

The Bihar Co-operative Societies Act, 1935

Act No 6 of 1935

[Dated 29th May 1935]

An Act to consolidate and amend the law relating to Co-operative Societies in the State of Bihar [* * *]

Preamble. - Whereas it is expedient to facilitate the formation, working and consolidation of co-operative societies for the promotion of thrift, self help and mutual aid among agriculturists and other persons with common needs and for that purpose to consolidate and amend the law relation top co-operative societies in the State of Bihar [* * *]

And whereas previous sanction of the Governor-General under sub-section (3) of Section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:

CHAPTER I

Preliminary

1. Short title and extent. - (1) This Act may be called the Bihar Co-operative Societies Act, 1935.

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

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

(a) '*bye-laws*' means the registered bye-laws for the time being in force and includes a registered amendment of the bye-laws;

(b) '*Co-operative Federation*' means a registered society the main object of which is to co-ordinate and facilitate the activities of other registered societies and to foster the growth of the co-operative movement;

[(bb) '*Co-operative Year*' means a year beginning with the [1st April] and ending on the [31st March];

[(c) '*financing bank*' means the State Bank of India, a nationalised Commercial Bank, a State Co-operative Bank, a Co-operative Bank, a Land Development Bank, a Regional Rural Bank or any other bank to be notified by the State Government the objects of which include the creation of funds out of which money is to be lent to the co-operative societies or other institutions or both;]

(d) '*liquidator*' means a person or persons appointed by the Registrar under sub-section (1) of Section 44 to wind up the affairs of a registered society;

(e) '*managing committee*' means the committee of management or other body to whom the management of the affairs of a registered society is entrusted;

(f) '*member*' includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the rules and the bye-laws of such society;

[(ff) '*Multi-purpose Co-operative Society*' is a primary society formed for providing more than one type of service to its members and includes a society registered as a Cane-growers' Co-operative Society;]

[(fff) '*nominal or associate member*' means a member who possesses such privileges or rights of a

member of a society, and who is subject only to such liabilities of a member as may be specified by the bye-laws;]

(g) "*Officer*" includes a Chairman, Secretary, Treasurer, member of a managing committee or any other person empowered by or under this Act, or the rules or the bye-laws of registered society to give direction in regard to the business of the Society;

[(gg) '*Office-bearer of a managing committee*' means and includes the Chairman, the Vice-Chairman, the Secretary, the Joint Secretary, the Treasurer or any such functionary by whatever name he may be designated;]

[(ggg) '*primary society*' is a society of which no member is a registered society;]

[(gggg) '*Primary agricultural* credit society' means a co-operative society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers and includes farmers service society and multipurpose co-operative society;]

(h) '*registered society*' means a society registered or deemed to be registered under this Act;

(i) '*Registrar*' means a person appointed to perform the duties of Registrar of Co-operative Societies under this Act;

(j) '*rules*' means rules under this Act.

3. Indian Companies Act, [1913] not to apply. - The provisions of the [Indian Companies Act, 1913 (7 of 1913)] shall not apply to registered societies.

4. Saving of existing societies. - (1) Every society now existing which has been registered under the Co-operative Societies Act, 1912 (2 of 1912), shall be deemed to be registered under this Act and its bye-laws shall, so far as they are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

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

5. Construction of references to Co-operative Societies Act, 1912 in enactments. - All references to the Co-operative Societies Act, 1912 (2 of 1912) occurring in any enactment made by any authority in India and for the time being in force in the State of 'Bihar [x x x]' shall, in the application of such enactment to the said States be construed as references to this Act.

CHAPTER II

Registration of Societies

6. The Registrar. - (1) The State Government may appoint a person to be Registrar of Co-operative Societies for the State or any portion of it, and may appoint persons to assist such Registrar.

(2) The State Government may, by general or special order published in the official Gazette, confer-

(a) on any person appointed under sub-section (1), to assist the Registrar, all or any of the powers of the Registrar under the Act except the powers under Section 26, [xxx] and

(b) on any Co-operative Federation or Financing Bank all or any of the powers of the Registrar under Section 20, sub-section (3) of Section 28 and Section 33.

[(3) Where the State Government is of opinion that the Registrar needs the assistance of Additional

Registrar for speedy disposal of business, it may by order published in the official gazette, appoint such number of Additional Registrars as it may deem fit.

(4) Notwithstanding anything to the contrary contained in any other provisions of the Act, the Registrar may delegate, transfer or assign to the Additional Registrar such of his powers and functions and duties as he may consider necessary including the power under Sections 26 and 50 and the Additional Registrar shall, thereupon have powers of Registrar in matters so delegated, transferred or assigned to him.] .

7. Societies which may be registered. - [(1) Subject to the provisions of this Act, a Co-operative Society constituted in accordance with the provisions of the said Act as amended from time to time, which has as its object, the promotion of the common interest of its members and securing the fulfilment of any or all directives contained in Part IV of the Constitution of India, may be registered under this Act with or without limited liability.]

(2) Where the liability of a society is limited, the liability of each member, past member, or the estate of a deceased member shall on liquidation, be limited to the amount, if any, unpaid on the shares held by such member, or where the liability is limited by guarantee, to the amount of such guarantee, or where it is limited in any other manner, then as may be determined by the rules or bye-laws subject, however, to the provisions of Section 32.

(3) Where the liability of a society is unlimited, all members, past members, and the estates of deceased members shall on liquidation, be jointly and severally liable for and in respect of all its obligations, subject, however, to the provisions of Section 32.

8. Conditions of registration. - (1) No society, other than a society of which a member is registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the primary object of the society is the creation of funds to be lent to its members, unless such persons-

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

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

[(1A) The State Government may by notification in the Official Gazette reduce the minimum number of membership of 10 persons for particular class of Co-operative Societies.]

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

9. Application for registration. - (1) An application for the registration of a society shall be made to the Registrar, and shall be accompanied by a copy of the proposed bye-laws of the society and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

(2) The application shall be signed-

[(a) if none of the applicants is a registered society by at least ten persons or less number of persons qualified in accordance with the requirements of sub-section (1) or sub-section (1-A) of Section 8:]

(b) if any of the applicants is a registered society, by a duly authorised person on behalf of every such registered societies, and where all the members of the society are not registered societies by ten other members or, where there are less than ten other members, by all of them.

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

11. Registration. - (1) If the Registrar is satisfied that a society has complied with the provisions of this Act and Rules and that its proposed bye-laws are not contrary to this Act or to the Rules, he may, if he thinks fit, register the Society and its bye-laws.

(2) If the Registrar refuses to register a society he shall record his reasons for such refusal.

(3) An appeal shall lie to the State Government from an order of the Registrar refusing to register a society, within two months from the date of the receipt of the order by at least one of the applicants.

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

CHAPTER III

Incorporation, Duties and Privileges of Registered Societies

13. Societies to be bodies corporate. - The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal and with power to acquire and hold property, to enter into contract, to institute and defend suits and other legal proceedings and to do all thing necessary for the purposes for which it is constituted.

[13A. Promotion of Co-operative movement by Government. - (1) It shall be the duty of the State Government to encourage and promote the co-operative movement in the State and to take such steps in this direction as may be necessary.

(2) Without prejudice to the generality of the provisions contained in subsection (1), the State Government may,-

- (a) with a view to aid the growth of a registered society in general or of any class of registered societies subscribe directly to the share capital of a registered society;
- (b) assist indirectly in the formation and augmentation of the share capital of a registered society;
- (c) give loans or make advances to a registered society or guarantee repayment of principal and payment of interest on debentures issued by a registered society or guarantee repayment of principal and payment of interest on loans or advances to a registered society.]

14. Registered societies to have a managing committee etc. - (1) Every registered society shall have an address, registered in accordance with rules, to which all notices and communications may be sent, and shall send notice, in writing to the Registrar and to the financing bank, if any, of which it is a share holder and to the Co-operative Federation, if any, of which it is a member, of any change in the said address within fifteen days of such change.

(2) The management of registered Society shall be vested in a managing committee constituted in accordance with the rules:

[Provided that on the Managing Committee of such Societies or class of societies and in such areas as the State Government may by general or special order direct, at least two seats shall be reserved for the members belonging to the Scheduled Castes or Scheduled Tribes and three seats for small or marginal farmers in such manner as may be determined by the State Government and that the seats so reserved shall be filled up from amongst the members of the Scheduled Castes or Scheduled Tribes and small or marginal farmers either by election or by co-option or by nomination by the Registrar, Co-operative Societies:

Provided further that if some members of these categories are elected by general election then the number of reserved seats shall be reduced to that extent, this provision shall be effective from the primary society to the Apex Society. But this shall not be effective for the commercial societies:

Provided also that if no person belonging to Scheduled Castes or Scheduled Tribes and small or marginal farmers is a member of the Society, the society shall enrol at least two persons from the Scheduled Castes or Scheduled Tribes and three persons from the small or marginal farmers as its members from the area of its operation and co-opt them as members of the Managing Committee.]

[(3) An Officer of the State Government if deputed to a registered society either as a Managing Director, Executive officer or in similar position shall be the Chief Executive thereof and subject to general direction and control of the Managing Committee, shall have the following powers and functions:-

- (i) to have general control over the administration of the registered society;
- (ii) to convene meetings of the Managing Committee;
- (iii) to receive all moneys and securities on behalf of the registered society and to make arrangement for the proper maintenance and custody of cash balances and other properties of the registered society;
- (iv) to endorse and transfer promissory notes, Government and other Securities and to endorse, sign and negotiate cheques and other negotiable instrument on behalf of the registered society;
- (v) to be responsible for the general conduct, supervision and management to the day-to-day business and affairs of the registered society;
- (vi) to sign all deposits, receipts and operate the accounts of the registered society with Bank;
- (vii) to sign all bonds and agreements on behalf of the registered society;
- (viii) to determine the powers, duties and responsibilities of the employees of the registered society;
- (ix) to appoint, promote, transfer, punish, suspend, remove or dismiss any paid employee of the registered society except to the extent of the powers vested in the Managing Committee under the bye-laws of the registered society;
- (x) to institute, conduct, defend, compound or to withdraw any suit or other legal proceedings for or against the registered society and also to compound and allow time for payment to satisfaction of any claims;
- (xi) to delegate all or any of the powers to an employee or employees of the registered society subject to his control and supervision.

(4) Notwithstanding anything contained in any provision of this Act, the Rules framed thereunder or the bye-laws of any registered Society where the State Government has-

- (a) subscribed directly to the share capital of a registered Society; or

- (b) assisted indirectly in the formation or augmentation of the share capital of a registered society;
or
- (c) given loans or made advances to a registered society or guaranteed the re-payment of principal and payment of interest on debentures issued by a registered society for or guaranteed the re-payment of principal and payment of interest on loans or advances to a registered society;

In that case the State Government shall have the right to nominate on the Managing Committee of such registered society not more than two persons one of whom shall be a Government servant, but the said Government servant shall have no right to vote in the election of the office-bearers of the registered society:

Provided that notwithstanding the foregoing provisions contained in subsection (4) (a), (b) and (c)-

- (i) Where the share of the State Government in the share capital of such registered society exceeds thirty percent but does not exceed fifty percent, the State Government shall have the right to nominate upto one third of the total number of the members of the Managing Committee including the Chairman; and such right once accrued shall continue until the share of the State Government in the share capital of the registered society goes down to less than twenty-five percent;
- (ii) Where the share of the State Government in the share capital of such registered society exceeds fifty per cent, but does not exceed sixty percent of the total share capital of the registered society, the State Government shall have the right to nominate such number of members of the Managing Committee including the Chairman, as is nearest up to one-half of the total, and such right once accrued shall continue until the share of the State Government in the share capital of the registered society goes down to less than forty percent;
- (iii) Where the share of the State Government in the share capital of such registered society exceeds sixty per cent, the State Government shall have the right to nominate upto two-third of the total number of members of the Managing Committee including the Chairman, and such right once accrued shall continue until the share of the State Government in the share capital of the registered society goes down to less than fifty-five per cent:

Provided that notwithstanding anything contained in provisos (i), (ii) and (iii) of sub-section (4), the State Government shall not nominate Chairman and other members of the Managing Committee if the share capital subscribed to by the State Government in a registered society is less than fifteen lakhs of rupees:

Provided further that where the bye-laws of a registered society so provide, the State Government or the Registrar, as the case may be, may nominate more than two third members including office bearers of the Managing Committee on such terms and conditions as may be prescribed in the bye-laws:

Provided further also that the Government shall nominate members of the Managing Committee including the Chairman as far as possible from amongst persons-

- (i) having interest in co-operative movement; or
- (ii) having knowledge and experience of organising or managing co-operative societies; or
- (iii) having experience of general administration; or
- (iv) is the member of such registered society; or
- (v) is or was associated with the administration and implementation of the Bihar Co-operative Societies Act.

(5) Notwithstanding anything contained in any provision of this Act, rules made thereunder and the bye-laws of the society, the existing Managing Committee of a registered society in respect of which the State Government has power to nominate Chairman and other members of the Managing Committee in accordance with provisos (i), (ii) and (iii) of sub-section (4) shall cease to exist from the date of promulgation of Ordinance No. 17,1988 and its management shall vest in the State Government. The State Government shall appoint an Administrator for the management of the affairs of such registered society till the Managing Committee is constituted in accordance with the provisions of this Act.

(6)(a) The Administrator so appointed under sub-section (5) shall hold the elections within six months of his appointment:

Provided that the State Government, in special circumstances, after recording the reasons in writing, may extend the period from time to time, but not exceeding six months at a time over and above the prescribed period.

(b) The State Government shall nominate the members of the Managing Committee including the Chairman under provisos (i), (ii) and (iii) of sub-section (4) within the said period.

(7) Notwithstanding the provisions of re-numbered sub-section (9) the nominated members of the Managing Committee including the Chairman shall hold office during the pleasure of the State Government.

(8) Notwithstanding anything contained in any provision of this Act, rules made thereunder and the bye-laws of a registered society, no person shall be eligible for election or nomination as an office-bearer of the Managing Committee of a registered society if he has been an office bearer of the Managing Committee for two consecutive terms:

Provided that such person may be eligible for election or nomination as an office-bearer of the said Managing Committee at the interval of three Co-operative years after having been the office-bearer of that Managing Committee for two consecutive terms.]

(9) Notwithstanding anything contained in the rules or bye-laws of a registered society, the term of the members and the office-bearers of the managing committee of a registered society shall be three co-operative years, and they shall continue to hold office after expiry of their term till the elections are held or for [nine months] from the close of the co-operative year, whichever is earlier.

(10) If, for any reason, elections are not held within the said period after expiry of the term of the members and the office-bearers of the managing committee, the committee shall be deemed to have been superseded with effect from the said date within the meaning of section 41, and thereafter the business of the society shall be carried on in the manner provided by the section:

Provided that irrespective of the date when the election is so held, the term of the members and the office-bearers of the managing committee shall be deemed to have commenced from the beginning of the co-operative year in which the elections are held:

Provided further that the members and the office-bearers who have held their respective offices beyond the period specified under sub-section (3) before coming into force of the Bihar Co-operative Societies (Sixth Amendment) Ordinance, 1974 shall be deemed to have validly held their respective offices:

Provided also that the members and the office-bearers of the managing committee of the registered society, who have completed their terms of office before promulgation of the Bihar Co-operative

Societies (Sixth Amendment) Ordinance, 1974, other than those office-bearers who have ceased to hold office under sub-section (7), shall continue to hold their respective offices, till the expiration of 180 days from the date of promulgation of the said Act or till the election of the new office bearers, whichever is earlier.]

(11) Every registered society shall keep open to inspection free of charge at all reasonable times at its registered address-

- (a) a copy of this Act,
- (b) a copy of the rules governing such society,
- (c) a copy of the bye-laws of such society, and
- (d) a register of its members:

Provided that if at any time it is found that the representation of the Scheduled Castes and Scheduled Tribes and marginal and small farmers on the managing committee of a society is not to the extent as prescribed in the proviso to subsection (2) the State Government may by notification nominate such members of Scheduled Castes/Scheduled Tribes/Small and Marginal Farmers as member of the Managing Committee of the society as may be required to give them adequate representation, and such nominated members may be in addition to the existing total number of members of the managing committee and they will hold office till the next general election of the society.]

15. Restrictions on borrowing. - A registered society shall receive deposits and loans from members and non-members only to such extent and under such conditions as may be prescribed by the rules or bye-laws.

16. Restrictions on lending. - (1) Except with the general or special sanction of the Registrar and subject to such restrictions as he may impose, a registered society shall not-

- (a) make a loan to any person other than a member, or
- (b) lend money on the security of movable property.

(2) The State Government may, by general or special order, prohibit or restrict the lending of money or mortgage of immovable property by registered society or class of registered societies.

[(3) Where the Registrar has accorded sanction to a financing bank under the provisions of sub-section (1), a registered society which is a member of such financing bank may, subject to the terms of the sanction and such other terms and conditions as may be prescribed by the Registrar, act as agent for the financing bank and as such agent carry out, with or without any commission, all or any transactions connected with loans or advances made or to be made by the financing bank.]

17. Restrictions on other transactions with non-member. - The transactions of a registered society with persons other than members shall be subject to such further prohibitions and restrictions, if any, as the State Government may by rules prescribe.

18. Reserve Fund. - (1) At least thirty-five percent of the net profits of a registered society shall each year be carried to reserve fund, provided that the State Government may by rule increase or decrease this proportion for any Society or class of Societies.

(2) The reserve fund shall not be used in the business of the society except to such extent and in such manner as may be prescribed by the rules.

(3) Any portion of the reserve fund not used in the business of the society shall be invested or

deposited in one or more of the ways specified in section 19 subject to such rules as the State Government may make in this behalf.

19. Investment of funds. - Subject to the provisions of sub-section (2) of Section 16, a registered Society may invest or deposit its funds-

- (a) in a Government Saving Bank; or
- (b) in any of the securities specified in Section 20 of the Indian Trust Act, 1882 (2 of 1882); or
- (c) with the general or special sanction of the Registrar and on such conditions as he may impose-
 - (i) in the shares or on the security of any other registered society; or
 - (ii) with any bank or person carrying on the business of banking approved for this purpose by the Registrar;
- (d) in any other mode permitted by the rules.

20. Contribution to charitable purpose. - Any registered society may after the amount required by sub-section (1) of Section 18 or by any rule has been carried to the reserve fund, contribute an amount not exceeding ten percent of the net profits to any charitable purpose, as defined in section 2 of the Charitable Endowments Act, 1890(6 of 1890):

Provided that the Registrar may, by general or special order, prohibit any society or class of societies from making any condition under this Section.

21. Restrictions on division of funds. - No part of the funds of a registered society shall be divided by law of bonus or dividend or otherwise among its members:

Provided that after the amount required by sub-section (6) of Section 18 or by any rule has been carried to reserve fund, the balance of the net profits, if any, together with any available profits of past years, may be distributed as dividend among members or paid as bonus or remuneration to a member for any specific service rendered to the society or used for the common benefit of members to such extent and under such conditions as may be prescribed by the rules or bye-law.

22. Charge and set off in respect of shares or interest of members. - A registered society shall have a charge upon the share or interest in the capital and on the deposits or contribution of a member, past member or deceased member and upon any amount payable out of profits to a member or past member or to the estate of a deceased member to the society, and may set off any sum credited or payable to a member, past member or the estate of a deceased member in or towards payment of any such debt.

23. Prior claim of society. - Subject to claim of the Government in respect of land revenue or any money recoverable as land revenue or as a public demand or any claim of landlord in respect of rent or any money recoverable as rent, any debt or outstanding demand due to a registered society from any member, past member, or the estate of deceased member, shall be a first charge-

- (a) if the demand is due in respect of the supply of or any loan granted for the purchase of seed or manure upon the crops or other agricultural produce of such member or 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 shall become re-payable.
- (b) if the demand is due in respect of the supply of, or any loan granted for the purchase of, cattle, fodder for cattle, agriculture or industrial implements or machinery or raw materials for

manufacture upon cattle or thing so supplied, or purchased, the whole or any part from any such loan or upon any articles manufactured from raw materials so supplied or purchased.

[23A. Application of Section 23 to non-members. - Any debt to outstanding demand due to a registered society, authorised under clause (a) of sub-section (1) of Section 16, from any non-member or estate of a deceased non-member, shall be a first charge on the property of the non-member or belonging to the deceased nonmember to the same extent and subject to the same claims, conditions and restrictions as debt or outstanding demand due to a registered society from any member or the estate of a deceased member is under Section 23, a first charge on the property of the member or belonging to the estate of the deceased member.]

24. Transfer of interest on death of member. - (1) A registered society, may on the death of a member, transfer his share or interest in the capital of the society to the person nominated in accordance with the rules or, if there is no person so nominated, to such person as may appear to the society or, managing committee to be the heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or bye-law:

Provided that-

- (i) In the case of society with unlimited liability, such nominee, heir or legal representative as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained, after, deducting the amount of any charge existing under Section 22;
- (ii) in the case of society with limited liability, the society shall transfer, subject to any charge existing under Section 22, the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and bye-laws for membership of the society or in his application within three months of the death of the deceased member, to any person specified in the application who is so qualified:

Provided further that no payment of sum in excess of rupees one hundred shall be made to any such heir or legal representative who has not been nominated in accordance with the rule, until after the decision under Section 48 of any claim which may, within that period be made by any other person.

(2) Subject as aforesaid, a registered society may pay all other money due to deceased member from the society to such nominee, heir or legal representative, as the case may be.

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

[24A. Power of Registrar to sanction compromise between a registered society and its creditors.

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

(2) If a majority in number representing three-fourths in value of the creditors, or class of creditors, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by an order of the Registrar, be

binding on all the creditors or the class of creditors, as the case may be, and also on the society. In the case of a society in respect of which an order of winding up has been passed, on the liquidators and on all persons who have been or may be required by the liquidator acting under clause (c) of sub-section (3) of Section 44 to contribute to the assets of the society.]

[(3) If at any time it appears to the Registrar that it is expedient that any compromise or arrangement between a registered society and its creditors or any class of them, which has become final in accordance with the law in force on the date of the commencement of the Bihar Co-operative Societies (Amendment) Act, 1942 (Bihar Act 7 of 1942), or which was, after the date sanctioned by the Registrar under sub-section (2) of this section, should, in the interest of society or of its creditors or of the said class of creditors, be revised or replaced by a fresh compromise or arrangement, he may either of his own motion or on the application of the society, order a meeting of the creditors or class of creditors, as the case may be, present either in person or by proxy at the meeting, agree to the revision of the previous compromise or arrangement, or to any fresh compromise or arrangement, the Registrar may sanction such revised compromise or arrangement or such fresh compromise or arrangement.

(4) Any revised compromise or arrangement or fresh compromise or arrangement sanctioned under sub-section (3) may be revised or replaced by a fresh compromise or arrangement in the like manner and subject to the like conditions as a compromise or arrangement may be revised or replaced by a fresh compromise or arrangement under sub-section (3).

(5) Any revised compromise or arrangement or fresh compromise or arrangement sanctioned by the Registrar under sub-section (3) or sub-section (4) shall be binding on all the creditors or the class of creditors, as the case may be, and also on the society.

(6) A compromise or arrangement under sub-section (2) or a revised compromise or arrangement or a fresh compromise or arrangement under sub-section (3) or subsection (4) shall not be liable to be challenged, set aside, modified, revised or declared void in any Court, upon merits or upon any ground whatsoever except want of jurisdiction.

(7) The order of the Registrar calling a meeting of creditors or class of creditors, as the case may be, under sub-section (1) or sub-section (3), and the order of the Registrar sanctioning a compromise or arrangement under sub-section (2) or a revised compromise or arrangement or a fresh compromise or arrangement under sub-section (3), or sub-section (4) shall be published in the official Gazette.]

25. Amendment of the bye-laws of a registered society. - (1) No amendment of the bye-laws of a registered society shall be valid until the amendment has been registered under this Act.

(2) If the Registrar is satisfied that an amendment of the bye-laws is not contrary to this Act or to the rules, he may register the amendment.

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

26. Power of Registrar to direct amendment of the bye-laws of a registered society. - (1) If it appears to the Registrar that an amendment of the bye-laws of a registered society is necessary or desirable in the interest of such society, he may, by order in writing to be issued to the society, by registered post, require the society to make the amendment within such time as he may specify in such order.

(2) If any society fails to make any such amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard, register such amendment, and issue to the society by registered post a copy of the amendment, certified by him, which shall be conclusive evidence that the amendment has been duly registered, and such amendment shall be binding on the members of such society.

(3) An appeal shall lie to the State Government from any order of the Registrar passed under sub-section (2) within two months from the date of the issue of such order. The order of the State Government on appeal and, subject to the result of such appeal, if any, the decision of the Registrar shall be final.

CHAPTER IV

Rights and Liabilities of Members of Registered Societies

27. Member not to exercise rights till due payment made. - No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or bye-laws:

[Provided that in case of multipurpose co-operative society a member may exercise the right to vote at the election of members of the managing committee of society notwithstanding his not having made payment in respect of the membership of the society.]

28. Votes of members. - [(1) Subject to the provisions of sub-section (2) of this section and of sub-section (4) of Section 14 each member of a registered society shall have one vote only as a member in the affairs of the society, provided that in the case of an equality of votes, the Chairman shall have a casting vote.]

(2) A registered society which is a member of any other registered society shall have as many voters as may be prescribed by the bye-laws of such other society and may, subject to such bye-laws, appoint any number of its members, not exceeding the number of such votes, to exercise its voting power, provided that no member who is disqualified for such appointment under any rule shall be so appointed.

(3) Save as provided in sub-section (2), voting by proxy shall not be allowed except with the general or special sanction of the Registrar for any society or class of societies.

29. Restriction on holding of members. - No member of a registered society [other than the State Government or another registered society, shall have or claim any interest in the capital of a registered society exceeding one-fifth of the total capital or such smaller proportion as may be prescribed by the rules.]

30. Share or interest not liable to attachment. - Subject to the provisions of Section 22, the share or interest of a member in the capital of, or contribution to, a registered society shall not be liable to attachment or sale under any decree or order of a Court of justice in respect of any debt or liability incurred by such member and neither the Official Assignee under the Presidency-towns Insolvency Act, 1909 (3 of 1909) nor a Receiver under the Provincial Insolvency Act, 1920 (5 of 1920) shall be entitled to, or have any claim on, such share, interest or contribution.

31. Restrictions on transfer of share or interest. - (1) The transfer of charge of the share or interest

of member in the capital of registered society shall be subject to such conditions as the maximum holding as may be prescribed by this Act or by the rules.

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

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

(b) the transfer charge is made to the society or to a member of society or to a person whose application for membership has been accepted by the society.

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

CHAPTER V

Audit and Inspection

33. Audit. - (1) The Registrar shall audit or cause to be audited by some person (hereinafter referred to as the auditor) authorised by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the auditor may require.

(3) The audit under sub-section (1) shall be conducted according to the rules, and shall include an examination of over due debts, if any, the verification of the cash balance and securities a valuation of the assets and liabilities of the society.

(4) The auditor shall submit a report on such examination, verification and valuation, and shall include in his report a statement of:-

(a) every transaction which appears to the auditor to be contrary to law or to the rules or bye-laws of the society;

(b) the amount of any deficiency or loss which appears to have been incurred by the culpable negligence or misconduct of any person;

(c) the amount of any sum which ought to have been but has not been brought into account by any person; and

(d) any money or property belonging to the society which has been misappropriated or fraudulently retained by any person taking part in the organization or management of the society or by any past or present officer of the society or by any other person.

(5) The Registrar may determine the sum to be paid by any society towards the cost of auditing its accounts under this Section, and such sum shall be paid by the society in such manner as the Registrar may direct.

34. Inspection by Registrar. - The Registrar may from time to time inspect a registered society himself or cause it to be inspected by some person authorised by him in this behalf by general or special order.

35. Inquiry by Registrar. - (1) The Registrar may of his own motion and shall, on the request of the Collector, or on application of a majority of the managing committee, or of not less than one-third of the

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

(2) The Registrar or the person authorised by him under sub-section (1) may:-

- (a) require an officer of the society to call a general meeting at such time and place at the headquarters of the society, and require the society to take into consideration such matters, as he may direct, and
- (b) if the officer of society refuses or fails to call such a meeting or if there be no quorum at a meeting so convened, call such meeting himself by giving notice to the members in such a way as he may consider reasonable, notwithstanding any rules or bye-laws prescribing the period of notice for calling a general meeting of the society. Any meeting so convened by the Registrar or the person authorised by him under subsection (1) shall have all the powers of a general meeting convened under the bye-laws of the society.

(3) When an enquiry is made under this section, the Registrar shall communicate the results of the inquiry to the society, the financing bank, if any, to which the society is affiliated and to the persons or authority, if any at whose instance the inquiry is made.

36. Inspection of books by Registrar. - (1) Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorised by him in this behalf by order in writing, to inspect the books of the society.

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

- (a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
- (b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

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

37. Inspection of books by financing bank. - (1) A financing bank may cause an inspection to be made of the books of any registered society which is affiliated to it and may direct such society to furnish such information, statements and returns as may be required.

(2) An inspection under sub-section (1) may be made by any of the officers of the financing bank or by any member of its paid staff approved by the Registrar by general or special order.

(3) The financing bank shall communicate the result of such inspection to the Registrar and to the society concerned.

38. Power to call for documents and to issue summons. - The Registrar or any person authorised to audit the accounts of a society under section 33 or to make an inspection or to hold an inquiry under Sections 34, 35, 36, or 37-

- (a) shall at all reasonable time have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at the office of the society or at any branch thereof or except in the case of a financing bank, at any place at its headquarters; [* *]

(b) may summon any person who, has reason to believe has knowledge of any of the affairs of the society to appear before him at the office of the society or, at any branch thereof or except in the case of a financing bank, at any place at its headquarters, and may examine such person on oath; [and]

[(c) may seize in presence of two persons the books, account, document, securities, cash and other properties belonging to or in the custody of the society, if he apprehends any fraud or damage or mutilation of any of the articles above referred to, and the officer so doing shall grant proper receipt therefor and, when he is an officer other than the Registrar, immediately report the seizure to his immediate superior officer and the Registrar:

Provided that the power under this clause shall be exercised only by such persons as are authorised by rule made in this behalf.]

39. Cost of inquiry and inspection. - Where an inquiry is held under section 35, or an inspection is made under Section 36, the Registrar may, after giving the parties an opportunity of being heard and after recording the reasons, apportion the costs of such inquiry or inspection, or such part of the costs as he may think fit. between the society, the members or creditor demanding inquiry or inspection and the officers or former officers of the society.

40. Surcharge. - (1) Where as the result of an audit under Section 33 or an inquiry under Section 35, or an inspection under Section 34, Section 36, or Section 37, or the winding up of a society, it appears to the Registrar that any person who has taken part in the organisation or management of the society or any past or present officer of the society has-

- (a) made any payment which is contrary to law or to the rules or bye-laws of the society [or against the directions or instructions of the financing bank for which the society is acting as agent under sub-section (3) of Section 16], or
- (b) by reason of his culpable negligence or misconduct, involved the society, [or the financing bank for which it is acting as agent under sub-section (3) of Section 16] 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 [or of the financing bank which it is acting as agent under sub-section (3) of Section 16,]

the Registrar may inquire into the conduct of such person, or officer and after giving such person or officer an opportunity of being heard make an order requiring him to contribute such sum to the assets of the society [or of the financing bank, as the case may be, by way of compensation in respect of such payment or loss of sum, or to restore such property as the Registrar thinks fit, together with such sum as the Registrar may fix to meet the cost of the proceedings under this section:

Provided that, before any order requiring such person or officer to contribute is passed in respect of a payment referred to in clause (a) reasonable time shall be given to such person or officer to recover the amount of such payment from the payee and credit it to the funds of the society, [or, as the case may be, of the financing bank:]

Provided further that no order shall be passed under this sub-section in respect of any act or omission mentioned in clause (a), (b), (c), or (d) except within [six] years of the date on which such act or omission occurred.

(2) This section shall apply notwithstanding that such person or officer may have incurred criminal liability under this Act or under any other law.

(3) An appeal shall lie from an order of the Registrar under sub-section (1) to the State Government on application made by the person or officer against whom such order was passed within three months from the date of the communication to him of such order. The order of the State Government on appeal, and subject to the result of such appeal, if any, the order of the Registrar, shall be final.

CHAPTER VI

Supersession of Managing Committee and Dissolution of Registered Societies.

[41. Dissolution of Managing Committee. - (1) If, in the opinion of the Registrar, the Managing Committee of any registered society is mismanaging the affairs of the registered society or has failed to sufficiently improve the affairs of the registered society or is persistently making default or is negligent in the performance of the duties imposed on it by this Act, the Rules or the bye-laws, he may, by order in writing after giving the Managing Committee an opportunity to state its objections, if any, dissolve the Managing Committee for any period not exceeding six months and order that all or any of its members shall be disqualified from being elected to the Managing Committee of the registered society for a period to be specified in the order not exceeding three years:

Provided that the Registrar, in special circumstances, by recording the reasons in writing and with the prior approval of the State Government, shall extend the period of dissolution for such further period as may be considered necessary by the State Government.

Every order of the Registrar under this sub-section shall state the reasons for which it is made and shall be communicated by registered post to the registered society concerned.

(2) Where the registrar while proceeding to take action under sub-section (1) is of opinion that suspension of the Managing Committee is necessary in the interest of the registered society, he may suspend the Managing Committee which shall thereupon cease to function, and make such arrangement as he thinks proper for the management of the affairs of the registered society till the proceedings under sub-section (1) are completed:

Provided that if the Managing Committee so suspended is not dissolved it shall be reinstated and the period during which it has remained suspended shall count towards its term.

(3) When a Managing Committee is dissolved under sub-section (1), the Registrar shall appoint an Administrator on such remuneration, if any, as he may fix, to carry on the business of the society, and the Administrator, shall subject to any direction issued by the Registrar from time to time, exercise all the powers and perform all the duties which may under this Act, the rules and the bye-laws, be exercised or performed by the Managing Committee or any officer of the registered society:

Provided that the Registrar shall have the power to change the Administrator during the period of dissolution.

(4) The Registrar shall, before the expiry of the period of dissolution under subsection (1), require the Administrator to take necessary action for the constitution of the new Managing Committee and the Administrator shall forthwith hand over the management to the new Managing Committee constituted in accordance with the provisions of the Act and the Rules.

(5) The Registrar may dissolve the Managing Committee of a registered society in case where-

(a) majority of the members and elected office-bearers of the Managing Committee of a registered

society resign from their respective membership or office; or

- (b) half the total number of seats of the Managing Committee of a registered society, becomes vacant for any reason whatsoever;

and shall appoint Administrator for the better management of the registered society;

Provided that if during the period of dissolution of the Managing Committee, the Registrar is satisfied that the affairs of a registered society have sufficiently improved and it is desirable to restore the management to a newly elected Managing Committee, he may by order direct that the Administrator shall take steps for the constitution of a new Managing Committee and on such Committee having been constituted in accordance with the provision of this Act and the Rules, the Administrator shall hand over the management to such newly constituted Managing Committee forthwith.

(6) An appeal shall lie from an order of the Registrar under sub-section (1) to the State Government on application made by any member of the Managing

Committee within three months from the date of communication of the order to the registered society concerned. The order of the State Government on appeal, and subject to the result of such appeal, if any, the order of the Registrar shall be final.

(7) The Registrar may issue such direction to the Administrator as to his powers and duties and the affairs of registered society as the Registrar deems desirable and the Administrator may apply to the Registrar at any time for instruction as to the manner in which the Administrator shall conduct the management of the registered society.

(8) Nothing in this Section shall be deemed to affect the powers of Registrar to order the winding up of a registered society under Section 42 or to cancel the registration of the registered society under sub-section (8) of Section 44.]

42. Winding up order. - The Registrar may, by notification, order a registered society to be wound up if-

- (a) after an inquiry has been held under Section 35 or an inspection made under Section 34, Section 36 or Section 37, or on receipt of an application made by three-fourth of the members of the society, or of his own motion, in the case of a society that has not commenced working or has ceased working, he is of opinion that the society ought to be dissolved, or
- (b) it is a condition of the registration of the society that it should consist of at least ten members who have attained the age of eighteen years, and it is proved to the satisfaction of the Registrar that the number of members has been reduced to less than ten.

43. Appeal against the order of winding up. - (1) Any member of a society respect of which an order under Section 42 has been passed may, within two months from the date, of the publication of such order in the official Gazette appeal to the State Government from such order.

(2) An order under Section 42 shall not take effect until the expiry of two months from the date of the publication of such order in the official Gazette or, if an appeal be preferred, unless and until it is confirmed by notification on appeal.

(3) The order of the State Government on appeal and, subject to the result of such appeal, if any, the order of the Registrar shall be final.

44. Liquidation and dissolution. - (1) Where the Registrar has passed an order for the winding up of a registered society, he shall appoint a person or persons to be liquidator of the society.

(2) Notwithstanding anything contained in sub-section (2) of Section 43, a liquidator on appointment shall have power to take immediate possession of all assets belonging to the society and all books, records and other documents pertaining to the business thereof and to carry on the business of the society so far as may be necessary, and all the rights, duties, assets and liabilities of the society shall be vested and shall devolve upon the liquidator as such.

(3) Subject to the Registrar's power of control and revision, such liquidator shall also have power-

- (a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office;
- (b) to determine and realise all sums due to the society from any person:
- (c) to determine from time to time, subject to the provisions of Section 32. the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society and from time to time, to revise any order of contribution until the winding up is completed, and to realise such contribution;
- (d) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of priority arising between claimants after giving an opportunity of being heard to all the creditors;
- (e) to pay claims against the society (including interest) up to the date of the publication in the official Gazette of the notification ordering the winding up of the society according to their respective priorities, if any, in full or rateably as the assets of the society permit; and to apply the surplus, if any, remaining after payment of the claims in full, in payment of interest from the said date of a rate fixed by him but not exceeding in any case the rate agreed to be paid by the society;
- (f) to make any compromise or arrangement with persons between whom and the society there exists any dispute or to refer any such dispute to arbitration;
- (g) to determine by what persons and in what proportions the cost of the liquidation are to be borne; and
- (h) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society:

Provided that the liquidator shall not determine the contribution, debt or assets to be recovered from any person unless an opportunity of being heard has been given to such person.

(4) If an appeal from the order of winding up is allowed by State Government under Section 43, the liquidator shall give up possession of the assets, books, records and other documents of the society or the managing committee; and shall cease to carry on the business of the society, provided that all his acts done in his capacity as liquidator shall continue to have legal validity as if they had been done by the managing committee or the society.

(5) With the special sanction of the Registrar, an appeal shall lie to the Court of the District Judge within three months from the date of communication by registered post of an order of a liquidator under clauses (b), (c), (d), (e), (g) or (h) of sub-section (3) to the person concerned.

(6) The order of the liquidator, subject to any order of the Registrar in revision or to any order of the District Judge on appeal, if any shall be final.

(7) When the affairs of the society have been wound up, the liquidator shall deposit the records of the

society in such place as the Registrar may direct.

(8) After the records of a society have been deposited under sub-section (7), the Registrar shall cancel the registration of the society and the society shall then cease to exist as a corporate body.

[CHAPTER VI-A]

Land Development Banks

44A. Definitions. - In this Chapter, unless context otherwise requires-

- (a) 'Board' means the managing committee of the State Co-operative Land Development Bank;
- (b) 'Land Development Bank' includes the State Co-operative Land Development Bank and the Primary Co-operative Land Development Bank;
- (c) 'Prescribed' means prescribed by rules made under this Chapter;
- (d) 'Primary Co-operative Land Development Bank' means a registered society of that name;
- (e) 'State Co-operative Land Development Bank' means registered society of that name, registered under Section 11, and includes the Bihar State Co-operative Land Mortgage Bank Ltd. registered as such under Section 11; and
- (f) 'Trustee' means the Trustee referred to in Section 44-C.

44B. Applications of Chapter to Land Development Banks. - The provisions of this Chapter shall apply to Land Development Banks advancing loans for all or any of the purposes herein enumerated, that is to say-

- (i) land improvement and productive purposes;
- (ii) the redemption of mortgages on lands;
- (iii) the redemption of mortgages and other valuable immovable property subject to such conditions as may be prescribed;
- (iv) the liquidation of debts of agriculturists subject to such restrictions as may be prescribed;
- (v) the purchase or acquisition of title to agricultural lands by tenants; or
- (vi) the erection, re-building or repairing of houses for agricultural purposes.

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

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

- (g) horticulture;
- (h) purchase of oil-engines, pumping sets and electrical motors for any of the purposes mentioned herein;
- (i) purchase of tractors or other agricultural machinery;
- (j) increase of the productive capacity of land by addition to it of special variety of soil;
- (k) construction of permanent farm-house, cattle sheds and sheds for processing of agricultural produce at any stage;
- (l) purchase of machinery for crushing sugarcane, manufacturing *gur* or *Khandsari* sugar or sugar;
- (m) purchase of land for consolidation of holdings;
- (n) digging canals;
- (nn) the establishment of poultry, fishery, dairy, piggery and sheep rearing, etc.; and
- (o) such other purposes as the State Government may, from time to time, by notification in the official Gazette declare to be improvement or productive purpose for the purposes of this Chapter.

44C. Appointment of Trustee and his powers and functions. - (1) The Registrar, or where the State Government appoint any other person in this behalf, such person shall be the Trustee for the purpose of securing the fulfilment of the obligations of the State Co-operative Land Development Bank to the holders of debenture issued by the Board.

(2) The powers and functions of the Trustee shall be governed by the provisions of this Chapter and by the instrument of trust executed between the State Cooperative Land Development Bank and the Trustee, as modified from time to time by mutual agreement between the Board and the Trustee.

44D. Trustee to be a corporation sole. - The Trustee shall be a corporation sole by the name of the Trustee for the debenture and as such shall have perpetual succession and a common seal and in his corporate name may sue and be sued.

44E. Issue of debenture by the Board. - (1) With the previous sanction of the Trustee, and subject to such terms and conditions as he may impose, the Board may from time to time, issue debentures of such denominations for such period as it may deem expedient on the security of the mortgages held or mortgages partly held and partly to be held and either transferred or deemed to have been transferred, under the provisions of section 44-J, to the Co-operative Land Development Bank and other properties of such Bank:

Provided that notwithstanding anything contained in this sub-section regarding issue of debentures on security of mortgages, it shall be competent for the Board with the previous sanction of the trustee, and subject to such terms and conditions as it may impose to issue debentures in the security of the Government guarantee regarding re-payment of principal and payment of interest thereon in respect of loans issued to the corporate bodies implementing special schemes of agricultural development, irrigation etc. on the basis of Government Guarantee.

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

(3) The total amount due on the debentures issued by the Board including those issued before the commencement of the Bihar Co-operative Societies (Amendment) Ordinance, 1975 and outstanding at any time shall not exceed the aggregate of-

- (a) the amounts due on the mortgages;
- (b) the value of the properties and other assets transferred or deemed to have been transferred under Section 44J to the State Co-operative Land Development Bank and subsisting at such time;
- (c) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time;
- (d) the amount due on the Government guarantee on the basis of which loans have been issued to corporate bodies.

(4) Debentures in excess of the limit specified in sub-section (3) may be issued with permission of the Trustee.

44F. Vesting of mortgaged property in the Trustee and floating charge of debenture holders. -

Upon the issue of debentures under the provisions of Section 44E, the mortgages, properties and other assets, referred to in sub-section (3) of that section, held by the State Co-operative Land Development Bank shall vest in the Trustee and the holders of debentures shall have floating charge on all such mortgages, properties and assets and on the amount paid under such mortgages and remaining in the hands of the State Co-operative Land Development Bank or of the Trustee.

44G. Guarantee by the State Government of principal and interest on debentures. - (1) The State Government may, if in their opinion it is necessary in the public interest so to do, and subject to such terms and conditions as the State Government may think fit to impose, guarantee the principal of and interest on the debentures issued by the Board, including debentures, if any, issued prior to the commencement of Bihar Co-operative Societies (Amendment) Ordinance, 1975 subject to such maximum amount as may be fixed by the State Government.

(2) The State Government may, subject to the provisions of any Act in that regard, increase the maximum amount of any guarantee given under sub-section (1).

44H. Priority of mortgage, over claims. - (1) Mortgage executed in favour of a Land Development Bank shall have priority over any claim of the State Government arising from a loan, under the Land Improvement Loans Act, 1883 (19 of 1883), of the Agriculturists' Loans Act, 1884 (12 of 1884) or any other law for the time being in force, granted subsequent to the execution of the mortgage.

(2) A mortgage executed in favour of a Land Development Bank shall have priority also over the claim of any other person arising out of a mortgage of any description executed or any other charge created, after the issue of a public notice under Section 44C in respect of the property of the loanee specified in the said public notice.

44I. Right of Land Development Bank to purchase mortgaged property. - Notwithstanding the provisions contained in the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962) but subject to any tenancy law for the time being in force, it shall be lawful for Land Development Bank to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale in such manner and within such period as may be fixed by the Trustee:

Provided that a purchaser of such mortgaged property from a Land Development Bank shall purchase it subject to the provisions of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 (Bihar Act XII of 1962).

44J. Mortgages executed in favour of Land Development Bank to stand vested in Trustee. - The mortgages executed in favour of and all other assets transferred to the State Co-operative Land Development Bank by its members, either before or after the commencement of the Bihar Co-operative Societies (Amendment) Ordinance, 1975 shall vest in the Trustee with effect from the date of such execution or transfer and likewise mortgages or transfer of assets in favour of Primary Co-operative Land Development Bank by its members shall be deemed to have been transferred to the State Co-operative Land Development Bank and shall vest in the Trustee.

44K. Power of Primary Land Development Bank to receive money and grant discharge. - Notwithstanding that a mortgage executed in favour of a Primary Land Development Bank has been transferred or is deemed, under provisions of section 44-J, to have been transferred to the State Co-operative Land Development Bank-

- (a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board of Trustee and communicated to the mortgagor, be payable to the Primary Land Development Bank and such payment shall be as valid as if the mortgage had not been so transferred; and
- (b) the Primary Land Development Bank shall, in the absence of any specific direction to the contrary, issued by the Board of Trustee and communicated to the Primary Land Development Bank, be entitled to sue on the mortgage or take any other proceeding, including a proceeding under this Act, for the recovery of the moneys due under the mortgage.

44L. Registration of mortgage in favour of Land Development Bank. - Notwithstanding anything contained in the Indian Registration Act, 1908 (16 of 1908), it shall not be necessary to register mortgages executed in favour of Land Development Bank provided that the Land Development Bank concerned sends within such time and in such manner as may be prescribed a copy of the instrument; whereby movable or immovable property is mortgaged for the purpose of securing repayment of the loan to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged is situate, and such Registering Officer shall file a copy or copies, as the case may be, in his Book no. 1 prescribed under section 51 of the Indian Registration Act, 1908 (16 of 1908).

44M. Power of Land Development Bank to pay prior debts of mortgagors and secure consequential reliefs. - (1) Where a mortgage is executed in favour of a Land Development Bank for payment of prior debts of the mortgagor, such Bank may, notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882) by such notice in writing may be prescribed, require any person to whom any such debts is due to receive payment of such debt or part thereof from the Bank at its registered office or any of its branch offices within such period as may be specified in the notice.

(2) Where any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice; Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due may refer the dispute to Registrar for decision in accordance with provisions of Section 48:

Provided further that the person to whom such debt is due shall, pending the decision in the dispute, be bound to receive payment, of the amount offered by the Land Development Bank towards the debt but such receipts shall not prejudice the right, if any, of person to recover the balance claimed by him.

(3) Where a notice has been served under sub-section (1) on any person for receiving payment of his dues, such person shall be bound to deliver possession, to the mortgagor, or any property held in usufructuary mortgage for the debts due on or before the date specified in the aforesaid notice:

Provided that he may deliver possession of any agricultural land after harvesting of the standing crop, if any, and in such an event he shall be entitled to receive the amount due to him from the Land Development Bank on the date of delivery of possession given to the mortgagor.

(4) Where a person holding any property in usufructuary mortgage refuses delivery of possession in the manner indicated in sub-section (3), the Collector shall, on an application of the Land Development Bank made in this behalf, after making a summary enquiry eject the mortgagee and restore the mortgaged land to the mortgagor and the mortgage shall thereupon be deemed to have terminated.

(5) The provisions of this section shall be subject to any tenancy laws for the time being in force:

44N. Powers of Land Development Bank to advance loans and to hold lands. - Subject to the provisions of this Act and in accordance with the rules made thereunder, it shall be competent for a Land Development Bank to advance loans for the purposes referred to in Section 44-B and to hold lands the possession of which is transferred to it under the provisions of this Chapter.

44O. Public notice for entertaining objection. - (1) When an application for a loan is made for any of the purposes mentioned in Section 44-B, a public notice shall be given of the application in such manner and form as may be prescribed, calling upon all persons interested to make their objections to the loan, if any, before the date specified therein. The person by whom such public notice shall be given and the manner in which the objection shall be disposed of by him shall be such as may be prescribed. Copies of such public notice shall also be sent separately to such persons and within such time as may be prescribed.

(2) The person empowered to give notice under sub-section (1) shall consider every objection made under that sub-section and pass an order in writing either upholding or overruling it. When the objection is overruled, he shall recommend the application to the Land Development Bank for its consideration:

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

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

(4) Where an application is recommended under sub-section (2) the Land Development Bank shall, in accordance with the rule made by it in this behalf, consider such application for the purpose of making the loan.

(5) Where no objection under sub-section (1) has been made the question at issue shall be decided by the person empowered to consider objections in such manner as he may deem proper and no person shall have any claim whatsoever including any claim arising out of a mortgage of any description against the property of the loanee for which the loan applied for is sanctioned, under the provisions of

this Chapter, until such time as the loan together with interest thereon or any other dues arising out of the loan are paid in full.

44P. Mortgage executed by managers of Hindu joint families or natural or legal guardians of minors or disabled persons. - (1) Mortgages, in respect of loans by a Land Development Bank either before or after the commencement of the Bihar Co-operative Societies (Amendment) Ordinance, 1975 by the manager of a Hindu joint family or the natural or legal guardian of a minor or disabled person for any of the purposes specified in Section 44-B, shall be binding on every member of such Hindu joint family, or such minor or disabled person, notwithstanding any law to the contrary.

(2) Subject to the provisions of sub-section (1), where a mortgage executed in favour of a Land Development Bank, either before or after the commencement of the Bihar Co-operative Societies (Amendment) Ordinance, 1975, is called in question on the ground that it was executed by the Manager of a Hindu joint family or a natural or legal guardian of a minor or disabled person for a purpose not binding on the members of such Hindu joint family or such minor or disabled person, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

44Q. Order granting loan conclusive of certain matters. - Written order by the Land Development Bank, or person or managing committees authorised by this Chapter or under the bye-laws of the bank to make loans for all or any of the purposes specified in Section 44-B granting either before or after the commencement of the Bihar Co-operative Societies (Amendment) Ordinance, 1975, a loan to or with the consent of a person mentioned therein for the benefit of the land or for the productive purpose specified therein, shall be conclusive of the following matters namely:-

- (a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of Section 44-B;
- (b) that the person had on the date of the order a right to make such improvement or incur expenditure for such productive purpose, as the case may be; and
- (c) that the improvement is one benefiting the land specified and the productive purpose concerns the land offered as security or any part thereof as may be relevant.

44R. Recovery of loan by Land Development Bank. - Any loan granted by a Land Development Bank, including any interest chargeable thereon and, such cost, if any as may be prescribed incurred in connection therewith shall, when they become due, be recoverable by the bank concerned:

Provided that such loan, interest or cost may be recoverable also by the State Co-operative Land Development-Bank even if the loan has been granted by a primary Co-operative Land Development Bank affiliated to it.

44S. Collector to make recoveries during certain period. - (1) During such period as the State Government may, by general or special order, notifying in the official Gazette, it shall be competent for the Collector, on application being made to him in this behalf by a Land Development Bank, to recover all sums due to the Bank, including the cost of such recovery.

(2) The Collector or any person specially authorised by him in this behalf, shall recover all sums due to a Land Development Bank in the following order and manner, namely:-

- (a) from the borrower as if they were in arrears of land revenue due by him.
- (b) out of the land for the benefit of which the loan has been granted as if they were arrears of land revenue in respect of that land;

- (c) from a surety, if any, as if they were arrears of land revenue due by him;
- (d) out of the property comprised in the collateral security, if any according to the procedure for the realisation of land revenue by the sale of immovable property other than the land on which the revenue is due.

(3) the provisions of this section shall be subject to any tenancy law for the time being in force.

44T. Distraint and sale. - (1) If any instalment payable under mortgage executed in favour of a Land Development Bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the managing committee of such a bank or the Board may, in addition to any other remedy available to the bank, apply to the Registrar for the recovery of such instalment or part thereof by distraint and sale the produce of the mortgaged land, including the standing crops thereon, and any other moveable property of the default in the manner prescribed. On receipt of such application the Registrar may, after giving registered notice to the mortgagor notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), direct distraint and sale of such produce and, if necessary, also of such other moveable property of the defaulter:

Provided that such implements of husbandry other than the implements mortgaged to the Land Development Bank, and such cattle of the defaulter as may, in the opinion of the Registrar, be necessary to enable the defaulter to earn his livelihood as an agriculturist shall not be liable for such distraint and sale:

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

(2) The value of the property distrained shall be, as far as may be, equal to the amount due, and the expenses of the distraint and the cost of the sale.

44U. Powers of sale when to be exercised. - (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), where a power of sale without the intervention of the court is expressly conferred on a Land Development Bank by the mortgage deed, the managing committee of such bank or the Board or any person authorised by such managing committee or the Board in this behalf shall, in case of default of payment of mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of court.

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

- (a) the Board has previously authorised the exercise of the power conferred by sub-section (1) after considering the representation, if any, of the mortgagor;
- (b) the registered notice requiring payment of such mortgage money or part thereof has been served upon-
 - (i) the mortgagor;
 - (ii) any person who has any interest in, or charge upon the property mortgaged or in or upon the right to redeem the same;
 - (iii) any surety for the payment of the mortgage debt or any part thereof; and
 - (iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and

(c) default has been made in payment of such mortgage money or part thereof, for three months after service of notice in this behalf,

44V. Powers of Land Development Bank where mortgaged property is destroyed or security becomes insufficient. - Where any property mortgaged to a Land Development Bank is wholly or partially destroyed or for any reason the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity, by the managing committee of the said bank or the Board of providing further security enough to make the whole security sufficient or of re-paying such portion of the loan as may be determined by the managing committee or the Board has failed to provide such security or to repay such portion of the loan the whole of the loan shall, notwithstanding its terms and conditions, be deemed to fall due at once and the managing committee or the Board shall be entitled to take action against the mortgagor, under Section 44-S or Section 44-T or Section 44-U, for the recovery thereof.

Explanation. - For the purpose of this section, security shall be deemed to be insufficient unless the value of the mortgaged property, including improvement thereon, exceeds the amount for the time being, due on the mortgage by such proportion as may be specified in the rules or the bye-laws of the Land Development Bank.

44W. Power of the Board or Trustee to take action against defaulters. - (1) The Board or the Trustee may direct the managing committee of a primary Cooperative Land Development Bank to take action against a defaulter under Sections 44-S, 44-T, 44-U or 44-V and if the managing committee neglects or fails to do so, the Board or the Trustee may take such action. The Trustee may direct the Board to take similar action against a defaulter and on the Board's neglect or failure to do so, may take such action himself.

(2) Where an action is taken under the provisions of sub-section (1) by the Board, the provisions of this Chapter or any rules made in pursuance thereof shall apply as if all references therein to a Primary Co-operative Land Development Bank and its managing committee were references to the State Co-operative Land Development Bank and the Board,

(3) When an action is taken under the provisions of sub-section (1) by the Trustee, the provisions of this Chapter or any rules made in pursuance thereof shall apply as if all references therein to primary Co-operative Land Development Bank and its managing committee or the State Co-operative Land Development Bank or the Board were references to the Trustee.

44X. Confirmation of sale. - Where any mortgaged property is sold under the provisions of section 44-U by a Primary Land Development Bank, the Bank shall, in the manner prescribed, submit to the State Co-operative Land Development Bank and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale. Where the sale is made by the State Cooperative Land Development Bank or the Trustee is a person other than the Registrar, similar Report shall be submitted by the Board or the Trustee as the case may be, to the Registrar,

(2) After the report aforesaid has been submitted to the Registrar the managing committee of a Primary Co-operative Land Development Bank or the Board of the Trustee, as the case may be, may with the approval of Registrar, confirm or cancel the sale within one hundred and twenty days of the date of sale.

(3) Where the Registrar is the Trustee and has taken action pursuant to subsection (1) of Section 44-W,

he may confirm or cancel the sale of the mortgaged property of his own motion or on the application of a Land Development Bank within one hundred and twenty days from the date.

(4) Upon the mortgagor or any person having a right, title or interest in the mortgaged property applying to the managing committee of a Land Development Bank or the Board or the Trustee or the Registrar, as the case may be, for setting aside the sale after having deposited at the Office of the Land Development Bank concerned such sums of money as may be sufficient for payment of the amount specified in the notice served under clause (b) of sub-section (2) of Section 44-U together with subsequent interest and costs, if any, incurred during the process of sale and a commission, for payment to the purchaser, or a sum equal to five percent of the purchase money deposited by him, the sale of the mortgaged property shall be cancelled under the provisions of sub-section (9) or (3) of this section.

(5) When sale is confirmed under the provisions of this section it shall become absolute and shall be deemed to be absolute for the purpose of the Code of Civil Procedure, 1908 (5 of 1908).

44Y. Disposal of sale proceeds. - (1) The proceeds of the sale, effected under this Chapter shall be applied first to the payment of all costs, charges and expenses incurred in connection with the sale or attempted sales, secondly to the payment of any or all interest due on account of the mortgage in consequence whereof the mortgaged property was sold and thirdly to the payment of the principal due on account of the mortgage including cost and charges incidental to the recovery.

(2) If there remains any residue from the proceeds of sale referred to under sub-section (1), the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, to such persons upon their joint receipt or according to their respective interest therein:

Provided that, before such payments are made, the unsecured dues owing from the mortgagor to the Land Development Bank may be adjusted.

44Z. Certificates of purchase, delivery of property and title to purchaser. - Where a sale of mortgaged property has become absolute the Bank shall grant a certificate to the purchaser, in the prescribed form, specifying the property sold, the sale-proceeds, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale become absolute and upon the production of such certificate, the Sub-Registrar appointed under the Indian Registration Act, 1908 (16 of 1908) within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated shall enter a copy of such certificate in the relevant book maintained for such purpose.

(2) Where a mortgaged property is sold under the provisions of this Chapter and a certificate is granted to the purchaser under the provisions of sub-section (1), Collector shall, on the application of the purchaser, his, their or successor-in-interest, order delivery of possession to be made to such a person and shall put in possession such a person or his nominee.

44AA. Title of purchaser not to be questioned on ground of irregularities, etc. - Where any property is sold in exercise of power of sale under this Chapter, the title of the purchaser shall not be questioned on the ground that-

- (a) the circumstances required for authorising the sale had not arisen;
- (b) due notice of the sale was not given; or

(c) the power of sale was otherwise improperly or irregularly exercised; but any person who has suffered any damage by an unauthorised, improper or irregular exercise of such power is entitled to have a remedy in damage against the Land Development Bank.

44AB. Mortgage not to be questioned on insolvency of mortgagor. - Notwithstanding anything in any law relating to insolvency, a mortgage executed in favour of a 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 Land Development Bank a preference over the other creditors of the mortgagor.

44AC. Appointment of receiver and his powers. - (1) The Board may, of its own motion or on the application of a primary Land Development Bank and under circumstances in which the power of sale conferred by Section 44-U may be exercised, appoint in writing a person other than member of the managing committee of the Land Development Bank concerned to be the receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, or both, as the case may be, to retain out of any money realised by him in expenses or management including his remuneration, if any, as fixed by the Board and to apply to balance in accordance with the provisions of sub-section (8) of Section 69-A of the Transfer of Property Act, 1882 (4 of 1882).

(2) The Board may, for sufficient cause; remove such receiver on an application made by the mortgagor and fill the vacancy in the office of the receiver.

(3) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a competent court.

44AD. Restrictions on leases. - (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (4 of 1882), or any other law for the time being in force, no mortgagor of property mortgaged to a Land Development Bank shall, except with the prior consent in writing of the bank and subject to such terms and conditions as the bank may impose lease or create to any tenancy rights or any other right, title, or interest in any such property:

Provided that the rights of the Land Development Bank shall be enforceable against the lessee or the tenant, or any other person, as the case may be, as if he himself were a mortgagor.

(2) Where the land, mortgaged with possession to a Land Development Bank, is in actual possession of a tenant, the mortgagor or the Land Development Bank shall give notice to the tenant to pay rent to the Land Development Bank during the currency of the lease and the mortgage and on such notice being given, the tenant shall be deemed to have attorned to the Land Development Bank.

44AE. Registration of documents executed on behalf of a Land Development Bank. - (1) Notwithstanding anything in the Indian Registration Act, 1908 (16 of 1908), it shall not be necessary for any officer of a Land Development Bank to appear in person or by any agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 58 of that Act.

(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 aforesaid officer of the Land Development Bank for any information in respect thereof and on being satisfied of the execution thereof, shall register the instrument.

44AF. Delegation of certain powers by Board. - The Board if it thinks fit, may delegate all or any of its powers under Sections 44U, 44W, 44X or 44AC to an Executive Committee consisting of three or more of its members constituted by it.

44AG. Provisions of the Transfer of Property Act, 1882 to apply to notice under this Chapter. - The provisions of Sections 102 and 103 of the Transfer of Property Act, 1882 (4 of 1882) and of any rule made by the High Court under Section 104 of that Act for carrying out the purposes of the said sections shall apply so far as may be, in respect of all notices to be served under this Chapter.

44AH. Board's power of supervision over Primary Co-operative Land Development Banks. - Subject to the provisions of this Act, the Board shall have such powers of supervision over the Primary Co-operative Land Development Banks, including powers of inspection of account books and proceedings of such bank, as may be prescribed by rules.

44AI. Power to make rules. - The State Government may, after previous publication, make rules for carrying into effect the purposes of this Chapter.

(2) Such rule may provide for all or any of the following matters, namely:-

- (a) the manner of effecting distraint under this Chapter, the custody, preservation and sale of distrained property, immediate sale of perishable articles where such articles are distrained;
- (b) conduct of the sale of the property mortgaged to Land Development Banks, appointment of sales officers, recovery of expenses of such sale, deposit of the purchase money in connection therewith and resale of the mortgaged property where purchase money is not deposited in sale proceedings;
- (c) submission of returns and reports by primary Co-operative Land Development Bank to the State Co-operative Land Development Bank in respect of their transactions periodical statement of accounts between the Primary Co-operative Land Development Banks and the State Co-operative Land Development Bank, payment of amount recovered by the Primary Co-operative Land Development Bank on mortgages transferred of the State Co-operative Land Development Banks the form in which application to Land Development Banks for loans may be made, the properties offered as security for such loans the investment of money realised by Land Development Banks from the mortgagors and matters generally relating to the conduct of business of Land Development Banks; and
- (d) all matters expressly required or allowed in this Chapter to be prescribed by rules.]

[CHAPTER VI-B]

Co-operative Banks

44AJ. Application of the Chapter to Co-operative Banks. - (1) The provisions of this Chapter shall apply to a Co-operative Bank as defined in the Deposit Insurance Corporation Act, 1961 (47 of 1961) in addition to the provisions contained in other parts of this Act, where any question of apparent or implied inconsistency arises, the provisions of this Chapter shall prevail over the provisions of the other parts of this Act.

(2) For the purposes of this Chapter, 'Deposit Insurance Corporation' means the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961 (47 of 1961) and 'Reserve Bank' means the Reserve Bank of India established under the Reserve Bank of India Act, 1934 (2 of

1934).

44AK. Division, amalgamation, compromise, etc. - (1) No order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or of division or transfer of assets and liabilities of a Co-operative Bank shall be made without the previous sanction in writing of the Reserve Bank.

(2) Where an order of moratorium has been made by the Central Government under sub-section (2) of Section 45 of the Banking Regulation Act, 1949 (10 of 1949) in respect of a Co-operative Bank, the Registrar, with the previous approval of the Reserve Bank in writing may during the period of moratorium, prepare a scheme,-

(i) for the re-construction of the Co-operative Bank; or

(ii) for its amalgamation with any other Co-operative Bank (herein referred to as the transferee Bank).

(3) Notwithstanding anything to the contrary contained in this Act where a Cooperative Bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (47 of 1961) is amalgamated or in respect of which a scheme of compromise or arrangement or of reconstruction has been sanctioned and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank, under sub-section (2) of Section 16 of the Act, the bank with which such insured bank is amalgamated or, the new Co-operative Bank formed after such amalgamation or, as the case may be, the insured bank or the transferee bank shall be under an obligation to repay the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in Section 21 of that Act.

44AL. Supersession of Managing Committee of Co-operative Bank. - Notwithstanding anything contrary contained in this Act Registrar shall if so required in writing by the Reserve Bank in public interest or for preventing the affairs of the Co-operative Bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the Co-operative Bank; pass an order for the supersession of the managing committee or other managing body (by whatever name called) of that Co-operative Bank and appointment of an administrator therefore, upon such terms and for such periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank.

44AM. Reserve Bank's sanction or requisition for winding up order. - (1) Notwithstanding anything to the contrary contained in this Act, no Co-operative Bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

(2) Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for the winding up of a Co-operative Bank if so required by the Reserve Bank in the circumstances mentioned in Section 13D of the Deposit Insurance Corporation Act, 1961 (47 of 1961.)

44AN. Reimbursement to Deposit Insurance Corporation. - Where a Cooperative Bank, being an insured bank within the meaning of Deposit Insurance Corporation Act, 1961 (47 of 1961) is wound up or is taken into liquidation and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (1) of Section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed in the circumstances to the extent and in the manner provided in Section 21 of that Act.

44AO. Finality of the Reserve Bank's sanction or requisition. - Notwithstanding anything to the

contrary contained in this Act where with the previous sanction in writing or on the requisition of the Reserve Bank-

- (i) an order for the winding up of the co-operative bank is made, or
- (ii) in respect of which a scheme of compromise or arrangement or of reconstruction or amalgamation is made, or
- (iii) in respect of which an order for the supersession of its managing committee or other managing body (by whatever name called) and the appointment of an administrator therefor has been made, no appeal or revision or review there against shall lie or be permissible and such sanction or requisition of the Reserve Bank shall not be liable to be called in question in any manner.]

[CHAPTER VI-B]

Special provisions for primary agricultural credit society, farmers service society and multipurpose co-operative society

44AP. Provisions of this Chapter to apply to Agricultural Credit Society. - The provisions contained in this Chapter shall apply only to primary Agricultural Credit Society, the Farmers Service Society and the Multipurpose Co-operative Society.

44AQ. Power of Registrar to order liquidation of Societies and amalgamation of several Societies. - (1) Notwithstanding anything to the contrary contained in the Act where the Registrar is satisfied that, in the interest of the Cooperative Movement or for the purpose of securing proper management of Cooperative Societies or for the reason that the society has not been working as a viable unit or has incurred bad debts or has remained inactive, it is necessary to liquidate a society he may, by an order published in the official Gazette, direct for the liquidation of the society and shall appoint person or persons for carrying out the functions of the liquidator as laid down in section 44.

(2) Where in the opinion of the Registrar, or an officer authorised by the Registrar to act on his behalf (who shall not be below the rank of the District Cooperative Officer), amalgamation of two or more primary agricultural societies is necessary in order to improve the working of such society or for increasing their strength or usefulness, he may by an order, notwithstanding anything to the contrary contained in this Act, direct the amalgamation of two or more such societies, within such time as may be specified therein, into one single society and register the same as a new society.

(3) The societies which are amalgamated under sub-section (2) shall be deemed to have been dissolved and shall, cease to exist and the membership thereof shall stand transferred to. and all the assets and liabilities thereof shall vest, in the new society formed by amalgamation of two or more societies:

Provided that State Government may from time to time, declare a moratorium on the liabilities of the societies so amalgamated.

(4) Upon the amalgamation of societies and establishment of a new society, the Registrar shall, for purposes of managing the affairs of the new society, depute an officer of the State Government subordinate to him, till such time as a new managing committee is constituted and the officer so deputed shall exercise such powers and perform such functions as may be prescribed.

(5)The Registrar may by an order in writing and published in the official Gazette determine the local limits of the new society established after the amalgamation of several societies.

(6) Every family residing within the local limits of the new society determined under sub-section. (5) shall be represented by at least one adult member of the family who shall be a normal or associate member of the society and shall be entitled to a right of voting if he pays a membership fee of Re. 1 and may become a full-fledged member of the society if he purchases at least one share of the society and he shall be entitled to receive loan therefrom and shall also be eligible to hold any elective post of the society.

44AR. Appeal from the order of the Registrar. - Any person aggrieved by the liquidation under sub-section (1) of Section 44AO or by amalgamation or establishment of new societies and the registration there of under sub-section (2) of the said section may file a representation before the State Government against the order of the Registrar within thirty days of the date of order and the State Government may, after hearing the objections, pass such orders as may be deemed fit and the order of the State Government thereon shall be final and shall not be called in question in any Court of law.

44AS. Election of new society formed after amalgamation. - The election of the new society established under sub-section (2) of Section 44AQ shall be held within a period of six months from the date of registration of the society unless, for special reasons to be recorded in writing, the State Government may extend the period by another six months.]

CHAPTER VII

Penalties and Procedure,

45. Offences. - (1) It shall be an offence under this Act if-

- (a) an officer or member of a registered society [or any person appointed under sub-section (2) of Section 41] intentionally neglects or refuses to do any act required to be done, or to furnish any information required to be furnished, by this Act or by any rule; or
- (b) an officer or member of a registered society [or any person appointed under sub-section (2) of Section 41] wilfully makes a false return or furnishes false information.

(2) Any officer or member of a registered society, [or any person appointed under sub-section (2) of Section 41] guilty of an offence under sub-section (1) shall be punishable with fine which may extend to fifty rupees.

[45A. (1) On election of new secretary or on supersession of co-operative society or on expiry of the term of the office bearers of a co-operative society, the outgoing secretary or the person holding charge of the office of the co-operative society shall hand over charge of his office and all papers and properties in his possession as secretary or incharge of the said society to the new secretary or the officer directed by the prescribed authority to take charge of the affairs of the said society.

(2) If the outgoing secretary of a co-operative society or the person holding charge of the office of secretary fails or refuses to hand over charge of his office as required under sub-section (1) above, the prescribed authority or any officer empowered by it in this behalf, may by an order in writing direct the outgoing Secretary or the person holding charge of the office of Secretary to hand over immediately the charge of his office and all papers and properties in his possession as such secretary to the new secretary in case of fresh election, and in case of supersession or on expiry of the term of office to the officer appointed to manage the affairs of the society.

(3) If the person to whom a direction has been issued under sub-section (2) fails to comply with the said direction he shall be punishable with the imprisonment which may extend up to the period of six months or a fine of Rs. 500, or with both.

(4) The offence under sub-section (3) shall be cognizable.

(5) If it is so required, the prescribed authority may, by order in writing, authorise any officer to forcibly take possession with the help of local police and Magistrate, of all papers and properties from the outgoing secretary or the person holding charge of the office of secretary and hand them over to the new secretary in case of fresh election and to the officer of the State Government appointed to run the affairs of the society in case of, its supersession or expiry of the term of office bearers where fresh election is still to be held.]

[45B. Production of records by the Secretary or person incharge of the office of a Co-operative Society. - (1) The Secretary of a Co-operative Society shall, on direction by Registrar or by any other Gazetted officer of Co-operative department, forthwith hand over all records and documents of the Society as the Registrar or the officer mentioned above may require for inspection or enquiry relating to the affairs of the said Co-operative Society.

(2) If the Secretary or the person incharge of the office of the Co-operative Society fails, refuses or avoids to hand over the documents as required under foregoing sub-section (1) he shall be punishable with imprisonment for a period which may extend up to six months or with a fine of Rs. 500/- or with both; and such an offence shall be cognizable.

(3) When a person to whom a direction has been issued under sub-section (1) of this section fails, refuses or avoids to furnish all records and documents, the officer issuing the direction may forcibly seize all records and documents of that Society with the help of police and magistrate.]

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

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

(2) Any officer or member of a society or any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with a further fine of five rupees for each day on which the offence is continued after conviction therefor.

47. Cognizance of offences. - (1) No Court inferior to that of a Magistrate of the second class shall try any offence under this Act.

(2) Every offence under this Act shall, for the purpose of the [Code of Criminal Procedure, 1898 (5 of 1898)] be deemed to be non-cognizable.

(3) No prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar, and the Registrar shall not sanction the prosecution of any person unless he has given such person an opportunity of being heard.

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

- (a) amongst members, past members, persons claiming through members, past members or deceased members, and sureties of members, past members or deceased members, whether such sureties are members or non-members; or
- (b) between a member, past member, persons claiming through a member, past member or deceased member, or sureties of members, past members or deceased member, whether such sureties are members or non-members and the society, its managing committee or any officer, agent or servant of the society; or
- (c) between the society or its managing committee and any past or present officer, agent or servant of the society; or
- (d) between the society and any other registered society; [or]
- [(e) between a financing bank authorised under the provisions of sub-section (1) of Section 16 and a person who is not a member of a registered society;]

such dispute shall be referred to the Registrar:

Provided that no claim against a past member or the estate of a deceased member shall be treated as a dispute if the liability of the past member or of the estate of the deceased member has been extinguished by virtue of Section 32 or Section 63.

Explanation. - (1) A claim by a registered society for any debt or demand due to it from a member, [non-member], past member or the nominee, heir or legal representative of a deceased member or [non-member] or from sureties or members, past members or deceased members, whether such sureties are members or non-members, shall be a dispute touching the business of the society within the meaning of this sub-section even in case such debt or demand is admitted and the only point at issue is the ability to pay or the manner of enforcement of payment.

Explanation. - (2) The question whether a person is or was a member of a registered society or not shall be a dispute within the meaning of this sub-section.

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

- (a) decide the dispute himself; or
- (b) transfer it for disposal to any person exercising the powers of a Registrar in this behalf; or
- (c) subject to any rules refer it for disposal to an arbitrator or arbitrators.

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

(4) The appointment of an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrators shall be regulated by rule.

(5) In the case of dispute involving property which is given as collateral security, it shall be competent to the person deciding such dispute to issue mortgage award which shall have the same force as a mortgage decree of a competent Civil Court.

(6) Any person aggrieved by any decision given in dispute transferred or referred under clause (b) or (c) of sub-section (2) may, within three months from the date of such decision, appeal to the Registrar.

(7) The Registrar, in the case of dispute under this section, shall have the power of review vested in a Civil Court under Section 144 and under Order XL VII, rule 1 of the Code of Civil Procedure, 1908, and shall also have the inherent jurisdiction specified in Section 151 of the said Code.

(8)The Registrar may where it appears to him advisable, either of application or of his own motion, state a case and refer it to the District Judge for decision, and the decision of the District Judge shall be final.

(9) Save as expressly provided in this section, a decision of the Registrar under this section, and subject to the orders of the Registrar on appeal or review, a decision given in a dispute transferred or referred under clause (b) or (c) of subsection (2) shall be final.

49. Registrar, liquidators and arbitrators to have certain powers of Civil Court. - Subject to any rules, the Registrar, any person authorised to hold an inquiry under Section 35 or an inspection under Section 36. any liquidator, any person exercising the powers of a Registrar, or any arbitrator or arbitrators appointed under Section 48, shall in so far as such powers are 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 or property by the same means and, so far as may be, in the same manner as if provided in the case of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908).

50. Attachment of property. - (1) Where the Registrar is satisfied on the application of the liquidator or of a society that any person with intent to defeat or delay the execution of any order that may be passed against him under Section 44 or 48.

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

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

the Registrar may, unless adequate security is furnished to his satisfaction, direct the attachment of the said property or such part thereof, as he thinks, necessary, any such attachment shall have the same effect as if it had been made by a competent Court.

(2) An order of attachment passed under sub-section (1) shall, on the application of the Registrar, be executed by the Collector in whose jurisdiction the property lies, in the same manner as an order of a Revenue Court.

51. Enforcement of orders. - Orders passed under Sections 44, 48 and 50 shall in addition to any other method of enforcement provided under this Act. on application be enforced as follows:-

(a) when passed by the Registrar, a liquidator or by an arbitrator or arbitrators, by any Civil Court having local jurisdiction in the same manner as a decree of such Court:

(b) when passed by the District Judge, in the same manner as a decree of the District Judge made in the suit pending before him.

52. Recovery of sums due. - Any sum payable by any person or by any registered society-

(a) as fees for an audit held under Section 33,

(b) in accordance with an order of the Registrar under section 39 apportioning the costs of an inquiry or inspections,

(c) in accordance with an order passed under Section 40,

(d) in accordance with an order of the Registrar or of a liquidator passed under Section 44, or

(e) in accordance with an order, decision or award passed or made under Section 48,

[(f) As an amount due from member, past member or the nominee, heirs, or legal representative of the deceased member of a primary co-operative society.]

shall be recoverable, as a public demand in any area, in which the Bihar and Orissa Public Demands Recovery Act, 1914 (B. & O. Act 4 of 1914), is in force or as an arrear of land revenue throughout the whole of the State and the Registrar or other person authorised by him in this "behalf, shall be deemed to be the person to whom such public demand is due or to whom such arrear of land revenue is payable.

53. Recovery of sums due to the Government. - All sums due from a registered society or from an officer or member, past or present or from his sureties or from the estate of a deceased member of a registered society or from his sureties as such to the Government including any costs awarded to the Government may be recovered in the same manner as arrears of land revenue.

54. Property from which sums due from a society can be recovered. - All sums due from a registered society to the Government and all sums recoverable from a registered society under Sections 33, 39, 44 or 48 may be recovered firstly, from the property of the society, secondly, in the case of a society, the liability of the members of which is limited, from the members, past members or estates of deceased members, or their sureties subject to the limit of their liability; and thirdly, in the case of other societies from the members, past members, or estates of deceased members or their sureties to such extent or in such proportion as may be determined by the Registrar.

55. Liability of past members. - Notwithstanding anything contained in Sections 53 and 54, the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of Sections 32 and 63.

56. Power of revision by Registrar. - The Registrar may, on application or of his own motion revise any order passed by a person exercising the powers of a Registrar or by a liquidator under Section 44.

57. Bar of jurisdiction of Court. - [(1) Save in so far as expressly provided in this Act. no Civil or Revenue Court shall have any jurisdiction in respect of any matter concerned with the winding up or dissolution of the registered society or suspension of the Managing Committee of a registered society under its act, or of any dispute required by Section 48 to be referred to the Registrar or of any proceedings, under Chapter VII A.]

(2) While a society is in liquidation, no suit or other legal proceeding shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof on any matter touching the affairs of the society, except by leave of the Registrar and subject to such terms as he may impose.

(3) No order of the State Government, District Judge, Registrar, a person appointed to assist the Registrar, liquidator, or an arbitrator or arbitrators purporting to be one, which under any provision of this Act is declared to be final shall be liable to be challenged, set aside, modified, revised, or declared void in any Court upon merits or upon any ground whatsoever except want of jurisdiction.

[CHAPTER VIIA]

Distrain

57A. Cases in which application for distraint may be made. - Where any debt or outstanding demand is due to a registered society from any member, past member or estate of deceased member or is due to a registered society which is duly authorised by the Registrar under any of the provisions of

sub-section (1) of Section 16 of this Act to grant loans to non-members, from any person who is not a member of a registered society or from the estate of such person if he is dead the society may, in addition to any other remedy to which it is entitled by law, present an application to the Registrar requesting him to recover the debt or outstanding demand by distraining, while in the possession of the defaulter:-

- (1) any crops or other products of the earth standing or ungathered on the holding of the defaulter;
- (2) any crops or other products of the earth which have been grown on the holding of the defaulter and have been reaped or gathered and are deposited on the holding or on a threshing floor or place for treading out grain whether in the fields or within a homestead,

57B. Form of application. - (1) Every application under the last foregoing section shall specify-

- (a) the holding of the defaulter and the boundaries thereof or such other particulars as may suffice for its identification;
- (b) the name of the defaulter;
- (c) the detailed account of the dues;
- (d) the nature and approximate value of the produce to be distrained;
- (e) the place where it is to be found, or such other particulars as may suffice for its identification; and
- (f) if it is standing or ungathered at the time at which it is likely to be cut or gathered.

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (5 of 1908), for the signing and verification of plaints.

57C. Procedure on receipt of application. - (1) The applicant shall at the time of filing an application under the foregoing Sections, file before the Registrar such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(2) The Registrar may, after taking such evidence as he thinks, fit, admit the application or reject it.

(3) Where the Registrar cannot forthwith admit or reject an application he may, if he thinks fit make an order prohibiting the removal of the produce specified in the application, pending the execution of an order for distraining the same or the rejection of the application.

(4) When an order for distraining any produce is made under this Section at a considerable time before the produce is likely to be cut or gathered, the Registrar may suspend the execution of the order for such time as he thinks fit, and may, if he thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

(5) An order under sub-section (3) or under sub-section (4) shall be served and published in such manner as the State Government may by Rules prescribe.

57D. Execution of order for distraint. - (1) If an application is admitted under the last foregoing Section and an order for distraining any produce is made the Registrar shall send a copy of the order containing the prescribed particulars to the Collector for execution.

(2) The Collector shall, upon receipt of the order referred to in sub-section (1), depute an officer to distrain the produce specified therein or such portion of that produce as he thinks fit, and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it in this behalf and publishing a notification of the distraint in accordance with Rules to that effect made by the

State Government:

Provided that produce, which from its nature does not admit of being stored, shall not be distrained under this Section at any time less than twenty days before the time when it would be fit for reaping or gathering.

57E. Service of demand and account. - (1) The distraining officer, shall at the time of making the distraint, serve on the defaulter a written demand for the amount due and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(3) The demand and account shall, if practicable be served personally but, if a person on whom they are to be served absconds or conceals himself or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

57F. Rights to reap etc., produce. - (1) A distraint under this Chapter shall not prevent any person from reaping, gathering or storing any produce or doing any other act necessary for its due preservation.

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose or in some other convenient place in the neighbourhood or shall to whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer or of some other person appointed by him in this behalf.

57G. Sale proclamation to be issued unless demand is satisfied. - (1) Unless the demand with all costs of distraint, be immediately satisfied that distraining officer shall issue a proclamation specifying the particulars of the property distrained and the demand for which distrained, and notifying that he will, at a place and on a day specified not being less than three or more than seven days after the time making the distraint, sell the distraint property by public auction:

Provided that when the crops or products distrained from their nature admit of being stored but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be struck up on a conspicuous place in the village in which the land of the defaulter is situate.

57H. Place of sale. - The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

57I. When produce may be sold standing. - (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any

person appointed by him in this behalf and do all that is necessary for the purposes of tending and reaping or gathering them.

57J. Manner of sale. - The property shall be sold by public auction, in one or more lots as the officer holding the sale may think advisable, and if the demand with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the order of distraint shall not be executed with respect to the remainder.

57K. Postponement of sale. - If, on the property being put for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorised to act in his behalf, applies to have the sale postponed till the next day or (if a market is held at the place of sale) the next market day. the sale shall be postponed until that day and shall be then completed, whatever price may be offered for the property.

57L. Payment of purchase money. - The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale direct, and in default of such payment the property shall be put up again and sold.

57M. Certificate to be given to purchaser. - When the purchase money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

57N. Proceeds of sale how to be applied. - (1) From the proceeds of every sale of distrained property under this Chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the State Government in this behalf.

(2) The remainder shall be applied to the discharge of the amount due for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

57O. Certain persons may not purchase. - Officers holding sales of property under this Chapter and all persons employed by, or subordinate to such officers and all officers and members of the staff of registered societies are prohibited from purchasing either directly or indirectly, any property sold by such officers.

57P. Procedure where demand is paid before the sale. - (1) If at any time after a distraint has been made under this Chapter, and before the sale of the distrained property, the defaulter, or any person making a *bonafide* claim as the owner of the distrained property, where he is not the defaulter deposits with the Collector executing the order of distraint or in the hands of the distraining officer, the amount specified in the demand served under Section 57-E, with all costs which may have been incurred after the service of the demand, the Collector, or officer, as the case may be, shall grant a receipt for the same, and the order of distraint shall not be executed.

(2) When the distraining officer receives the deposit, he shall forthwith pay it to the Collector.

(3) After the expiration of one month from the date of a deposit being made under this Section, the Collector shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the person making a *bonafide* claim as the owner of the property distrained has instituted a suit against the applicant contesting the legality of the distraint and claiming compensation in respect of the same.

57Q. Distraint of property which is under attachment. - When any conflict arises between an order for distraint issued under this Chapter and an order issued by a Civil Court for the attachment or sale of the property, which is the subject of the distraint, the order for distraint shall prevail; but if the property is sold under that order, the surplus proceeds of the sale shall not be paid under Section 57-N. to the owner of the property without the sanction of the Court to which the order of attachment of sale was issued.

57R. Suit for compensation for wrongful distraint and appeals. - No appeal shall lie from any order passed by the Registrar or a Collector under the Chapter, but any person whose property is distrained on an application made under Section 57-A , in any case in which such an application is not permitted by that Section, may institute a suit against the application for the recovery of compensation:

Provided that, if such an order is passed by an Assistant Registrar or Deputy Registrar exercising the power of a Registrar, an appeal shall lie to the Registrar and his decision on such appeal shall be final.

57S. Power to make Rules. - The State Government may from time to time, make Rules for regulating the procedure in all cases under the foregoing provisions of this Chapter.

57T. Interpretation. - In this Chapter, unless there is anything repugnant in the subject or context-

- (a) "Collector" includes an officer appointed by the State Government to discharge any of the functions of a Collector under this Chapter;
- (b) "defaulter" means a person (including his legal representative if he is dead) from whom any such debt or outstanding demand as is referred to in Section 57-A, is recoverable; and
- (c) "holding" means any land used for Agricultural or horticultural purposes.

CHAPTER VIII

Miscellaneous

58. Registrar and other officers to be public servants. - The Registrar, a person exercising the powers of a Registrar, a person authorised to make an inspection under Section 34 or 36 or to hold an inquiry under Section 35, a liquidator and an arbitrator or arbitrators to whom any dispute is referred under Section 48, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

59. Proof of entries in societies book. - (1) A copy of an entry in a book, register or list of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be admissible in 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 would, if produced, have been admissible to prove such matters, transactions and accounts.

(2) In the case of such societies as the State Government may, by general or special order, direct, no officer of a society shall in any legal proceeding to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under sub-section (1), or to appear as a witness to prove the matters, transactions and accounts therein recorded unless by order of the Courts or a Judge made for special cause.

60. Delegation of power to hear appeals. - The State Government may, by general or special order,

delegate its power of hearing appeals under the provisions of this Act, except the power of hearing appeals under sections 26, 40 and 41, to any authority specified in such order.

61. Compulsory affiliation of registered societies to a Co-operative Federation. - (1) The State Government may, by general or special order, direct that all or any registered societies situated within a specified area shall be affiliated to a Co-operative Federation in such manner and on such conditions as the State Government may direct.

(2) The State Government may, by general or special order, regulate, from time to time, the constitution and functions of any Co-operative Federation in respect of which an order of compulsory affiliation may have been passed under sub-section (1).

62. Exemptions from requirements as to registration. - (1) Notwithstanding anything contained in this Act, the State Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

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

63. Limitation. - Notwithstanding any of the provisions of the [Indian Limitation Act, 1908 (9 of 1908)], the period of limitation for debt including interest due to a registered society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of the society.

64. Power to exempt from income tax, stamp duty and registration fees. - (1) The Central Government, by notification in the official Gazette, may in the case of any registered society or class of registered societies, remit the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the member of the society on account of profits.

(2) The collecting Government may by notification remit, in the case of any registered society or class of registered societies-

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

(b) any fee payable under the law of registration for the time being in force. In this sub-section "Collecting Government" has the same meaning as in the Indian Stamp Act, 1899.

65. Exemption from compulsory registration of instrument relating to shares and debentures of a registered society. - Nothing in clauses (b) and (c) of sub-section (1) of Section 17 of the Indian Registration Act, 1908 shall apply to-

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

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

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

[65A. The power of the State Government to review the order of the Registrar. - Notwithstanding anything to the contrary contained in this Act, the State Government may, of its own motion or on an application made to it by any party aggrieved by the constitution or reconstitution, amalgamation, election, supersession, liquidation or any other matter concerning working of the society call for any record of inspection or enquiry made under this Act or proceedings of any matter pending before the Registrar or his subordinate or any person acting under his authority and examine and pass such orders as it may deem fit.]

[65B. Removal of difficulty. - If any difficulty arises in giving effect to the provisions of this Act the State Government may, as occasion may require, by order published in official Gazette, to anything not inconsistent with the provisions of this Act for purpose of removing the difficulty.]

66. Power to make Rules. - The State Government may for the whole or any part of the State and for any registered society or a class of registered societies, make rules to carry out all or any of the purpose of this Act.

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

- (i) prescribes the forms to be used and the conditions to be complied with in the making of application for the registration of a society and the procedure in the matter of such applications;
- (ii) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and the admission of member and the payment to be made and the interests to be acquired before the exercise of the right of membership;
- (iii) prescribe the extent to which a society may limit the number of its members and, subject to the provision of Section 29, prescribe the maximum number of shares or portion of the capital of society, which may be held by a member;
- (iv) prescribe the conditions of acceptance of registration of members and prescribe for the expulsion of member and for the payments, if any, to be made to members who withdraw or are expelled;
- (v) provide for the general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meeting;
- (vi) prescribe the matters in respect of which a society may or shall make bye-laws, and the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;
- (vii) prescribe the manner in which managing committees and sub-committees thereof shall be constituted, and provide for the appointment, suspension and removal of the members of managing committees and other officers, and for the procedure at meetings of managing committees and for the powers to be exercised and the duties to be performed by managing committees and other officers;
- (viii) prescribe the conditions under which a society may be prohibited from appointing a defaulting member of any society to its managing committee or to the managing committee of any other society and from allowing him to exercise his right of membership in the society or to represent it in on other society;
- (ix) prescribe the procedure to be followed when societies change the forum or extent of their liability, and provide for the amalgamation and division of societies and prescribe the conditions of such amalgamation and division;

- (x) prescribe the conditions and terms under which and regulate the manner in which funds may be raised by means of shares deposits or debentures or otherwise;
- (xi) prescribe the conditions to be complied with by members applying for loans. the period for which loans may be made, the amount which may be lent and the manner of repayment;
- (xii) provide for the deposit or investment of any funds under control of a society;
- [(xiii) prescribe the conditions, prohibitions and restrictions to which societies may-
 - (a) transact business with persons who are not members; or
 - (b) make advances against movable property;]
- (xiv) prescribe the method of calculating the working capital and the net profits and the conditions under which such profits may be distributed, and the maximum rate of dividend which may be paid by any society or class of societies; .
- (xv) provide for the formation and maintenance of reserve funds and the objects to which such funds may be applied and for the writing off of bad debts;
- (xvi) prescribe the condition for refund of share money and transfer of shares;
- (xvii) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the manner of nomination of a person to whom such interest may be paid or transferred;
- (xviii) provide for the information and maintenance of a register of members and where the liability of members is limited by shares, of a register of shares and share-holders;
- (xix) prescribe the forms to be used and the accounts and registers to be kept and the reports and returns to be submitted by a society and provide for the persons by whom such reports and returns shall be submitted, and in case of failure to submit any such reports or returns, for the levy of the expenses of preparing them;
- (xx) prescribe Rules for audit under Section 33, and for the periodical publication of balance-sheets showing the assets and liabilities of a society;
- (xxi) provide for the persons by whom and the form in which copies of entries in records and registers of societies may be certified and for the charge to be levied for the supply of such copies;
- (xxii) provide for the custody and destruction of records and registers;
- (xxiii) provide for the procedure to be followed in the appointment or removal of and for the payment of remuneration to, a liquidator;
- (xxiv) prescribe the procedure to be followed by the liquidator and provide for the manner of disposal of the surplus, if any, of the society;
- (xxv) prescribe the procedure to be followed in presenting and disposing of appeals under this Act;
- (xxvi) prescribe the procedure to be followed in the appointment of an arbitrator or arbitrators and in proceedings before the Registrar any person exercising the powers of a Registrar and an arbitrator or arbitrators including the transfer, reference and withdrawal of cases;
- (xxvii) prescribe the procedure and condition for exercise of the powers conferred by Section 49; [*]
- [(xxviii) prescribe the procedure for calling, holding and conducting meetings of creditors under Section 24-A]; and
- [(xxix) provides for all matters expressly required or allowed by this Act to be prescribed by Rules],

(3) The power to make Rules conferred by this Section is subject to the condition to the Rules being made after previous publication. [* * *]

(4) All rules made under this Section shall be published in the official Gazette and on such publication shall have effect as if enacted in this Act.

66A. Fixation of proportion of Co-operative Loans for Schedule Castes, Scheduled Tribes, small farmers, marginal farmers and other weaker sections of the community. - Subject to such directions as may be issued by the Reserve Bank of India, the primary agricultural co-operative societies shall during a cooperative year disburse to Scheduled Castes/Scheduled Tribes, small and marginal farmers and other weaker sections of the community, such proportion of their total lending as may be laid down by Registrar, Co-operative Societies from time to time having regard to the class of societies, the strength of membership of persons belonging to above classes.

Said societies shall maintain separate account in respect of their lending to the aforesaid classes in a manner to be prescribed by the Registrar.

[66B.] [(1) Notwithstanding anything contained in this Act or the Rules and bye-laws made thereunder, the State Government may, from time to time, by special or general order, determine the nature and number of posts to be created and the mode of recruitment of personnel by Co-operative Societies and prescribe among other things-

- (1) the qualifications, age and experience,
- (2) the pay scale and other emoluments,
- (3) the method of recruitment,
- (4) the conditions of service, and
- (5) the disciplinary procedure to be followed.]

(2) Any appointment made in contravention of the order of the State Government under sub-section (1) shall be void as if no such appointment ever existed and salary and other allowances paid if any, shall be recoverable under Section 40]

67. Repeals. - The enactments specified in the schedule are hereby repealed in so far as they apply to the State to the extent specified in the fourth column of the said schedule.

Schedule Enactments

Repealed (See Section 67)

Year	No.	Short title	Extent of repeal
1	2	3	4
1912	II	The Co-operative Societies Act, 1912	The whole
1920	XXXVIII	The Devolution Act, 1920	So much as relates to Act II of 1912.

Notifications

Government of Bihar, Co-operation Department, Notification No. 14/3 Legal (Amend) - 07/89/5267 dated 9.2.1989. - In exercise of the powers conferred upon the State Government under Section 66B of the Bihar Cooperative Societies Act, 1935 the following mode and method of recruitment is prescribed for recruitment of Personnel by the Cooperative Societies:-

1. There shall be a Selection Authority for the recruitment of all grades of employees of all the State Level Cooperative Societies.
2. The Selection Authority shall consist of the following;-
 - (a) Member, Board of Revenue- As Chairman
 - (b) Chairman of the concerned State Level Co-operative Societies As Member
 - (c) One representative of Scheduled Caste or Scheduled Tribe to be nominated by the Secretary, Cooperative- As Member
 - (d) Nominee of NABARD, Patna As Member
 - (e) Managing Director of the concerned State Level Cooperative Society. As Member- Secretary.
3. (i) The Selection Authority shall prepare a panel of persons to be appointed in the different grades of the State-level Co-operative Societies.
(ii) Notwithstanding any thing contained in the bye-laws of any State-Level Cooperative Society or Rules made thereunder, no appointment in any grade from outside the panel shall be valid.
4. The member-secretary shall provide the necessary secretariat assistance to the Selection Authority.
5. There shall be a Selection Authority at the District level for appointment of all grades of employees in the District Level Co-operative Societies.
6. The District Level Selection Authority shall consist of the following;-
 - (a) Collector/ Deputy Commissioner- As Chairman
 - (b) Chairman/ Honorary Secretary of the concerned District Level Co-operative Society - As Member
 - (c) One representative of Scheduled Caste or Scheduled Tribe to be nominated by the Collector/ Deputy Commissioner of the District.- As Member
 - (d) Managing Director/ Executive Officer of the District Level Co-operative Society.- As Member Secretary.
7. (i) The Selection Authority constituted for the District Level Co-operative Societies shall prepare a panel of persons to be appointed in the different grades of the District Level Co-operative

Societies.

(ii) Notwithstanding anything contained in the bye-laws of the District Level Cooperative Society or Rules made thereunder, no appointment in any grade from outside the panel shall be valid.

8. The Member Secretary shall provide the necessary secretariat assistance to the Selection Authority constituted at the District Level Co-operative Society.
9. The Rules framed by the State Government for the recruitment of various grades of Government employees and as amended from time to time, shall apply *mutatis-mutandis* to the preparation of panels by the Selection Authorities.
10. The Rules relating to reservation as framed by the State Government and as amended from time to time, shall *mutatis-mutandis* apply to the preparation of panels by the Selection Authorities.
11. The State Level Cooperative Society shall mean a registered co-operative society functioning at the State Level.
12. The District Level Cooperative Society shall mean a registered cooperative society functioning at the District Level.
13. The term 'Registered Society' shall mean a registered society as defined by Section 2(b) of the Bihar Co-operative Societies Act, 1935.
14. This order comes into force with immediate effect.