

West Bengal Act XXXVIII of 1973

THE WEST BENGAL CO-OPERATIVE SOCIETIES ACT, 1973.

[*Passed by the West Bengal Legislature.*]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 25th September, 1973.]

[25th September, 1973.]

An Act to consolidate and amend the law relating to co-operative societies in West Bengal.

WHEREAS it is necessary and expedient to make further provisions to give a healthy impetus and a sense of purpose to the co-operative movement in the State, to promote thrift, self-help and mutual aid amongst people with needs and interests in common, to provide for clean, devoted and efficient management of, and infuse a new life into, the co-operative societies in the State, to diversify their activities and put them on sound financial footing, to generate employment, to increase production in all sectors of life including agriculture and industry, and above all, to bring about economic and social regeneration including better and happier conditions of living for the weaker sections of the community, and for that purpose, to consolidate and amend the law relating to co-operative societies in West Bengal;

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the West Bengal Co-operative Societies Act, 1973.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint:

(Chapter I.—Preliminary.—Section 2.)

Provided that while appointing such date the State Government may declare that any provision to be specified in the declaration shall not come into force from the date so appointed, and in that case such provision shall come into force from such date or dates as the State Government may specifically appoint in that behalf.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) “administrator” means a person appointed by the State Government or the Registrar under section 26 to manage the affairs of a co-operative society;
- (b) “apex society” means a co-operative society whose area of operation extends to the whole of the State and the primary object of which is the promotion of the objects, and the provision of facilities for the operation, of other co-operative societies which are its members;
- (c) “arbitrator” means a person appointed under clause (c) of sub-section (1) of section 87 to decide any dispute referred to him;
- (d) “audit officer” means a person authorised under section 79 by general or special order to audit the accounts of a co-operative society;
- (e) “by-laws” means the by-laws registered or deemed to have been registered under this Act, and includes a registered amendment of the by-laws;
- (f) “central co-operative bank” has the same meaning as in the Reserve Bank of India Act, 1934;
- (g) “central co-operative land development bank” means a co-operative society, the objects of which include the creation of funds out of which money is to be lent to co-operative land development banks and to persons admitted to membership of the central co-operative land development bank in accordance with its by-laws;
- (h) “central society” means a co-operative society the primary object of which is to facilitate the working of other co-operative societies which are its members;

2 of 1934.

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- (i) “consumers’ co-operative society” means a co-operative society, the primary object of which is to supply consumer goods and to render such other services to its members as may be required in respect of supplying and production of consumer goods, and includes a federation of such societies;
- (j) “co-operative farming society” means a co-operative society, which has, as its principal object, the organised cultivation of the lands held by the society or its members, jointly by the members or otherwise, with a view to increasing agricultural production and employment by proper utilisation of land, labour and other resources;
- (k) “co-operative land development bank” means a co-operative society, the objects of which include the creation of funds out of which money is to be lent to members on long term upon mortgage of the immovable property for improvement of agricultural land and for other productive purposes;

Explanation.—In this clause,—

- (1) “long term” means a period above five years,
- (2) “productive purpose” means any effort, activity or construction to increase the productivity of agricultural land and includes—
 - (i) construction or repair of wells, tubewells, tanks and other works (including subsequent addition or alteration thereto) for storage, supply or distribution of water for the purpose of agriculture including irrigation or for the use of men and cattle employed in agriculture,
 - (ii) preparation of agricultural or waste land to make it accessible to irrigation facilities,
 - (iii) construction or repair of drainage, reclamation of agricultural lands from rivers or tanks, or otherwise, steps for protection of agricultural lands from floods, erosion or damage,
 - (iv) promotion of horticulture,
 - (v) purchase of oil engines, pumping sets, electrical motors, tractors or any kind of agricultural machinery for agricultural or irrigation purposes,

(Chapter I.—Preliminary.—Section 2.)

- (vi) construction of permanent farm-houses, cattle sheds or sheds for storing or processing agricultural produce at any satge,
- (vii) purchase of machinery for crushing sugarcane, or for manufacturing *gur*, *khandsari* or sugar,
- (viii) purchase of agricultural land for the purpose of consolidation of existing agricultural holdings,
- (ix) such other purposes, as the State Government may, from time to time, by notification in the *Official Gazette*, declare to be productive purposes;
- (l) “co-operative society” means a co-operative society registered or deemed to be registered under this Act;
- (m) “co-operative society with limited liability” means a co-operative society having the liability of its members limited by its by-laws to the amount, if any, unpaid on the shares respectively held by them or to such amount as they may respectively thereby undertake to contribute to the assets of the society in the event of its being wound up;
- (n) “co-operative society with unlimited liability” means a co-operative society having, subject to its by-laws, an unlimited liability of its members to contribute jointly and severally in any deficiency in the assets of the society;
- (o) “co-operative year” means such period of twelve months as may be prescribed for keeping the accounts of a co-operative society;
- (p) “co-operative credit societies” means a co-operative society, the primary object of which is to create funds out of which money is to be lent to its members and includes credit union;
- (q) “dispute” means any matter capable of being the subject of civil litigation, and includes a claim in respect of any sum payable to or by a co-operative society, whether such claim be admitted or not;
- (r) “District Co-operative Union” means a co-operative society registered under this Act, having its area of operation extending to the whole of a district or a co-operative range, its primary object being to assist the State Co-operative Union in implementing its objects in the respective district or co-operative range;

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(s) “engineers’ co-operative” means a co-operative society formed of unemployed—

- (i) degree holders in any branch of engineering, technology, science, commerce, arts or agriculture,
- (ii) diploma holders in any branch of engineering, technology or agriculture,
- (iii) certificate holders in any industrial trades,

for their exclusive benefits, the percentage of degree and diploma holders in any branch of engineering or technology in the membership of the co-operative society, being not less than sixty *per cent.*;

(t) “financing bank” means a co-operative society, the objects of which include the creation of funds out of which money is to be lent to other co-operative societies;

(u) “industrial co-operative society” means a co-operative society, the objects of which include the manufacture of goods by or with the help of its members and the provision of supplies and services to them and also to small producers and entrepreneurs, and includes a co-operative society established with the object of facilitating the operation of such a society;

(v) “Inspector of Co-operative Societies” means a person appointed by that designation by the Registrar;

(w) “liquidator” means a person appointed under section 90 to wind up the affairs of a co-operative society;

(x) “managing committee” means the committee of management of a co-operative society constituted under section 23;

(y) “member” means a person joining in an application for registration of a society which is subsequently registered or a person admitted to membership of a society after its registration in accordance with this Act, the rules and the by-laws, and includes, subject to the provisions of section 59, a nominal and an associate member;

(z) “net profit” means profits after deduction of establishment charges, contingent charges, interest payable on loans and deposits, audit fees and such other sums as may be prescribed;

(z1) “officer” includes a president, vice-president, chairman, vice-chairman, secretary, joint secretary, assistant secretary, managing director, manager, deputy manager, assistant

(Chapter I.—Preliminary.—Section 2.)

manager, treassurer, member of a managing committee, auditor elected from among the members and any other person empowered under the rules or by-laws to give directions in regard to the business of a co-operative society; and also includes any officer of the Government deputed by the State Government or the Registrar under section 24 or any person appointed by the State Government or the Registrar under section 26 to manage the affairs of a co-operative society;

- (z2) “prescribed” means prescribed by rules made under this Act;
- (z3) “primary co-operative bank” has the same meaning as in the Reserve Bank of India Act 1934; 2 of 1934.
- (z4) “primary co-operative credit society” means a co-operative society the primary object of which is to create funds to be lent to its members;
- (z5) “primary society” means a co-operative society, the object of which is to promote the common interests of its members in accordance with the provisions of this Act, the rules and the by-laws;
- (z6) “Registrar” means a person appointed to perform the duties of Registrar of Co-operative Societies under this Act and includes any person appointed to assist the Registrar on whom all or any of the powers or duties of the Registrar referred to in section 10 have been or has been conferred or imposed under clause (a) of that section;
- (z7) “Reserve Bank” means the Reserve Bank of India established under the Reserve Bank of India Act, 1934;
- (z8) “rules” means rules for the time being in force made under this Act;
- (z9) “State co-operative bank” has the same meaning as in the Reserve Bank of India Act, 1934;
- (z10) “State Co-operative Union” means a co-operative society registered under this Act, having its area of operation extending to the whole of the State, and its primary objects being—
 - (a) to spread education on co-operative principles and practices,

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(Chapter 1.—Preliminary.—Section 3.)

- (b) to organise and promote new co-operative societies and to develop the existing co-operative societies in the State,
- (c) to propagate and publicise co-operative principles and ideas, and
- (d) to carry out other functions as may be prescribed;
- (z11) "Tribunal" means the Co-operative Tribunal constituted under section 133;
- (z12) "Trustee" means the person appointed to be a Trustee under sub-section (1) of section 34.

Ben. Act
XXI of
1940.

3. (1) The Bengal Co-operative Societies Act, 1940, is hereby repealed.

Repeal and
savings.

2 of 1912.

(2) Notwithstanding such repeal, anything done or suffered or any action taken (including any rule made, any transaction entered into, notification and notice issued with prospective and retrospective effect, order passed, appointment and registration made, suit and proceeding commenced, dispute decided or referred to arbitration, right or title accrued, or liability or obligation or penalty incurred) under the Co-operative Societies Act, 1912 or under the Bengal Co-operative Societies Act, 1940, shall, in so far as they are consistent with this Act, be deemed to have been done or taken under this Act, as if the provisions of this Act were in force at all material times when such thing was done or suffered or such action was taken.

(3) Every society existing at the commencement of this Act which has been registered or deemed to have been registered under the Co-operative Societies Act, 1912 or under the Bengal Co-operative Societies Act, 1940, shall be deemed to be registered under this Act; and its by-laws shall in so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded and shall to such extent be deemed to be registered under this Act.

4. All references to the Co-operative Societies Act, 1912, or to the Bengal Co-operative Societies Act, 1940, occurring in any enactment for the time being in force in West Bengal shall, in the application of any such enactment thereto, be construed as references to this Act; and anything done or any proceedings commenced in pursuance of any such enactment on or after the commencement of this Act shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act,

Construction
of references
to Act 2 of
1912 and
Ben. Act
XXI of 1940.

(Chapter I.—Preliminary.—Sections 5—8.

—Chapter II.—Registration.—Section 9.)

1912, or to the Bengal Co-operative Societies Act, 1940, had been a reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.

Ben. Act
XXI of
1940.

Act I of
1956 not to
apply.

5. The provisions of the Companies Act, 1956, shall not apply to co-operative societies.

Prohibition
of the use
of the word
“co-
operative”.

6. No person other than a co-operative society shall trade or carry on business under any name or title of which the word “co-operative” or its equivalent in any language is part:

Provided that nothing in this section shall apply to the use by any person or by his successor-in-interest of any name or title under which he lawfully traded or carried on business at the commencement of this Act.

Power to
exempt co-
operative
societies
from the
provisions of
the Act.

7. The State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification for reasons to be recorded—

- (a) exempt any co-operative society or class of such societies from the application of any of the provisions of this Act or of any rules made thereunder, or
- (b) direct that any of such provisions shall apply to such society or class of societies to such extent as may be specified in the notification:

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

Officers of
co-operative
societies to
be public
servants.

8. The officers of the co-operative societies shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

CHAPTER II

REGISTRATION

Appointment
of Registrar
and of
persons to
assist him.

9. The State Government may appoint a person to be Registrar of Co-operative Societies for West Bengal and may appoint persons to assist him.

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(Chapter II .— Registration.—Sections 10-12.)

10. Subject to the rules, the State Government may, by general or special order in this behalf, confer all or any of the powers, or impose all or any of the duties, entrusted to the Registrar by or under this Act, other than those specified in the First Schedule,—

Conferment
of powers of
Registrar.

- (a) upon any person appointed under section 9 to assist the Registrar; and
- (b) upon any co-operative society in respect of any other co-operative society which is a member of the co-operative society first mentioned.

11. (1) Subject to the provisions of this Act and of any rules, a society which has as its object the promotion of the common interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operation of such a society, including a society formed by the division of an existing co-operative society or amalgamation of existing co-operative societies, may be registered under this Act with or without limited liability.

Societies
which may
be registered.

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

12. (1) No society shall be registered, if the by-laws of such society permit admission, as member thereof, of a person carrying on transaction or business of the same kind or nature as carried on by such society.

Bar to
registration
of some
societies.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1),—

- (a) no credit society shall be registered, if the by-laws of such society permit admission, as member thereof, of a person who is a money-lender by profession,
- (b) no consumers society shall be registered, if the by-laws of such society permit admission, as member thereof, of a person who is a grocer by profession, and
- (c) no industrial society shall be registered, if the by-laws of such society permit admission, as member thereof, of a person who is carrying on his own account, or has interest in, any business of the kind carried on by such society.

(3) No society formed by a particular community, class or group of people for the promotion of the economic interests of such community, class or group of people exclusively, through specified activity or activities, shall be registered where its by-laws permit more than ten *per centum* of its members to be persons not to be directly benefited by such activity or activities.

(Chapter II.— Registration.—Sections 13-15.)

Application
for
registration.

13. (1) An application for registration of a society shall be made to the Registrar in the prescribed manner and shall be accompanied by two copies of the proposed by-laws; and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

(2) Where all the applicants are individuals, the number of applicants shall not be less than fifteen, at least twelve of whom must be persons belonging to twelve different families:

Provided that such restrictions shall not apply to engineers' co-operatives:

Provided further that for special reasons, the State Government may, on receipt of application for the purpose, permit registration of societies with lesser number of persons.

Explanation.—For the purpose of sub-section (2), “family” shall be deemed to consist of husband, wife, minor sons and unmarried daughters, dependent wife of predeceased son, if any, together with her minor sons and unmarried daughters, if any and husband's dependent parents.

(3) The State Government may, by rules, prescribe the extent to which a co-operative society may limit the number of its members.

(4) An application for registration of a society shall be disposed of by the Registrar within a period of three months from the date of receipt of such application by him.

(5) An application, which remains undisposed of after the expiry of the aforesaid period of three months, shall be deemed to have been refused by the Registrar.

Registrar to
decide
certain
questions.

14. The Registrar shall decide all questions as to whether the application complies with the provisions of this Act and the rules, and whether the objects of the society are in accordance with the provisions of sub-section (1) of section 11.

Registration.

15. (1) If the Registrar is satisfied that the application complies with the provisions of this Act and the rules and that the proposed by-laws are not contrary thereto, he shall, unless for reasons to be recorded in writing he thinks fit to refuse, register the society and its by-laws.

(2) Where the Registrar refuses to register a society, he shall communicate the order of refusal together with the reasons therefor, within fifteen days of the date of such order, to such of the applicants for registration as may be prescribed.

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(Chapter II .— Registration.—Sections 16-18.)

16. A certificate of registration signed by the Registrar shall be issued to the society and shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered under this Act and that its by-laws are as attached to the certificate, unless it is proved that the registration of the society has been cancelled or that the by-laws have been amended in accordance with section 17 or section 18.

Evidence of registration.

17. (1) No amendment of any by-law of a co-operative society, whether by way of addition, cancellation or alteration, shall be valid until such amendment has been registered under this Act.

Amendment of by-laws of a co-operative society.

(2) Every proposal for such amendment, framed in accordance with the rules, shall be forwarded to the Registrar, and if the Registrar is satisfied that the proposed amendment is not contrary to the provisions of this Act or the rules, he shall, unless for reasons to be recorded in writing he sees fit to refuse, register the amendment within a period of three months from the date of receipt of such proposal by him:

Provided that no order refusing to register the proposed amendment of the by-laws shall be made except after giving the co-operative society an opportunity of making its representations in the prescribed manner.

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

(4) If the Registrar refuses to register the proposed amendment of any by-law of a co-operative society, he shall, within fifteen days of the date of order of refusal, communicate to the society, by registered post, the order of refusal with the reasons therefor.

18. (1) If it appears to the Registrar that an amendment of the by-laws of a co-operative society is necessary or desirable in the interests of such society, the Registrar or any person authorised by him in writing may, of his own motion or on the application of a financing bank of which the society is a member and a debtor, call a special general meeting of the society in the prescribed manner to make the amendment within such time as he may specify.

Power of the Registrar to direct amendment of the by-laws.

(2) If the society fails to make the amendment within the time specified in sub-section (1), the Registrar may, after giving the society an opportunity of being heard and after consulting the financing bank, if any, of which the society is a member and a debtor, register the amendment and forward to the society a copy thereof, together with a certificate signed by him which shall be conclusive evidence that the amendment has been registered, and subject to appeal, if any, such amendment shall be binding upon the society and its members.

(Chapter III.—Status and management of co-operative societies.—Sections 19-21.)

CHAPTER III

STATUS AND MANAGEMENT OF CO-OPERATIVE SOCIETIES

Co-operative societies to be bodies corporate.

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

Final authority of a co-operative society.

20. (1) The final authority of every co-operative society shall vest in the general body of members in general meeting:

Provided that in such circumstances as may be prescribed, the final authority may vest in the delegates of such members, elected in the prescribed manner and assembled in general meeting.

(2) The general meeting shall be summoned and shall exercise its authority in such manner as may be prescribed.

General meeting.

21. (1) The general meeting of every co-operative society shall be held once at least in every co-operative year for the purpose of—

- (a) electing members of the managing committee, other than members nominated under section 28, and such other officers as may be provided in the by-laws;
- (b) approving the budget and the programme of activities of the society for the ensuing year prepared by the managing committee;
- (c) considering the audit report referred to in section 80, if received;
- (d) considering the report of inspection or of inquiry, if any, made under section 82 or section 84, as the case may be, and the annual statement of accounts in the prescribed form;
- (e) considering the cases of loans made to the members of the managing committee and their relatives, if any, and the cases of defaults, if any, in respect of such loans; and
- (f) considering any other matter which may be brought forward in accordance with the by-laws.

(2) Such meeting shall be held not more than fifteen months after the date of the last preceding meeting held under sub-section (1).

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(Chapter III.—Status and management of co-operative societies.—Section 22.)

(3) On the failure of the managing committee of the society to call the general meeting within the aforesaid period of fifteen months, the Registrar shall call, or authorise any of his officers to call, a general meeting within a period of three months from the date of expiry of the aforesaid fifteen months, without prejudice to the penal measures, that may be taken under this Act against the members of the managing committee for not holding the general meeting within such period as required under sub-section (1) and sub-section (2).

(4) Notwithstanding anything contained in sub-section (1), sub-section (2) and sub-section (3), the State Government may, in special circumstances, permit the Registrar to call the general meeting even after the expiry of 18 months, from the date of the last preceding meeting held under sub-section (1).

(5) The managing committee of the co-operative society shall place before each general meeting, for the information of the general body of members, a statement disclosing therein—

- (a) loans, if any, sanctioned to members of such committee and their relatives during the preceding year,
- (b) up to date total amount of pending loans, if any, payable by the members of such committee and their relatives to such society, and
- (c) details of defaults in payment, if any, made by such members and relatives in respect of the loans referred to in clause (b),

and the members present at such general meeting may direct such action, as may be deemed necessary in the interest of such society, for recovery of the aforesaid loans, if any, from such members and relatives.

(6) If the audit report referred to in clause (c) of sub-section (1) is not received before the general meeting, the same may be considered at a special general meeting to be held within three months from the date of receipt of the audit report.

22. (1) A special general meeting may be called at any time by a majority of the members of the managing committee and shall be called— Special
general
meeting.

- (a) on the requisition in writing of one-third of the members of any co-operative society having not more than five hundred members or of one-fifth of the members of any other society; or
- (b) at the instance of the Registrar:

Provided that, in the case of any society having more than one thousand five hundred members, a requisition under clause (a) may be presented by delegates elected in the prescribed manner:

(Chapter III.—Status and management of co-operative societies.—Section 23.)

Provided further that the agenda of a special general meeting, referred to in this sub-section, shall not include any of the matters mentioned in clauses (a), (b) and (d) to (f) of sub-section (1) of section 21.

(2) The Registrar, or any person authorised by him in this behalf by special order in writing, may call a special general meeting of a co-operative society at any time, and shall call such a meeting upon failure of the managing committee of the society to call a meeting on a requisition by the members or at the instance of the Registrar under sub-section (1).

(3) Notwithstanding any rule or by-law prescribing the period of notice for, and the method of summoning, a special general meeting, the Registrar, in the case of a meeting called at his instance under sub-section (1), or the person calling the meeting in the case of a meeting called under sub-section (2), may specify the time and place for such meeting, the manner in which it shall be summoned and the matter which shall be discussed thereat.

Management
of
co-operative
society.

23. (1) The management of every co-operative society shall vest in a managing committee constituted in accordance with the rules and by-laws, which shall exercise such powers and perform such duties as may be conferred or imposed, respectively, by this Act, the rules and the by-laws.

(2) No person, who has been, or but for voluntary resignation could have been, a member of a managing committee of a co-operative society for consecutive three terms or three years, whichever is less, shall be eligible for being a member of the managing committee of the said society through re-election or by appointment or co-option within a period of two years from the date of his retirement or voluntary resignation, as the case may be:

Provided that nothing in this sub-section shall apply in the case of a nominee of the State Government or an additional director appointed by the Registrar, on the managing committee of a co-operative society.

(3) No member of the managing committee of a co-operative society shall receive any emoluments or allowances or honoraria without specific sanction of the Registrar and the general body of members given at a general meeting:

Provided that in any industrial co-operative society composed mainly of artisans or workmen, or in any transport co-operative society composed mainly of workers employed in any transport undertaking, industry or business, or in any labour co-operative society composed mainly of persons who live on manual labour, or in any engineers' co-operative society,

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(Chapter III.—Status and management of co-operative societies.—Section 23.)

a member in receipt of salary or wages from the society, may, with the approval of the Registrar, be a member of the managing committee of such society, and such member of the managing committee may continue to receive such salary or wages.

(4) No member of any co-operative society shall be eligible for being chosen as, or for being, a member of the managing committee of such society or of any other society to which such society is affiliated, if such member—

- (a) has been adjudged by a competent court to be insolvent or of unsound mind;
- (b) is concerned or participates in the profits of any contract with the society;
- (c) has been punished with imprisonment for an offence involving moral turpitude;
- (d) holds any office or place of profit under the society:

Provided that in an industrial co-operative society composed mainly of artisans, or workmen, or in a transport co-operative society composed mainly of workers employed in any transport undertaking, industry or business or in any labour co-operative society composed mainly of persons who live on manual labour, or in any engineers' co-operative society, a member in receipt of salary or wages from the society, may, with the approval of the Registrar, be a member of the managing committee;

- (e) has been a member of the society for less than twelve months immediately preceding the date of such election or appointment:

Provided that nothing in this clause shall apply in the case of a member of a labour co-operative society composed mainly of persons who live on manual labour;

- (f) has interest in any business of the kind carried on by the society of which he is a member;
- (g) who has taken loan or goods on credit from the society of which he is a member, or is otherwise indebted to such society, has defaulted—
 - (i) in repayment of such loan or debt or in payment of the price of the goods taken on credit, as the case may be, within the date fixed for such repayment or payment or where such date is extended, within the extended date (such extension not to exceed ninety days), or

(Chapter III.—Status and management of co-operative societies.—Section 23.)

- (ii) where such loan or debt or the price of the goods taken on credit is to be paid in instalments, in payment of any instalment,

and the amount in default or any part thereof has remained unpaid on the expiry of ninety days on and from the date of such default:

Provided that the aforesaid bar on the ground of default shall cease to exist, immediately after the amount in default is paid in full.

(5) A member shall not be eligible for being chosen a member of the managing committee of—

- (a) an apex society or a central society, if he is a member of the managing committee of two other such societies, or
- (b) any other co-operative society, if he is a member of the managing committee of five other co-operative societies.

(6) A member of the managing committee of a co-operative society shall cease to hold office if he becomes subject to any of the disqualifications mentioned in sub-section (4) and sub-section (5), and if in spite of such cessation of membership, any person refuses to vacate his office, the Registrar shall, by an order in writing, remove him from such office, and any such refusal shall be deemed to be a contravention of the provisions of this Act.

(7) The chairman or the secretary or any member of the managing committee of a co-operative society, who has taken loan or goods on credit from such society or is otherwise indebted to such society, shall, on his making default—

- (a) in repayment of such loan or debt or in payment of the price of the goods taken on credit, as the case may be, within the fixed date of repayment or payment, or where such date is extended, within the extended date (such extension not to exceed ninety days), or
- (b) where the loan or debt or the price of the goods taken on credit is to be paid in instalments, in payment of any instalment,

and on such amount in default or any part thereof remaining unpaid on the expiry of ninety days on and from the date of such default—

- (i) cease to be the chairman, secretary or member, as the case may be, and shall be deemed to have vacated his office, and on and from the date of such cessation shall not attend any meeting of such managing committee or otherwise participate in the management of the affairs of such society, and

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- (ii) be disqualified for being member of the managing committee of any other co-operative society through election or by appointment or co-option till the amount in default is paid in full.

(8) If in spite of cessation of office under circumstances mentioned in sub-section (7), the chairman, the secretary or a member of the managing committee of a co-operative society refuses to vacate his office, the Registrar shall, by an order in writing, remove him from such office and any such refusal shall be deemed to be a contravention of the provisions of this Act.

(9) (a) Where a primary society which has taken loan or goods on credit from a central society or is otherwise indebted to a central society, defaults—

- (i) in repayment of such loan or debt or in payment of the price of the goods taken on credit, as the case may be, within the date fixed for such repayment or payment, or where such date is extended, within the extended date (such extension not to exceed ninety days), or
- (ii) where such loan or debt or the price of the goods taken on credit is to be paid in instalments, in payment of any instalment,

and the amount in default or any part thereof remains unpaid on the expiry of ninety days on and from the date of such default, the member or members of the managing committee of such central society representing such defaulting primary society, if any, shall immediately cease to be member or members of the managing committee of such central society and shall be deemed to have vacated his or their office, and on and from the date of such cessation shall not attend any meeting of such managing committee or otherwise participate in the management of the affairs of such central society.

(b) All members of such defaulting primary society referred to in clause (a) shall be disqualified for being members, through election, or by appointment or co-option, of the managing committee of any central society as representatives of such defaulting primary society, till the amount in default referred to in clause (a) is paid in full.

(10) If in spite of the cessation of office under circumstances mentioned in clause (a) of sub-section (9), the member or members of the managing committee of such central society representing such defaulting primary society refuses or refuse to vacate his or their office, the Registrar shall, by an order in writing, remove him or them from such office, and any such refusal shall be deemed to be a contravention of the provisions of this Act.

(Chapter III.—Status and management of co-operative societies.—Sections 24, 25.)

(11) Any order of removal made by the Registrar under sub-section (6), sub-section (8), or sub-section (10) is not liable to be called in question in any court of law.

(12) Where, under any of the circumstances referred to in sub-section (6), sub-section (7), or sub-section (9), any casual vacancy occurs in the membership of the managing committee of a co-operative society, such vacancy shall be filled up in such manner, within such time and for such period as may be prescribed.

Power to depute Government officers to manage affairs of a co-operative society.

24. The State Government may, on the application of a co-operative society supported by a resolution of the managing committee or the general body of members of the society or on the recommendation of the Registrar and on such conditions as may be prescribed, depute a Government officer to the service of the society for the purpose of managing its affairs, and the officer of the Government so deputed shall exercise such powers and perform such duties as may be prescribed:

Provided that the Registrar may, on the application of a co-operative society supported by a resolution of the managing committee or the general body of members of the society or of his own motion, depute a Government officer, in respect of whom he is the appointing authority, to the service of the society for the aforesaid purposes, and the officer of the Government so deputed shall exercise such powers and perform such duties as may be prescribed.

Dissolution and reconstitution of managing committee.

25. (1) If the Registrar is satisfied, for reasons to be recorded by him in writing, that the managing committee of a co-operative society is mismanaging its affairs, he may, under clause (b) of sub-section (1) of section 22, direct that, within such time as he may determine, a special general meeting of the society shall be held to dissolve and reconstitute the managing committee.

Explanation.—In this sub-section, the expression “mismanaging its affairs” includes wilfully disobeying or wilfully failing to comply with any lawful order or direction issued by the State Government or the Registrar.

(2) In any direction given under sub-section (1), the Registrar may, for reasons to be recorded by him in writing, order that all or any of the members of the outgoing managing committee shall, for such period not exceeding three years as he may determine, be disqualified for election or appointment as an officer of the society.

(3) If the managing committee is not dissolved and reconstituted within the time determined, and in such manner as may be directed by the Registrar under sub-section (1), the Registrar may, by order, dissolve

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the managing committee, and members thereof shall forthwith vacate their offices, and the Registrar shall thereupon appoint a managing committee with the nominees, if any, of the State Government on the managing committee which has been dissolved and with such members of the co-operative society as he thinks fit, to manage the affairs of the co-operative society for such period not exceeding one year, and to arrange for the constitution of a new managing committee by such date as the Registrar may determine.

(4) An order under sub-section (3) shall be in writing, shall set forth the reasons for which they are made, and shall be made only after an opportunity has been given to the defaulting managing committee to state its objections, if any, thereto.

26. (1) If, in the opinion of the Registrar,—

- (a) the managing committee of any co-operative society—
 - (i) has persistently made defaults, or has been grossly negligent, in the performance of the duties imposed on it by this Act or the rules or by-laws, or
 - (ii) has committed any act which is prejudicial to the interest of such society or other co-operative societies, or
 - (iii) has wilfully disobeyed or wilfully failed to comply with any lawful order or direction issued by the State Government or the Registrar; or
- (b) the affairs and business of a co-operative society have, due to persistent default or negligence in the performance of duties on the part of the members of the managing committee or a section thereof, or otherwise, come to a standstill,

Dissolution
of managing
committee
and appoint-
ment of adminis-
trator.

the Registrar may, after service of a notice upon such committee and giving such committee an opportunity of being heard, by an order in writing stating reasons therefor, dissolve such committee, the members of which shall forthwith vacate their offices and the Registrar shall appoint one or more administrators to manage the affairs of such society for such period not exceeding two years at a time as may be specified in the order and may also by an order in writing extend the period, so, however, that the total period shall not exceed five years:

Provided that if, on receipt of a report from the Registrar, the State Government is of opinion that in view of one or more of the aforesaid circumstances immediate dissolution of the managing committee of a co-operative society is essential in the interest of such society or the co-operative movement in general, the State Government may, without

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giving such committee any notice, by notification in the *Official Gazette* giving reasons therefor, dissolve such managing committee the members of which shall forthwith vacate their offices, and the State Government shall appoint one or more administrators to manage the affairs of such society for such period not exceeding two years at a time as may be specified in the order and may also by order extend the period, so, however, that the total period shall not exceed five years:

Provided further that no such step towards immediate dissolution of any central bank or co-operative land development bank, or the West Bengal central co-operative land development bank, or the West Bengal State co-operative bank shall be taken by the State Government without consultation with the Reserve Bank.

(2) When the Registrar issues a notice upon a co-operative society under sub-section (1), he shall depute an officer of the State Government to the service of such society in connection with the management of its affairs, and the officer of the State Government so deputed shall exercise such powers and perform such duties as the Registrar may specify, and the managing committee of such society shall allow such officer to discharge his duties accordingly.

(3) During the tenure of office of the administrator or administrators appointed under sub-section (1) or the proviso thereto,—

- (a) all properties of the co-operative society shall vest in the Registrar; and
- (b) subject to the control of the Registrar and notwithstanding the preferring of any appeal under section 134, such administrator or administrators shall exercise all the powers and perform all the duties which may, under this Act, the rules and the by-laws, be exercised or performed by the managing committee or any officer of the society.

(4) If at any time during the period, the administrator or administrators appointed by the State Government or the Registrar have been in office, it appears to the State Government or the Registrar, as the case may be, that it is no longer necessary to carry on the affairs of such a society in the manner as aforesaid, the State Government or the Registrar, as the case may be, may, by order in writing giving reasons therefor, direct the administrator or administrators to arrange for the constitution of a new managing committee for such co-operative society in accordance with the by-laws of such society, and immediately on the constitution of such managing committee, the administrator or administrators shall hand over the management of such society to such newly constituted managing committee and cease to function.

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(5) The administrator or administrators shall, before the expiry of his or their term of office, arrange for the constitution of a new managing committee for such co-operative society in accordance with the by-laws of such society.

(6) An administrator or administrators appointed, under sub-section (1) or the proviso thereto shall hold office until the managing committee is reconstituted or such appointment is cancelled.

(7) In cases where an administrator or administrators have been appointed under sub-section (1) or the proviso thereto, the Registrar shall, by an order, fix the remuneration of the administrator or administrators, as the case may be, and the remuneration so fixed shall be paid out of the funds of the co-operative society whose affairs are managed by such administrator or administrators.

(8) Any action taken by the Registrar or the State Government under sub-section (1) shall not be called in question in any Civil Court or High Court.

27. (1) Notwithstanding anything contained in the by-laws of a co-operative society, the Registrar or any person authorised by him in writing in this behalf may, at any time, summon a meeting of the managing committee of any co-operative society, and the meeting so summoned shall be deemed to be a meeting called in accordance with the by-laws of the co-operative society and shall have the power to transact all business which can be transacted at a meeting of the managing committee under the by-laws of the co-operative society and such other business as may be specifically mentioned by the Registrar or the person so authorised.

Summoning of meetings of a co-operative society, and suspending or rescinding resolutions thereof.

(2) The State Government may, by order for reasons to be recorded in writing, rescind any proceeding or resolution of any general meeting of a co-operative society or of any meeting of the managing committee thereof which it considers to be not in conformity with the provisions of this Act or the rules or with any order validly issued by the State Government or by the Registrar, and may do all things necessary to secure such conformity, or may suspend any resolution which it considers likely to adversely affect the interest of any society or members thereof or of the co-operative movement in general.

(3) The Registrar may, by order in writing, suspend the execution of any resolution or order of the managing committee of a co-operative society or of its chairman, or prohibit the doing of any act which is about to be done, or is being done, in pursuance, or under cover, of this Act

(Chapter III.—Status and management of co-operative societies.—Section 28.)

or any rule or by-law, if, in his opinion, the resolution, order or act, as the case may be, is in excess of the powers conferred by this Act, or the execution of the resolution or order, or the doing of the act, is likely to prejudice the material interest of the co-operative society or the members thereof or of the co-operative movement in general.

(4) When the Registrar makes any order under sub-section (3), he shall forthwith forward a copy thereof stating the reasons for making it to the State Government, and the State Government may thereupon rescind such order or direct that the order may continue in force with or without modification, permanently or for such period as the State Government thinks fit.

Nomination
by the State
Government
on the
managing
committee of
a co-opera-
tive society
and reserva-
tion of seats
thereon.

28. (1) Where the State Government has—

- (a) subscribed to the share capital of a co-operative society, or
- (b) assisted indirectly in the formation or augmentation of the share capital of such society, or
- (c) guaranteed the principal and interest in respect of debentures issued by such society, or
- (d) guaranteed the principal and interest in respect of loans and advances to such society, or
- (e) assisted such society with loans or grants from out of its own funds,

the State Government, or any authority specified by the State Government in this behalf, shall have the right to nominate on the managing committee of such society not more than three members or one-third of the total number of elected members of such committee, whichever is less.

(2) The State Government may, by notification in the *Official Gazette* stating reasons therefor, provide for reservation of not more than one-fourth of seats on the managing committee of a co-operative society for such community, class or group of persons, which, in the opinion of the State Government, are socially, economically or educationally backward.

(3) The State Government may, by rules, provide for the manner in which such reserved seats are to be filled up.

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(Chapter IV.—Duties and obligations of co-operative societies.—Sections 29, 30.)

CHAPTER IV

DUTIES AND OBLIGATIONS OF CO-OPERATIVE SOCIETIES

29. (1) Every co-operative society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send notice in writing of every change thereof, within thirty days of such change, to the Registrar, to the financing bank, if any, and to the co-operative society of which the aforesaid co-operative society may be a member.

Address of co-operative society and keeping at such address copy of Act, etc., open to inspection, and appointment of persons in the service of such society.

(2) A co-operative society shall appoint persons, with such qualifications and training and with such conditions of service as may be prescribed, to help the society in the performance of its duties and in the discharge of its functions.

(3) The State Government may, by rules, prescribe the minimum number of persons to be appointed, and the books and registers to be maintained, by different classes of co-operative societies.

(4) Every co-operative society shall keep open to inspection, free of charge, at all reasonable times at the address of the society—

- (a) a copy of this Act;
- (b) a copy of the rules;
- (c) a copy of the by-laws of the society;
- (d) a register of members; and
- (e) such other documents as may be prescribed.

30. (1) All apex societies, district co-operative unions, co-operative societies having their areas of operation extending over more than one district, and other class or classes of co-operative societies, as may be prescribed, shall be required to be affiliated to the State Co-operative Union within such time, in such manner and on payment of such fees, as may be prescribed.

Affiliation to State and district co-operative unions.

(2) All co-operative societies, other than those specified in sub-section (1), shall be required to be affiliated to the respective district co-operative union within such time, in such manner and on payment of such fees, as may be prescribed.

(3) The affiliation referred to in sub-section (1) and sub-section (2) shall initially be for a period of two years and is renewable for such period, in such manner and on payment of such fees, as may be prescribed.

(Chapter IV.—Duties and obligations of co-operative societies.—Sections 31-34.)

Publication
of annual
balance-
sheet.

31. The balance-sheet authenticated by the audit officer shall be annually published by every co-operative society in the prescribed manner.

Restrictions
on borrow-
ing.

32. A co-operative society shall receive deposits and loans from persons who are not members, only to such extent and under such conditions as may be prescribed by the rules or by-laws, and shall, in respect of such deposits or loans, make such provision for the maintenance of fluid resource, as may be prescribed.

Power of
State
Government
to guarantee
principal and
interest on
debentures.

33. (1) In the case of any debentures or of any class or series or issue of debentures issued under this Act, the State Government shall—

(a) guarantee the principal thereof and the interest thereon, subject to such maximum amount of principal or such rate of interest and to such other conditions, as may be prescribed; and

(b) notwithstanding anything contained in the Indian Trusts Act, 1882, declare that such debentures shall be deemed to be included among the securities enumerated in section 20 of the said Act.

2 of 1882.

(2) Such debentures shall not be issued by a co-operative society save with the express authority of the State Government.

Issue of
guaranteed
debentures.

34. (1) When a co-operative society is authorised under the provisions of sub-section (2) of section 33 to receive loans by the issue of debentures, the principal of and interest on which is so guaranteed, the State Government shall appoint the Registrar or some other person to be the Trustee for the purpose of securing the fulfilment of the obligations of the society to the holders of the debentures.

(2) With the previous sanction of the Trustee and subject to such conditions as he may impose, a co-operative society may issue debentures of one or more denominations for such period as it may deem expedient on the security of the assets of the society, including any mortgages which it holds by acceptance, assignment or transfer.

(3) Such debentures may be issued subject to either or both of the following conditions, namely:—

(a) fixing a period, not exceeding thirty years from the date of issue, during which they shall be irredeemable,

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(Chapter IV.—Duties and obligations of co-operative societies.—Sections 35-37.)

(b) reserving to the society the right to call in at any time any previously issued debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice in writing, and may be subject also to any other conditions imposed by the Trustee.

(4) The total amount payable in respect of debentures issued by a society (including any debentures issued before the commencement of this Act) and outstanding at any time shall not exceed the total amount due on the mortgages, the amounts paid thereunder and remaining in the hands of the society or of the Trustee at such time and the value of all other assets of the society held by transfer or assignment subsisting at that time.

(5) Where a co-operative society has called in any debenture in advance of the date fixed for redemption, the society shall, subject to the previous permission of the Trustee, have the power to cancel the debenture and issue any new debenture in place of the debenture paid off or otherwise satisfied or extinguished or to reissue the debenture either by reissuing the same debenture or by issuing another debenture in its place; and by virtue of such reissue the person entitled to such debenture shall have, and shall be deemed to have always had, the same rights and priorities, if any, as if the debenture had not been previously issued.

35. The Trustee appointed under section 34 shall be a corporation sole by the name of the Trustee for the debentures in respect of which he is appointed, and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

Trustee to be a corporation sole.

36. (1) The powers and functions of the Trustee shall be governed by the provisions of this Act and the instrument of trust executed between the co-operative society and the Trustee.

Powers and functions of Trustee.

(2) The form of such instrument, and any modification which the parties thereto may mutually agree to make in any of its terms after its execution, shall be subject to the previous approval of the State Government.

37. Upon the issue of debentures under the provisions of sub-section (2) of section 34, the assets of the co-operative society, including any mortgages which it holds by acceptance, assignment or transfer, shall vest in the Trustee, and the holders of debentures shall have a floating charge on all such assets, including the amounts paid under such mortgages and remaining in the hands of the Trustee or the society, and on the properties of the society.

Debenture-holder's charge on assets.

(Chapter IV.—Duties and obligations of co-operative societies.—Sections 38, 39.)

Power of
State
Government
to give
financial
assistance.

38. Notwithstanding anything contained in any other law for the time being in force, the State Government may, subject to the rules,—

- (i) grant loans to, take shares in, or give financial assistance in any other form to, any co-operative society;
- (ii) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the State Government; and
- (iii) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society.

Restrictions
on lending.

39. (1) A co-operative society shall not make loans—

- (a) to any person other than a member; or
- (b) to a member in excess either of the maximum or of the normal credit determined by the society for that member in accordance with the rules, whichever may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make loans—

- (a) to any depositor on the security of its deposit, and
- (b) with the special sanction of the Registrar, to any other co-operative society against adequate security.

(3) When a primary agricultural credit society makes loan for any short or medium term, the managing committee of such society may require the borrower—

- (a) to accept a portion of the loan in agricultural inputs and implements from the agricultural marketing society to which such society may be affiliated,
- (b) to place at the disposal of such marketing society for sale, so much of the agricultural produce raised by the borrower from his lands during the twelve months immediately succeeding the date of the aforesaid loan, as will be sufficient to repay the loan or pay the due instalment or instalments, where the loan is to be repaid in instalments, and
- (c) to authorise such marketing society—
 - (i) to appropriate the sale proceeds or a part thereof, as is required, to satisfy such loan or due instalment or instalments, as the case may be,
 - (ii) to return the surplus amount, if any, to the borrower, and
 - (iii) to adjust accounts, in respect of the loan, with the aforesaid credit society, and

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(Chapter IV.—Duties and obligations of co-operative societies.—Sections 40, 41.)

- (iv) where the loan or all the instalments, where the loan is to be paid in instalments, is or are not fully satisfied by the sale proceeds of the borrowers' agricultural produce of the aforesaid period, to call upon and require the borrower to continue to place at the disposal of such marketing society the agricultural produce from his lands in such manner, at such place, at such time and in such quantities as such marketing society may think fit and just, till the loan or all the instalments, as the case may be, is or are fully satisfied from the sale proceeds thereof.

Explanation.—In this sub-section, “short term” means a period not exceeding eighteen months and “medium term” means a period exceeding eighteen months and extending up to five years.

(4) The State Government may, by general or special order, after giving any society likely to be affected thereby an opportunity of being heard, in such manner as may be prescribed, prohibit or restrict the lending of money on mortgage of immovable property by any society or class of societies other than a co-operative land development bank.

(5) The State Government may, at any time for reasons to be recorded in writing, issue directives to any co-operative society or class of co-operative societies to restrict, regulate or modify policies relating to the grant of loans in the manner specified in such directives or to take any other action considered necessary and expedient in the interest of such society or class of societies or of the co-operative movement in general.

(6) The State Government may modify or cancel any directions issued under sub-section (5), and in modifying or cancelling such directions may impose such conditions as it may deem fit.

40. Save as provided in sections 32 to 39 inclusive, and 49, the transactions of a co-operative society with persons other than members shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

Restrictions on other transactions with non-members.

41. Every officer and every member of a co-operative society shall furnish such information in regard to the transactions or working of the society as may be required of him by the Registrar or an audit officer, arbitrator, liquidator or any person conducting an inspection or inquiry under Chapter IX.

Liability to furnish information.

(Chapter V.—*Privileges of co-operative societies.—*
Sections 42-44.)

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

Change of
name and
its effect.

42. (1) With the previous approval of the Registrar, a co-operative society may, by a resolution passed at a general meeting, change its name.

(2) Such change of name shall not affect any right or obligation of the society or of any of its members, or past members, or of the estate of any of its deceased members; and any legal proceedings pending on the date of such change in which such society is a party may be continued by or against the society under its new name.

Change of
liability.

43. (1) Subject to the provisions of this Act and the rules, a co-operative society may, by an amendment of its by-laws, change the form or extent of its liability.

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, the society shall give notice thereof in writing in the prescribed manner to all its members and creditors and, notwithstanding any by-laws or contract to the contrary, any member or creditor shall, within one month of the service of the notice upon him, have the option of withdrawing his shares, deposits or loans. Any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(3) The change shall not take effect until either—

- (a) the assent thereto of all members and creditors has been secured; or
- (b) all claims of members and creditors who exercise the option referred to in sub-section (2) have been met in full.

Co-operative
society's
power to call
for statement
of claims.

44. (1) When a member of a co-operative society, which includes among its objects the advance of loans to its members, applies for a loan or when a person applies for membership of such a society, the society may in the prescribed manner serve a notice on any creditor named in the application or ascertained after subsequent inquiry, and may also publish a general notice on all creditors, requiring him or them, in the prescribed form and within the time specified in the notice, to furnish a written statement of his or their claim.

(2) When a member of a co-operative society, which includes among its objects the advance of loans to its members, intends to apply for a loan from any person other than the society, such member shall send to the society a notice in writing stating—

- (a) his intention to apply for such loan,

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*(Chapter V.—Privileges of co-operative societies.—
Sections 45-47.)*

- (b) the amount of the loan for which he intends to apply, and
- (c) the object of taking the loan.

Co-operative
society's
power to call
for notice of
suits or
proceedings
against
members.

45. A co-operative society which includes among its objects the advance of loan to its members, and the financing bank, if any, of which such society is a member, may, where revenue or loan or advance realisable as public demand is payable by any member of such society to the State Government, by a notice served in the prescribed manner upon the Collector, require the Collector to furnish to such society or the financing bank or both, notice of any suit or proceeding for recovery of arrears of revenue or loan or advance instituted or commenced, by him against such member.

Limitation.

46. Notwithstanding any of the provisions of the Limitation Act, 1963, the period of limitation for the institution of a suit to recover any sum, including interest thereon, due to a co-operative society by a member thereof or any other person having transaction with the society shall be computed from the date on which such member or the person concerned, dies, or ceases to be a member of, or as the case may be, closes transaction with, the society.

36 of 1963.

Debts due to
co-operative
societies to
be the first
charge.

47. (1) Notwithstanding anything contained in sections 60 and 61 of the Code of Civil Procedure, 1908, but subject to any claim of the State Government in respect of land revenue, or any sum recoverable as land revenue or as a public demand, or any claim of a co-operative land development bank in relation to a loan granted by it on the mortgage of immovable property for a period over five years, any debt or outstanding demand due to a co-operative society by any member, past member or the estate of any deceased member shall be a first charge—

5 of 1908.

- (a) if such debt or demand is due in respect of the supply of, or of any loan to provide the means of paying for, seed, manure, labour, subsistence, fodder for cattle or any other thing incidental to the conduct of agricultural operations,—upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable;
- (b) if such debt or demand is due in respect of the supply of, or of any loan to provide the means of paying for, irrigation facilities,—upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the

*(Chapter V.—Privileges of co-operative societies.—
Section 47.)*

date on which the last instalment of such supply or loan became repayable or upon the crops or agricultural produce of the land so provided with irrigation facilities;

- (c) if such debt or demand is due in respect of the supply of, or of any loan for the purchase of, cattle, agricultural implements or warehouses for the storage of agricultural produce,—in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouses thus supplied or purchased, wholly or in part, from any such loan;
- (d) if such debt or demand is due in respect of the supply of, or of any loan for the purchase of, raw materials, industrial implements, machinery, workshops, warehouses or business premises,—upon the raw materials or other things supplied or purchased by such member, past member or deceased member, wholly or in part, from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased, wholly or in part, from any such loan;
- (e) if such debt or demand is due in respect of any loan for the purchase or redemption of land,—upon the land purchased or redeemed by such member, past member or deceased member from any such loan; and
- (f) if such debt or demand is due in respect of any loan for the purchase or construction of any house or building or any portion thereof or in respect of the supply of materials for such construction,—upon the house or buildings so purchased or constructed by such member, past member or deceased member from any such loan or material.

(2) No property subject to a charge under sub-section (1) shall be transferred except with the previous permission, in writing, of the co-operative society which holds the charge.

(3) 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 (2) shall be void.

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*(Chapter V.—Privileges of co-operative societies.—
Section 48.)*

48. Notwithstanding anything contained in this Act or in any other law for the time being in force,—

Charge on immovable property of members borrowing from certain societies.

- (a) a member who makes an application for a loan to a co-operative society of which the majority of the members are agriculturists shall, if he owns any land or has interest in any land as a tenant, make, in such form as may be prescribed, a declaration that he thereby creates a charge upon such land or such interest, or such portion thereof, as may be specified in the declaration, for the payment of the loan which the society may make to the member on the application and of future loans, if any, that may be made to him, from time to time, by the society together with interest on such loan or loans;
- (b) a declaration made under clause (a) may be varied or cancelled at any time by the member making it, with the consent of the society in whose favour it is made;
- (c) any land or interest in land in respect of which a declaration has been made under clause (a) or any part of such land or interest, shall not be sold or otherwise transferred by the member making the declaration, until the entire amount of the loan or loans taken by the member from the society together with interest thereon is paid to the society;

Provided that nothing in this clause shall apply to any such part of such land or interest as may have been released from the charge created under this section under the proviso to clause (e);

- (d) any transfer made in contravention of clause (c) shall be void;
- (e) subject to any claim of the State Government in respect of land revenue or any sum recoverable as land revenue or as public demand, there shall be a first charge in favour of the society on the land or interest in land specified in the declaration made under clause (a), for and to the extent of the dues recoverable from the member making the declaration on account of the loan or loans made to him by the society;

Provided that if a part of such dues is paid by the member, the society may, on the application of the member and with the approval of the central bank to which it may be indebted, release from the charge such part of the land or interest in land specified in the declaration made under clause (a) as the society may, having due regard to the security of the outstanding amount of the loan or loans made to the member, deem proper.

*(Chapter V.—Privileges of co-operative societies.—
Section 49.)*

Levy of
water-rate and
embankment
protection
rate on non-
members.

49. (1) A co-operative society, an object of which is to provide irrigational facilities to the cultivable land of its members, may in the prescribed form apply to the Collector for demarcation of the area irrigable from any source of irrigation other than a tank which has, under section 4 of the Bengal Tanks Improvement Act, 1939, been declared to be a derelict tank.

Ben. Act XV
of 1939.

(2) Such area shall be termed the “irrigable area”.

(3) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared, in the prescribed form, by an officer subordinate to him, a map of the irrigable area and a statement of the cultivable lands included therein, and such map and statement shall be published in the prescribed manner.

(4) If the lands possessed by the members of such society comprise not less than sixty *per centum* of the cultivable lands included in the irrigable area, such society may, subject to rules made in this behalf, levy a water-rate upon any non-member of the society possessing within such area cultivable land which is benefited by the irrigational facilities referred to in sub-section (1).

(5) A co-operative society, an object of which is to provide embankment protection facilities to the lands of its members, may, in the prescribed form, apply to the Collector for demarcation of the area protected by any embankment.

(6) Such area shall be termed the “protected area”.

(7) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared in the prescribed form, by an officer subordinate to him, a map of the protected area and a statement of the lands included therein; and a copy of such map and statement shall be published in the prescribed manner.

(8) If the lands possessed by the members of such society comprise not less than sixty *per centum* of the lands included in the protected area, such society may, subject to rules made in this behalf, levy an embankment protection rate upon any non-member of the society possessing land within such area.

(9) Water-rate and embankment protection rate referred to in sub-section (4) and sub-section (8) respectively shall be recoverable in the manner provided in this Act for the recovery of sums due to the society by the members, past members and deceased members thereof.

(10) (a) A co-operative society, an object of which is agricultural farming on co-operative basis through consolidation of land holdings, may, in the prescribed form, apply to the Collector for demarcation of the area proposed to be brought under the land consolidation scheme.

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*(Chapter V.—Privileges of co-operative societies.—
Section 49.)*

- (b) Such area shall be termed “co-operative farming area” or “*samabay krishi kshetra*”.
- (c) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared, in the prescribed form, by an officer subordinate to him, a map of the co-operative farming area and a statement incorporating details of the cultivable lands included therein; and such map and statement shall be published in the manner prescribed.
- (d) If the lands possessed by the members of such society comprise not less than sixty *per centum* of the cultivable lands included in the co-operative farming area, such society may, subject to rules made in this behalf, direct the non-members to join the society, and such non-members shall thereupon, in such manner and within such time as may be prescribed, join the society.
- (e) If any non-member referred to in clause (d), after being called upon by the concerned society so to do, refuses to join the said society, the said society may apply to the Collector for acquisition of the lands owned or possessed by such non-member within the co-operative farming area, and if the Collector, after hearing the non-member and the members of the managing committee of the said society and after making such inquiry as he may think necessary, is of the opinion—
 - (i) that the aforesaid lands or a part thereof owned or possessed by the non-member are essentially necessary in the interests of the concerned co-operative farming scheme and the co-operative movement in general,
 - (ii) that but for such lands or part thereof, the said co-operative farming scheme is likely to fail, and
 - (iii) that the said society is in a position to pay compensation that may be awarded for acquisition of such lands or part thereof, under the Land Acquisition Act, 1894, he shall acquire such lands or part thereof in accordance with the provisions of the said Act and on the society's deposit of the required compensation in respect thereof, hand over possession of the same to the society, and such lands or part thereof shall thereupon vest in the said society. Acquisition of lands for the aforesaid purpose shall be deemed to be acquisition needed for public purpose within the meaning of section 4 of the said Act.

*(Chapter V.—Privileges of co-operative societies.—
Sections 50, 51.)*

- (f) In case of a co-operative society referred to in this sub-section, all lands, excluding homesteads, belonging to the members thereof and situated within the co-operative farming area, whether owned by them at the time when they become such members or acquired by them subsequently, shall vest in the society, and no member shall be entitled to hold in his personal capacity, in the said farming area, any cultivable land or any land which can be made cultivable.

Charge and set off in respect of share or interest of members.

50. A co-operative society shall have a charge upon the share or interest in the capital and the deposits of a member or a past or deceased member and upon any amount payable out of profits to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or of the estate of such deceased member to the society and may, subject to the provisions of sections 69 to 73 inclusive and of the rules and by-laws, set off any sum credited or payable to a member, past member or the estate of a deceased member in or towards the payment of any such debt:

Provided that no financing bank, of which a co-operative society is a member, shall have a charge upon any sum invested in the bank by the society out of its reserve fund, unless the bank is the sole creditor of the society, or be entitled to set off any sum credited or payable to the society towards the payment of any debt due from the society.

Deduction of dues to co-operative societies from salaries and gratuity of members and from salaries of sureties.

51. Notwithstanding anything contained in any other law for the time being in force,—

- (1) if a member of a co-operative society or a person having transaction with co-operative society, being in the employ of the Government or any local authority or any person, takes loan or purchases goods on credit from a co-operative society in terms of a written contract, providing therein that the loan or price for the goods are to be repaid or paid in instalments and that the society shall be entitled to recover such instalments from his salary or wages, the person who disburses any amount payable to such member or person as salary or wages in respect of such employment shall, on demand from the society,—

- (a) deduct the amount of such instalments from the amount to be disbursed to such member or person as salary or wages as often as is necessary until the loan is repaid or the price for the goods is fully paid, and

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*(Chapter V.—Privileges of co-operative societies.—
Section 51.)*

- (b) forthwith and not later than fifteen days from the date of deduction remit to the society the amount so deducted, for which the society shall issue a receipt;
- (2) such member or person as described in clause (1) may further provide in the written contract referred to in clause (1) that if he subsequently ceases to be an employee of the Government or any local authority or any person, as the case may be, the balance of the loan or the price for goods payable by him to the society shall be deductible from the gratuity payable to him by his employer, and where a written contract with such terms is executed and such member or person subsequently ceases to be an employee of the Government or such local authority or such person, as the case may be, his employer shall, on demand from the society from which such member or person referred to in clause (1) has taken loan or has purchased goods on credit,—
 - (a) deduct the balance of the loan or price for the goods, payable by such member or person to the society, from the gratuity payable by such employer to such member or person, and
 - (b) forthwith and not later than fifteen days from the date of deduction remit to such society the amount so deducted, for which the society shall issue a receipt;
- (3) where a member of a co-operative society or a person having transaction with co-operative society, being in the employ of the Government or any local authority or any person, stands, in terms of a written contract, surety for such member or person described in clause (1), such written contract may further provide that the person, who disburses any amount payable to such surety as salary or wages in respect of his employment, shall, in the event of non-realisation of the loan or the price for goods or any part thereof from such member or person and on demand from the society from which such member or person referred to in clause (1) has taken loan or has purchased goods on credit,—
 - (a) deduct the amount of any instalment of such loan or price for the goods, from the amount to be disbursed to such surety as salary or wages, as often as is necessary, until such loan is repaid or price for the goods is fully paid, and
 - (b) forthwith and not later than fifteen days from the date of deduction remit to such society the amount so deducted, for which the society shall issue a receipt;

(Chapter V.—Privileges of co-operative societies.—

Section 52.)

- (4) if on demand from the society, the person who disburses any amount payable to such member or person or the surety referred to in clause (1) and clause (3) respectively, does not make any remittance as required under clause (1) and clause (3), the employer of such member or person or the surety, as the case may be, shall be liable for payment thereof, and the amount recoverable on behalf of the society from such employer shall be deemed to be an arrear of land revenue.

Exemption from compulsory registration of instruments relating to shares and debentures of co-operative society and mortgage-deeds executed in favour of co-operative land development bank or primary society.

52. (1) Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Registration Act, 1908 shall apply to,—

16 of 1908.

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

(2) Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary to register the mortgage-deed in respect of a mortgage of immovable property executed in favour of a co-operative land development bank or a primary society, of which the majority of the members are agriculturists, for the purpose of securing the repayment of a loan:

Provided that the manager of, or any officer of the Government deputed by the State Government or the Registrar under section 24 to, such land development bank or where the mortgage has been executed in favour of a primary society, the manager of, or any officer of the Government deputed by the State Government or the Registrar under section 24 to, the central bank to which such society is affiliated, shall send, within such time and in such manner as may be prescribed, a copy of the mortgage-deed to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the immovable property is situate, and the Registering Officer shall file such copy in his Book No. 1 prescribed under section 51 of the Registration Act, 1908.

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*(Chapter V.—Privileges of co-operative societies.—
Section 53.)*

53. (1) The State Government may by general or special order in the case of any co-operative society or class of co-operative societies remit any tax, cess or fee payable under any law for the time being in force or the rules framed thereunder in respect of which the State Government is competent to remit such tax, cess or fee.

power to
remit certain
duties, fees,
etc., and to
grant
preference,
exemption
and
concession.

(2) In respect of any co-operative society or class of co-operative societies, the State Government may,—

- (a) by notification in the *Official Gazette*, remit—
 - (i) the stamp duty (other than stamp duties falling within entry 91 or entry 96 in List I in the Seventh Schedule to the Constitution), in respect of any instrument executed by, or on behalf of, or in favour of, a co-operative society or by an officer or on behalf of a member thereof and relating to the business of such society, in cases where, but for such remission, the co-operative society, officer or member thereof, as the case may be, would be liable to pay the stamp duty chargeable under any law for the time being in force in respect of such instrument, and
 - (ii) any fee payable by a co-operative society, under any law for the time being in force, for the registration of documents;
- (b) notwithstanding anything contained in any other law for the time being in force, by general or special order, grant—
 - (i) preference in the matter of settlement of lands and fisheries owned by the State Government,
 - (ii) preference in the matter of making purchases and fixing prices thereof,
 - (iii) preference in the matter of placing contracts for Government work without inviting open tenders,
 - (iv) exemption from deposit of earnest money required to be made along with submission of tenders for Government contract work,
 - (v) exemption from deposit of security money required to be made before being allowed to take up Government contract work for execution,
 - (vi) exemption from payment of licence fees, if any, required to be paid for dealing in any commodity, and

(Chapter V.—Privileges of co-operative societies.—Section 54.—Chapter VI.—Property and funds of co-operative societies.—Section 55.)

- (vii) any other preference, exemption or concession, as may be deemed fit and proper, in the interest of promotion of co-operative movement in the State.

Power of Registrar to sanction a compromise between a co-operative society and its creditors.

54. (1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a co-operative society and its creditor or creditors or any class of them, the Registrar, upon an application made in the prescribed manner by the society or by any creditor or, in the case of a society in respect of which an order has been passed for the winding up thereof, by the liquidator, may order a meeting of the creditors or the class of creditors, as the case may be, to be called, held and conducted in such manner as may be prescribed.

(2) If a majority in number of the creditors or the class of creditors, as the case may be, representing claims to three-fourths of the debts due by the society to the creditors or the class of creditors, present either in person or by proxy at the meeting, agree to any compromise or arrangement, such compromise or arrangement shall, if sanctioned by the Registrar, upon publication in the prescribed manner, be binding on all the creditors or the class of creditors, as the case may be, and also on the society or, in the case of a society in respect of which an order has been passed for the winding up thereof, on the liquidator and on all persons who have been or may be required by the liquidator under section 91 to contribute to the assets of the society.

CHAPTER VI

PROPERTY AND FUNDS OF CO-OPERATIVE SOCIETIES

Investment of funds.

- 55.** A co-operative society may invest or deposit its funds—
- (a) in a Government Savings Bank; or
 - (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; or
 - (c) with the sanction of the Registrar, in the shares or debentures or on the security of any other co-operative society with limited liability:

Provided that no such sanction shall be necessary when a primary society invests or deposits its funds in the shares or debentures of a central or an apex society, or a central or an apex society invests or deposits its funds in the shares or debentures of a primary society; or

- (d) in any other manner prescribed.

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*(Chapter VI.—Property and funds of co-operative societies.—
Section 56.)*

56. (1) Every co-operative society shall maintain a reserve fund and a bad debt fund out of the net profits, if any, derivable from its transactions.

Reserve fund, agricultural credit stabilisation fund, inventory loss fund, provident fund, and co-operative development fund.

(2) Of the net profits of a co-operative society in each year, there shall be carried to the reserve fund and the bad debt fund not less than fifteen and ten *per centum* respectively or such higher proportions as may be prescribed for such society or class of societies.

(3) A central co-operative bank and a consumers' co-operative society shall, in addition to the two funds referred to in sub-section (1), maintain out of the net profits, if any, an agricultural credit stabilisation fund and an inventory loss fund respectively; and the proportions of the net profits to be carried to such funds shall not be less than ten *per centum*.

(4) Save to the extent that, and in such manner as, may be prescribed, no part of the funds mentioned in sub-section (1) and sub-section (3) shall be used in the business of a co-operative society.

(5) Subject to the rules, any portion of the funds mentioned in sub-section (1) and sub-section (3) not used in the business of the society shall be invested or deposited—

- (a) in the Government Savings Bank; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, other than those specified in clause (e) of that section; or
- (c) in a co-operative bank approved by the Registrar or in any other prescribed bank.

(6) (a) Every co-operative society may establish a provident fund for its whole-time employees, if any, from the contributions of such employees, and may make such contribution to the provident fund, as may be provided for in the rules or by-laws.

(b) Such provident fund shall not be used in the business of the society, but shall be invested or deposited in one or more of the ways specified in sub-section (5).

(7) (a) There shall be established a fund, to be called the co-operative development fund, with the contributions made by the co-operative societies under clause (a) of section 58 of this Act.

(b) Such fund shall be administered by such authority and in such manner, and be utilised for such purposes, as may be prescribed.

*(Chapter VI.—Property and funds of co-operative societies.—
Sections 57, 58.)*

Distribution
of profits.

57. (1) Save as may be prescribed, no distribution of profits shall be made in the case of a co-operative society with unlimited liability; and save as provided in this section, no part of the funds of a co-operative society shall be divided by way of dividend or otherwise among its members.

(2) No dividend shall be paid—

- (a) otherwise than out of profits certified by the audit officer to have been actually realised; or
- (b) without the previous sanction of the Registrar, if the audit officer reports that any asset is bad or doubtful and also recommends that such sanction is necessary:

Provided that the audit officer shall not so recommend if such asset is adequately covered.

(3) Subject to the provisions of sub-section (2), after the proportions required by sub-section (2) and sub-section (3) of section 56 have been carried to the funds referred to therein from the net profits of any year, the balance of such profits, together with the undistributed profits of past years, if any, may, to such extent and under such conditions as may be prescribed, be distributed as dividend among the members.

(4) No contribution under section 58 shall be paid otherwise than out of the profit actually realised.

Contribution
to charitable
purposes.

58. After there has been carried to the funds mentioned in section 56 the proportions of the net profits of any year required by sub-section (2) and sub-section (3) thereof, a co-operative society—

- (a) shall, in the manner prescribed, contribute an amount equal to five *per centum* of the net profits or an amount equal to one-half *per centum* of its gross earnings from its transactions in the year or a sum of five thousand rupees, whichever is lowest, to co-operative development fund, or for such co-operative purpose as may be prescribed, and
- (b) may, with the sanction of the Registrar, contribute an amount not exceeding ten *per centum* of the net profits, for all or any of the following purposes, namely:—
 - (i) any charitable purpose as defined in section 2 of the 6 of 1890. Charitable Endowments Act, 1890;
 - (ii) purposes of the National Defence Fund created by the Central Government; and
 - (iii) such other purpose as may be prescribed.

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(Chapter VII.—Eligibility for membership of co-operative societies, and privileges, liabilities and obligations of members of co-operative societies.—Section 59.)

CHAPTER VII

**ELIGIBILITY FOR MEMBERSHIP OF CO-OPERATIVE SOCIETIES, AND PRIVILEGES,
LIABILITIES AND OBLIGATIONS OF MEMBERS OF CO-OPERATIVE SOCIETIES**

59. (1) Save as otherwise provided in sub-section (5), no person shall be eligible for membership of a co-operative society except the following, namely:—

Persons
eligible for
membership
of co-
operative
society.

9 of 1872.

- (a) an individual competent to contract under section 11 of the Indian Contract Act, 1872,
- (b) any other co-operative society,
- (c) the State Government, and
- (d) any association or body of persons, whether incorporated or not, which is approved by the State Government by a general or special order:

Provided that a person who has not attained his majority shall be eligible for membership of a co-operative society exclusively formed for the benefit of the students of educational institutions.

(2) Subject to the rules and the by-laws, any person eligible for membership of a co-operative society may, on application, be admitted as a member by the society.

(3) Every application for admission as a member of a co-operative society shall be disposed of by the society within one month from the date of the receipt of the application, and the decision of the society on the application shall be communicated to the applicant within fifteen days from the date of the decision:

Provided that if the decision of the society is not communicated to the applicant within a period of forty-five days from the date of the receipt of the application, the society shall be deemed to have made a decision, on the date of expiry of such period, refusing admission to the applicant.

(4) Any applicant, being aggrieved with the decision of a co-operative society refusing to admit him as a member of such society, may appeal to the Registrar—

- (a) within one month from the date of communication of such decision to such applicant, and
- (b) where the decision of the society is not communicated to such applicant within the period referred to in the proviso to sub-section (3), within one month from the expiry of such period,

and the Registrar shall make such order, as he thinks fit, on such application within two months from the date of receipt of the appeal:

(Chapter VII.—Eligibility for membership of co-operative societies, and privileges, liabilities and obligations of members of co-operative societies.—Sections 60-62.)

Provided that no order to the prejudice of the appellant shall be made without giving him, in the manner prescribed, an opportunity of being heard.

- (5) (a) A co-operative society may, subject to such conditions as may be prescribed, admit, in the interest of the society, any person as a nominal or an associate member.
- (b) A nominal member of any co-operative society other than an industrial co-operative society shall not be entitled to any share in any form whatever in the assets or profits of the society.
- (c) No nominal or associate member shall be elected to the managing committee of a co-operative society.
- (d) Subject to the provisions of this Act and the rules, a nominal or an associate member of a co-operative society shall have such rights and privileges, and be subject to such liabilities, of a member as may be provided for in the by-laws.

Votes of members.

60. (1) Subject to the rules relating to voting by delegates, no member of a co-operative society shall have more than one vote in its affairs or be permitted to vote by proxy:

Provided that in the case of an equality of votes the Chairman shall have a second or casting vote.

(2) A co-operative society which is a member of any other co-operative society may appoint one of its members, not disqualified for such appointment under any rule or by-law, to vote in the affairs of such other society.

(3) No nominal or associate member of a co-operative society shall be entitled to vote in the affairs of the society.

Members not to exercise rights till due payment made.

61. No member of a co-operative society shall exercise the rights of a member until he has made such payment to the society in respect of membership or acquired such interest in the society as may be provided for in the rules or by-laws.

Members to furnish information as to their financial position and alienation of their immovable property.

62. (1) A full, true and accurate statement of his assets and liabilities shall be furnished by a member of a co-operative society, when he applies for a loan or stands as a surety.

(2) A member of a co-operative society shall, before the completion of each such transaction, furnish to the society of which he is a member full, true and accurate information regarding any sale, mortgage or transfer in any form whatsoever of his immovable property or any portion or share thereof and regarding any debt proposed to be incurred on the security of such property.

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(Chapter VII.—Eligibility for membership of co-operative societies, and privileges, liabilities and obligations of members of co-operative societies.—Sections 63-67.)

63. A loan advanced by a co-operative society to a member thereof shall be utilised by him for the purpose for which it was advanced and, if not so utilised, shall be refunded by him immediately on its recall, in the prescribed manner, by the society.

Loans to be used for the object for which advanced.

64. Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of section 50, the share or interest of a member in the capital of a co-operative society or in any provident fund established under section 56 shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Presidency-towns Insolvency Act, 1909, nor a receiver under the Provincial Insolvency Act, 1920, shall be entitled to, or have any claim on, such share or interest.

Share or interest not liable to attachment.

3 of 1909.

5 of 1920.

65. The members of a co-operative society shall, upon the winding up of the society, be jointly and severally liable to contribute towards any deficiency in the assets of the society—

Liability of members.

(a) in the case of a society with unlimited liability, without limit; and

(b) in the case of a society with limited liability, subject to such limitation of amount as may be provided in the by-laws:

Provided that where any shares are purchased in a co-operative society by the State Government or another co-operative society, the liability in respect of such shares shall, upon the winding up of the society, be limited to the amount paid in respect of such shares.

66. The liability of a past member and of the estate of a deceased member for the debts of a co-operative society, as they existed at the date of his ceasing to be a member or of his death, as the case may be, shall continue for a period of two years from the said date:

Liability of past member and of estate of deceased member.

Provided that where the co-operative society is directed to be wound up under section 89 within the said period of two years, such liability shall continue until the proceedings for winding up the society are completed by the liquidator.

67. Where the liability of a member of a co-operative society is limited by shares, no member other than the State Government or another co-operative society shall—

Restrictions on interest of members of society with limited liability and share capital.

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

(b) have or claim any interest in the shares of the society exceeding five thousand rupees:

(Chapter VII.—Eligibility for membership of co-operative societies, and privileges, liabilities and obligations of members of co-operative societies.—Sections 68-70.)

Provided that the State Government may, by notification in the *Official Gazette*, raise in respect of any co-operative society or class of co-operative societies and to such extent, as may be specified in the notification, the maximum limit of share capital referred to in clause (a) or the maximum limit of interest referred to in clause (b).

Restrictions
on transfer
of share or
interest.

68. (1) The transfer or charge of the share or interest of a member in the capital of a co-operative society shall be subject to the provisions of this Act and to such conditions as to maximum holding as may be prescribed and, in the case of a member of a society with limited liability, shall require the approval of the managing committee of the society.

(2) No transfer or charge of his share or interest by a member of a society registered with unlimited liability shall be valid unless—

- (a) he has held such share or interest (save in the case of transfers under any of the provisions of sections 69, 70, 71, 73 or 74) for not less than one year; and
- (b) the transferee or mortgagee is either a member of such society or a person whose application for membership has been accepted or another co-operative society.

(3) Where the State Government is a member of a co-operative society, the restrictions contained in this section shall not apply to any transfer, made by it, of its share or interest in the capital of the society.

Nomination
of
transferee.

69. If the by-laws of a co-operative society so permit, any member of the society may, in accordance with the rules, nominate a person in whose favour the society shall dispose of the share or interest of such member on his death.

Disposal of
deceased
member's
share or
interest.

70. (1) When any member of a co-operative society dies, his share and interest in the society shall, subject to the provisions of sections 50 and 68 and to the further provisions of this section, be transferred—

- (a) to the person, if any, nominated in accordance with the provisions of section 69; or
- (b) if there be no such nominee or, if the existence and residence of such nominee cannot be ascertained by the managing committee, or if for any other cause such transfer cannot be made without unreasonable delay, to the person who (subject to the production by him of probate, letters of administration or succession certificate) appears to the managing committee to be entitled, in accordance with the rules, to possession of such share or interest as part of the estate of the deceased member; or

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(Chapter VII.—Eligibility for membership of co-operative societies, and privileges, liabilities and obligations of members of co-operative societies.—Sections 71, 72.)

- (c) on the application of the person referred to in clause (b) within three months of the death of the deceased member, to any person specified in the application.

(2) If the share or interest of the deceased cannot be legally transferred in accordance with the provisions of sub-section (1), or if the person, to whom the share or interest is payable under that sub-section within one year of the death of the deceased member, claims payment of the value of such share or interest, or if the society in accordance with the rules and by-laws decides to proceed according to this sub-section—

- (a) the share shall be transferred to some other person qualified in accordance with the provisions of section 68 to be the transferee of the share, on receipt from such person of the value thereof; and
- (b) the value of the share or interest of the deceased member, determined in accordance with the rules, shall be paid to the person nominated in accordance with the provisions of section 69 or to the person appearing to be entitled to possession of such share or interest as aforesaid, after deducting the amount of any sum payable under this Act to the society from the estate of the deceased member.

71. When a member of a co-operative society is expelled or resigns in accordance with the rules or the by-laws, or when a member becomes insane—

Disposal of share or interest of expelled, resigned or insane member.

- (a) his share or interest shall be transferred to another person qualified to be the transferee in accordance with the provisions of section 68, and the value thereof so received or otherwise determined in accordance with the rules or the by-laws shall be paid in cash within a period of two years from the date of expulsion or resignation, as the case may be, to such member or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912; and
- (b) in the case of a society with unlimited liability, if the by-laws so provide, the value of his share or interest determined in accordance with the rules or the by-laws shall be paid to him or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

72. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force—

Restriction on transfer of possession of, and interest in, land held under a co-operative society.

- (1) a member of a co-operative society, the object of which is the reclamation and colonisation of land or the acquisition of land and the leasing thereof to its members, shall not be entitled to transfer his possession of, or interest in, any land

(Chapter VII.—Eligibility for membership of co-operative societies, and privileges, liabilities and obligations of members of co-operative societies.—Section 73.)

- held by him under the society, except to the society or, with the previous approval of the society given in accordance with its by-laws, to a member thereof;
- (2) when the membership of a member of a co-operative society specified in clause (1) terminates by reason of his death, expulsion, resignation or insanity or any other cause, his possession of, and interest in, any land held by him under the society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 69, if such heir, executor, administrator or person is willing to become a member of the society and is eligible for membership in accordance with the by-laws of the society;
 - (3) if the heir, executor, administrator or person referred to in clause (2) does not become a member of the co-operative society, the possession of, and interest in, the land including the structure thereon, if any, of the deceased, expelled, resigned or insane member shall vest in the society, which shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to the value of the land including the structure thereon, if any, as determined in accordance with the rules or the by-laws; and
 - (4) no land held under a co-operative society specified in clause (1) by a member thereof, or vested under clause (2) in the heir, executor or administrator of such member or in any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof.

Disposal of share or interest of a member of a wound up co-operative society.

73. When an order is passed for the winding up of a co-operative society which is a member of a co-operative society with limited liability, the share or interest of the society being wound up shall, subject to the provisions of section 68, be transferred to another person or co-operative society upon receipt from such person or society of the value, determined in accordance with the rules, of such share or interest; and upon the application of the liquidator the value thereof thus received shall be paid to him:

Provided that where the transfer of such share or interest is not possible within a reasonable time from the date on which the order directing the winding up of the society takes effect, the value, determined in accordance with the rules, of such share or interest, shall, within a period of two years from the date of the order of winding up, be paid in cash to the liquidator or may, with the previous approval of the Registrar, be set off the liquidator against any sum which is due by the

(Chapter VII.—Eligibility for membership of co-operative societies, and privileges, liabilities and obligations of members of co-operative societies.—Section 74.—Chapter VIII.—Division, transfer of assets and liabilities, and amalgamation, of co-operative societies.—Section 75.)

society being wound up, to the co-operative society with limited liability of which such society is a member.

74. (1) All sums calculated in accordance with rules to be due from a co-operative society to a member, other than payments in respect of the share or interest of such member to the society, shall, subject to the provisions of section 50, be paid—

Disposal of moneys due to a deceased, expelled, resigned or insane member; and bar to certain claims.

(a) in the case of a deceased member, to the person to whom the share and interest are transferred or their value is paid in accordance with the provisions of section 70;

(b) in the case of a member who has been expelled or has resigned from a society, to him, and

(c) in the case of a member who has become insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

(2) All payments and transfers made by a co-operative society in accordance with the provisions of sections 70 to 73 and sub-section (1) of this section shall be valid and effectual against any demand made upon the society by any other person.

4 of 1912.

CHAPTER VIII

DIVISION, TRANSFER OF ASSETS AND LIABILITIES, AND AMALGAMATION, OF CO-OPERATIVE SOCIETIES

75. (1) A co-operative society may, by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general or a special general meeting of the society, divide itself into two or more societies. Such resolution shall provide for the division of the assets and liabilities, the area of operation and the membership of such society among the new societies to be formed by the division of such society.

Division, transfer of assets and liabilities, and amalgamation, of co-operative societies.

(2) A co-operative society may, by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general or a special general meeting of the society, transfer, in whole or in part, its assets and liabilities to any other co-operative society or societies. Such resolution shall contain all necessary particulars in respect of such transfer of assets and liabilities.

(3) Any two or more co-operative societies may, by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general or a special general meeting of each such society,

*(Chapter VIII.—Division, transfer of assets and liabilities, and
amalgamation, of co-operative societies.—Section 75.)*

amalgamate themselves to form a new society. Such resolution shall provide for the transfer of the assets and liabilities, the area of operation and the membership of such societies to the new society to be formed by the amalgamation of such societies.

(4) A resolution passed under sub-section (1) or sub-section (3) shall contain the name or names of the person or persons authorised to join in the application for the registration, under sub-section (8), of the new societies formed by division or, as the case may be, the new society formed by amalgamation, and to take all such other steps as may be necessary for such registration.

(5) When a co-operative society has passed a resolution under sub-section (1) or sub-section (3), it shall send a copy thereof to all its members and creditors within fourteen days from the date of the general or special general meeting at which such resolution is passed.

(6) Notwithstanding any by-laws or contract to the contrary, any member or creditor of any co-operative society, which has passed a resolution under sub-section (1) or sub-section (3), may, within a period of one month from the date on which a copy of such resolution is sent to such member or creditor under sub-section (5), exercise the option of withdrawing his share or interest or, as the case may be, the amount due to him, from such society:

Provided that no member, who is a debtor of his society or is a surety for any other member, shall exercise the option of withdrawing his share or interest until such time as the debt, in respect of which he is the debtor or the surety, is repaid with all interest accrued thereon.

(7) A resolution passed by a co-operative society under sub-section (1) or sub-section (3) shall not take effect until all the claims of the members and creditors, who exercise the option referred to in sub-section (6) within the period specified therein, are met in full.

(8) On receipt of application for the registration of new societies formed by division in accordance with the resolution passed under sub-section (1) or of a new society formed by amalgamation in accordance with a resolution passed under sub-section (3), the Registrar, on being satisfied that the resolution has become effective under sub-section (7), shall, unless for reasons to be recorded in writing he thinks fit to refuse so to do, register the new societies or society, as the case may be, and the by-laws thereof, and thereupon the registration of the original society which is divided or, as the case may be, the original societies which are amalgamated, shall stand cancelled and the original societies or society, as the case may be, shall be deemed to have been dissolved and shall cease to exist.

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(Chapter VIII.—Division, transfer of assets and liabilities, and amalgamation, of co-operative societies.—Section 76.)

(9) When the transfer of assets and liabilities in whole of a co-operative society to any other co-operative society or societies is effected, the transferor society shall be deemed to have been dissolved and shall cease to exist.

(10) Notwithstanding anything to the contrary contained in any other law for the time being in force,—

- (a) the registration of new societies formed by division shall be a sufficient conveyance to vest the assets and liabilities of the original society (which is divided) in such new societies in accordance with the resolution passed under sub-section (1);
- (b) when a resolution is passed by a co-operative society under sub-section (2), the resolution shall, if accepted by the transferee society or societies by a resolution passed by a majority of not less than two-thirds of the members present and voting at a general or a special general meeting of such society or societies, be a sufficient conveyance to vest the assets and liabilities in the transferee society or societies. Copies of such resolutions of the transferor and the transferee societies shall be sent to the Registrar for record; and
- (c) the registration of a new society formed by amalgamation shall be a sufficient conveyance to vest the assets and liabilities of the original societies (which are amalgamated) in such new society in accordance with the resolution passed under sub-section (3).

76. (1) Where the Registrar is satisfied that it is necessary in the interest of the co-operative movement or for the purpose of securing the proper management of any co-operative society that two or more co-operative societies should amalgamate, the Registrar may make a preliminary order providing for the amalgamation of such societies into one society with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations as may be specified in such order.

Power of the Registrar to order amalgamation of co-operative societies.

(2) The Registrar shall thereupon publish, in the prescribed manner, the preliminary order of amalgamation along with a notice calling upon every co-operative society to be amalgamated, and every member or creditor of such society to make objections or suggestions, if any, to him with respect to such order within two months from the date of publication of such order, and shall also send a copy of such order and notice to every such society.

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amalgamation, of co-operative societies.—Section 77.)*

(3) After considering such objections and suggestions, if any, as may have been received by him within the time mentioned in sub-section (2), the Registrar may make the preliminary order of amalgamation final with such changes and modifications as he thinks necessary. Such final order of amalgamation may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary for the efficient functioning of the new society formed by amalgamation.

(4) Any member or creditor of any of the co-operative societies to be amalgamated, who has objected to the preliminary order of amalgamation within the time mentioned in sub-section (2), shall be entitled to withdraw his share or interest or, as the case may be, the amount due to him, from such society:

Provided that no member who is a debtor of his society or is a surety for any other member shall withdraw his share or interest until such time as the debt in respect of which he is the debtor or the surety is repaid with all interests accrued thereon.

(5) A final order of amalgamation made under sub-section (3) shall take effect—

(a) where no appeal is preferred from such order under section 134, on the expiry of the time allowed for preferring an appeal; or

(b) where an appeal is preferred from such order, upon rejection of the appeal by the appellate authority.

(6) Notwithstanding anything to the contrary contained in any other law for the time being in force, upon a final order of amalgamation taking effect under sub-section (5), the original societies which are amalgamated shall be deemed to have been dissolved and shall cease to exist, and all the assets and liabilities of such societies shall vest in the new society formed by amalgamation in accordance with the final order of amalgamation.

Power of the Registrar to order division of co-operative society or transfer of assets and liabilities of a co-operative society.

77. (1) Where the Registrar is satisfied that it is necessary in the interest of the co-operative movement that a co-operative society should be divided into two or more societies or the assets and liabilities of a co-operative society should be transferred, in whole or in part, to one or more other societies, the Registrar may make a preliminary order for division of such society into two or more such societies or for the transfer of assets and liabilities of such society to one or more such societies, as the case may be. The preliminary order of division shall provide for division of the assets and liabilities, the area of operation and the membership of such society among the new societies into which such

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society is to be divided, and the preliminary order for transfer of assets and liabilities shall contain details about the transfer of assets and liabilities, the area of operation and the membership of the transferor and the transferee societies. When the transfer is made in part, the order shall be specific about the particulars of the assets and the liabilities to be transferred.

(2) The Registrar shall thereupon publish, in the prescribed manner, the preliminary order referred to in sub-section (1) along with a notice calling upon the co-operative society or societies concerned and every member or creditor thereof to make objections or suggestions, if any, to him with respect to such order within two months from the date of publication of such order, and shall also send a copy of such order and notice to such society or societies, as the case may be.

(3) After considering such objections and suggestions as may have been received by him within the time mentioned in sub-section (2), the Registrar may make the preliminary order of division or of transfer of assets and liabilities, as the case may be, final with such changes and modifications as he thinks necessary. Such final order of division or of transfer of assets and liabilities, as the case may be, may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary for the efficient functioning of the new societies created by division or for efficient functioning of the society or societies to which assets and liabilities have been transferred.

(4) Any member or creditor of the co-operative society, who has objected to the preliminary order within the time mentioned in sub-section (2), shall be entitled to withdraw his share or interest or, as the case may be, the amount due to him, from such society:

Provided that no member who is a debtor of his society or is a surety for any other member shall withdraw his share or interest until such time as the debt in respect of which he is the debtor or the surety is repaid with all interests accrued thereon.

(5) A final order of division or transfer of assets and liabilities, as the case may be, made under sub-section (3) shall take effect—

- (a) where no appeal is preferred from such order under section 134, on the expiry of the time allowed for preferring an appeal; or
- (b) where an appeal is preferred from such order, upon rejection of the appeal by the appellate authority.

(Chapter VIII.—Division, transfer of assets and liabilities, and amalgamation, of co-operative societies.—Section 78.)

(6) Notwithstanding anything to the contrary contained in any other law for the time being in force, upon a final order of division taking effect under sub-section (5), the original society which is divided shall be deemed to have been dissolved and shall cease to exist, and all the assets and the liabilities of such society shall vest in the new societies formed by division in the manner specified in the final order of division.

(7) Notwithstanding anything to the contrary contained in any other law for the time being in force, upon a final order of transfer of assets and liabilities taking effect under sub-section (5), the order shall be a sufficient conveyance to vest the assets and liabilities of the transferor society in the transferee society or societies as specified in the order, and when transfer of assets and liabilities of a co-operative society in whole is effected, the transferor society shall be deemed to have been dissolved, and shall cease to exist.

Amalgamation of any central co-operative bank with any other central co-operative bank or with the State co-operative Bank.

78. (1) Notwithstanding anything contained in section 75, section 76 and section 77, if the State Government is of opinion that—

- (a) in the public interest,
- (b) in the interest of the depositors,
- (c) in order to secure proper management of any central co-operative bank,
- (d) in the interest of the co-operative movement in the State as a whole,
- (e) in the interest of the co-operative banking system in the State as a whole, or
- (f) to make co-operative credit adequately available to the primary co-operative credit societies of any particular area or areas in the State from the State co-operative bank,

it is necessary so to do, the State Government may, by an order published in the *Official Gazette* stating reasons therefor, make a scheme for the amalgamation of any central co-operative bank (in this section hereafter referred to as the “transferor bank”) with any other central co-operative bank or the State co-operative bank (in this section hereafter referred to as the “transferee bank”).

(2) A scheme referred to in sub-section (1) may provide for all or any of the following matters, namely:—

- (a) the transfer of the business, properties, movable and immovable, assets, including cash balances and reserve funds, rights, privileges, liabilities, debts and obligations of the transferor bank to the transferee bank, on such terms and conditions as may be specified in the said scheme,

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- (b) the reduction of the interest or rights which the members, depositors and other creditors have in or against the transferor bank before its amalgamation, to such extent as the State Government considers necessary in the public interest or in the interest of the members, depositors and other creditors of the transferor bank or for the maintenance of the business of such bank, having due regard to the proportion of the assets of the transferor bank to its liabilities,
- (c) the payment in cash or otherwise to the depositors and other creditors in full satisfaction of their claims—
 - (i) in respect of their interest or rights in or against the transferor bank before or after its amalgamation, or
 - (ii) where the interest or rights as aforesaid, in or against the transferor bank, has or have been reduced under clause (b), in respect of such interest or rights as so reduced,
- (d)
 - (i) the allotment of shares in the transferee bank to the members of the transferor bank against the shares held by them in the transferor bank, before the amalgamation [whether their interest in such shares has been reduced under clause (b) or not], or
 - (ii) where the members of the transferor bank elect to receive payment in cash and not in shares of the transferee bank, or where it is not possible to allot shares in the transferee bank to such members against the shares held by them in the transferor bank, the payment to such members in cash in full satisfaction of their claims in respect of their interest in the shares of the transferor bank or where such interest has been reduced under clause (b), in respect of their interest in the shares as so reduced:

Provided that an aforesaid scheme shall secure—

- (i) that allotment of shares or payment in cash in favour of the members of the transferor bank under clause (d) shall not be made until all the depositors and creditors of the transferor bank have been paid under sub-clause (i), or as the case may be, under sub-clause (ii), of clause (c), and
- (ii) that such allotment of shares or payment in cash in favour of the members of the transferor bank shall be made only out of the surplus of the assets of the

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amalgamation, of co-operative societies.—Section 78.)*

transferor bank, if any, that may be left after payment of the depositors and creditors as indicated in clause (i) above,

- (e) the continuance of the services of the employees of the transferor bank in the transferee bank on terms and conditions of service not being less advantageous than what they were entitled to immediately before the amalgamation:

Provided that the transferee bank may not, by an order in writing, allow any employee of the transferor bank to continue in the services of the bank if, in the opinion of the transferee bank, the continuance of such employee in its service would be detrimental to its interest, and thereupon the services of such employee shall stand terminated on and from the date of such order, and the transferee bank shall, within three months of the date of the aforesaid order, make payment to such employee such compensation as such employee may be entitled under any law relating to the industrial disputes in force in the State and such pension, gratuity, provident fund and other retirement benefits as are ordinarily admissible to him under the rules of the transferor bank in force immediately before the amalgamation.

(3) (a) No order referred to in sub-section (1) shall be made unless a copy of the proposed order including the scheme is sent to the transferor bank and the transferee bank calling upon such banks to invite objections or suggestions from the members, creditors and depositors thereof and to submit such objections and suggestions together with their own suggestions and objections, if any, to the State Government within six weeks from the date of receipt of the copy of the proposed order by such banks.

(b) The State Government shall consider the suggestions and objections which may be received under sub-section (3)(a) within the period referred to therein, make such modifications in the proposed order including the scheme as it thinks just and fit and finalise the proposed order including the scheme in consultation with the Reserve Bank.

(4) An order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as the State Government may consider necessary to give effect to the proposed amalgamation and shall have effect on and from such date as may be specified in the order.

(Chapter IX.—Audit, inspection and inquiry.—Section 79.)

(5) On the coming into operation of any scheme referred to in sub-section (1), the provisions thereof shall be binding on the transferor bank, the transferee bank and all the members, depositors, creditors and employees of both such banks and on any other person having any right or liability in relation to the said banks.

(6) The provisions of this section shall have effect, notwithstanding anything to the contrary contained elsewhere in this Act or in any other law or any agreement, award or other instrument for the time being in force.

4 of 1882.
16 of 1908.

(7) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Registration Act, 1908, an order making a scheme referred to in sub-section (1) shall be sufficient conveyance, in accordance with the provisions of this section, to transfer the assets and liabilities of the transferor bank to the transferee bank.

(8) When under a scheme referred to in sub-section (1) the assets and liabilities of the transferor bank have been transferred to the transferee bank, the transferor bank shall cease to exist and shall be deemed to have been dissolved.

(9) Notwithstanding anything contained in any other law for the time being in force, an order under sub-section (1) shall not be called in question in any court of law.

CHAPTER IX

AUDIT, INSPECTION AND INQUIRY

79. (1) The accounts of every co-operative society shall, at least once in each year and by such date as may be prescribed, be audited by the Registrar or by an audit officer authorised by him in this behalf by general or special order in writing.

Registrar
to be
responsible
for audit
and to have
power to
have the
accounts
written up;
nature of
audit.

(2) In respect of every audit of its accounts, a co-operative society shall pay such audit fee, and in such manner, as may be prescribed.

(3) If at the time of audit the accounts of a co-operative society are not complete, the Registrar or, with his approval, the audit officer may cause the accounts to be written up at the expense of the society.

(4) The audit under sub-section (1) shall include—

- (a) a verification of the cash balances and securities;
- (b) a verification of the balance of the credit of the depositors and creditors and of the amounts due from the debtors of the society;

- (c) an examination of overdue debts, if any;
- (d) a valuation of the assets and liabilities of the society;
- (e) an examination of the transactions, including the monetary transactions of the society within such limits as may be prescribed;
- (f) an examination of the statement of accounts to be prepared by the managing committee in such form as may be prescribed;
- (g) a certification of the realised profits; and
- (h) any other matter that may be prescribed.

(5) The statement of accounts thus audited, together with the modifications, if any, made therein by the Registrar, shall be final and binding on the co-operative society.

Audit officer's report, and rectification of defects mentioned therein.

80. (1) The audit officer shall, by such date as may be prescribed, submit to the co-operative society and to the Registrar, together with the statement of accounts audited, an audit report including a statement of—

- (a) every transaction which appears to him to be contrary to law or to the rules or by-laws;
- (b) every sum which ought to have been but has not been brought into account;
- (c) the amount of any deficiency or loss which appears to have resulted from any negligence or misconduct or to require further investigation;
- (d) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person;
- (e) any of the assets which appears to him to be bad or doubtful; and
- (f) any other matter prescribed.

(2) A co-operative society shall be afforded by the Registrar an opportunity of explaining any defects or irregularities pointed out by the audit officer, and thereafter the society shall, within such time and in such manner as the Registrar may direct, remedy such defects and irregularities and report to the Registrar the action taken by it thereon.

Constitution of an authority to supervise working of co-operative societies.

81. (1) The State Government may constitute an authority to appoint and control, in such manner as may be prescribed, the staff required for the supervision of co-operative societies, other than such staff as may be appointed by the State Government for the purposes of such supervision, and such authority shall be composed of such number of persons and shall perform such other functions as may be prescribed:

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(Chapter IX.—Audit, inspection and inquiry.—Sections 82, 83.)

Provided that, of the persons composing such authority, three-fourths shall be elected by co-operative societies in such manner as may be prescribed, and one-fourth shall be nominated by the Registrar in such manner as may be prescribed.

(2) A co-operative society shall be liable to pay, to an authority constituted under sub-section (1), such fee and in such manner, as may be prescribed.

(3) The State Government may confer such of the powers and impose such of the functions of the aforesaid authority, as it deems fit, upon the State Co-operative Union.

82. (1) Every co-operative society shall be liable at any time to inspection—

Inspection by Registrar or financing bank.

- (a) by the Registrar or any person authorised by the State Government or by the Registrar in this behalf by general or special order;
- (b) by the financing bank, if any, of which it is a member and a debtor; and
- (c) by the apex or central society, if any, of which it is a member.

(2) An inspection under sub-section (1) by a financing bank, or an apex or a central society shall be made by an officer of the bank or society, certified by the Registrar in accordance with the rules as competent to conduct such an inspection.

(3) The report of an inspection under sub-section (1) or a summary thereof shall be communicated within one month from the date of inspection to the society and to the financing bank, and to the apex or the central society, if any, of which it is a member and when the inspection is made by a financing bank, to the Registrar, if so required by him.

83. (1)(a) Subject to the provisions of clause (b), on the application of a creditor of a co-operative society, an inspection shall be made of the books of the society by the Registrar or by a person authorised by him in this behalf by general or special order in writing.

Inspection of books of an indebted co-operative society and seizure of records, etc., of a co-operative society.

(b) No such inspection shall be made unless—

- (i) the Registrar, after giving the society an opportunity of being heard, is satisfied that the alleged debt is a sum then due, and that the creditor has demanded payment thereof and has not received satisfaction within a reasonable time; and

- (ii) the creditor deposits with the Registrar such sum as security for the costs of the inspection as the Registrar may direct.

(c) The Registrar shall communicate the result of any inspection under this section to the creditor, to the society and to the financing bank, if any, of which the society is a member.

(2) An Inspector of Co-operative Societies may, with the written approval of the Registrar or any other officer authorised by him in this behalf, seize any record, book, register or document of any co-operative society during working hours to carry out any of the purposes of this Act:

Provided that no such seizure shall be made unless a written requisition is served on the co-operative society specifying therein the record, book, document or register to be seized and the reasons therefor.

Inquiry by
Registrar.

84. (1) The Registrar may, at any time, of his own motion, hold, by himself or by a person authorised by him by order in writing, an inquiry into the constitution, working and financial condition of a co-operative society:

- (2) Such an inquiry shall be held on the application of—
 - (a) the financing bank, if any, of which the society is a member and a debtor;
 - (b) a majority of the members of the managing committee of the society;
 - (c) one-third of the members of the society, each of whom has been a member of the society for not less than twelve months immediately preceding the date of the application and shall have deposited such security for costs, if any, as the Registrar may direct;
 - (d) creditors representing not less than one-half of the borrowed capital of the society, who shall have deposited such security for costs, if any, as the Registrar may direct:

Provided that, in the case of any society having more than one thousand and five hundred members, an application under this sub-section may be presented by delegates elected in the prescribed manner.

(3) The Registrar shall communicate the report of any inquiry under this section or a summary thereof to the society, to the financing bank, if any, of which the society is a member, and to the creditors, who applied for the inquiry.

Cost of
inspection or
inquiry.

85. (1) The Registrar may, after giving the parties an opportunity of being heard and by an order in writing stating the reasons therefor,

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(Chapter X.—Settlement of disputes.—Sections 86, 87.)

apportion the costs of an inspection made under section 83 or of an inquiry held under section 84 or such portion of the costs as he thinks fit, between the co-operative society, the members thereof or the financing bank or the creditor or creditors applying for such inspection or inquiry, as the case may be, and the officers, former officers, members and past members of the society.

(2) No expenditure from the funds of any co-operative society shall be incurred for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order under sub-section (1).

CHAPTER X

SETTLEMENT OF DISPUTES

86. (1) Any dispute relating to the affairs of a co-operative society or of the liquidator of a society shall be referred to the Registrar if the parties thereto are among the following, namely:— Disputes to be referred to Registrar.

- (a) the society, its managing committee, any past or present officer, agent or employee or the liquidator of the society; or
- (b) a member, past member or person claiming through a member, past member or deceased member of the society; or
- (c) a surety of a member, past member or deceased member of the society, whether such surety is or is not a member of the society; or
- (d) any other co-operative society or any person having transactions with the concerned co-operative society or the liquidator of such society:

Provided that nothing in this sub-section shall apply to any dispute—

- (a) regarding disciplinary action taken by a society or its managing committee against its paid employees, or
- (b) between a society or its managing committee and its paid employees over terms and conditions of service of such employees and matters incidental or consequential thereto.

(2) Any dispute mentioned in sub-section (1) other than a dispute relating to the recovery of money shall be referred to the Registrar within one month from the date of the cause of action.

87. (1) On receipt of a reference under section 86, the Registrar shall, subject to the rules,— Settlement of disputes.

- (a) decide the dispute himself; or

(Chapter X.—Settlement of disputes.—Section 88.—Chapter XI.—Winding up and dissolution of co-operative societies.—Section 89.)

- (b) transfer it for disposal to any person authorised by the State Government to exercise the powers of the Registrar in this behalf; or
 - (c) refer it for disposal to one or more arbitrators to be appointed by the Registrar.
- (2) Subject to the rules, the Registrar may withdraw any reference transferred or referred under sub-section (1) and may deal with it himself in the manner provided in such rules.
- (3) The Registrar or any arbitrator to whom a dispute is referred under sub-section (1) may, on the application of any party to the dispute, and on such terms as he thinks fit, make such interlocutory orders as may be necessary for the preservation of any property which is the subject-matter of the dispute or in relation to which any question may arise therein.
- (4) All disputes referred to in section 86 shall be decided within three months from the date of receipt of such disputes by the Registrar.
- (5) If any person dealing with such dispute, fails to decide it within the aforesaid period, he shall make a report to the next higher authority, stating reasons for such failure and the said authority may allow him such further time, not exceeding three months, for disposal of the dispute.

Force and effect of certain awards.

88. Where a dispute involves property pledged as collateral security, the person deciding the dispute may make an award, which shall have the same force and effect as a final mortgage decree of a Civil Court having jurisdiction to make such a decree.

CHAPTER XI

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

Order for the winding up of a co-operative society.

89. (1) The Registrar may, and if the rules in any case so prescribe, shall, by an order in writing, direct that a co-operative society shall be wound up if—

- (a) after an inspection has been made under section 82 or section 83 or an inquiry has been held under section 84; or
- (b) on an application made upon a resolution carried by three-fourths of the members of the society present at a special general meeting called for the purpose; or
- (c) on his own motion, in the case of a society which—
 - (i) has not commenced working; or
 - (ii) has ceased working; or

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(Chapter XI.—Winding up and dissolution of co-operative societies.—Sections 90, 91.)

- (iii) has share capital or members' deposits not exceeding five hundred rupees; or
- (iv) has ceased to comply with any condition as to registration provided in this Act or in the rules or by-laws;

he is of the opinion that the society ought to be wound up.

(2) A copy of such order shall be communicated, in the prescribed manner, to the society and to the financing bank, if any, of which the society is a member.

(3) The order shall take effect—

- (a) where no appeal is preferred under section 134, on the expiry of the time allowed for preferring an appeal; or
- (b) where an appeal is preferred, upon rejection of the appeal by the appellate authority.

90. When an order is made under section 89 for the winding up of a co-operative society, the Registrar may, in accordance with the rules, appoint a person to be liquidator of the society and fix his remuneration and may remove such person and appoint another in his place:

Appoint-
ment of a
liquidator.

Provided that it shall not be necessary to appoint any liquidator for winding up of a co-operative society which has not commenced working, or has share capital or members' deposits not exceeding five hundred rupees.

91. (1) Immediately on the appointment of a liquidator under section 90, all assets, properties, effects and actionable claims of the society or to which the society is entitled shall vest in the liquidator.

Powers and
obligation of
a liquidator.

(2) Notwithstanding anything contained in section 89 relating to the date on which an order for the winding up of a co-operative society shall take effect, a liquidator appointed under section 90 shall have power from the date of his appointment—

(a) to take immediate possession of—

- (i) all assets, properties, effects and actionable claims of the society or to which the society is entitled,
- (ii) all books, records and other documents pertaining to the business of the society, and

(b) to take, under the general direction and control of the Registrar, such steps as may be necessary to prevent loss or deterioration of, or damage to, such assets, properties, effects and claims.

(Chapter XI.—Winding up and dissolution of co-operative societies.—Section 91.)

(3) In the event of the order under section 89 being set aside on appeal, the person appointed as liquidator shall hand over charge of all the assets, properties, effects, books, records and other documents of the society to the appropriate officers thereof. Things done, action taken and the proceedings initiated by such liquidator during the interim period, shall be binding on the society, and such action and proceedings shall be pursued continued by the officers of the society.

(4) From the date on which the order directing the winding up of the society takes effect, the liquidator shall, subject to the rules and under the general direction and control of the Registrar, have power, so far as is necessary for the winding up of the society, on behalf of the society to carry on the business thereof and to do all acts and execute all documents necessary to such winding up, and, in particular, shall exercise such of the following powers as the Registrar may, from time to time, direct, namely:—

- (a) to institute and defend suits and other legal proceedings;
- (b) to carry on the business of the society, so far as may be necessary, for the beneficial winding up of the same;
- (c) to sell the movable and immovable property and actionable claims of the society, in whole or in part, by public auction or private contract, to any person or body corporate;
- (d) to raise, on the security of the assets of the society, any money required;
- (e) to make any compromise or arrangement with any person between whom and the society there exists any dispute, and to refer any such dispute to arbitration;
- (f) to determine the debts due to the society by a member, past member, or the estate, nominees, heirs or legal representatives of a deceased member;
- (g) to calculate the costs of liquidation and to determine by what persons and in what proportions they are to be borne;
- (h) to determine, from time to time, the contributions including the items mentioned in clauses (f) and (g), to be made to the assets of the society by the members or past members, or the estates, nominees, heirs or legal representatives of deceased members, or by the past or present officers of the society, or by the estates or nominees, heirs or legal representatives of deceased officers;
- (i) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;
- (j) to fix the time within which the creditors shall prove their debts and claims or take steps to be included for the benefit of any distribution that may be made before these debts or claims are proved;

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(Chapter XI.—Winding up and dissolution of co-operative societies.—Section 92.)

- (k) to pay claims against the society (including interest up to the date of the order for the winding up thereof) according to their priority, in full or rateably, as the assets of the society permit;
- (l) to give such directions, as appear to him to be necessary, in regard to the realisation, collection and distribution of the assets of the society;
- (m) to do all acts and, in the name and on behalf of the society, to execute all deeds and other documents and to grant all receipts, as may be necessary for such winding up; and
- (n) if there is reason to believe that the society can be reconstructed, to take, with the prior approval of the Registrar, such action as may be necessary for the purpose.

(5) The liquidator shall, during his tenure of office, at such times as may be prescribed, but not less than once every year, present to the Registrar an account in the prescribed form, of his receipts and payments. The Registrar shall cause the said accounts to be audited; and for the purpose of audit, the liquidator shall furnish the Registrar with such vouchers, documents and information as the Registrar, or the persons appointed by him, may require.

(6) The liquidator shall cause a summary of the audited accounts to be prepared and shall send a copy of the same to the contributors and creditors.

(7) The liquidator shall pay such fees, as the Registrar may direct, for the audit of the accounts referred to in sub-section (5).

(8) The by-laws of every co-operative society may provide as to how the surplus assets, if any, shown in the final report of the liquidator of a society which has been wound up, may be utilised, and a liquidator shall deal with such surplus assets accordingly. Where the by-laws of a society do not make any provision in respect thereof, the aforesaid surplus assets shall vest in the liquidator who shall transfer it to the co-operative development fund.

(9) When the affairs of a co-operative society have been wound up, the liquidator shall deposit the records of the society in the prescribed manner and shall make a report to the Registrar.

92. (1) Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, the contribution assessed by a liquidator shall rank next to debts due to the Government or to any local authority in order of priority in insolvency proceeding.

(2) When the State Government has taken shares in a co-operative society, the liability in respect of such shares shall, in the event of such co-operative society being wound up, be limited to the amount paid in respect of such shares.

Priority of contributions assessed by liquidator, and the limited liability of Government shares.

(Chapter XI.—Winding up and dissolution of co-operative societies.—Section 93.—Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 94, 95.)

Power of Registrar to cancel order of winding up or of registration of a co-operative society.

93. (1) The Registrar may, for reasons to be recorded in writing, cancel an order for the winding up of a co-operative society in any case where, in his opinion, the society should continue to exist.

(2) In any other case, the Registrar shall, after considering the report of the liquidator, if any, order the registration of the society to be cancelled.

CHAPTER XII

SPECIAL PROVISIONS FOR CO-OPERATIVE LAND DEVELOPMENT BANK, CENTRAL CO-OPERATIVE BANK, PRIMARY CO-OPERATIVE CREDIT SOCIETY AND APEX HOUSING SOCIETY

Right of co-operative land development bank to pay prior debts of mortgagor.

94. (1) When a mortgage is executed in favour of a co-operative land development bank for payment of a prior debt or part thereof of the mortgagor, the bank shall, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by issuing notice in writing in the prescribed manner, require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank within such period as may be specified in the notice. 4 of 1882.

(2) The person on whom such notice is served shall be bound to receive payment of the amount offered by the bank, but where there is a disagreement between the mortgagor and such person as regards the amount of the debt, or where the bank tenders less than the agreed amount of the debt, the receipt of the sum offered by the bank shall not prejudice the right, if any, of such person to recover the balance claimed by him.

(3) If any person fails to accept such notice or to receive such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiry of the period specified in the notice.

Procedure for dealing with certain applications for loans.

95. (1) Subject to the provisions of section 94, when an application for a loan is made to a co-operative land development bank for any of the productive purposes specified in clause (2) of the explanation to clause (k) of section 2 or such other purposes as may be prescribed or notified, a public notice shall be given of such application by such officer and in such manner as may be prescribed, calling upon all persons interested to present their objections to the loan, if any, in person, at a time and place to be fixed in the notice.

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(Chapter XII I.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 96, 97.)

(2) Every objection presented under sub-section (1) shall be heard and disposed of in the prescribed manner by the prescribed officer who shall make an order in writing either upholding such objection or rejecting it:

Provided that where the question raised by an objection is, in the opinion of such officer, of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone the proceedings on the application until the question has been so decided.

(3) A notice under sub-section (1), published in the manner prescribed, shall, for the purposes of this Act, be deemed to be a proper notice to all persons having or claiming interest in the land offered as security for the loan.

(4) Subject to such rules as may be made in this behalf, a co-operative land development bank shall deal with every application made under this section, after due enquiry, for the purpose of granting a loan thereon.

96. Notwithstanding anything contained in any other law for the time being in force—

Restriction on mortgagor's transfer of, or charge on, equity of redemption.

- (1) the mortgagor of property mortgaged to a co-operative land development bank shall not be entitled, after the execution of the mortgage and without concurrence of the bank,—
 - (a) to transfer or mortgage his equity of redemption, or
 - (b) to create a charge upon such property for a period exceeding five years;
- (2) the co-operative land development bank shall not be entitled to give its concurrence under clause (1) without the previous sanction of the central co-operative land development bank or the financing bank to which any sum is payable by it; and
- (3) the central co-operative land development bank or the financing bank shall, if it accords its sanction under clause (2), send an intimation thereof to the Trustee, if any, appointed under section 34.

97. Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, a mortgage executed in favour of a co-operative land development bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the bank preference over the creditors of the mortgagor.

Mortgage not to be questioned on insolvency of mortgagor.

(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 98-100.)

Priority of mortgage over claims arising under Act 19 of 1883 and Act 12 of 1884.

98. (1) A mortgage executed in favour of a co-operative land development bank before or after the commencement of this Act shall have priority over any claim of the State Government arising from a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, granted after the execution of the mortgage.

19 of 1883.
12 of 1884.

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882, or in any other law for the time being in force, a mortgage executed in favour of a co-operative land development bank in respect of any land before or after the commencement of this Act, shall have priority over other unregistered mortgages or charges or unregistered transfer, gift or sale created, made or effected by the mortgagor or his predecessor-in-interest in respect of such land before the execution of the mortgage first mentioned.

4 of 1882.

Power to distrain.

99. (1) If any sum due as an instalment or part of an instalment payable under mortgage in favour of a co-operative land development bank, central co-operative bank or primary co-operative credit society has remained unpaid for more than one month from the date on which it fell due, the bank or the society, as the case may be, may, in addition to any other remedy available to it, apply to the Registrar for the recovery of such sum by distraint and sale of not more than half the produce of the mortgaged land, including the standing crops thereon.

(2) Upon receipt of such application, and notwithstanding anything contained in the Transfer of Property Act, 1882, the Registrar may, subject to the provisions of this Act and the rules, take such action as is necessary to distrain and sell such produce or such portion of it as he thinks fit:

Provided that the value of the property to be distrained and sold shall be equal, as nearly as possible, to the aggregate of the sum due to the co-operative land development bank, central co-operative bank or primary co-operative credit society, as the case may be, and the costs of the distraint and sale.

(3) No distraint shall be made under this section after the expiry of a period of three years from the date on which the instalment fell due.

Distribution of proceeds of sale or distraint.

100. The proceeds of any distraint and sale under section 99 shall be applied as follows:—

First, there shall be paid to the co-operative land development bank, central co-operative bank or the primary co-operative credit society, as the case may be, at the prescribed rate—

(a) the costs of the sale; and

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(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 101-103.)

(b) the other expenses incurred on account of the distraint;

Secondly, there shall be paid to the bank or the society, as the case may be, the amount for which the distraint was made and there shall be given to the person whose property has been sold a receipt for the amount so paid; and

Thirdly, the residue, if any, thereafter remaining shall be delivered to the person whose property has been sold.

101. Notwithstanding anything contained in any other law for the time being in force, where a power of sale and delivery of possession in respect of the property sold, without the intervention of the Court, is expressly conferred on a co-operative land development bank, central co-operative bank or the apex housing society by a mortgage deed in favour of the bank or the society, as the case may be, if any instalment under such mortgage is not paid in full on the date on which it falls due, the managing committee of the bank or the society, as the case may be, shall, in addition to any other remedy available to it, have the power, subject to the provisions of this Act and the rules, to bring the mortgaged property to sale and to deliver possession in respect of the property sold to the purchaser without the intervention of the Court.

Power to bring mortgaged property to sale and to deliver possession in respect of the property sold without the intervention of the Court.

102. The Registrar may, subject to the rules, appoint a Sale Officer for the purpose of conducting any sale under the provisions of this Chapter.

Appointment of Sale Officer.

103. A co-operative land development bank, central co-operative bank or apex housing society in the exercise of the powers conferred by section 101 shall, in the prescribed manner and in the form of a written demand for the payment of the amount due to the bank or the society, as the case may be, issue a notice upon—

Notice requiring payment from persons interested.

- (a) the mortgagor;
- (b) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the said property and who has previously notified the bank or the society in writing of such interest or charge;
- (c) any surety for the payment of the mortgage debt or any part thereof; and
- (d) 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.

(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 104-106.)

Appli-
cation for
sale and
method
of sale.

104. Upon the expiry of three months from the date of service of a notice under section 103, if the sum due under the mortgage has not been paid, the managing committee of the bank or the society, as the case may be, may, after considering any objection made within that period by any person entitled to such notice, apply to the Sale Officer appointed under section 102 to sell the mortgaged property or any part thereof, and such officer shall, in the prescribed manner, proceed to sell such property by public auction and report the result thereof to the bank or the society, as the case may be.

Appli-
cation to
set aside a
sale on
deposit.

105. When property mortgaged to a co-operative land development bank, central co-operative bank or the apex housing society has been sold under the provisions of this Chapter, the mortgagor or any person entitled to a notice under section 103 may within the prescribed period apply to the managing committee of the bank or the society, as the case may be, to have the sale set aside, upon his depositing with the bank or the society, as the case may be,—

- (a) for payment to the bank or the society, as the case may be, the amount specified in proclamation of sale together with the subsequent interest and the costs, if any, incurred by the bank or the society, as the case may be, in bringing the property to sale; and
- (b) for payment to the purchaser as compensation, a sum equal to five *per centum* of the purchase money.

Setting
aside and
confir-
mation of
sales.

106. (1) After the expiry of the period prescribed for making an application to have the sale set aside, the bank or the society, as the case may be, shall, in the prescribed manner, submit to the Registrar a report setting forth the proceedings of the Sale Officer, the result of the sale and details of any application made under section 105.

(2) Upon receipt of such report the Registrar shall—

- (a) if an application has been made under section 105 and if the amounts specified in that section have been deposited by the applicant, make an order setting aside the sale and requiring the bank or the society, as the case may be, to pay to the purchaser the sum deposited under clause (b) of section 105; and
- (b) if no application has been made under section 105 or an application has been made but the amount specified in that section has not been deposited by the applicant, or an application has been disallowed by the bank or the society, as the case may be, make an order confirming the sale.

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(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 107-109.)

(3) Where an order confirming a sale is made under sub-section (2), the sale shall thereupon become absolute.

107. (1) The Registrar shall, in making a sale absolute by an order under section 106, direct that the sale-proceeds shall be applied as follows:—

Distribution of sale-proceeds and bar to certain claims.

First, there shall be paid to the co-operative land development bank, central co-operative bank or the apex housing society, as the case may be, at the prescribed rate, all costs, charges and expenses properly incurred by the bank or the society, as the case may be, or the Sale Officer incidental to the sale or any attempted sale;

Secondly, there shall be paid to the bank or the society, as the case may be, all interest due on account of the mortgage in consequence whereof the mortgaged property was sold;

Thirdly, there shall be paid to the bank or the society, as the case may be, all sums due as principal on account of the mortgage; and

Fourthly, the residue, if any, thereafter remaining, shall be paid to the mortgagor.

(2) All payments of such residue made in accordance with sub-section (1) shall be valid and effectual against any demand relating thereto made upon the bank or the society, as the case may be, by the mortgagor or by any other person.

108. (1) Where a sale of mortgaged property under this Chapter has become absolute, the Registrar shall grant to the purchaser a certificate in the prescribed form specifying the property sold and the name of the person who, at the time of the sale, is declared to be the purchaser, and such certificate shall bear the date of the day on which the sale becomes absolute.

Certificate to be issued to purchaser and to be entered by the registering officer.

16 of 1908.

(2) Notwithstanding anything contained in the Registration Act, 1908, the Registrar shall send a copy of every certificate granted under sub-section (1) to the registering officer appointed under that Act within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situated, and such registering officer shall enter the contents of such copy in his register of non-testamentary documents relating to immovable property.

109. After a certificate has been issued under section 108, the Registrar shall, on the application of the purchaser, cause delivery of possession

Delivery of property to purchaser.

(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 110-113.)

of property to be made to the purchaser within such period and in such manner, as may be prescribed, and, on such delivery of possession being made, issue a certificate to the purchaser in respect thereof in such form and manner and within such period as may be prescribed.

Right of co-operative land development bank, central co-operative land development bank, central co-operative bank or apex housing society to purchase at a sale under this Chapter.

110. (1) It shall be competent to a co-operative land development bank, central co-operative land development bank, central co-operative bank or the apex housing society to purchase the mortgaged property sold under this Chapter but the property so purchased shall be disposed of by such bank or the society, as the case may be, by sale within the period prescribed or, where a Trustee has been appointed, within such period as he may specify in accordance with the rules.

(2) Nothing contained in section 14M or section 14Q of the West Bengal Land Reforms Act, 1955, shall apply to lands acquired by a co-operative land development bank, central co-operative land development bank, central co-operative bank or the apex housing society as a *raiya*t by virtue of purchase or purchases referred to in sub-section (1).

West Ben. Act X of 1956.

Title of purchaser not to be questioned.

111. When a sale has been made in exercise of a power to sell under section 101 and has been confirmed under clause (b) of sub-section (2) of section 106, the title of the purchaser shall not be questioned in any Court by the mortgagor or his successor-in-interest.

Power to appoint a receiver.

112. (1) In circumstances in which the power of sale and delivery of possession under section 101 might be exercised, the Registrar may, subject to the provisions of sub-section (2), and in accordance with the rules,—

- (a) on the application of a co-operative land development bank, central co-operative bank or the apex housing society, as the case may be, appoint a receiver of the produce and income of the mortgaged property;
- (b) on the application of the mortgagor for due cause shown, remove a receiver so appointed; and
- (c) fill up a vacancy in the office of receiver.

(2) The Registrar shall not appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a Court.

Expenses, remuneration and duties of a receiver.

113. (1) A receiver appointed under section 112 shall be entitled, in accordance with the rules, to receive such expenses of management and remuneration, if any, as may be determined by the Registrar in

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(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 114-116.)

consultation with the co-operative land development bank, central co-operative bank or the apex housing society, as the case may be.

4 of 1882.

(2) The provisions of sub-section (8) of section 69A of the Transfer of Property Act, 1882, shall apply to a receiver appointed under section 112.

114. Where any property mortgaged to a co-operative land development bank, central co-operative bank or apex housing society, as the case may be, is wholly or partially destroyed or the security is rendered insufficient, and the mortgagor, after reasonable opportunity given by the bank or the society, as the case may be, to provide such further security as will render the whole security sufficient to repay such portion of the loan as may be determined by the bank or the society, as the case may be, has failed so to do, the whole of the loan shall be deemed to fall due at once and the bank or the society, as the case may be, shall, subject to the rules, be entitled to take action against the mortgagor for the recovery thereof under this Chapter.

Powers of co-operative land development bank, central co-operative bank or apex housing society if the mortgaged property is destroyed or the security is rendered insufficient.

Explanation.—A security shall be deemed to be insufficient within the meaning of this section if the value of the mortgaged property does not exceed the amount for the time being due on the mortgage by such proportion as may be specified in the rules or by-laws.

115. (1) A Trustee and, in the case of a member society, a central co-operative land development bank may, in accordance with the rules, direct a co-operative land development bank to take action against a defaulter under section 99, section 101 or section 114 and, if the bank neglects or fails to do so, may take such action.

Power of the Trustee and a central co-operative land development bank to direct or to take certain action.

(2) Where such action is taken by a Trustee or a central co-operative land development bank, the provisions of this Act and of any rules or by-laws shall apply in respect thereto as if all references to the co-operative land development bank were references to the Trustee or the central co-operative land development bank, as the case may be.

116. At any sale of movable or immovable property held under the provisions of this Chapter, no officer of a co-operative land development bank, central co-operative bank or the apex housing society (except on behalf of the bank or the society of which he is an officer), and no Sale Officer or other person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

Officers of co-operative land development bank, central co-operative bank and apex housing society and Sale Officers not to bid at sales.

(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Sections 117, 118.)

Notice of sale, and deposit for protection from sale.

117. (1) Notwithstanding anything contained in any law, for the time being in force, relating to the sale of holdings in execution of decrees for arrears of land revenue, no such sale shall affect the title or interest of any co-operative land development bank, central co-operative bank or the apex housing society which has, in respect of such holding, a registered and notified encumbrance unless a concise statement of the order of attachment and proclamation of sale has, at the time of the issue of such proclamation, been sent by the Court by registered post to such bank or society, as the case may be.

(2) Notwithstanding anything contained in any law for the time being in force, when a mortgage is executed in favour of a co-operative land development bank, central co-operative bank or the apex housing society in respect of any holding, the co-operative land development bank, central co-operative bank or the apex housing society, as the case may be, shall—

- (a) in such manner as may be prescribed, notify the Collector of the execution of such mortgage;
- (b) for the purpose of receiving notice of the sale of such holding pay to the Collector such fee in such manner as may be prescribed; and
- (c) on compliance with the provisions of clauses (a) and (b), be deemed to be a notified mortgagee in respect of such holding.

(3) Before the sale is held of any such holding, the Collector shall, by registered post, send a notice thereof to every co-operative land development bank, central co-operative bank or the apex housing society which is, in respect of such holding, a notified mortgagee within the meaning of clause (c) of sub-section (2).

(4) Any co-operative land development bank, central co-operative bank or the apex housing society, as the case may be, which is a notified mortgagee within the meaning of clause (c) of sub-section (2) shall be entitled to stay such sale by depositing with the Collector the balance of the arrears of land revenue due in respect of such holding.

Exemption from personal attendance for registration of certain instruments.

118. (1) Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary for a Trustee or for any officer of a co-operative land development bank, central co-operative bank, primary co-operative credit society, central co-operative land development bank, apex housing society, or any other class of co-operative society that may be prescribed to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

16 of 1908.

(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.—Section 119.)

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to the Trustee or to such officer for any information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

119. (1) Where a co-operative land development bank, a primary housing co-operative society and a primary co-operative credit society advance money on a mortgage out of funds borrowed wholly or in part from the central co-operative land development bank, the apex housing society and a central co-operative bank, respectively, such mortgage shall be deemed to have been transferred with effect from the date of execution thereof, by the co-operative land development bank, the primary co-operative housing society and the primary co-operative credit society to the central co-operative land development bank, the apex housing society and the central co-operative bank, respectively, and such mortgage of central co-operative land development bank shall be deemed to be assigned to the Trustee.

Powers of co-operative land development bank, primary housing co-operative society or primary co-operative credit society to receive moneys, etc., notwithstanding assignment or transfer of mortgage deeds to a central co-operative land development bank, apex housing society or central co-operative bank.

(2) Notwithstanding any assignment or transfer of any mortgage by a co-operative land development bank, primary housing co-operative society or primary co-operative credit society to the central co-operative land development bank, the apex housing society and the central co-operative bank respectively—

- (a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Registrar or a Trustee in accordance with the rules and communicated to the mortgagor, be payable to the co-operative land development bank, primary housing co-operative society or primary co-operative credit society, as the case may be, and such payment shall be valid as if the mortgage had not been so assigned or transferred; and
- (b) the co-operative land development bank, the primary housing co-operative society and the primary co-operative credit society, as the case may be, shall, in the absence of any such direction communicated to it, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

(Chapter XII.—Special provisions for co-operative land development bank, central co-operative bank, primary co-operative credit society and apex housing society.— Sections 120, 121.—Chapter XIII.—Enforcement of obligations and sums due.—Sections 122, 123.)

Mortgages executed by members of Hindu joint families.

120. (1) Where a mortgage executed in favour of a co-operative land development bank, whether before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force, rest upon the party which calls such mortgage in question.

(2) For the purpose of this section, the productive purposes within the meaning of clause (2) of the explanation to clause (k) of section 2 of this Act shall be deemed to be purposes binding on the members of a joint Hindu family, whether major or minor.

The special provisions of this Chapter for co-operative land development bank to apply to branches of the central co-operative land development bank.

121. The special provisions for the co-operative land development bank contained in this Chapter shall apply, *mutatis mutandis*, to the branches of the central co-operative land development bank, in so far as they perform and discharge the functions and duties of the primary co-operative land development bank.

CHAPTER XIII

ENFORCEMENT OF OBLIGATIONS AND SUMS DUE

Access to documents, etc.

122. The Registrar and, subject to any restrictions prescribed, an audit officer, arbitrator or any person conducting an inspection or inquiry under Chapter IX, shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, a co-operative society.

Power to enforce attendance of witness and production of documents.

123. (1) The Registrar and, subject to any restrictions prescribed, the managing committee of a co-operative society, or a person deputed under section 24 or appointed under section 26 to manage the affairs of a society, and audit officer, arbitrator or liquidator, or any person conducting an inspection or inquiry under Chapter IX shall, in so far as is necessary for carrying out any of the purposes of this Act, have power to summon and enforce the attendance of witnesses and parties concerned and to examine them upon oath and to compel the production of any books, accounts, documents, securities, cash and other properties, by the same means and, so far as may be, in the same manner, as provided in the Code of Civil Procedure, 1908.

5 of 1908.

*(Chapter XIII.—Enforcement of obligations and sums due.—
Sections 124, 125.)*

(2) Where a person summoned under sub-section (1) fails or refuses to produce any record or property of the society specified in the summons, any Presidency Magistrate or any Magistrate of the first class in whose jurisdiction the person concerned resides shall, on a complaint from the Registrar or any person authorised by him in this behalf, issue a warrant for the production of such records and properties of the society to such Registrar or the person authorised by him:

Provided that no such complaint shall be made by the person authorised by the Registrar under this sub-section without the previous sanction of the Registrar.

124. (1) If the managing committee of a co-operative society, or a person appointed under section 24 or section 26 to manage the affairs of a society, or an officer deputed under sub-section (2) of section 26 to the service of a society, or a liquidator appointed under section 90 for winding up a society is resisted in, or prevented from, taking possession of any books, accounts, documents, securities, cash or other properties of the society by any person not entitled to be or to remain, in possession of the same, the Registrar or any person authorised by him in this behalf may apply to any Presidency Magistrate or Magistrate of the first class within whose jurisdiction such books, accounts, documents, securities, cash or other properties may lie, for seizing and taking possession of the same.

Delivery of possession of the books, accounts, etc., of a society.

(2) On receipt of an application under sub-section (1), the Magistrate shall authorise any police-officer, not below the rank of a Sub-Inspector, to enter and search any place where the books, accounts, documents, securities, cash or other properties are kept or likely to be kept and to seize, and hand over possession of, the same to the Registrar or the person authorised by him, as the case may be.

125. (1) Subject to the rules, the Registrar, if it appears to him that any person or co-operative society with intent to defeat or delay the execution of any order that may be made under Chapter X, XI, XII or XIII—

Power to direct conditional attachment.

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

may, by an order in writing, direct such person or co-operative society, within a time to be fixed by him either to furnish security, in such sum

*(Chapter XIII.—Enforcement of obligations and sums due.—
Sections 126, 127.)*

as may be specified in the order, to produce and place at the disposal of the Registrar, when required, the said property or the value of the same, or such portion thereof as may be considered sufficient by the Registrar, or to show cause why he or it should not furnish such security. The Registrar may also in the order direct the conditional attachment of the said property or such portion thereof as he thinks fit.

(2) Such attachment shall have the same force and effect as if it had been made by a Civil Court and shall continue in force until withdrawn or cancelled by the Registrar.

Power to
direct
payment of
dues.

126. Notwithstanding anything contained in Chapter X, the Registrar or such other person as may be prescribed may, on his own motion or on the written requisition of a co-operative society or financing bank for the recovery of any loan due by a defaulting member, after such inquiry as he considers necessary or expedient, make an award directing payment by such member or by the surety of such member (whether such surety is or is not a member of the society) of the amount found to be due.

Charge and
surcharge.

127. (1) Where, as the result of an audit under section 79 or an inspection under section 82 or section 83, or an inquiry under section 84 or a report made in the course of the winding up of a co-operative society, it appears to the Registrar that any past or present officer, has at any time after the commencement of this Act and within a period of six years prior to the date of such audit, inspection, inquiry or report, as the case may be—

- (a) intentionally made or authorised any payment which is contrary to the provisions of this Act or the rules or by-laws, or
- (b) by reason of his culpable negligence in respect of any prescribed matter involved the society in any loss or deficiency, or
- (c) failed to bring into account any sum which ought to have been brought into account, or
- (d) misappropriated or fraudulently retained any property of the society,

the Registrar may inquire into the conduct of such officer.

(2) Upon such inquiry, after giving such officer an opportunity of being heard and, in the case of a payment made contrary to the provisions of this Act or the rules or by-laws, after affording such officer an opportunity to recover the amount of such payment from the payee and credit it to the funds of the society, the Registrar may, subject to the rules, by an order in writing require such officer to pay such sum

*(Chapter XIII.—Enforcement of obligations and sums due.—
Sections 128, 129.)*

to the assets of the society by way of compensation in respect of such payment or loss or sum, or to restore such property as the Registrar thinks fit, and to pay such sums as the Registrar may fix to meet the cost of the proceedings under this section.

(3) This section shall apply notwithstanding that such officer may by his act or omission have incurred criminal liability under this Act or any other law for the time being in force.

128. Where it appears to the Registrar that any person has contravened the provision of this Act, the rules or by-laws—

Penalty for certain misdemeanours.

- (a) by sitting or voting as a member of a managing committee, or voting in the affairs of a co-operative society as a representative of another society which is a member of such society, or exercising the rights of a member of a co-operative society, when such person was not entitled so to sit or vote or exercise such rights, as the case may be,
- (b) by continuing as an officer of any co-operative society, even after incurring disqualification therefor,
- (c) by employing a loan for a purpose different from that for which it was granted, or
- (d) by not repaying to the financing bank any amount recovered from the loanee members which, under the terms of any agreement or under provision of any rule, the society or the person concerned is bound to deposit with the financing bank by way of repayment,

the Registrar may, subject to the rules and after affording such person an opportunity of being heard, by an order in writing, direct him to pay to the assets of the society, by way of penalty, such sum as the Registrar thinks fit in respect of every such contravention.

129. Notwithstanding anything contained in this Act, where any co-operative society is required to take any action under this Act, the rules or the by-laws and such action is not taken—

Registrar's power to enforce performance of obligations.

- (a) within the time provided in this Act, the rules or the by-laws; or
- (b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by a notice in writing,

the Registrar may himself, or by a person authorised by him in this behalf, take such action at the expense of the society, or may call upon any officer of the society whom, in accordance with such principles as may

*(Chapter XIII.—Enforcement of obligations and sums due.—
Sections 130, 131.)*

be prescribed, he considers to be responsible for the carrying out of his directions and, after giving such officer an opportunity of being heard, may require him to pay, to the assets of the society, such sum not exceeding twenty-five rupees, as the Registrar may think fit, for each day, until the Registrar's directions are carried out.

Recovery of
sums due.

130. Any sum payable to the State Government or to a co-operative society or the authority constituted under section 81 in accordance with any order, decision or award under this Act shall be recoverable in the manner provided in the Second Schedule; or as a decree of a Court under the Civil Procedure Code:

Provided that, notwithstanding anything contained in the Code of 5 of 1908. Civil Procedure, 1908, or in any other law for the time being in force, any sum payable in accordance with an award made under section 126 in respect of default in the payment of a loan or an instalment thereof due to a co-operative society shall be recoverable—

- (a) if the salary or wages of the member or of the surety exceeds one hundred and fifty rupees *per mensem*, by the attachment of such salary or wages to the extent of the instalment in respect of which default has been made or half the difference between such salary or wages and fifty rupees, whichever is less, and
- (b) if the salary or wages of the member or of the surety does not exceed one hundred and fifty rupees *per mensem*, by the attachment of such salary or wages to the extent of the instalment in respect of which default has been made or of six paise in every rupee of such salary or wages, whichever is less.

Acts of the
societies,
etc., not
to be
invalidated
by certain
defects.

131. (1) No act of a co-operative society or managing committee or of any officer or liquidator, done in good faith in pursuance of the business of the society, shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society or in the constitution of the managing committee or in the appointment or election of the officer or liquidator or on the ground that such officer or liquidator was disqualified for his appointment.

(2) No act done in good faith by any person appointed under this Act shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently made under this Act.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of a society.

XXXVIII of 1973.]

*(Chapter XIV.—Jurisdiction, appeal and revision.—
Sections 132, 133.)*

CHAPTER XIV

JURISDICTION, APPEAL AND REVISION

132. (1) No suit, prosecution or legal proceedings whatever shall lie against the Registrar or any person subordinate to him or acting on his authority or against a Trustee in respect of anything in good faith done or purporting to be done under this Act.

Indemnity
and bar to
jurisdiction
of Courts.

(2) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of—

- (a) the registration of a co-operative society or its by-laws or of an amendment of its by-laws; or
- (b) the dissolution of a managing committee and the management of the society on dissolution thereof; or
- (c) any directives issued by the State Government under sub-section (5) of section 39; or
- (d) any dispute required under section 86 to be referred to the Registrar; or
- (e) any matter concerned with the winding up and dissolution of a co-operative society.

(3) While a co-operative society is being wound up, no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof except by leave of the Registrar and subject to such terms as he may impose.

(4) Save as provided in this Act, no order, decision or award under this Act shall be liable to be challenged, set aside, modified, revised or declared void in any Court on any ground whatsoever except want of jurisdiction.

133. (1) The State Government shall constitute a Tribunal, to be called the Co-operative Tribunal, consisting of such number of members possessing such qualifications as may be prescribed.

Co-operative
Tribunal.

(2) The Tribunal shall hear such appeals from orders, decisions or awards made under this Act, as are specified in the Third Schedule, as lying to the Tribunal and shall exercise all the powers conferred upon an Appellate Court by Order XLI in the First Schedule to the Code of Civil Procedure, 1908.

(3) The Tribunal may call for and examine the record of any proceeding in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any order or decision passed therein,

5 of 1908.

*(Chapter XIV.—Jurisdiction, appeal and revision.—
Section 134.)*

and if in any case it appears to the Tribunal that any such order or decision should be modified, annulled or revised, it may make such orders as it thinks fit.

(4) Any person aggrieved by an order made by the Tribunal may, within ninety days from the date of such order, apply to the Tribunal for review of the order:

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

(5) No order shall be made by the Tribunal under sub-section (3) or sub-section (4) without affording to any person, likely to be affected adversely by such order, an opportunity of being heard.

(6) During the pendency of any appeal or application for review, or while calling for the record of any proceeding for examination, the Tribunal may, on such terms and conditions as it thinks fit, make such interlocutory orders as may appear to it to be just and convenient.

(7) The Tribunal may, with the previous approval of the State Government, make regulations, not inconsistent with the provisions of this Act or the rules, for regulating its procedure and disposal of its business.

Appeal.

134. (1) An appeal shall lie from an order shown in column 2 of the Third Schedule to the authority shown in column 3 and within the period shown in column 4 thereof.

(2) The provisions of the Limitation Act, 1963, shall not apply to an appeal referred to in sub-section (1). 36 of 1963.

(3) Save as provided in this Act or the rules, no appeal shall lie against any order, decision or award made in accordance with this Act, and every such order, decision or award shall be final.

(4) An appeal shall be disposed of by the appellate authority, other than the Co-operative Tribunal, within a period of six months from the date of presentation thereof:

Provided that if the appellate authority fails to dispose of the appeal within the aforesaid period, he shall make a report in writing to the State Government stating reasons for his aforesaid failure, and the State Government may allow him such further time, as it thinks fit, for disposal of such appeal.

XXXVIII of 1973.]

*(Chapter XIV.—Jurisdiction, appeal and revision.—Section 135.—
Chapter XV.—Offences, penalties and procedure.—Sections 136, 137.)*

135. (1) The State Government may call for and examine the record of any inquiry or inspection held or made under this Act, or the proceedings of the Registrar or any person subordinate to him or acting on his authority, and may make thereon such orders as it thinks fit. Review and revision.

(2) The Registrar may at any time—

- (a) revise any order made by himself; or
- (b) call for and examine the record of any inquiry or inspection held or made under this Act, or the proceedings of any person subordinate to him not vested with the powers of Registrar or acting on his authority, and, if it appears to him that any decision, order or award or any proceeding so called for should be for any reason modified, annulled or reversed, may make such orders thereon as he thinks fit:

Provided that, before any order is made under clause (a) or clause (b), the Registrar shall afford to any person, likely to be affected adversely by such order, an opportunity of being heard.

(3) Nothing in sub-section (1) or sub-section (2) shall apply to any proceeding in which an appeal lies to the Tribunal under sub-section (2) of section 133.

CHAPTER XV

OFFENCES, PENALTIES AND PROCEDURE

136. In addition to provisions contained in sub-section (3) of section 142, any person mentioned in column 3 of the Fourth Schedule who is guilty of an offence shown in column 2 thereof shall, notwithstanding anything contained in this Act or any other law for the time being in force, be liable on conviction to the penalty shown in column 4 thereof. Offences and penalties.

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

5 of 1898.

(2) For the purposes of the Code of Criminal Procedure, 1898, every offence under this Act shall be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar.

45 of 1860.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence committed under section 403 of the Indian Penal Code in respect of any movable property of a co-operative society shall be cognizable.

(Chapter XV.—Offences, penalties and procedure.—Sections 138, 139.—

Chapter XVI.—Insured co-operative banks.—Section 140.)

Presumption raised by entry in register of members, etc.

138. (1) Any register of members or shares kept by a co-operative society in the prescribed manner shall be *prima facie* evidence of any of the following particulars entered therein—

(a) the date on which the name of any person was entered in such register or list as a member; and

(b) the date on which any such person ceased to be a member.

(2) Where the register of members is not available for whatever reason it may be, the detailed list of members with shareholding enclosed with audit report, if any, shall be treated as *prima facie* evidence of membership as on the date the balance sheet is drawn up.

Proof of entries in societies' books.

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

(2) No officer or liquidator of a co-operative society and no officer in whose office the books of a co-operative society are deposited after the society has been wound up 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 the contents of which can be proved under sub-section (1), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless specially so directed by an order of the Court or the Registrar or an arbitrator.

CHAPTER XVI

INSURED CO-OPERATIVE BANKS

Insured co-operative banks.

140. Notwithstanding anything contained in this Act,—

(1) in respect of an insured co-operative bank (mentioned in this clause as the said bank)—

(a) an order for the winding up or an order sanctioning a scheme of compromise or arrangement (including transfer of assets and liabilities) or of amalgamation or reconstruction (including division or reorganisation) may be made by the Registrar only with the previous sanction in writing of the Reserve Bank;

(b) an order for the winding up shall be made by the Registrar, if so required by the Reserve Bank in the circumstances referred to in section 13D of the Deposit Insurance Corporation Act, 1961;

XXXVIII of 1973.]

(Chapter XVI.—Insured co-operative banks.—Section 140.)

- (c) if so required by the Reserve Bank in the public interest or for preventing the affairs of the said bank from being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the said bank, the Registrar shall, by an order in writing giving reasons therefor,—
- (i) dissolve the managing committee of the said bank, and
 - (ii) appoint, with the approval of the Reserve Bank, an administrator in respect of the said bank for such period or periods not exceeding five years in the aggregate, as may, from time to time, be specified by the Reserve Bank;
- (2) the administrator appointed under sub-clause (c) of clause (1) shall, if his term of office is not terminated earlier, hold office for such period for which he may be appointed;
- (3) the administrator appointed under sub-clause (c) of clause (1) shall, before the expiry of his term of office, arrange, with the approval of the Registrar and the Reserve Bank, for the reconstitution of a new managing committee for the said bank in accordance with this Act and the rules, and the by-laws of the said bank;
- (4) if before the expiry of his term of office, the managing committee of the said bank is not reconstituted, the administrator shall continue to hold office till the first meeting of the reconstituted managing committee where a quorum is present;
- (5) the Registrar shall, with the approval of the Reserve Bank, by an order fix the remuneration of the administrator, and the remuneration so fixed shall be paid out of the funds of the said bank whose affairs are managed by such administrator;
- (6) any sanction or requirement accorded or indicated by the Reserve Bank under clause (1) or any order made by the Registrar under the said clause shall not be liable to be called in question in any court in any manner;
- (7) the liquidator or 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 section 3 of the Deposit Insurance Corporation Act, 1961, such sum, in such circumstances, to such extent and in such manner as referred to in section 21 of that Act.

47 of 1961.

Explanation.—For the purpose of this section,—

- (i) “co-operative bank” has the same meaning as in the Deposit Insurance Corporation Act, 1961,

(Chapter XVII.—Miscellaneous.—Sections 141, 142.)

- (ii) “insured co-operative bank” means a co-operative bank which is an insured bank within the meaning of clause (i) of section 2 of the Deposit Insurance Corporation Act, 1961, 47 of 1961.
- (iii) “transferee bank” in relation to an insured co-operative bank means a co-operative bank—
 - (a) with which such insured co-operative bank is amalgamated, or
 - (b) to which the assets and liabilities of such insured co-operative bank are transferred, or
 - (c) into which such insured co-operative bank is divided or converted under the provisions of Chapter VIII of this Act.

CHAPTER XVII

MISCELLANEOUS

Overriding effect of the provisions of this Act.

141. This Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract expressed or implied or in any instrument having effect by virtue of any enactment other than this law and notwithstanding any usage or custom to the contrary.

Power to make rules.

142. (1) The State Government may, for the whole or any part of West Bengal, and for any co-operative society or class of co-operative societies, after previous publication in the *Official Gazette*, make rules to carry out the purposes of this Act:

Provided that any such rules may be made by the State Government without previous publication, if the State Government is of opinion that in the public interest such rules shall be brought into force at once.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (i) the sums which, in addition to those referred to in clause (z) of section 2, shall be deducted from profits;
- (ii) the period which shall be a co-operative year;
- (iii) the other functions which the State co-operative union can carry out as one of its primary objects;
- (iv) the extent and manner of delegation of powers and duties entrusted to the Registrar;
- (v) the conditions for registration of any co-operative society or class of societies;

- (vi) the forms to be used and the conditions to be complied with in the making of an application for the registration of a co-operative society and the procedure in the matter of such application;
- (vii) the procedure and conditions for the division, or transfer of assets and liabilities of a co-operative society and amalgamation of co-operative societies;
- (viii) the extent to which a co-operative society may limit the number of its members and the particular applicants for registration to whom order of refusal for registration shall be sent;
- (ix) the matters in respect of which a co-operative society shall or may make by-laws, and the procedure and conditions for amending the by-laws;
- (x) the procedure and conditions for the exercise by the Registrar of the powers conferred by section 18;
- (xi) the procedure for calling and holding general meetings, and the powers to be exercised by such meetings;
- (xii) the circumstances in which delegates may be elected for the purposes of section 20, the manner of electing delegates for any of the purposes of this Act and the manner in which delegates so elected, shall vote;
- (xiii) the method of constituting the managing committee of a co-operative society (including the appointment of persons to present appropriate interests);
- (xiv) the qualifications, disqualification, term of office, suspension and removal of members of managing committees and officers of different classes of co-operative societies;
- (xv) the procedure of meetings of the managing committee and the powers to be exercised and the duties to be performed by the managing committee and officers of a society;
- (xvi) the manner in which, the time within which and the period for which the vacancies occurring in the membership of the managing committee under circumstances referred to in sub-section (6), sub-section (8) and sub-section (10) of section 23 are to be filled up;
- (xvii) the conditions of deputation of, and the powers to be exercised and duties to be performed by, an officer of the Government deputed under section 24;
- (xviii) the manner in which the seats reserved on the managing committee under sub-section (2) of section 28 may be filled up;

(Chapter XVII.—Miscellaneous.—Section 142.)

- (xix) the procedure for registering the address of a co-operative society and any change of its address;
- (xx) the minimum number of paid staff to be employed by different classes of co-operative societies and the qualifications thereof;
- (xxi) the accounts, books and registers to be kept and the returns to be submitted by a co-operative society, the form in which and the persons by whom such accounts, books and registers shall be kept and such returns submitted, the method in which such accounts, books and registers shall be kept in custody and destroyed and the charges which may be assessed and levied for the preparation of any return not submitted in accordance with the rules;
- (xxii) the documents to be kept open to inspection by a co-operative society under section 29, and the details of qualifications and training of persons required to be appointed by co-operative societies, and the terms and conditions under which they are to be appointed;
- (xxiii) the manner in which, the time within which and the fees on payment of which, societies are to be affiliated to State and district co-operative unions, and the manner in which and the fees on payment of which, such affiliation may be renewed;
- (xxiv) the manner in which the balance sheet shall be published under section 31;
- (xxv) the conditions and terms under which, the manner in which and the extent to which funds may be raised by a co-operative society by means of shares, deposits, debentures or otherwise, and the manner in which provision shall be made for the maintenance of fluid resources;
- (xxvi) the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures, issued by a co-operative society;
- (xxvii) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures under section 33;
- (xxviii) the procedure and conditions for varying an instrument of trust between the Trustee and a co-operative society;
- (xxix) the procedure whereby, and the conditions under which, guarantees or financial assistance may be given under section 33 or section 38;

- (xxx) the payments to be made and the conditions to be complied with by members applying for loans from a co-operative society, the period for which loans may be made and the amount which may be lent to an individual member;
- (xxxi) the conditions in which and the extent to which loans may be made in relaxation of the provisions of sub-section (1) of section 39 and the determination by a society of the maxima and normal credits of its members;
- (xxxii) the manner in which co-operative societies may be given an opportunity of being heard under sub-section (4) of section 39;
- (xxxiii) the prohibitions and restrictions subject to which co-operative societies may transact business with persons who are not members;
- (xxxiv) the procedure and conditions for change of the form of liability of a co-operative society under section 43;
- (xxxv) in any case in which a notice or process is issued under this Act or the rules—
 - (a) the form of the notice or process,
 - (b) the period of notice to be given,
 - (c) the persons on or against whom the notice or process shall be issued, and
 - (d) the conditions to be fulfilled in order to establish proof of the service of such notice or process;
- (xxxvi) the form of the written statement of claim and the form of declaration required by section 44 and clause (a) of section 48 respectively;
- (xxxvii) the form of application under, the form of map and statement and the manner of their publication required by, and the manner of levying water-rate and embankment protection rate provided in, section 49;
- (xxxviii) the form of application in which a society is to apply under sub-section (10) of section 49 to the Collector for demarcation of an area to be brought under the land consolidation scheme, and the manner in which and the time within which the non-members may join such society to take part in the said scheme;
- (xxxix) the conditions in which any charge in favour of a co-operative society shall be satisfied and the extent to which and the order in which the property subject to the charge shall be used in its satisfaction;

(Chapter XVII.—Miscellaneous.—Section 142.)

- (xl) the time within which and the manner in which a copy of the mortgage-deed shall be sent to the Registering Officer under section 52;
- (xli) the form of and procedure for an application under section 54 and the procedure for calling, holding and conducting a meeting under that section;
- (xlii) the manner in which a co-operative society may invest or deposit its funds under section 55;
- (xliii) the proportion which shall be annually carried under section 56 to the reserve fund and bad debt fund from the net profits of a co-operative society, the extent to which a society may use its funds referred to in sub-sections (1) and (3) of section 56 in its business, the method in which such funds shall be invested, the banks in which such funds may be deposited, and the authority by which, the manner in which and the purposes for which, the co-operative development fund shall be administered;
- (xliv) the amount or proportion of contribution which a co-operative society may make to a provident fund under section 56;
- (xlv) the conditions in which, and the extent to which, the profits of a co-operative society may be distributed among its members under section 57;
- (xlvi) the co-operative purposes for which a co-operative society shall under section 58 contribute a percentage of its net profits, the extent of the contribution which may be made under clause (b) of that section and the manner of making such contributions;
- (xlvii) the conditions in which a co-operative society may admit a nominal or an associate member under section 59, and the rights and privileges of such members and the manner in which an opportunity is to be given to the appellant for hearing appeal under sub-section (4) of section 59;
- (xlviii) the conditions in which a member of a co-operative society shall be disqualified from voting under sub-section (2) of section 60;
- (xlix) the conditions to be complied with by a person applying for admission or admitted as a member of a co-operative society, the procedure for the admission, expulsion and resignation of members and the conditions for the exercise by members of the rights of membership;

(Chapter XVII.—Miscellaneous.—Section 142.)

- (i) the manner of recalling a loan under section 63;
- (ii) the maximum portion of the share capital of a co-operative society which may be held by a member under section 67;
- (iii) the conditions for the maximum holding of a member under section 68;
- (iiii) the procedure and conditions for, and the method of, nomination by a member of a transferee under section 69;
- (liv) the procedure and conditions for the substitution by a society under sub-section (1) of section 70 of another person for the nominee of a deceased member and for the decision by the society to proceed under sub-section (2) of that section, and the procedure for calculating the value of the share or interest of a member or the sums due to him for the purposes of sections 70 to 74 inclusive;
- (lv) the manner of determining the value of land for the purposes of clause (3) of section 72;
- (lvi) the circumstances and the manner in which a member may resign or be expelled from a co-operative society;
- (lvii) the procedure by which a co-operative society shall calculate and write off bad debts;
- (lviii) the date by which the annual audit shall be made and an audit report submitted, the procedure of an audit officer conducting an audit, the matters on which he shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which he may examine the monetary transactions of the society, the form of his audit report and statement of accounts audited and the charges, if any, to be paid by a co-operative society for audit;
- (lix) the manner in which appointments shall be made and control exercised by, and the number of persons comprising, and the other functions to be performed by the authority constituted under section 81, the manner of election and nomination of such persons, the fee to be paid to such authority and the manner of such payment;
- (lx) the conditions to be fulfilled and the qualifications to be possessed by a member of the paid staff of a financing bank certified by the Registrar under sub-section (2) of section 82;

(Chapter XVII.—Miscellaneous.—Section 142.)

- (lxi) the qualifications of and method of appointing an arbitrator, the procedure to be followed in proceedings under Chapter X and the method of calculating charges incidental to such proceedings and of enforcing decisions therein;
- (lxii) the cases in which and the conditions under which it shall be obligatory upon the Registrar to order the winding up of a co-operative society and the manner in which such order is to be communicated to co-operative society or to financing bank;
- (lxiii) the procedure for the appointment and removal of, and for the payment of a remuneration to, a liquidator, the condition of such appointment, the conditions in which the Registrar shall exercise control of a liquidator and direct him to exercise his powers under section 91, and the procedure to be followed in proceedings under Chapter XI;
- (lxiv) the manner in which the surplus assets of a society which has been wound up shall be disposed of and its records shall be deposited;
- (lxv) in respect of an application for a loan under section 95, the purposes of the loan, the officer by whom and the manner in which notice is to be served, the officer by whom and the manner in which objections are to be heard, and the manner in which the co-operative land development bank is to deal with such application;
- (lxvi) the manner of effecting distraint and the procedure for the custody, preservation and sale of the property distrained (including such as is perishable), the investigation of claims of persons other than the defaulter to any right or interest in the distrained property and the postponement of sale pending such investigation;
- (lxvii) the qualifications and method of appointment of a Sale Officer under section 102 and the powers and functions which such a Sale Officer may exercise;
- (lxviii) in the case of sale of immovable property under Chapter XII—
 - (a) the procedure for proclamation and conduct of sale and the conditions in which an attempted sale may be abandoned,
 - (b) the method of calculating the expenses incidental to the sale or attempted sale,

(Chapter XVII.—Miscellaneous.—Section 142.)

- (c) the procedure for the receipt, deposit and disposal of the proceeds of sale,
- (d) the procedure for a re-sale, if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time, and the penalty to be levied against a purchaser who fails so to deposit the purchase money,
- (e) the period within which an application to set aside a sale under section 105 shall be made,
- (f) the procedure for the payment to the purchaser of the purchase money and compensation deposited under section 105,
- (g) the form and method of submission of a report by a co-operative land development bank under sub-section (1) of section 106,
- (h) the form of sale certificate under section 108, and
- (i) the procedure for the delivery of possession of the purchased property to the purchaser under section 109;
- (lxxix) the time within which and the procedure according to which property purchased by a co-operative land development bank at a sale of immovable property under Chapter XII shall be disposed of by the bank;
- (lxx) in respect of a receiver appointed under section 112, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and his procedure in the exercise thereof, and the expenses of management and the remuneration which he may receive;
- (lxxi) the circumstances in which action may be taken by the bank or the society against the mortgagor under section 114 and the proportion referred to in the explanation to that section;
- (lxxii) the procedure and conditions for the exercise of the powers conferred by section 115, and for the imposition of restrictions by the Trustee or the Registrar upon a co-operative land development bank or a society under section 119;
- (lxxiii) the fee payable under section 117;
- (lxxiv) the procedure and conditions for the exercise of the powers conferred by sections 122 and 123;
- (lxxv) the procedure for the conditional attachment of property under section 125;

(Chapter XVII.—Miscellaneous.—Section 142.)

- (lxxvi) the persons who may make awards under section 126;
- (lxxvii) the procedure and principles for the conduct of an inquiry under section 127 and the matters referred to in clause (b) of sub-section (1) thereof;
- (lxxviii) the exercise of the powers conferred by section 128;
- (lxxix) the procedure and principles for the exercise of the powers conferred by section 129;
- (lxxx) the constitution of the Tribunal under section 133; the number and qualifications of the members of the Tribunal and the method of disposal of its business by the Tribunal;
- (lxxxi) in the case of appeals or reviews lying to the State Government, the authority to which the power of hearing appeals may be delegated;
- (lxxxii) the method of certification of any document under section 139, the procedure and conditions for obtaining copies of documents and the charges to be levied for the supply of certified or uncertified copies;
- (lxxxiii) the procedure and conditions for inspecting documents in the office of the Registrar and the charges, if any, to be levied for such inspection;
- (lxxxiv) the procedure for and method of calculating any costs, charges or expenses required to be levied under this Act or the rules;
- (lxxxv) the procedure for and method of recovery of any sums due under this Act or the rules;
- (lxxxvi) the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules.

(3) In making any rule under this Act the State Government may direct that any person committing a breach thereof shall on conviction by a Court be punishable with fine which may extend to five hundred rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues subsequent to such conviction.

- (4) (a) All rules so made shall be laid for not less than fourteen days in the State Legislature as soon as they are made and shall be subject to such modification, if any, whether by way of repeal or amendment, that a State Legislature may make during the session in which they are so laid or the session immediately following.
- (b) Any modification made by the State Legislature under clause (a), in the said rules, shall be published by the State Government by notification in the *Official Gazette* and shall, unless some latter date is specified in such notification in this behalf, come into force on the date of such notification.

(First Schedule.)

FIRST SCHEDULE

Powers exclusively exercisable by the Registrar.

(See section 10.)

Sl.	Section.	Powers.
1	2	3
1	39(2)	To sanction making loan by a co-operative society to any other non-member co-operative society.
2	127(2)	To require of any person who has taken part in the organisation or management of a co-operative society or any past or present officer of such society, to contribute to the assets of the society any sum by way of compensation for any payment made, loss incurred or sum not accounted for in consequence of the action of such person or officer, or to restore any property misappropriated or fraudulently retained by such person or officer, and to require such person or officer to pay any sum to meet the costs of proceedings under this section.
3	128	To impose penalties for certain contravention of the provisions of this Act, the rules or by-laws.
4	132(3)	To give leave and impose terms for the institution of a suit or other legal proceeding against a liquidator, a co-operative society or any member thereof while such society is being wound up.
5	137(3)	To sanction the institution of any prosecution under this Act.

(Second Schedule.)

SECOND SCHEDULE

Recovery of sums due

(See section 130.)

Serial No.	Nature of sum due.	Method of recovery.
1	2	3
1.	Audit fee and expenses incurred in writing up the accounts of a society under section 79; and expenses incurred and sums awarded under section 129.	By the Certificate Officer as a public demand upon requisition by the Registrar or with his approval by the audit officer, or in the case of section 129, by the Registrar.
2.	Contribution to co-operative development fund.	By the Collector as a public demand upon requisition by the Registrar.
3.	Costs of an inquiry or inspection apportioned under section 85.	Ditto.
4.	Recovery of dues awarded under section 126; contributions by way of compensation awarded under section 127; and sums awarded under section 128.	By the Certificate Officer as a public demand upon requisition by the society or by the Registrar.
5.	Sums awarded to a co-operative society by any order made under section 87 or by an award having the effect of a final mortgage decree under section 88.	By the Certificate Officer as a public demand upon requisition by the society or by the Registrar. or, By any Civil Court having local jurisdiction, in the same manner as a decree of such court, upon application by the society.
6.	Sums assessed by a liquidator as contributions under section 91.	By the Certificate Officer as a public demand upon requisition by the liquidator.
7.	Sums due under any rule made under this Act.	In the manner prescribed.

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(Third Schedule.)

THIRD SCHEDULE

Appeals

(See section 134.)

Serial No.	Order appealable	By whom the appeal may be preferred; and authority to which appeal lies.	Period of limitation
1	2	3	4
1.	An order refusing to register a co-operative society under section 15 or section 75(8) or an amendment of a by-law under section 17.	By any member of the society; to the State Government or to the Co-operative Tribunal when it is constituted.	Two months from the date on which the order is communicated to the society.
2.	An order under section 18(2).	By any member of the society or the financing bank, if aggrieved; to the State Government or to the Co-operative Tribunal when it is constituted.	Two months from the date on which the order is communicated to the society or, where the financing bank is the appellant, to the financing bank.
3.	An order of dissolution or disqualification under section 25 or an order under section 26 dissolving a managing committee and appointing an administrator or administrators to manage the affairs of a society.	By any member of the managing committee; to the State Government or the Co-operative Tribunal when it is constituted.	Two months from the date on which the order is communicated to the society.
4.	An entry in or omission from the map, or the statement of irrigable area or protected area prepared under section 49.	By any person aggrieved; to the Collector.	One month from the date of publication of the statement.
5.	Assessment of water-rate or embankment protection rate under section 49.	By any person aggrieved; to the Registrar.	One month from the date of assessment.
6.	Any refusal by a society to admit an applicant as a member thereof under sub-sections (3) and (4) of section 59.	By the applicant aggrieved; to the Registrar.	Within the period referred to in sub-section (4).
7.	A final order of amalgamation of two or more co-operative societies under section 76.	By any member of any of the societies; to the State Government or to the Co-operative Tribunal when it is constituted.	Two months from the date on which the final order is communicated to the society of which the appellant is a member.
8.	A final order of division or of transfer of assets and liabilities of a co-operative society under section 77.	By any member of the society; to the State Government or the Co-operative Tribunal when it is constituted.	Two months from the date on which the final order is communicated to the society.
9.	An order under section 85 apportioning costs.	By any person aggrieved; to the State Government.	One month from the date on which the order was communicated to the person aggrieved.

(Third Schedule.)

THIRD SCHEDULE—*concl'd.*

Appeals

(See section 134.)

Serial No.	Order appealable	By whom the appeal may be preferred; and authority to which appeal lies.	Period of limitation
1	2	3	4
10.	Any order, decision or award of the Registrar or an arbitrator under section 87 or 88.	By any person aggrieved; to the Tribunal, and until the Tribunal is constituted by the State Government— (a) if passed by the Registrar; to the State Government; or (b) if passed by any other person; to the Registrar.	One month from the date on which the order, decision or award was communicated to the person aggrieved.
11.	An order passed under section 89 for the winding up of a society.	By any member of the society; to the State Government or to the Co-operative Tribunal when it is constituted.	Two months from the date on which the order was communicated to the society.
12.	Any order, decision or award of a liquidator under section 91.	By any person aggrieved; to the Registrar.	Two months from the date on which the order, decision or award was communicated to the person aggrieved.
13.	An order passed under section 127, section 128 or section 129.	By any person aggrieved; to the State Government or to the Co-operative Tribunal when it is constituted.	Two months from the date on which the order was communicated to the person aggrieved.
14.	Any order or decision declared by rules under this Act to be appealable.	By the person declared by rules to be competent to appeal; to the prescribed authority.	The period prescribed.

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(Fourth Schedule.)

FOURTH SCHEDULE

Offences and Penalties

(See section 136.)

Serial No.	Offences.	Person liable.	Penalty.
1	2	3	4
1.	Unauthorised use of the word "co-operative" or its equivalent in any language, in any name or title under which business is carried on in contravention of section 6.	The company, society or person carrying on business under a name or title in which the word is thus used.	Fine which may extend to fifty rupees; and in the case of a continuing offence, a further fine of five rupees for each day on which the offence is continuing, after conviction therefor.
2.	Wilfully making a false return or furnishing false information required to be made or furnished under this Act or the rules.	The person wilfully making the false return or furnishing the false information.	Imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both.
3.	Removing or otherwise disposing of or suffering to be removed or otherwise disposed of any property on which a co-operative society holds a first charge under section 47 or a charge under section 48 with intent to defraud the society or with such intent doing any other act to the prejudice of the society's first charge or charges, as the case may be.	The person by whom or on whose behalf the property is removed or disposed of or the act done.	Fine which may extend to the value of the property concerned or five hundred rupees whichever is more.
4.	Non-compliance with the provisions of section 51 in the matter of making deduction of co-operative societies' dues or in remitting the deducted amount to the society forthwith.	The disbursing officer or the employer as is found to be responsible for the offence.	Imprisonment which may extend to six months or fine which may extend to one thousand rupees or both; and in the case of a continuing offence, a further fine which may extend to one hundred rupees for each day on which the offence is continued, after conviction therefor.
5.	Wilful neglect or refusal to comply with any lawful order or direction given by the Registrar or by the State Government under this Act.	Person neglecting or refusing to comply with such order or direction.	Imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both.
6.	Wilful neglect or refusal by any person to do any act, make any return or furnish any information required to be done, made or furnished under this Act or the rules.	The person neglecting or refusing to do the act, make the return or furnish the information.	Imprisonment for a term which may extend to three months or fine which may extend to five hundred rupees or both and in the case of a continuing offence, a further fine of fifty rupees for each day on which the offence is continued, after conviction therefor.
7.	Any act or omission declared by the rules to be an offence.	The person rendered liable by the rules.	The penalty provided in the rules.