interest in the share capital held by such person on payment of the face value of such share or in interest.]

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

Provided that such nominee, heir or legal representative, as the case may be, is admitted as a member of the Society:

Provided further that nothing in this Sub-Section shall prevent a minor or a person of unsound mind or a person suffering from any other disqualification, if any, under the bye-laws from acquiring by inheritance or otherwise the share

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1. Substituted by Orissa Act 21 of 1970, dated 20.10.1970.

## **CHAPTER - IV**

### **MANAGEMENT OF SOCIETIES**

**27. Final authority in a Society :—** The final authority in a Society shall vest in the general body of members:

<sup>1</sup>[Provided that where the area of operation or the membership of a Society exceeds such limits as may be prescribed, a representative smaller General Body shall be constituted in the manner prescribed which shall exercise all the powers of the General Body except the powers of electing office bearers. <sup>2</sup>[x x x]:

Provided further that nothing in this section shall affect any powers conferred on a committee or any officer of a Society by the Rules or the Bye-laws.

**28. Society to have a Committee :—** <sup>3</sup>[(1) The management of a Society shall vest in a Committee constituted in accordance with this Act, Rules and Bye-laws, and the Committee so constituted shall exercise such powers and perform such duties as may be necessary or expedient for the purpose of carrying out its functions under this Act which shall include—

- (a) the power to—
  - (i) admit members and dispose of applications for shares;
  - (ii) interpret the organisational objectives and set specific goals to be achieved towards those objectives;
  - (iii) prepare annual and supplementary budgets and get approval of the General Body thereto;
  - (iv) raise and invest funds in accordance with the Bye-laws;
  - (v) sanction all expenditure above the prescribed level and the plan of capital development for the coming year or years;
  - (vi) enforce any debt or demand of the Society and institute, defend or compromise legal proceedings for or against the Society;
  - (vii) assess the existing man-power resources and future requirements in the context of changes that might have taken place and the measures to be taken to ensure availability of the required resources, consider and remove constraints in the process or progress of manpower planning atleast once at the beginning of every year;
- <sup>4</sup>[(viii) appoint officers or other staff to conduct the business of the Society and define interalia their duties, service condi-

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1. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 14.11.1995.  
2. Omitted by Orissa Act 7 of 1996. dated 22.04.1996.  
3. Substituted by Orissa Act 28 of 1991, dated 31.12.1991, [(1(a) (xiii) w.e.f. 10.06.1997), w.e.f. 01.05.1993 excepting 1(a) (viii), & (xiii)].  
4. Substituted by Orissa Act 11 of 2004, dated 27.12.2004.

- (c) preparation of Annual returns prescribed by the Registrar and the Auditor-General;
- (d) preparation of the statement of accounts required at audit and placement of the same before the auditors;
- (e) preparation of all other statements and returns and submission of the same to the Registrar and the Auditor-General in such forms as they may direct;
- (f) maintenance of the accounts of the Society regularly in proper Books;
- (g) maintenance of the register of members up to date;
- <sup>1</sup>[(ii-a) providing co-operative education and training to its members;
- (ii-b) save as provided in sub-clause(ii), filing of return of the society every year within six months of the closure of the financial year, to the Registrar or, as the case may be, to the Financing Bank, which shall include—
  - (a) annual report of its activities ;
  - (b) its audited statement of accounts ;
  - (c) plan for surplus disposal as approved by the General Body;
  - (d) list of amendments to its bye-laws, if any;
  - (e) declaration regarding date of holding its General Body meeting and conduct of election when due; and
  - (f) any other information required by the Registrar or, as the case may be, Financing Bank.];
- (iii) formulating recommendation for appropriation of the net profits declared as distributable under the provisions of this Act and Rules, and submitting the same to the General Body;
- (iv) facilitating the inspections, inquiries and audits under this Act and considering the Audit, Inspection and Inquiry Reports received from the concerned authorities and furnishing compliance there to in accordance with the provisions of this Act and Rules;
- (v) convening the meetings and special meetings of the General Body in time;
- (vi) watching that the loans and advances are utilised for the purposes for which they are meant and also that they are repaid punctually;

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1. Inserted by Orissa Act 1 of 2013, dated 30.01.2013.

in any manner specified in Sub-Section (1) of section 31, the State Government or any person authorised by it may nominate the members and President of the Preliminary Committee to manage the affairs of the Society, <sup>1</sup>[and if necessary, take all or any policy decision including admission of members in relation to the Society] for a period not exceeding two years so, however, that not less than half of the members thereof shall be from among the members of the Society.]

Modification by govt. order dt 08.10.2002 in respect of it's application to the P.P.T Employees Co-operative credit society ltd., paradeep

**Section 28 (1-b)-**

The expiratori of the period of four years shall operate as a dissolution of the Committee and thereupon;

(i) The members including the President and Vice-President of the Committee shall be deemed to have vacated their officer;

(ii) if the election of a new committee is not completed by the date of such dissolution, the management of the Society shall vest with the chairman, Paradeep Port Trust and upon such vesting the Chairman or any Officer of the Paradeep Port Trust authorised by him in that behalf in writing shall manage the affairs of the society and if necessary take all or any policy decision including admission of members in relation to the society and constitute the Committee in accordance with the provisions of this Act, Rules and the bye-laws within a period of six months from the date of Such dissolution.

(2) <sup>2</sup>[(a) Subject to the provisions of this Act, the Committee of a Society, excluding the member under sub-section (3-b) and co-opted members under section 31, shall consist of,—

- (i) twenty-one members in the case of an Apex Society including the President and the Vice-President; and
- (ii) fifteen members in the case of Central Society, a Primary Society including Large Sized Adivasi Multipurpose Co-operative Society, including the President and the Vice-President of such Society.];

<sup>3</sup>[(b) In the case of a Large-sized Adivasi Multipurpose Co-operative Society, in the total number of elected members of the Committee, there shall be representation from among the members belonging to the Scheduled Tribes, which shall be proportional to the ratio between the members belonging to the Scheduled Tribes and the total numbers of member of the said Society, not less than two third, so however that

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1. Inserted by Orissa Act 11 of 2002, dated 28.10.2002, w.e.f. 29.06.2002.

2. Inserted by Orissa Act 1 of 2013, dated 30.01.2013.

3. Inserted by Orissa Act 10 of 2011, dated 23.09.2011.

- (e) In the case of an Apex Society, in the total number of elected members of the Committee, there shall be representation from among the members belonging to the Scheduled Castes, the Scheduled Tribes, the other Backward Classes including Socially and Educationally Backward Classes and the Woman which shall be proportional to the ratio between the members belonging to each said category and the total number of members of the Electoral College referred to in clause (ii-a) of sub-section (1) of section 28-A, so that among each of the said Scheduled Castes, the Scheduled Tribes, the Other Backward Classes including Socially and Educationally Backward Classes of members, there shall be representation of woman which shall be proportional to the ratio between the woman members belonging to each said category in the said Electoral College and the total number of the members of the category in that Electoral College :

Provided that, save as provided in the aforesaid clauses there shall be no bar for the members belonging to the said reserved categories to contest the election against the remaining seats in the Managing Committee of the Primary, Central and Apex Societies.

<sup>1</sup>[Provided further that a Society shall provide reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women to the Committee consisting of individuals as members and having members from such class or category of persons.]

- (f) Notwithstanding anything contained in this sub-section,–

- (i) In the event of the seats in the Committee reserved for Women, Scheduled Castes, Scheduled Tribes and Other Backward Classes including Socially and Educationally Backward Classes remain unfilled in any election of a Primary, Central or Apex Society, the Committee of the Society shall co-opt. the required number of such categories of members from among the members of the Primary Society, or as the case may be, from among the members of the Electoral College of the Central or Apex Society, and for the purpose of making such co-option the vacancies in the unfilled seats reserved for the said categories shall not invalidate the constitution or functioning of the Committee, if otherwise it would be having a quorum;
- (ii) the term of office of every such co-opted member shall be co-terminus with the other members of the Committee.

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1. Substituted by Orissa Act 1 of 2013, dated 30.01.2013.

<sup>1</sup>[(2-a) (i) A Society, the Bye-laws and the Committee of which, are not in conformity with the provisions of this Act as amended by the Orissa Co-operative Societies (Amendment) Act, 1991 shall amend its Bye-laws and notwithstanding anything to the contrary in this Act, reconstitute in the manner provided under this Act, Rules and the Bye-laws its Committee within a period of <sup>2</sup>[eight months] from the date of commencement of the said Amendment Act, so as to bring them in conformity with the provisions as so amended.

(ii) In the event of a Society failing to so amend and reconstitute within the period mentioned in Clause (i), the Registrar shall make such amendment and reconstitution within a period of four months following the date of expiry of the period mentioned in the said Clause.]

<sup>1</sup>[(2-b) The provisions of Sub-Section (2-a) shall *mutatis mutandis* apply to a Society, the Committee of which may be standing dissolved under Section 28 or superseded under Section 32 as on the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1991.]

<sup>2</sup>[(3) No individual shall, whether by himself or as a representative of the Society, be eligible for being chosen or for continuing as a member or <sup>3</sup>[the President or as the Vice-President, if any,] of the Committee of a Society, if he,]

- (a) is an applicant to be adjudicated an insolvent or an undischarged insolvent; or
- (b) has been sentenced for an offence involving moral turpitude such sentence not having been reversed; or
- (c) is of unsound mind or is a deaf-mute or is suffering from leprosy; or

<sup>1</sup>[(d) is a family member of any paid employee of the Society :]  
Provided that nothing in this clause shall debar -

- (i) any person specifically permitted by the Registrar in that behalf from becoming the Secretary of the Society; or
- (ii) the paid employee of societies from becoming members of the Committee of a society composed exclusively of such employees; or

<sup>1</sup>[(e) has failed to pay any amount due, whether in cash or in kind, to the Society, its Financing Bank, or any other Society, on account of any loan or otherwise within three months from the date of notice by the Society or the Financing Bank concerned for payment of such dues :

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

2. Substituted by Orissa Act 19 of 1983, dated 11.10.1983.

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

- (i) without prior intimation in respect of every such meeting; or
- (ii) with prior intimation if, upon such intimation, the Committee disapproves the abstention in the meeting to which the intimation relates or the meeting next following :

Provided that nothing in this clause shall debar such person from becoming a member or President after the expiry of a period of two years from the date immediately following the date on which the said period of six months expires; or

- (o) abstains himself from attending the meetings or special meetings of the General Body or the Representative Smaller General Body, as the case may be, over a continuous period of one year—
  - (i) without prior intimation for every such meeting; or
  - (ii) with prior intimation if, upon such intimation, the <sup>1</sup>[General Body or, as the case may be, Smaller General Body] disapproves the abstention in the meeting to which the intimation relates or the meeting next following :

Provided that nothing in this clause shall debar such person from becoming a member or President after the expiry of a period of two years from the date immediately following the date on which the said period of one year <sup>1</sup>[expires; or]

<sup>2</sup>[(P) has more than two children :

Provided that nothing in this clause shall apply to a person who has more than two children as on the 1st day of January, 1995 or, as the case may be, within a period of one year of the said date, unless such person be gets an additional child after the said period of one year.

<sup>3</sup>[(3-a) A representative of a Society or a body corporate shall not be eligible for being chosen or for continuing as a member or President of the Committee of any other Society in cases where the Society or the body corporate which he represents—

- <sup>4</sup>[(i) has failed to pay any amount due, whether in cash or in kind, to the Society, its Financing Bank or any other Society, on account of any loan or otherwise, within three months from the date of notice by the Society or the Financing Bank concerned for payment of such dues :

Provided that nothing in this clause shall debar any such representative from being chosen as a member or President of the Committee of any other Society if the Society or body corporate he represents, makes payment of the dues, before the date of filing his nomination at an election of any such other Society.]

- (i) ceases from the membership of the Society; or
- (ii) is ordered to be wound up or dissolved.

<sup>5</sup>[(3-aa) Any individual continuing as a member or President of the Com-

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1. Substituted by Orissa Act 23 of 1994, dated 09.11.1994.  
 2. Inserted by Orissa Act 23 of 1994, dated 09.11.1994, w.e.f. 01.01.1995.  
 3. Inserted by Orissa Act 19 of 1983, dated 11.10.1983.  
 4. Substituted by Orissa Act 28 of 1991, dated 31.12.1991.  
 5. Inserted by Orissa Act 28 of 1991, dated 31.12.1991, w.e.f. 11.09.1992.

(3-c) The Chief Executive shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code, 1860 ( 5 of 1860).

<sup>1</sup>[(4) to (4-d) x x x ]

<sup>2</sup>[(5) If in the opinion of the Registrar, any officer or office-bearer of a Society who having the power, by or under the bye-laws, to remain in custody of any cash belonging to the Society, keeps in his custody, without reasonable cause, any such money in excess of the permissible limit beyond the period allowed under the Bye-laws or in any other manner not permitted thereunder, the Registrar may, by order in writing, after giving such officer or office bearer a reasonable opportunity of being heard remove him from his office, and there-upon he shall be deemed to have vacated his office with effect from the date of the said order.]

<sup>3</sup>[(6) Where any vacancy in the office of a member or the President of a Committee arises by reasons of death, resignation or removal of any member or the President or <sup>2</sup>[otherwise], such vacancy—

(a) shall be filled up in the same manner as it was originally filled up;

<sup>4</sup>[(b) shall, within fifteen days from the date of its occurrence, be intimated by the Chief Executive of the Society to the State Co-operative Election Commission to fill up the vacancy on receipt of intimation :

Provided that where a casual vacancy occurs in the office of the member and the term of that member remains less than half of his original term, the committee shall fill up such vacancy by nomination out of the same class of members in respect of which the casual vacancy has arisen.]

**28-A. Election of Members of Committee :-** <sup>2</sup>[(1) <sup>5</sup>(i) The President of the Committee of every Society shall be indirectly elected, in the manner prescribed, by and from among the members of the Committee; and

<sup>6</sup>[(ii) Other members of the Committee of a Primary Society shall be elected in such manner by and from among the General Body of members of the Society qualified for the purpose organised into such different constituencies as may be prescribed.

(ii-a) Other members of the Committee of a Central Society and an Apex Society shall be elected in such manner by and from among the qualified members of the Electoral College formed in such manner organised into such different constituencies as may be prescribed.]

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

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

3. Inserted by Orissa Act 19 of 1983, dated 11.10.1983.

4. Substituted by Orissa Act 1 of 2013, dated 30.01.2013.

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

6. Substituted by Orissa Act 10 of 2011, dated 23.09.2011.

<sup>3</sup>[(2) The Chief Executive of the Society, by whatever designation called, shall intimate the State Co-operative Election Commission, the date of expiry of the term of a committee six months before such expiry.]

<sup>4</sup>[(3) x x x ]

<sup>4</sup>[(4) x x x ]

<sup>4</sup>[(5) x x x ]

<sup>5</sup>[(6) x x x ]

<sup>6</sup>[(7) x x x ]

<sup>7</sup>[(8) Any expenditure required to be incurred inholding of election of members and President of a Committee or in connection with matters incidental thereto shall be met by the Society under the direction of the <sup>3</sup>[State Co-operative Election Commission].]

**<sup>8</sup>[28-AA. Superintendence, direction and control of elections to a Society vest in the State Co-operative Election Commission :—** (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a Co-operative Society shall vest in the State Co-operative Election Commission consisting of a State Co-operative Election Commissioner appointed by the Governor and shall hold office for a period of five years from the date of his appointment or he attains the age of sixty five years whichever is earlier.

(2) No person shall be qualified for appointment as State Co-operative Election Commissioner unless he is or has been an officer of the Government not below the rank of Secretary to the Government, having experience in co-operative sector.

(3) A person appointed as State Co-operative Election Commissioner shall before he enters upon his office, make and subscribe before the Governor an oath or, affirmation in the form as may be prescribed.

(4) The salary and allowance payable to, and other terms and conditions of service of, the State Co-operative Election Commission shall be such as may be prescribed:

Provided that the conditions of service shall not be varied to his disadvantage after his appointment.

(5) The State Co-operative Election Commissioner may be removed from his office by the Governor on the ground of corruption or misdemeanour after the Lokpal, on a reference being made to it by the Governor, has, on inquiry held in accordance with the procedure prescribed in that behalf, reported that the State Co-operative Election Commissioner ought, on any such ground, to be removed.

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3. Substituted by Orissa Act 1 of 2013, dated 30.01.2013.

4. Omitted by Orissa Act 1 of 2013, dated 30.01.2013.

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

6. Omitted by Orissa Act 19 of 1983, dated 11.10.1983.

7. Substituted by Orissa Act 19 of 1983, dated 11.10.1983.

8. Inserted by Orissa Act 1 of 2013, dated 30.01.2013.

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

- (a) approval of the programme of activities of the Society and Annual and Supplementary budgets;
- (b) review of the programme for the year and its implementation;
- (c) matters concerning the election of office-bearers;
- (d) review of loans advanced to office-bearers and their near relatives or family members and direction for recovery of such loans;
- (e) consideration of reports of Audit, Inspection and Inquiry, Annual Reports including the Annual Report of the Auditor-General, and directives of the Government, if any, action taken by the Committee thereon;
- (f) review of the Reports of the Committee, Sub-Committees and the Chief Executive;
- (g) creation of Reserve and other Funds and review of utilisation thereof;
- (h) disposal of the net profits and review thereof;
- (i) review of the operational deficits, if any, and allocation of liability on members in proportion to their transactions;
- (j) membership of the Society in other Societies, partnership with other Societies and review of reports and accounts in respect of such partnership, if any;
- (k) promotion of Subsidiary Organisations and review of Annual Reports and Accounts of Subsidiary Organisations, if any;
- (l) amendments of the bye-laws;
- (m) formulation of Code of Conduct for the members, office bearers, Officers and other employees of the Society;
- (n) liquidation of the Society;
- (o) acquisition of property and disposal, in the manner prescribed of its property;
- (p) fixation of remuneration and other facilities to be allowed to the office bearers in connection with duties performed and meetings attended in their capacity as such;

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

**31. Nominees of the Government on the Committee of a Society :-**<sup>1</sup>[(1) Where the State Government or Central Government,-

- (a) has subscribed to the share capital of a society; or has granted any assistance in cash or in kind or in any other manner; or
- (b) has assisted indirectly in the formation or augmentation of the share capital of a society as provided in Chapter VI; or
- (c) has guaranteed the repayment of principal and payment of interest on debentures issued by a society ; or
- (d) has guaranteed the repayment of principal and payment of interest on loans and advances to a society,

the State Government or the Central Government, as the case may be, or any authority specified by such Government in this behalf, shall provide a panel of names not exceeding four persons having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the Society for co-option of two persons by the Committee to be the members of the said Committee.

( 2 ) In case of Society other than the Society specified in sub-section (1), the Committee shall co-opt persons not exceeding two having the experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the Society to be the member of the said committee:

Provided that the co-opted members referred to in sub-sections (1) and (2) shall not have the right to vote in any election of the Society in their capacity as such member or to be eligible to be elected as office bearer of the committee.]

### **The 2nd November 2002**

S.R.O. 957/2002 - In exercise of the powers conferred by Section 123 of the Orissa Co-operative Societies Act, 1962 Orissa Act 2 of 1963), and in continuation of the order of the Government of Orissa in the Co-operation Department No. 2865-Co-op., dated the 8th March 2002, the State Government in Co-operation Department do hereby exempt all Primary Milk Producers Co-operative Societies, registered under the said Act, and which are not coming under the operation Flood Programmes,, from the provisions of Section 31 of the said Act.

[No. 13974-II-Legal-73/2000-Co-op.]

By order of the Governor

**R.N. DASHI**

Joint Secretary to Government .

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1. Inserted by Orissa Act 1 of 2013, dated 30.01.2013

opportunity to state his objection, disqualify him from being a member of a Committee in respect of the Society for a period not exceeding three years to be specified in the order and every order made under the Sub-Section shall state the reasons for which it is made and shall be communicated to the Society and the officer concerned.

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

<sup>3</sup>[(7) Notwithstanding anything contained in this Section, if, in the opinion of the Registrar, the Committee of any Society is acting in a manner prejudicial to the interest of the Society or its members, or has committed such serious irregularities or illegality that further continuance of the Committee would be detrimental to the interest of the Society, the Registrar may, at any time before or, as the case may be, after issue of a notice under Sub-Section (1), suspend the Committee and make such arrangements as he thinks proper for the management of the affairs of the Society during the period of suspension of the Committee:

Provided that if the Committee so suspended is reinstated the period of suspension shall count towards its terms.

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

**33. Securing possession of records etc. :—** (1) If the Committee of a Society is reconstituted at a general meeting of the Society or is removed by the Registrar under Section 32 or if the Society is ordered to be wound up under Section 72 and the outgoing members of the Committee refuse to handover charge of the records and property of the Society to the new Committee or the Administrators or the Society appointed under Section 32 or the liquidator, as the case may be, such Committee, Administrators, Society or liquidator, as the case may be, may apply through the Registrar or any person empowered by the Registrar to the Sub-divisional Officer having jurisdiction for securing such records and property.

(2) The Registrar may, if he has reason to believe that any records of any Society are likely to be tampered with or suppressed or that any property of any Society is likely to be removed or misappropriated, authorise any person to enter and search any place where such records or property are kept or are believed to be kept and to seize such records and property and in the event of

cancellation thereof made under Sub-Section (3) shall be sent by registered post by the Society concerned to the Sub-registrar having jurisdiction over the area in which such land or property situates, on receipt of which the Sub-Registrar shall, if it is in order, register such declaration or the variation or cancellation thereof and issue a copy thereof to the said Society. Where it is not in order, he shall return it to that Society without registration. The declaration or any variation or cancellation thereof shall have effect only on the date of registration.

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

(6) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of Sub-Section (5) shall be void.

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

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

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

### **35. Deduction of dues of Society from salaries of members :-**

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

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

(3) If an employer, <sup>1</sup>[X X X] fails to deduct or having deducted fails to pay amount as required under Sub-Section (2), the Registrar may, on the application of the Society and after giving such employer a reasonable opportunity of

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

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

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

- (a) agricultural income,
- (b) sale or purchase of goods, or
- (c) professions, trades, callings and employments.

**39. Exemption from compulsory registration of instruments :—**

Nothing in Clauses (b) and (c) of Sub-Section (1) of Section 17 of the Indian Registration Act, 1908, (16 of 1908) shall apply to—

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

## **CHAPTER - VI**

### **STATE-AID TO SOCIETIES**

**40. Promotion of Co-operative Movement :—** It shall be the duty of the State Government to encourage and promote the Co-operative movement in the State and to take such steps in this direction as may be necessary.

**41. Direct Partnership of State Government in Societies :— (1)**

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- 1. Substituted by Orissa Act 28 of 1991.
  - 2. Inserted by Orissa Act 19 of 1983.

nership Fund' or the 'Subsidiary State Partnership Fund' respectively;

the liability in respect of such shares shall, in the event of the Society being wound up, be limited to the amount paid in respect of such shares.

**47. Restriction on amount of dividend :—** An Apex Society which has purchased shares in other Societies from the moneys in the 'Principal State Partnership Fund', and a Central Society which has purchased shares in Primary Societies from the moneys in 'Subsidiary State Partnership Fund' shall be entitled only to such dividend on the said shares as is declared by the Society, concerned and is payable to other share holders of that Society.

**48. Indemnity of Apex and Central Societies :—** (1) If a Society in which shares are purchased from the 'Principal State Partnership Fund' is wound up or dissolved, the State Government shall not have any claim against the Apex Society which purchased the shares in respect of any loss arising from such purchase; but the State Government shall be entitled to any moneys received by the Apex Society in liquidation proceedings or on dissolution, as the case may be.

(2) If a Society in which shares are purchased from the 'Subsidiary State Partnership Fund' is wound up or is dissolved, neither the State Government nor the Apex Society shall have any claim against the Central Society which purchased the shares in respect of any loss arising from such purchase; but the Apex Society shall be entitled to any moneys received by the Central Society in liquidation proceedings or in dissolution, as the case may be, and such moneys shall be credited to the 'Principal State Partnership Fund'.

**49. Disposal of share capital and dividend, etc. :—** (1) All moneys received by an Apex Society in respect of shares of other Societies purchased from the moneys in the 'Principal State Partnership Fund' on redemption of such shares or by way of dividends or otherwise, shall be credited to that fund.

(2) All moneys received by a Central Society in respect of shares of Primary Societies purchased from the moneys in the 'Subsidiary State Partnership Fund' on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that fund and then transferred to the Apex Society which shall credit them to the 'Principal State Partnership Fund'.

(3) All moneys and dividends referred to in Sub-Section (1) and Sub-Section (2) shall be paid to the State Government from out of the 'Principal State Partnership Fund'.

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

## **50. Disposal of 'Principal State Partnership Fund' and 'Subsidi-**

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1. Substituted by Orissa Act 28 of 1991.
  2. Omitted by *ibid*.
  3. Inserted by *ibid*.

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

**54. Provision of this Chapter to override other laws :—** The provisions of Sections 42 to 52 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law, for the time being in force.

## **CHAPTER - VII**

### **PROPERTIES AND FUNDS OF SOCIETIES**

**55. Funds not to be divided :—** (1) No part of the funds other than the net profits of a Society shall be paid by way of bonus or dividend or otherwise distributed among its members:

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

(2) Nothing in Sub-Section (1) shall be construed so as to debar any payment from being made out of such fund to a member as wages or as price of the produced of such member supplied to the Society.

**56. Disposal of net profits :—** <sup>1</sup>[xxx] (1) A Society shall, out of its net profits in any year—

- (a) transfer an amount not less than ten percent in the case of a Co-operative Farming Society and not less than twenty-five per cent in any other case, of the profits to the reserve fund; and
- <sup>2</sup>[(b) credit four per cent of such profits to the Co-operative Education Fund constituted under Section 56-A.]

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

- (a) payment of dividend to members on their paid-up share capital at a rate not exceeding <sup>3</sup>[twelve per cent] of such share capital;
- (b) payment of bonus to members on the amount or volume of business done by them with the Society, to the extent and in the manner specified in the Bye-laws;
- (c) constitution of or contributions to such special fund as may be specified in the Bye-laws;
- (d) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in Section 2 of the Charitable Endowments Act, 1890 (6 of 1890).
- (e) payment of bonus to employees of the Society, to the extent and in the manner specified in the Bye-laws;

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1. Substituted by Orissa Act 28 of 1991.

**59. Restriction of loans :-** (1) A Society shall not advance a loan to any person other than a member except with the general or special sanction of the Registrar.

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

<sup>1</sup>**[59-A. Restriction on Interest :-** Notwithstanding anything contained in any law or agreement for the time being in force, a Society shall not charge on account of interest on any short term loan, whether advanced before or after the commencement of the Orissa Co-operative Societies (Amendment) Act, 1982 (Orissa Act 19 of 1983) a sum greater than that of the principal.

*Explanation :-* For the purpose of this Section the expression "short term loan" shall mean a loan repayable within a period of fifteen months.]

**60. Restrictions on other transactions with non-members :-** Save as is provided in Sections 58 and 59, the transactions of a Society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

**61. Provident Fund :-** (1) A Society may establish a Contributory Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and the Society in accordance with the By-laws of the Society.

(2) A Contributory Provident Fund established by a Society under Sub-Section (1)–

- (a) shall not be used in the business of the Society;
- (b) shall not form part of the assets of the Society; and
- (c) shall not be liable to attachment or be subject to any other process of any Court or other authority.

## **CHAPTER - VIII**

### **AUDIT, ENQUIRY, INSPECTION AND SURCHARGE**

<sup>2</sup>**[62. Audit :-** (1) (i) The Auditor-General shall audit, or cause to be audited by an Auditor duly authorised by him in that behalf, the accounts of every Society for each Co-operative year, and complete such audit within six months of the closure of the year, at least once or for such number of times as may be directed by the State Government from time to time in respect of any Society or class of Societies:

<sup>3</sup>[Provided that the Auditor-General of the Co-operative Societies, Orissa may engage one or more Chartered Accountants to cause the audit of the accounts of the Co-operative Society and the fees shall be paid by the Society both to the Chartered Accountant and the Government for the audit of its accounts for each Co-operative year at such rate as may be fixed by the Government.]

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1. Substituted by Orissa Act 28 of 1991.

far as is necessary for carrying out any of the purposes of this Act, have power to summon and enforce the attendance of any person and to examine him on oath or affirmation and to compel the production of any books, accounts, documents, securities, cash and other properties at any place at the headquarters of the Society or any branch thereof and to issue commission for the examination of witness by the same means and so far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908).

(b) The <sup>1</sup>[Auditor-General] or the Auditor may require any person present before him to furnish any information or to produce any documents in his possession or power.

(c) The <sup>1</sup>[Auditor-General] or the Auditor shall have power to take or to authorise the taking of, such copies of the document or of any entries therein as may be considered necessary. Copies so taken shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein.

(5) Every person who is, or has at any time been an officer or employee of the Society and every member and past member of the Society shall furnish such information in regard to the transactions and working of the Society as the <sup>1</sup>[Auditor-General] or the Auditor may require.

<sup>1</sup>[(6) If the Auditor-General has reason to believe that the continuance in office of any officer or office-bearer of a Society during audit of its accounts will be detrimental either to the ascertainment of facts relevant to the audit, or to the furnishing of compliance to the audit objections or his directives, if any, in that regard, he may, notwithstanding anything to the contrary contained in this Act, Rules and the Bye-laws, by order, assigning reasons therefore, suspend the Officer or office-bearer concerned for the whole or such portion of the period of audit as he may deem proper:

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

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

<sup>2</sup>**[63. Communication, Consideration and Compliance of Audit Report :-** The Report of every audit conducted under Section 62 shall be communicated, considered and complied with in the manner prescribed.]

<sup>3</sup>**[63-A. Annual Audit Report of Auditor-General :-** (1) The Auditor-General shall furnish to the State Government an Annual Report for every Co-operative Year within nine months of the closure of the year, incorporating

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1. Substituted by Orissa Act 28 of 1991.

2. Inserted by Orissa Act 11 of 2004.

- (a) a Society to which the Society concerned is affiliated;
- (b) a majority of the members of the Committee of the Society; or
- (c) not less than one-third of the total number of members of the Society.

(3) The Registrar, or the person authorised by him under Sub-Section (1) shall, for the purposes of an inquiry under Sub-Section (1) or Sub-Section (2) have the following powers, namely :—

- (a) he shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the Society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the head-quarters of the Society or any branch thereof;
- (b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the Society to appear before him at any place at the head-quarters of the Society or any branch thereof and may examine such person on oath; and
- (c) (i) he may, notwithstanding any rule or bye-laws specifying the period of notice for a general meeting of the Society, require the Officers of the Society to call a general meeting at such time and place at the head-quarters of the Society or any branch thereof and to determine such matters as may be directed by him and where the Officers of the Society refuse or fail to call such a meeting he shall have power to call it himself :

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

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

- (d) if he has reasons to believe that the continuance of any Officer of the Society in Office will be detrimental to the interests of the Society, he may, by order assigning reasons therefor, suspend such Officer or member from holding the Office during the tendency of the enquiry :

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

Provided further that no order of suspension shall be passed by any

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1. Substituted by Orissa Act 28 of 1991.  
 2. Substituted by *ibid*.  
 3. Inserted by Orissa Act 28 of 1991.

any money or other property belonging to the Society, the Auditor-General or a person authorised by him by an order in writing in that behalf, on his own motion or on the application of a liquidator, the Committee or any creditor, after giving the person concerned a reasonable opportunity of being heard, may make an order in the manner prescribed, requiring him to repay or restore the money or property or any part thereof, with interest at such rates, or to pay such contribution, costs or compensation as he may consider just and equitable and all such orders shall have effect without prejudice to any other action that may be lawfully taken against him :

Provided that no proceedings under this Section shall be initiated after the expiry of a period of four years from the date any act or omission as aforesaid is first detected during audit, inspection, inquiry or the winding up of a Society, as the case may be.

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

## <sup>1</sup>[CHAPTER - VIII-A]

### CONSTITUTION AND POWERS OF TRIBUNAL

**67-A. Constitution of Co-operative Tribunal:—** <sup>2</sup>[(1) (i) The State Government shall by notification constitute a Tribunal, to be called the Co-operative Tribunal, consisting of such number of members with such qualifications as may be prescribed, so however that—

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

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

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

<sup>3</sup>[**67-B. Powers of Tribunal :—** <sup>4</sup>[(1)(i) Notwithstanding anything contained in any law for the time being in force, any dispute arising in connection

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1. Substituted by Orissa Act 28 of 1991.

2. Inserted by *ibid*.

3. Inserted by *ibid*.

to the Registrar if the parties thereto are among the following, namely :—

- (a) the Society, its Committee, past Committee, any past or present Officer or office bearer, any past or present agent, any past or present servant, or the nominee, legal heir or representative of any deceased officer, office-bearer, deceased agent or deceased servant of the Society; or
- (b) a member, past member, or a person claiming through a member, past member or deceased member of the Society, or of a Society which is a member of the Society; or
- (c) a surety of a member, past member or a deceased member, whether such surety is or is not a member of the Society; or
- (d) any other Society.

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

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

*Explanation III*— The question whether a person is or was a member of a Society or not shall be a dispute within the meaning of this Section.

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

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

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

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

(4) If any question arises whether a dispute referred to the Registrar under this Section is a dispute touching the constitution, management or the

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1. Substituted by Orissa Act 23 of 1994.  
2. Substituted by Orissa Act 19 of 1983.  
3. Inserted by Orissa Act 28 of 1991.  
4. Substituted by Orissa Act 23 of 1994.

## **WINDING UP AND DISSOLUTION OF SOCIETIES**

**72. Winding up of Societies :-** (1) If the Registrar, after an inquiry has been held under Section 65 or an inspection has been made under Section 64 or upon perusal of the audit report or on receipt of <sup>1</sup>[a resolution passed] by not less than three-fourths of the members of a Society, is of opinion that the Society ought to be wound up, he may issue an order directing it to be wound up.

(2) The Registrar may of his own motion, make an order directing the winding up of a Society -

- <sup>2</sup>[(a) its membership has fallen below the minimum number required for its registration; or]
- (b) where the Society has not commenced working within a period of eighteen months from the date of its registration or has ceased to work.

<sup>3</sup>[(2-a) Except on the basis of a resolution specified in Sub-Section (1) no order directing the winding up of a Society under this section shall be passed without giving an opportunity to the Society to state objection, if any to the proposed winding up, through its Chief Executive, within thirty days from the date of issue of a notice by the Registrar in that regard.]

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

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

<sup>1</sup>[(2) A liquidator appointed under Sub-Section (1) shall forthwith take such action as may be prescribed.]

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

**74. Priority of contribution assessed by a liquidator. :-** Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (5 of 1920), the debts due to a Society under orders of being wound up and the contribution assessed by the liquidator shall rank next to debts due to the Government or to any local authority in order of priority in insolvency proceedings.

**75. Powers of liquidator :-** (1) Subject to any rules made in this behalf, the whole of the assets of a Society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under Section

1. Substituted by Orissa Act 1 of 1979.
2. Substituted by Orissa Act 23 of 1994.
3. Substituted by Orissa Act 5 of 1970.
4. Substituted by Orissa Act 1 of 1979.

assets or the winding up of the Society on such terms as may be agreed and take in security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

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

(3) When the affairs of a Society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the Society in such place as the Registrar may direct and shall make over the surplus assets of the Society to the Registrar.

<sup>3</sup>[(4) Notwithstanding anything contained in this Act-

- (a) no dispute touching the constitution, management or business of a Society, in respect of which an order for winding up has been made under Sub-Section (1), shall, on and after the date of commencement of Section 41 of the Orissa Co-operative Societies (Amendment) Act, 1991, be raised before any authority other than the Liquidator of the Society, and for that purpose, the Liquidator shall have powers to start, on his own motion, proceedings on behalf of the Society; and
- (b) all proceedings under Section 68 concerning such Society, with whatever authority pending as on the said date of commencement shall stand transferred to the Liquidator on that date; and the Liquidator shall decide the disputes so raised/started or transferred, as the case may be, in accordance with law.]

**76. Disposal of surplus assets :-** The surplus assets of a Society made over by the liquidator to the Registrar shall not be divided among its members, but shall be applied by the Registrar, in whole or in part, to all or any of the following objects, namely :-

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

**77. Cancellation of Registration of a Society :-** Where in respect of a Society which has been ordered to be wound up under Section 72, no

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1. Substituted by Orissa Act 23 of 1994.

2. Inserted by Orissa Act 1 of 1979.

3. Substituted by Orissa Act 23 of 1994.

by notification, from time to time specify.]

**79. Appointment of Trustee and his Powers and Functions :—** (1)

The Registrar, or where the State Government appoint any other person in this behalf, such person shall be the Trustee for the purpose of securing the fulfilment of the obligation of the <sup>4</sup>[State Co-operative Agricultural and Rural Development Bank] to the holders of debenture issued by the Board.

(2) The powers and functions of the Trustee shall be governed by the provisions of this Act and by the instrument of trust executed between the Bank and the Trustee as modified from time to time by mutual agreement between the Bank and the Trustee.

**80. Trustee to be a Corporation Sole :—** The Trustee shall be a corporation sole by the name of the Trustee for the debentures and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

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

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

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

- (a) the total amount due on the mortgages held by the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] or transferred or deemed under the provisions of Section 87 to have been transferred to it by the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] and the value of the assets in respect of the land mortgage business held by the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] and subsisting at such time; and
- (b) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time.

(4) Notwithstanding anything contained in this Chapter—

- (a) the Board may, with the previous sanction of the Trustee, issue

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1. Substituted by Act 23 of 1994.

2. Substituted by Orissa Act 5 of 1970.

(4) Every notification and notice referred to in Sub-Section (3) shall, where the maximum amount of the guarantee is to be restricted or the conditions subject to which the guarantee is given are to be modified, set forth precisely the scope and effect of the restriction or modification, as the case may be.

**<sup>1</sup>[83-A. Grant of loan by <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] :-** Any <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] may grant loan to its members against the creation of a charge on or mortgage of land free of encumbrances].

**<sup>3</sup>[83-B. Applicant for loan to make a declaration :-** (1) Every applicant for a loan to a <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] shall make a declaration in the form prescribed by the <sup>4</sup>[Co-operative Agricultural and Rural Development Bank] before an officer authorised by the Registrar this behalf, on solemn affirmation that the land sought to be in mortgaged is free from all encumbrances and that the mortgagor is in possession thereof and has the right to create the mortgage.

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

(3) If at any time a declaration made under Sub-Section (1) is found to be false or defective, the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] shall, subject to the provisions of Section 85, have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the mortgage deed and the Development Bank may proceed against all such properties of the mortgagor under Section 91.

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

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

**<sup>2</sup>[83-C. Order granting loan conclusive of certain matters :-** A written order by the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] or any Committee or other person authorised by this Act or the bye-laws of the bank to grant loans for any of the purposes specified in the bye-laws of the concerned bank, granting, either before or after the commencement of this Act, a loan for the benefit of the land or for any productive purpose specified therein shall, for the purposes of this Act, be conclusive of the following matters, namely :-

- (a) that the work described or the purpose for which the loan is granted is an improvement or productive purpose, as the case may be, within the meaning of the bye-laws of the Society;

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1. Deleted by Orissa Act 5 of 1970.

2. Substituted by Orissa Act 23 of 1994.

more of the co-sharers of a Hindu Joint Family or by any Co-owner or by any purchaser from them, who is or are in possession of the said property on the date of the mortgage or charge and such possession is certified by a Revenue Officer not below the rank of a Revenue Inspector in the form to be prescribed by the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank], the same shall remain a first charge on the said land and the certificate of possession so granted shall be conclusive and binding and shall not be called in question in any Court or Tribunal.

(2) Notwithstanding anything contained in any other law, custom or usage to the contrary, any loan given by a <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] shall remain a first charge on the property so mortgaged till it is fully satisfied and discharged, notwithstanding a partition, settlement, sale, gift, transfer, encumbrance, charge or any other liability made or created, whether by or through Court, or under any Act, mutual agreement, arbitration or by any other means, and any person who acquires the said property in any manner whatsoever shall be liable to discharge the loan.

(3) The aforesaid provisions shall apply notwithstanding the provisions of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (Orissa Act 21 of 1972) and the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960).]

**84. Other guarantees by State Government :—** Where the <sup>3</sup>[State Co-operative Agricultural and Rural Development Bank] or a <sup>3</sup>[Co-operative Agricultural and Rural Development Bank] has given a loan to a member for the development of any land in excess of the amount of the loan to which such member would be entitled on the basis of the value of the land as determined in accordance with the principles of valuation approved by the State Government, the State Government may, if they think fit, guarantee for a specified period the repayment of the loan to the extent of the excess.

**<sup>1</sup>[85. Priority of mortgage over certain claims :—** (1) Notwithstanding anything contained in any law for the time being in force but subject to any claim of the Government in respect of land revenue or any money recoverable as arrears of land revenue and to the provisions of Sub-Section (2), any debt or outstanding demand due to the <sup>2</sup>[State Co-operative Agricultural and Rural Development Bank] or any <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] on account of a mortgage executed by any member or past or deceased member in favour of such bank shall be a first charge upon the land so mortgaged.

(2) Any such mortgage as aforesaid shall also have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883 (19 of 1883) or the Agriculturists Loans Act, 1884 (12 of 1884), granted after the execution of the mortgage.

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1. Substituted by Orissa Act 23 of 1994.

2. Substituted by Orissa Act 5 of 1970.

**<sup>2</sup>[87-A. Transfer of Mortgages. :-** (1) Notwithstanding anything contained in this Act or in the relative mortgage bonds, the mortgages executed in favour of the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] by the individual members thereof shall be deemed to be mortgages executed in favour of the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] operating in the area wherein the mortgaged properties are situate and the said members shall be deemed to be members and debtors of such <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] with effect from the date on which the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] transfers the amounts due thereon and the shares held by the members to the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] concerned.

(2) Notwithstanding anything contained in this Act or in the relative mortgage bonds, a mortgage executed in favour of a <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] in respect of properties situate within the area of operation of another <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] newly or subsequently established shall be deemed to be executed in favour of such other bank and the mortgagor shall be deemed to be a member and debtor of such other bank with effect from the date on which the former bank transfers the amounts due thereon and the shares held by the member to the later bank.

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

**88. Power of <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] to receive money and grant discharge :-** Notwithstanding that a mortgage executed in favour of a <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] has been transferred, or is deemed under the provisions of Section 87, to have been transferred, to the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] -

- (a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to such <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] and such payment shall be as valid as if the mortgage had not been so transferred ; and

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1. Inserted by Orissa Act 1 of 1979.  
2. Substituted by Orissa Act 23 of 1994.  
3. Substituted by Orissa Act 28 of 1991.  
4. Substituted by Orissa Act 11 of 2004.  
5. Omitted by *ibid*.  
6. Substituted by Orissa Act 28 of 1991.  
7. Substituted by Orissa Act 11 of 2004.

anything contained in the Transfer of Property Act, 1882 (4 of 1882) where a power of sale without the intervention of the Court is expressly conferred on the <sup>2</sup>[State Co-operative Agricultural and Rural Development Bank] or the <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] by the mortgage deed, the Board or the Committee of such bank, as the case may be, or any person authorised by such Board or Committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the Court after hearing the objections, if any, of the mortgagor.

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

- (a) notice in writing requiring payment of such mortgage money or any part thereof, as the case may be, has been served upon—
  - (i) the mortgagor;
  - (ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same;
  - (iii) any surety for the payment of the mortgage debt or any part thereof; and
  - (iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and
- (b) default has been made in payment of such mortgage money or part thereof for three months after such service.

**92. Powers of <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] where mortgaged property is destroyed or security becomes insufficient :—** Where any property mortgaged to the <sup>2</sup>[State Co-operative Agricultural and Rural Development Bank] or a <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the Board or the Committee of such bank, as the case may be, for providing further security to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Board or Committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the Board or the Committee, as the case may be, shall be entitled to take action against the mortgagor under Section 90 or 91 for the recovery thereof.

*Explanation* – A security is insufficient within the meaning of this Section unless the value of the mortgaged property exceeds the amount for the time

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1. Substituted by Orissa Act 11 of 2004.

2. Substituted by *ibid*.

may, on the application of a <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] and under circumstances in which the powers of sale conferred by Section 91 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver, shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as may be fixed by the Board and to apply the balance in accordance with the provisions of Sub-Section (8) of Section 69-A of the Transfer of Property Act, 1882 (4 of 1882).

(2) A receiver appointed under Sub-Section (1) may for sufficient cause and on application made by the mortgagor, be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this Section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a Civil Court.

**97. Mortgagor's powers to lease :—** (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882) or any other law for the time being in force, a mortgagor shall not grant a lease of the mortgaged property for a period exceeding five years.

(2) Any lease granted in contravention of Sub-Section (1) shall be void.

**98. Registration of documents executed on behalf of a <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] or of the [State Co-operative Agricultural and Rural Development Bank] :—** (1) Notwithstanding anything contained in the Indian Registration Act, 1908 (16 of 1908)—

(a) it shall not be necessary to register a mortgage executed in favour of the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] or any <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] where the concerned bank sends within such time and in such manner as may be prescribed a copy of the mortgage deed to the registering officer having jurisdiction, who shall file such copy in the book maintained under Section 51 of the said Act, and

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1. Substituted by Orissa Act 28 of 1991.  
2. Substituted by Orissa Act 28 of 1991.  
3. Omitted by *ibid*.  
4. Inserted by Orissa Act 11 of 2004.  
5. Substituted by Orissa Act 19 of 1983.  
6. Substituted by Orissa Act 28 of 1991.  
7. Substituted by Orissa Act 11 of 2004.  
8. Omitted by Orissa Act 28 of 1991.  
9. Omitted by Orissa Act 19 of 1983.  
10. Omitted by Orissa Act 28 of 1991.  
11. Inserted by Orissa Act 19 of 1983.

- (d) for converting one class of debentures into another bearing a different rate of interest;
- (e) for the inspection of the account books and proceedings of <sup>1</sup>[Co-operative Agricultural and Rural Development Bank;]
- (f) for the submission of returns and reports by <sup>1</sup>[Co-operative Agricultural and Rural Development Banks] in respect of their transaction;
- (g) for the periodical settlement of accounts between <sup>1</sup>[Co-operative Agricultural and Rural Development Banks] and for the payment of amounts recovered by <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] on mortgages transferred or deemed under the provisions of Section 87 to have been transferred to the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank];
- (h) for specifying the form in which applications to <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] for loans should be made and for the valuation of the properties afforded as security for such loans;
- (i) for the investment of moneys realised from mortgages; and
- (j) generally for the purpose of carrying out the provisions of this Chapter.

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

## CHAPTER - XII

### EXECUTION OF AWARDS, DECREE, ORDERS AND DECISIONS

**102. Enforcement of charge :—** <sup>3</sup>[<sup>1</sup>] Notwithstanding anything contained in Chapter IX or in any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the <sup>3</sup>[Registrar] or any person empowered by the <sup>4</sup>[Registrar] in that behalf may, on the application of a Society or otherwise, make an order directing the payment of any debt or outstanding demand due to the Society by any member or past or deceased member, by sale of the property or any interest therein which is subject to a charge under Section 34 :

Provided that no order shall be made under this section, unless the member, past member or the nominee, or legal heir or representative of the

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1. Inserted by Orissa Act 14 of 1985.  
 2. Substituted by Orissa Act 10 of 1980.  
 3. Inserted by Orissa Act 21 of 1970.  
 4. Substituted by Orissa Act 11 of 2004.

**104. <sup>1</sup>[Registrar] or person empowered by him to be a Civil Court for certain purposes :—** The <sup>1</sup>[Registrar] or any person empowered by him in this behalf shall be deemed when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application, made to him for such recovery or for taking a step-in-aid of such recovery, to be a Civil Court for the purpose of Article 182 of the first Schedule of the Indian Limitation Act, 1908 (9 of 1908).

**105. Attachment of property before award or order :—** If the Registrar, <sup>4</sup>[Auditor-General or Liquidator] is satisfied on an application, report, inquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act -

- (a) is about to dispose of the whole or any part of his property, or
- (b) is about to remove the whole or any part of his property from the jurisdiction of Registrar, <sup>5</sup>[the Auditor-General], the arbitrator or liquidator, as the case may be;

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

**106. Rights of transfer of land of a Society in certain area and the Society's right to bring it to sale :—** (1) Notwithstanding anything contained in the Central Provinces Tenancy Act, 1898 (CP Act 11 of 1898), or the Central Provinces Tenancy Act, 1920 (CP Act 1 of 1920), or the Angul Laws Regulation, 1936 (Orissa Regulation 5 of 1936), or the Khandmals Laws Regulation, 1936 (Orissa Regulation 4 of 1936), or any other laws for the time being in force, defining the rights of tenants on the land and the relation between Government and tenant or the landlord and tenant, it shall be lawful in an area in the State of Orissa, where any of the above enactments is in force, for—

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

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- 1. Inserted by Orissa Act 21 of 1970.
  - 2. Substituted by Orissa Act 11 of 2004.
  - 3. Substituted by *ibid*.
  - 4. Inserted by Orissa Act 1 of 1975.
  - 5. Substituted by Orissa Act 11 of 2004.
  - 6. Inserted by Orissa Act 28 of 1991.
  - 7. Substituted by Orissa Act 11 of 2004.
  - 8. Substituted by *ibid*.
  - 9. Substituted by *ibid*.
  - 10. Substituted by Orissa Act 11 of 2004.

Society and to the provisions of Section 69.

## CHAPTER - XIII

### APPEAL, REVISION AND REVIEW

**109. Appeals :—** (1) An appeal shall lie under this section against the following orders and decisions, namely :—

- (a) an order of the Registrar made under Sub-Section (2) of Section 7 refusing to register a Society ;
- <sup>1</sup>[(b) an order of the Registrar made under Sub-Section (4) of Section 12 refusing to register an amendment of the Bye-laws of a Society ; or an order made under Sub-Section (6) of that Section registering an amendment of such Bye-law ;]
- <sup>2</sup>[(c) an order directing re-organisation or amalgamation under Sub-Section (1) of section 14-A ;]
- <sup>2</sup>[(d) a decision of a Society refusing to admit any person as a member of the Society or expelling any member of the Society <sup>3</sup>[\* \* \*]]
- <sup>4</sup>[(d-1) an order of the Registrar passed under Sub-Section (2-a) of Section 16;]
- <sup>5</sup>[(e) an order of the Registrar passed under Sub-Section (5) of Section 28;]
- (f) an order of the Registrar disqualifying or removing an office-bearer or a committee of a Society under Section 32;
- (g) an order of suspension of an officer, Office-bearer of a Society passed under Section 62 or Section 64 or Section 65;
- (h) an order made by the Registrar under Section 66, apportioning the cost of an enquiry held under Section 65 or an inspection made under Section 64;
- (i) an order of surcharge made by the <sup>1</sup>[Auditor-General] under Section 67;
- (j) a decision or award under Section 70;
- (k) an order made by the Registrar under Section 72 directing winding up of a Society;
- (l) any order made by the liquidator of a Society in exercise of the powers conferred on him under Section 75;
- (m) an order made by the <sup>2</sup>[Registrar] under Section 103;
- (n) an order for attachment of any property made <sup>3</sup>[ x x x ] under Section 105; or

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1. Substituted by Orissa Act 28 of 1991

2. Substituted by *ibid*.

3. Inserted by Orissa Act 28 of 1991.

<sup>2</sup>**[112. Power of revision by Registrar and Additional Registrar**

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

(2) The Registrar shall assign the local limits within which an Additional Registrar shall exercise powers under this Section.

(3) A revision against any decision or order made by an Additional Registrar under this Section shall not lie to the Registrar.

(4) An application under Sub-Section (1) shall be made within ninety days from the date of the decision or order sought to be revised.]

<sup>3</sup>**[112-A. Reference by Auditor-General :-** The Auditor General of Co-operative Societies, Orissa of his own motion or on application by any person may, call for and examine the records of any proceedings under Section 67 of the Act, pending before any authority subordinate to him or disposed of by such authority in which appeal has not been filed and may, after giving the parties a reasonable opportunity of being heard, make a reference within a period of four years from the date of his knowledge, to the Co-operative Tribunal with his views for adjudication and final decision under Sub-Section (1) of Section 109 of the Act.]

**113. Power of revision by State Government :-** (1) The State Government may, of their own motion or on application by any person considering himself aggrieved and after giving the parties concerned a reasonable opportunity of being heard, call for and examine the record or any proceeding before the Registrar <sup>1</sup>[or any proceeding under Section 112 before an Additional Registrar] in which no appeal lies, for the purpose of satisfying themselves as to the legality or propriety of any decision made or order passed and may pass such order thereon as they may deem fit.

*Explanation* – For the purposes of this Sub-Section, Registrar shall not include any person exercising all or any of the powers of the Registrar.

<sup>2</sup>[(2) an application under Sub-Section (1) shall be made within ninety days from the date of the decision or order sought to be revised:

Provided that an application under Sub-Section (1) against any decision made or order passed prior to the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1980, shall be made within a period of ninety days next after the commencement of the said Act, or within one year from the date of the decision or order sought to be revised, whichever period expires earlier.]

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1. Omitted by Orissa Act 28 of 1991.

register, book of account or document belonging to a Society and such action is not done in good faith; or

(b) an officer or member of a Society or any other person who does any act or omission declared by the rules to be an offence, shall be punishable with fine which may extend to <sup>5</sup>[ten thousand rupees.]

(6) Any officer of a Society who, having ceased to hold office and having remained in possession at the time of such cessation, of any document, cash, valuable security or other property which belongs to the Society or the custody whereof lawfully belong to such Society, without sufficient cause refuses, neglects or fails to deliver up the same to his successor in office shall be punishable with fine which may extend to <sup>6</sup>[fifteen thousand rupees] or with simple imprisonment which may extend to three months or with both.

(7) Any officer of Society who having the power, by or under the bye-laws of the Society, to remain in custody of any cash belonging to the Society keeps in his custody, without reasonable cause, any such money in excess of the permissible limit beyond the period allowed under the said bye-laws or in any other manner not permitted thereunder shall be punishable with fine which may extend to <sup>7</sup>[fifteen thousand rupees] or with simple imprisonment which may extend to one year or with both.

<sup>1</sup>[(8) If any officer of a Society or any of his near relatives having common economic interest fails to repay the total demand of the Society outstanding against him by the due date, the Registrar will be informed within fifteen days of such due date failing which the officer or employee of the Society responsible for sending such information shall be punishable with fine which may extend to <sup>2</sup>[ten thousand rupees.]

(9) If the Secretary or the Executive Officer of the Society fails to send the intimation in due time as required by Sub-Section (3) of Section 28-A, he shall be punishable with fine which may extend to <sup>3</sup>[eighteen thousand rupees] or with simple imprisonment which may extend to two months.

<sup>4</sup>[(10) An applicant for a loan from a Co-operative Agricultural and Rural Development Bank, who wilfully makes a false or defective declaration, shall be punishable with fine which may extend to <sup>5</sup>[eighteen thousand rupees] or with imprisonment which may extend to six months or with both.]

<sup>6</sup>[(11) Any person disobeying a lawful written directive of the Chief Electoral Officer of the Co-operative Societies, issued under Section 28-A in connection with the holding or conduct of any election under this Act, shall be punishable with fine which may extend to <sup>7</sup>[fifteen thousand rupees], or with imprisonment which may extend to one year, or with both.

(12) Any person wilfully indulging in any corrupt practice, prohibited act, disorderly conduct or misconduct within the meaning of Section 28-A shall be punishable with fine which may extend to <sup>8</sup>[eighteen thousand rupees], or with

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1. Deleted by Orissa Act 19 of 1983.

## **CHAPTER - XV**

### **MISCELLANEOUS**

**117. Prohibition against the use of word "Co-operative" :-** No person other than a Society shall trade or carry on business under any name or title of which the word "Co-operative" or its equivalent in any Indian language is part <sup>5</sup>[without the sanction of the Government]:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (2 of 1912), came into operation.

**118. Address of a Society :-** Every Society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

**119. Copy of Act, Rules and Bye-laws to be opened to reference :-** Every Society shall keep a copy of this Act, the Rules and its Bye-laws open for the purpose of reference free of charge at all reasonable times at the registered office of the Society.

**120. Powers of Civil Court :-** <sup>1</sup>[(1) In exercising the powers conferred on it, by or under this Act, the Registrar, Auditor-General, any person authorised by the Registrar or Auditor-General, a Liquidator or an Arbitrator, or any authority deciding a dispute or conducting any audit, surcharge proceeding, inspection or enquiry under this Act, shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) proof of facts by affidavits; and
- (d) issuing commissions for examination of witness.

(2) In the case of an affidavit, the Registrar, Auditor-General or any person appointed or authorised by the Registrar or Auditor-General, any person deciding a dispute or a surcharge proceeding, or conducting any audit, inspection or enquiry under this Act, or a Liquidator of a Society, as the case may be, may administer oath to the deponent.]

**121. Bar of jurisdiction of Courts :-** <sup>2</sup>[Save as provided under this Act, no Civil or Revenue Court shall have any jurisdiction on any ground whatsoever in respect of any proceeding under this Act or Rules or any order, decision, determination or award, by whatever expression called, made or given thereunder.]

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1. Substituted by Orissa Act 23 of 1994.

for securing proper compliance of the directive or finding, as the case may be and thereupon, the Registrar shall take such measures forthwith:

Provided that no such measures shall be taken by the Registrar, without giving an opportunity of being heard to the Society or Societies or the Committee or Committees thereof, as the case may be, which are likely to be affected by the measures and in every case where any Committee is removed under this Sub-Section, the management of the Society shall vest in the Registrar on and from the date of such removal and upon such vesting the provisions of Clause (ii) of Sub-Section (1-b) of Section 28 shall, *mutatis mutandis*, apply in regard to the management of the affairs of the Society and constitution of the Committee thereof.

(b) Any measure taken by the Registrar under Clause (a) shall be deemed to be a measure duly taken by the concerned Society or Societies or the Committee or Committees thereof, as the case may be.

(3) While conducting an enquiry or inspection under Sub-Section (1), the State Government or any person authorised by it in that behalf shall have the same powers as the Registrar is competent to exercise,—

- (a) under Section 64, for the purposes of such inspection; and
- (b) under Section 65, for the purposes of such enquiry.]

**124. Register of members :—** Any register of list of members or shares kept by any Society shall be *prima facie* evidence of any of the following entered therein :—

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

**125. Proof of entries in Societys books :—** (1) A copy of any entry in a book of Society regularly kept in the course of its business, shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence, of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A Society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

(3) No officer of a Society and no officer in whose office the books of a Society are deposited after liquidation shall, in any legal proceedings to which the Society or the liquidator is not a party, be compelled to produce any of the Society's books or documents the contents of which can be proved under this

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1. Substituted by Orissa Act 23 of 1994.  
2. Substituted by Orissa Act 11 of 2004.

under the Orissa Co-operative Societies Act, 1951 (Orissa Act 11 of 1952), shall be deemed to be registered under this Act, and its bye-laws shall, so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded.

(2) All appointments, rules and orders made, notifications and notices issued, all transactions entered into and suits and other proceedings instituted under any of the said Acts, shall, so far as may be, deemed to have been respectively made, issued, entered into and instituted under this Act.

<sup>4</sup>**[133-A. Special provisions relating to insured Co-operative Banks :—** Notwithstanding anything contained in this Act, in the case of an insured Co-operative Bank—

- <sup>5</sup>[(i) an order or approval to pass a resolution for winding up, amalgamation, division, compromise or transfer of assets and liabilities of the bank shall not take effect unless previous sanction therefor has been accorded in writing by the Reserve Bank of India.]
- (ii) an order for winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances mentioned in Section 13-D of the Deposit Insurance Corporation Act, 1961 (47 of 1961);
- (iii) if so required by the Reserve Bank of India in writing in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management thereof, the Registrar shall pass an order for the removal of the Committee of the Bank and for appointment of an Administrator for such period, not exceeding five years in the aggregate, as may, from time to time, be specified by the Reserve Bank:  
<sup>1</sup>[x x x]
- (iv) no appeal, revision or review shall lie against an order referred to in Clauses (i), (ii) or (iii), made or passed with the previous sanction in writing or on the requisition of the Reserve Bank of India and no such order or sanction shall be liable to be called in question in any manner;
- (v) the liquidator of the insured Co-operative Bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961 (47 of 1961), in the circumstances, to the extent and in the manner provided in Section 21 of that Act.

*Explanation :—* for the purposes of this Section—

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- 1. Substituted by the Orissa Act 23 of 1994.
  - 2. Substituted by the Orissa Act 11 of 2004.
  - 3. Inserted by the Orissa Act 28 of 1991.

thereof may be paid;

- (j) the mode in which the value of a deceased member's share shall be ascertained;
- (k) the election of members of Committee by the general body of a Society and election of a preliminary Committee by the applicants for the registration of the Society to conduct the affairs of the Society for certain period;
- (l) the requisitioning of a general meeting of a Society;
- (m) the remuneration payable to a new Committee or, Administrators appointed in place of a Committee removed by the Registrar;
- (n) the qualification of employees of Societies;
- (o) the prohibition against officers of a Society being interested in contracts with the Society;
- (p) the matters connected with the direct and indirect partnership of the State Government in Societies;
- (q) the rate at which dividend may be paid by Societies;
- (r) the payment to be made to the 'Co-operative Education Fund', by a Society out of its net profits and the mode of its investment;
- (s) the mode of investment of funds of a Society;
- (t) the objects of the reserve fund of a Society and mode of its investment;
- (u) the mode of disposal of reserve fund of a Society on its winding up;
- (v) the extent and conditions subject to which a Society may receive deposits and loans;
- (w) the restrictions on transactions by a Society with non-members;
- (x) the restrictions on grant of loans by a Society against its shares;
- (y) the form and standards of fluid resources to be maintained by Societies accepting deposits and granting cash credits;
- (z) the levy of audit fees on Societies;
  - (aa) the procedure to be followed in proceedings before the Registrar, Arbitrator or other person deciding disputes;
  - (bb) the conditions subjects to which assets of a Society shall vest in a liquidator and the procedure to be adopted in winding up of Society;
  - (cc) the procedure for recovery of amounts due or payable to Society;
  - (dd) the mode of making attachment before judgement;
  - (ee) the procedure for the distraint and sale of property mort-

11 of 1952) is hereby repealed.

## **SCHEDULE – <sup>1</sup>[I]**

[See Section 103 (4)]

**1. Application to set aside sale :—** (1) When immovable property has been sold by the <sup>1</sup>[Registrar] under Clause (c) of Sub-Section (1) of Section 103, any person owing such property or holding an interest therein or when the property sold has been mortgaged to the <sup>2</sup>[State Co-operative Agricultural and Rural Development Bank] or a <sup>2</sup>[Co-operative Agricultural and Rural Development Bank,] any person entitled to a notice under Section 91, may, within thirty days of the date of the sale, apply to the <sup>1</sup>[Registrar] to have the sale set aside on his depositing with him :—

- (a) for payment to the purchaser as compensation a sum equal to five per centum of the purchase money;
- (b) for payment to the State Government, the Society, the <sup>2</sup>[State Co-operative Agricultural and Rural Development Bank] or the <sup>2</sup>[Co-operative Agricultural and Rural Development Bank] or the liquidator in consequence of whose application the sale was held, the amount specified in the proclamation of sale for the recovery of which the sale was ordered to be held together with interest thereon and the expenses of attachment, if any, and sale and other costs due, in respect of such amount less any amount which may since the date of such proclamation have been received by the State Government, the Society, the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank], the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] or the liquidator, as the case may be.

(2) At any time within thirty days from the date of sale of immovable property, under Section 103 the Society, the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] or the liquidator at whose instance the sale was held, or any person entitled to share in ratable distribution of assets or whose interests are affected by the sale, apply to the <sup>2</sup>[Registrar] to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it:

Provided that no sale shall be set aside on the ground of irregularity, mistake or fraud, unless, upon the facts proved, the <sup>2</sup>[Registrar] is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(3) The purchaser at any such sale may also, within the period of thirty days from the date of sale, apply to the <sup>2</sup>[Registrar] to set aside the sale, on the ground that the person from whom the sum is recoverable under the award,

person whose property was sold or to his successor-in-interest.

(2) All payments of such residue made in accordance with Sub-Paragraph (1) shall be valid and effectual against any demand relating thereto, made by any person upon the Auditor-General or the Society, the <sup>4</sup>[State Co-operative Agricultural and Rural Development Bank] or the <sup>4</sup>[Co-operative Agricultural and Rural Development Bank] or the liquidator, as the case may be, in consequence on whose application the sale was held.

**5. Certificate of sale :-** (1) When the sale is confirmed under Paragraph 2, the <sup>3</sup>[Registrar] shall on application grant a certificate in the prescribed form specifying who, at the time of the sale, is declared to be the purchaser and such certificate shall bear the date on which the sale was made absolute.

(2) The <sup>3</sup>[Registrar] shall send a copy of every certificate granted under Sub-Paragraph (1) to the registering officer appointed under the Indian Registration Act, 1908 (16 of 1908), within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situated and notwithstanding anything contained in the said Act, such registering officer shall enter the contents of such copy in his register of non-testamentary documents relating to immovable property.

(3) Notwithstanding anything contained in the Orissa Tenancy Act, 1913 (Bihar and Orissa Act 2 of 1913), the purchaser of any immovable property, sold under Section 103 shall, if the property sold or any portion of it is an occupancy holding or part of an occupancy holding to which the said Act applies, file along with his application for grant of certificate under Sub-Paragraph (1) a notice giving particulars of the transfer in the forms prescribed under the said Act and deposit the fee as prescribed therein for the service of it and the <sup>1</sup>[Registrar] shall thereupon transmit the notice to the Collector who shall cause it to be served on the landlord in the manner prescribed under the said Act.

**6. Delivery of property to purchaser :-** (1) When the immovable property sold is in the occupancy of the persons, whose right, title and interest in the property have been sold, or of some person on behalf of such person or mortgagor, or of some person claiming under a title created by such person subsequently to the attachment of such property other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the <sup>1</sup>[State Co-operative Agricultural and Rural Development Bank] or the <sup>1</sup>[Co-operative Agricultural and Rural Development Bank] as the case may be, and a certificate in respect thereof has been granted under Paragraph 5, the <sup>1</sup>[Registrar] granting the certificates shall on the application of the purchaser or delivery to be made by putting such purchaser or any person, whom he may appoint to receive delivery on his behalf, in possession of the property and if need be, removing any person who refuses to vacate the same.

(2) Where the property sold is in the occupancy of a tenant or other

(6) All Co-operative Organisations, in order to best serve the interest of their members and their communities, shall actively co-operate in every practical way with other Co-operatives at local, national and international levels having as their aim the achievement of unity of action by co-operators throughout the world.

### **SCHEDULE – III**

[See Sub-Section (3-a) of Section 28-A]

#### **1. The following shall constitute “corrupt practices” namely :—**

(1) “Bribery” that is to say—

- (A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his agent, of any gratification, to any person whomsoever with the object of directly or indirectly inducing—
  - (a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election; or
  - (b) an elector to vote or refrain from voting at an election or as a reward, to—
    - (i) a person for having so stood or not stood or for having withdrawn or not having withdrawn his candidature; or
    - (ii) an elector for having voted or refrained from voting;
- (B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—
  - (a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate; or
  - (b) by any person whomsoever for himself or any other person for voting, or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

*Explanation :—* For the purposes of this clause, the term “gratification” is not restricted to pecuniary gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses *bonafide* incurred, at or for the purpose of, any election and duly entered in the account of election expenses.

(2) Undue influence, that is to say any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that without prejudice to the generality of the provisions of this

ance of the prospects of election of a candidate, by the Election Officers, or any person appointed to perform any duty, in connection with the election, or endeavour on the part of any such person to—

- (a) persuade any person to give his vote, or dissuade him from giving his vote at an election; or
- (b) influence the voting of any person at an election in any manner.

2. "Prohibited Act" shall mean—

- (i) canvassing for, or soliciting the vote of any elector, or persuading such elector not to vote at the election, or not to vote for any particular candidate; and
- (ii) exhibition of any notice or sign, other than an official notice, relating to the election by any person on the date of poll at any place of polling or any public or private place within one hundred metres of such place of polling.

3. The following shall constitute "Disorderly conduct", namely :—

- (i) use or operation of loudspeaker and other voice amplifying or reproducing devices; or
- (ii) shouting or acting otherwise, in a manner disturbing the tranquillity and order at a place of polling or any public or private place within the periphery of such place of polling so as to cause annoyance to, or to interfere with any person, visiting the place of polling or on election duty.

4. The following shall constitute "Misconduct", namely :—

- (i) disobedience of the lawful directives of the Chief Electoral Officer or the Election Officer or any other person authorised by the Chief Electoral Officer or Election Officer in regard to the Election; and
- (ii) acts, designed to influence or disturb or actually influencing or disturbing any process of election at, or within the periphery of, the place of election.

## **APPENDIX I**

Provisions of the Orissa Co-operative Societies (Amendment) Act, 1967 (Orissa Act 31 of 1967), not incorporated in the original Act.

### **4. Repeal and Savings :— (1)**

x      x   x           x           x           x

(2) Notwithstanding such repeal anything done, any action taken, any rules made or any notification issued in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done, action was taken, rules were made or notification was issued.

