

The Tamil Nadu Cooperative Societies Act, 1983 Complete Act-Bare A

THE TAMIL NADU CO-OPERATIVE SOCIETIES ACT, 1983

(ACT NO.30 OF 1983)

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An Act to amend and consolidate the law relating to and to make better provision for, the organization, management and supervision of co-operative societies in the State of Tamil Nadu.

WHEREAS it is expedient further to provide for an orderly development of the co-operative movement in accordance with co-operative principles such as open membership, democratic management limited interest on capital, distribution of surplus based on patronage, provision for co-operative education and co-operation among co-operatives, for the promotion of thrift, self-help and mutual aid among persons with common socio-economic needs so as to bring about improvement in agriculture and industry, better methods of production, better business and better living and for that purpose to amend and consolidate the law relating to co-operative societies in the State of Tamil Nadu;

BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty-fourth Year of the Republic of India as follows:-

CHAPTER I

Preliminary

1

Short title, extent and commencement_ (1) This Act may be called THE TAMIL NADU CO-OPERATIVE SOCIETIES ACT, 1983.

(2) It extends to the whole of the State of Tamil Nadu.

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

2. Definitions

- In this Act, unless the context otherwise requires.-

(1) "agriculture" includes horticulture, floriculture, raising of crops (including plantation, tree crops and garden produce), seed farming and forestry and the word 'agricultural' shall be construed accordingly;

(2) "agricultural producers marketing society" means a registered society which has as its principal object the arranging for and the undertaking of purchase, storing, processing and marketing of the agricultural and other produce or products of its members of the undertaking of the distribution of commodities and includes any registered society which has as its principal object the provision of facilities for the operation of an agricultural producers marketing society.

(3) "agricultural service co-operative society" means a registered society, which has as its principal object the raising of funds to be lent to its members primarily for agricultural production, animal husbandry, pisciculture including fish catching, apiculture and sericulture and all activities incidental or ancillary thereto or for such other purpose as the Government may, be notification, specify in this behalf, but does not include a financing bank;

(4) "animal husbandry" includes cattle breeding, dairy farming, piggery and poultry farming;

(5) "apex society" means a registered society whose area of operation extends to the whole of the State of Tamil Nadu and which has as its principal object, the promotion of the principal objects of, and the provision of facilities for the operations of, other registered societies affiliated to it and classified as an apex society by the Registrar;

(6) "associate member" means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in this Act, the rules and the by-laws;

(7) "board" means the board of directors or the governing body of a registered society by whatever name called to which the direction and control of the management of the affairs of the society is entrusted.

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

(9) "central society" means a registered society whose area of operation is confined to a part of the State of Tamil Nadu and which has as its principal object, the promotion of the principal objects of, and the provisions of facilities for the operations of, other registered societies affiliated to it and classified as a central society by the Registrar and includes Substituted by T.N. Act 36 of 1989. [any registered society notified by the Government as a Central society]

Explanation-

For the purpose of notifying any registered society as a central society under Omitted by Ibid [..] this clause, the Government shall have regard to such volume of transactions and such number of members and such other factors as may be prescribed.

(10) "consumer society" means a registered society which has as its principal object the supply of the requirements of its members for the consumption of such members;

(11) "co-operative union" means a registered society which has as its principal objects the undertaking of co-operative education, propaganda, training and mobilization of savings;

(12) "co-operative year" means the period commencing on the first day of July of any year and ending with the 30th day of June of the succeeding year, or in the case of any registered society or class or category of registered societies, the accounts of which are made up to any other date with the previous sanction of the Registrar, the year ending with such date;

(13) "credit society" means a registered society which has as its principal object the raising of funds to be lent to its members for the purposes of agriculture, animal husbandry, pisciculture

(including fish catching), apiculture, sericulture, petty trade, cottage and small scale industries including farm based industries, purchase of implements or raw materials, construction, purchase or repair of dwelling houses, discharge of prior debts, meeting ceremonial or education expenses, purchase of domestic and other requirements or for such other purposes as the Government may, by notification specify in this behalf;

(14) "financing bank" means a registered society which has as its principal objects the lending of money to other registered societies;

(15) "Government" means the State Government;

(16) "members" means a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the provisions of this Act, the rules and the by-laws and includes an associate member;

(17) "milk producers society" means a registered society which has as its principal object the arranging for and the undertaking of purchase of milk produced by its members and storing, processing and marketing of such milk and its products and includes any registered society which has as its principal object the provision of facilities for the operation of a milk producers society;

(18) "office-bearer" means the president or the vice-president of the board;

(19) "officer" includes a president, vice-president, managing director, secretary, assistant secretary, member of board and any other person empowered under the rules or the by-laws to give directions in regard to the business of the registered society;

(20) "oil-seeds growers society" means a registered society which has as its principal object the arranging for and the undertaking of purchase of oil-seeds produced by its members and storing, processing and marketing of such oil-seeds and their products and includes any registered society which has as its principal objects the provision of facilities for the operation of an oil-seeds growers society;

(21) "primary society" means a registered society but does not include-

(i) an apex society; or

(ii) a central society;

(22) "registered society" means a society registered or deemed to be registered under this Act.

(23) "Registrar" means an officer of the Government appointed to perform the duties of a Registrar of Co-operative Societies under this Act, and includes Substituted by T.N.Act 36 of 1989. [any other officer of the Government or any officer of any body corporate owned or controlled by the Government] on whom all or any of the powers of a Registrar under this Act have been conferred under section 3;

(24) "rules" means rules made under this Act;

(25) "scheduled co-operative society" means any registered society specified in Part A or Part B of the Schedule to this Act;

(26) "self-reliant society" means a registered society which does not receive assistance in any form from the Government under Chapter VI or from any registered society receiving such assistance from the Government.

Explanation

- A cash credit with financing bank for the maintenance of fluid resources shall not be regarded as assistance for the purpose of this clause, notwithstanding that the financing bank received assistance from the Government;

(27) "society with limited liability" means a registered society, the liability of whose members for the debts of the society on its liquidation is limited by its by-laws;

(28) "society with unlimited liability" means a registered society, whose members are, on its liquidation, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

(29) "Tribunal" means a Tribunal constituted under section 151 and having jurisdiction;

(30) "Weavers society" means a registered society which has as its principal object the production of handloom cloth or fabrics or clothes through, or with the help of, its members and marketing the same and includes may registered society which has as its principal object the provision of facilities for the operation of a weavers society.

CHAPTER II

Registration

3. The Registrar

- The Government may appoint any officer of the Government to be Registrar of co-operative societies for the State of Tamil Nadu or any portion of it or for any class or classes or category or categories of registered societies, and may, be general or special order, confer on Substituted by Act 36 of 1989. [any other officer of the Government or any officer of any body corporate owned or controlled by the Government] all or any of the powers of a Registrar under this Act.

4. Societies which may be registered

.- Subject to the provisions of this Act, a society which has as its object the promotion of the economic interest or general welfare of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with limited or unlimited liability:

Provided that the liability of "

- (i) a society of which a registered society is a member; and
- (ii) an agricultural service co-operative society registered after the commencement of this Act, shall be limited.

5. Change of liability.-(1) Subject to any rules made in this behalf, any registered society may, at a meeting of its general body specially called for the purpose of which at least fifteen clear day's notice shall be given to its members, resolve to change its liability from unlimited to limited and to amend its by-laws for this purpose.

(2) (i) When a registered society has passed a resolution under sub-section (1) , a copy of the said resolution shall be sent to all the members and creditors of the society.

(ii) Any member of such society may, notwithstanding any by-laws, to the contrary, by notice given to the society within a period of two months from the date of receipt by him of the resolution, intimate his intention not to continue as a member of the society and to withdraw his share or interest in the capital and other moneys due to him.

(iii) Any creditor of such society may, notwithstanding any agreement to the contrary, by notice given to the society within a period of two months from the date of receipt by him of the resolution, intimate his intention to demand a return of the amount due to him.

(3) Every member or creditor who has given notice under clause (ii) or clause (iii) of sub-section (2), shall be entitled to receive his share or interest in the capital and other moneys due to him, if he be a member and the amount in satisfaction of his dues, if he be a creditor.

(4) If the Registrar is satisfied that the repayment of the share or interest in the capital and other moneys due to all the members and the satisfaction of the claims of all the creditors referred to in sub-section (3) have not been made, he may refuse to register the amendment of the by-law.

6. Conditions of registration-

(1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least twenty-five independent persons qualified to be admitted as members under this Act and residing or owning immovable property in the area of operation of the society.

Explanation

I.-

For the purposes of this sub-section, an independent person means a person who is not dependent upon another person joining in the application for the registration of the society for his means of livelihood and who does not belong to the family of any other person joining in the application for the registration of the society.

Explanation

II- For the purposes of Explanation I, "family" includes husband or wife, as the case may be, and the dependent children and dependent parents.

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

7. Power of Registrar to decide certain questions

.- When any question arises whether for the purposes of this Act any person is an independent person or is a resident of, or owns immovable property in the area of operation of a society, the question shall be decided by the Registrar within, such period as may be prescribed.

8. Application for registration

.- (1) An application for registration shall be made to the Registrar in the prescribed form.

(2) The application shall be signed.-

(a) In the case of a society of which no member is a registered society, by at least twenty-five persons qualified in accordance with the requirements of sub-section (1) of section 6 and sub-section (1) of section 21 and who are not disqualified for admission as members under sub-section (1) of section 23, and

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

(3) The application shall be accompanied by a copy of the proposed by-laws of the society and the chief promoter shall furnish such information in regard to the society as the Registrar may require.

Explanation

- For the purposes of this section and sections 9 and 10, "chief promoter" means the person who has signed the application for the registration of the society and who has been nominated in this behalf by the persons who have signed that application.

9. Registration

.- (1) If the Registrar is satisfied that _

(a) the application for registration of the proposed society complies with the provisions of this Act and the rules;

(b) the objects of the proposed society are in accordance with the provisions of section 4;

(c) the proposed society complies with the requirements of sound business and has reasonable chances of success;

(d) the area of operation of the proposed society does not overlap the area of operation of another registered society of the same class or category save as permitted by the Registrar; and

(e) the proposed by-laws of the society are not contrary to the provisions of this Act or the rules or to the co-operative principles or to any other law applicable to the society, he may, within a period of one hundred and twenty days from the date of receipt by him of the application for registration, register the society and its by-laws.

(2) If the Registrar refuses to register a society and its by-laws, he shall communicate within the period of one hundred and twenty days specified in sub-section (1) the order of refusal together with the reasons for the refusal to the Chief Promoter.

(3) Where no order of refusal is communicated under sub-section (2) within the said period of one hundred and twenty days, it shall be deemed that the Registrar has registered the society and its by-laws on the one hundred and twentieth day from the date of receipt by the Registrar of the application for registration.

(4) Notwithstanding anything contained in sub-section (3), the Registrar shall, review within such period as may be prescribed the case of every society which is deemed to have been registered under sub-section (3), and satisfy himself whether such society complies with the provisions of sub-section (1) and in case such society does not comply with any of the provisions of the said sub-section (1), the Registrar shall, notwithstanding anything contained in section 137 by an order in writing, direct the winding up of such society and the provisions of sections 138 to 142 shall apply to such society which has been ordered to be wound up under this section.

10. Evidence of registration " Where a society is registered or deemed to have been registered under sub-section (1) , or as the case may be, under sub-section (3) of section 9, the Registrar shall issue to the Chief Promoter a certificate of registration signed by him, which 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.

11. Amendment of the by laws of registered society.- (1) No amendment of any by-law of a registered society shall be valid until the same has been registered under this Act.

(2) An application for the registration of amendment of the by-laws of a registered society shall be made to the registrar in the prescribed manner and shall be accompanied by a copy of the amendment of the by-laws.

(3) If the Registrar is satisfied that an amendment of the by-laws is not contrary to the provisions of this Act or the rules or to the co-operative principles or to any other law applicable to the society, he may within such time as may be prescribed register the amendment:

Provided that no order refusing to register the amendment of the by-laws shall be passed except after giving the registered society an opportunity of making its representations.

(4) If the Registrar refusing to register an amendment of the by-laws of a registered society, he shall communicate within the time prescribed under sub-section (3) the order of refusal to the registered society together with the reasons for the refusal.

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

(6) Where no order of refusal is communicated under sub-section (4) within the time specified in that sub-section, it shall be deemed that the Registrar has registered the amendment on the last date of the time specified in sub-section (4)

(7) Notwithstanding anything contained in sub-section (6), the Registrar shall review within such period as may be prescribed the case of every amendment of the by-laws which is deemed to have been registered under sub-section (6), and satisfy himself whether such amendment of the by-laws complies with the provisions of sub-section (3) and in case such amendment does not comply with any of the provisions of the said sub-section (3), the Registrar shall annul the amendment of the by-laws deemed to have been registered.

(8) An amendment of the by-laws of a registered society shall take effect from the date, if any, specified in the amendment. Where no such date is specified, the amendment shall take effect from the date on which it is registered.

(9) Without prejudice to the provisions of this section, where any amendment of the by-laws proposed by a society involves, in the opinion of the Registrar, a material change in the objects or operations of the society, the amendment shall be registered only subject to such rules as may be made in this behalf.

12. Power to direct amendment of by-laws

.- (1) Where the Registrar is satisfied that for the purpose of altering the area of operation of a registered society or for the purpose of improving the services rendered by it or for any other purpose specified in the rules, an amendment of the by-laws is necessary, he may, after consulting in the manner prescribed the board of the financing bank, if any, to which the society is affiliated, by notice in writing, call upon the society to show cause, within such time as may be specified in the notice, why the amendment should not be made.

Provided that if the board of the financing bank does not communicate its comments within sixty days of the receipt of the communication from the Registrar in this regard it shall be deemed that the board of the financing bank has no comments to make on the amendment proposed to the by-laws under this sub-section.

(2) If, within the time specified in the notice referred to in sub-section (1), the registered society fails to make the amendment, the Registrar may, after giving the society an opportunity of making its representation, register the amendment and issue to the society a copy of such amendment.

(3) Any amendment of the by-laws registered under sub-section (2) shall have the same effect as an amendment of the by-laws registered under section 11 unless the registration is cancelled in pursuance of a decision in appeal.

NOTES

S. 12 : (S. 12 (2) & (3) " 1932 Act, S. 12 (1) (2) (3) of 1961 Act " Bye-law-Amendment proposed and passed contrary to rules " Registration by the Registrar- Challenge under Act. 226 of the Constitution " Power of Court " (1956) 1 MLJ 284.

S. 12 (S.12 (3) " 1932 Act; S. (12 (1) (2) of 1961 Act) "Bye-law was amended in a meeting convened without giving required notice for the convening of the meeting " Registrar certifies the same " Power of Court to invalidate the Bye-law. Any antecedent irregularity in passing the Bye-law or amendment thereof cannot be questioned. Registration of the Amendment by the Registrar is conclusive " (1954) 2 MLJ 24.

13. Division and amalgamation of societies.-

(1)(a) Any registered society, may, at a meeting of its general body specially called for the purpose of which at least, fifteen clear days notice shall be given to its members, resolve to divide itself into two or more societies. The said resolution (hereafter in this sub-section referred to as the preliminary resolution) shall contain proposals for the divisions of the assets and liabilities of the society among the new societies into which it is proposed to divide it and

may prescribe the area of operation of, and specify the members who will constitute, each of the new societies. The proposed by-laws of the new societies shall be annexed to the preliminary resolution.

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

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

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within a period of one month from the date of receipt by him of the preliminary resolution, intimate his intention to demand a return of the amount due to him.

(c) After the expiry of two months from the date of dispatch of the preliminary resolution to all the members and creditors of the society, a meeting of the general body of the society of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution and the proposed by-laws. If, at such meeting, the preliminary resolution and the proposed by-laws of the new societies are confirmed by a resolution passed by a majority of not less than two-thirds of the members present and voting, either without changes or with such changes, as in the opinion of the Registrar, are not material, he may, subject to the provisions of clauses (e) and of section 9, but notwithstanding anything contained in section 8 and on receipt of a copy of such resolution certified in the manner prescribed, register the new societies and the by-laws thereof. On such registration, the registration of the original society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are, or are not, material shall be final.

(d) At the meeting referred to in clause (c) provisions shall be made by another resolution for—

(i) (A) the repayment of the share or interest in the capital and other monies due to all the members who have given notice under sub—clause (ii) of clause (b);

(B) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (b);

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

(ii) the constitution of a interim board consisting of the members specified in the resolution to conduct the affairs of each of the new societies for a period of three months from the date of registration or for such further period or periods not exceeding one year in the aggregate from the date of registration as the Registrar may consider necessary; but the interim board constituted under this sub-clause shall cease to function as soon as a board has been constituted in accordance with the provisions of this Act, the rules and the by-laws.

(e) If the Registrar is satisfied the provision for the repayment of the share or interest in the capital and other moneys due to all the members and for the satisfaction of the claims of all the creditors referred to in clause (d) has not been made, he may refuse to register the new societies.

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

(2)(a) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least fifteen clear days' notice shall be given to their respective members resolve to amalgamate into one society. The said resolution is

hereafter in this sub-section referred to as the preliminary resolution. The proposed by-laws of the amalgamated society shall be annexed to the preliminary resolution.

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

(ii) Any member of any such society may, notwithstanding any by-laws to the contrary, within a period of one month from the date of receipt by him of the preliminary resolution, intimate his intention not to become a members of the amalgamated society, by notice given to the society of which he is a member.

(iii) Any creditor of any such society may, notwithstanding any agreement to the contrary, within a period of one month from the date of receipt by him of the preliminary resolution, intimate his intention to demand a return of the amount due to him, by notice given to the society of which he is a creditor.

(c) After the expiry of two months from the date of dispatch of the preliminary resolution to all the members and creditors of all the societies, a joint meeting of the members of such societies of which at least fifteen clear days' notice shall be given to them, shall be convened for considering the preliminary resolution and the proposed by-laws. The quorum for the joint meeting shall be the sum total of the quorum specified in the by-laws of all the societies or one-fourth of the total number of members of all the societies, whichever is less. If, at such meeting the preliminary resolution and the proposed by-laws are confirmed by a resolution passed by a majority of not less than two-thirds of the members present and voting, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (e) and of section 9, but notwithstanding anything contained in section 8, and on receipt of a copy of such resolution certified in the manner prescribed, register the amalgamated society and the by-laws thereof. On such registration, the registration of the original societies shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution, are, or are not, material shall be final.

(d) At the joint meeting referred to in clause (c) provision shall be made by another resolution for-

(i) (A) the repayment of the share or interest in the capital and other monies due to all the members who have given notice under sub-clause (ii) of clause (b); and

(B) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (b);

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

(ii) the constitution of an interim board consisting of the members specified in the resolution to conduct the affairs of the amalgamated society for a period of three months from the date of registration or for such further period or periods not exceeding one year in the aggregate from the date of registration as the Registrar may consider necessary; but the interim board constituted under this sub-clause shall cease to function as soon as a board has been constituted in accordance with the provisions of this Act, the rules and the by-laws.

(e) The person by whom a joint meeting referred to in clause (c) shall be convened and the procedure to be followed thereat shall be such as may be prescribed.

(f) If the Registrar is satisfied that provision for the repayment of the share or interest in the capital and other moneys due to all the members and for the satisfaction of the claims of all the creditors referred to in clause (d) has not been made, he may refuse to register the amalgamated society.

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

14. Power to direct amalgamation in public interest, etc.- (1) Where the Registrar is satisfied that it is essential in the public interest or in the interest of the co-operative movement, or for the purpose of securing the proper management of any registered society, that two or more registered societies should be amalgamated, then, notwithstanding anything contained in section 13 but subject to the provisions of this section, the Registrar may, by order notified in the Tamil Nadu Government Gazette, provide for the amalgamation of these societies into a single registered society with such constitution, property rights, interests and authorities, and such liabilities, duties and obligations, as may be specified in the order.

(2) No order shall be made under this section, unless-

(a) a copy of the proposed order has been sent in draft to each of the societies concerned and a copy of the draft order or gist thereof has been communicated to every member and every creditor of the society by the society concerned and if that society fails to so communicate, by any person authorized by the Registrar in such manner and within such time as may be prescribed;

(b) The Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order aforesaid was received by each of the societies concerned) as the Registrar may fix in that behalf, either from such society or from any member or class of members thereof or from any creditor or class of creditors.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation.

(4) Every member or creditor of each of the societies to be amalgamated who has objected to the scheme of amalgamation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, his share or interest in the capital and other moneys due to him if he be a member, and the amount in satisfaction of his dues if he be a creditor.

(5) Where two or more societies are ordered to be amalgamated under this section, the Registrar may register the amalgamated society and the by-laws thereof, on such registration, the registration of the original societies shall be deemed to have been cancelled.

(6) The registration of the amalgamated society shall be a sufficient conveyance to vest the assets and liabilities of the original societies in the society in the manner specified in the order referred to in sub-section (1).

15. Transfer of assets and liabilities among registered societies.-(1) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least fifteen clear days' notice shall be given to their respective member, resolve to effect in whole or in part a transfer among themselves of their respective assets and liabilities. The said resolution is hereafter in this section referred to as the preliminary resolution.

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

(b) Any member of any such society, may, notwithstanding any by-laws to the contrary, within a period of one month, from the date of receipt by him of the preliminary resolution, intimate his intention to withdraw his share or interest in the capital and other moneys due to him from the society, by notice given to the society of which he is a member.

(c) Any creditor of any such society may, notwithstanding any agreement to the contrary, within a period of one month from the date of receipt by him of the preliminary resolution,

intimate his intention to demand a return of the amount due to him, by notice given to the society of which he is a creditor.

(3) After expiry of two months from the date of dispatch of the preliminary resolution to all the members and creditors of all the societies a meeting of the general body of each society of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution, If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present and voting, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, on receipt of a copy of such resolution certified in the manner prescribed, accord his approval for the transfer of the assets and liabilities among the societies.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are, or are not, material shall be final.

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

(a) the repayment of the share or interest in the capital and other moneys due to all the members who have given notice under clause (b) of sub-section (2); and

(b) the satisfaction of the claims of all the creditors who have given notice under clause (c) of sub-section (2):

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

(5) (a) If the Registrar is satisfied that provision for repayment of the share capital of all the members and for the satisfaction of the claims of all the creditors referred to in sub-section (4) has not been made, he may refuse to accord his approval for the transfer of the assets and liabilities among the societies.

(b) Any transfer of the assets and liabilities of the societies under this section without the approval of the Registrar under sub-section (3) shall be null and void.

(6) The confirmation of the preliminary resolution under sub-section (3) shall, on approval by the Registrar, be a sufficient conveyance to vest in the societies concerned the assets and liabilities transferred under this section.

16. Classification and categorization.- The Registrar shall, in accordance with the rules made in this behalf, classify and categorize registered societies with reference to this objects, area of operation, membership or any other matter specified in the rules.

17. Conversion

.- Any registered society may, in accordance with and subject to such conditions as may be specified in the rules made in this behalf, resolve to convert itself into a registered society of a class or category different from the one to which it belongs:

Provided that where any amendment of the by-laws proposed by a society is in the opinion of the Registrar, such as to convert the society into a society of a class or category different from the one to which it belongs, the Registrar may direct the society to take action under this section.

18. Joint business.-

Any registered society may, with the previous approval of the Registrar, by resolution passed by a majority of the members present and voting at a general meeting of such society, enter into an agreement with any other registered society, or any undertaking of the Government or the Central Government for carrying on jointly any specified business.

19. Co-operative Unions.-

There shall be a co-operative union for the State of Tamil Nadu called "Tamil Nadu Co-operative Union Limited", and as many district co-operative unions as may be deemed necessary for a district or part thereof.

20. Registered societies to be members of co-operative unions.-

(1) Notwithstanding anything contained section 21, every registered society shall, with effect on and from the date of the commencement of this Act, or with effect on and from the date of its registration, whichever date is later, be deemed to be a member of the District Co-operative Union or the Tamil Nadu Co-operative Union, as the case may be, if such registered society is eligible to become a member of any such union in accordance with the by-laws of such union.

(2) Every registered society shall pay to the co-operative union of which it is deemed to be a member under sub-section (1), an annual subscription at such rate as may be prescribed.

CHAPTER III

Qualifications for membership and their rights and liabilities

21. Qualifications for membership of society-

(1) (a) Subject to the provisions of Section 23-

(i) any individual competent to contract under section 11 of the Indian Contract Act, 1872 (Central Act IX of 1872)

(ii) any other registered society.

(iii) the Government, and

(iv) any body of persons whether incorporated or not and whether or not established by or under any law, if such body is approved by the Government in this behalf by general or special order, shall be eligible for admission as a member of a registered society:

Provided that the individual or the registered society or the body of persons referred to in items (i), (ii) and (iv) shall possess such further qualifications as may be specified in the rules or the by-laws:

Provided further that a Hindu undivided family as such shall not be eligible for admission as a member of a registered society:

Provided also that persons who are a minors or of unsound mind may be admitted as members of such class of registered societies as may be prescribed and such members shall possess only such privileges and rights of members and be subject only to such liabilities of members as may be prescribed.

Provided also that no individual shall be eligible for admission as a member of any financing bank or apex society, except as an associate member.

(b) Notwithstanding anything contained in this Act or in any other law for the time being in force, every individual member other than an associate member of every financing bank and every apex society shall cease to be a member of such bank or society, as the case may be, on and from such date as the Government may, by notification, specify and such individual member shall be entitled to receive his share or interest in the capital and other moneys due to him in such manner and within such time as may be prescribed.

(2)(i) In the case of every registered society, every individual eligible for admission as a member of any such society under the provisions of this Act, the rules and the by-laws of the society shall, on application of made in such form and in such manner as may be prescribed, be admitted by the board as a member of the society with effect from the date of receipt of such application in the office of such society.

Provided that the board may, for good and sufficient reasons to be recorded in the minutes of the meeting at which the application for admission is considered, refuse admission to any individual and the decision of the board shall be communicated to the individual.

Provided further that if the decision of the board on the application is not communicated to the individual within a period of sixty days from the date of receipt of the application in the office of the society, the individual shall be deemed to have been admitted as a member of such society, on the sixtieth day after the date of receipt of the application in the office of the society.

(ii) Notwithstanding anything contained in clause (i), or in any other provision of this Act, the Registrar may, either suo motu or on application at any time, by order and after recording the reasons in writing, remove any individual deemed to have been admitted as a member of the society under clause (i) from such membership if such individual is not eligible to be a member of such society under the provisions of this Act, the rules and the by-laws of the society.

Provided that on order under this clause shall be passed within such period as may be prescribed.

(iii) No order under clause (ii) shall be passed without giving a reasonable opportunity of being heard to the parties concerned.

(3) No member of a registered society shall exercise the rights of a member unless and until he has made such payment to the society in respect of membership or acquired such interest in the society as may be specified in the rules or the by-laws within such time as may be prescribed.

Provided that no member in respect of whom a proceeding under clause (ii) of sub-section (2) is pending shall be eligible to exercise the rights as a member till the termination of such proceeding.

22. Admission of associate member

.-

(1) Notwithstanding anything contained in section 21, every registered society of such class as may be prescribed may admit any person possessing such qualifications as may be prescribed, as an associate member.

(2) Except as otherwise provided in the rules, an associate member shall not be entitled to participate in the general meeting of the registered society, or in the elections to the board of such society or to become an officer of the registered society or to any share in any form whatsoever in the assets or profits of the registered society.

23. Disqualifications of membership of society

.-

(1) No person shall be eligible for admission as a member of society, if he-

(a) is an applicant to be adjudicated an insolvent or is an undischarged insolvent; or

(b) has been sentenced for any offence involving moral turpitude punishable under any law with imprisonment for one year and upwards, such sentence not having been annulled and a period of one year has not elapsed from the date of the expiration of the sentence; or

- (c) is a paid officer or servant of the society or of its financing bank or of any registered society for which it is the financing bank; or
- (d) has been expelled from membership under this Act and a period of three years has not elapsed from the date of such expulsion; or
- (e) is engaged directly or indirectly in a business or industry or activity similar to that of the registered society or inconsistent with, or prejudicial to, the work of the registered society; or
- (f) has resigned from the membership of the registered society and a period of one year has not elapsed from the date of such resignation; or
- (g) is already a member of a registered society of the same class except as otherwise prescribed. Added by T.N.Act. 19/1992 or

Added by T.N.Act 19/1992 [(h) does not possess the qualifications with reference to the principal object of the society, prescribed in the rules or by-laws.]

(2) A member of a registered society shall cease to be a member of the society, if he-

- (a) applies to be adjudicated, or is adjudicated an insolvent; or
- (b) is sentenced for any such offence as is described in clause (b) of sub-section (1) or is sentenced under section 162:

Provided that where a person ceases to be a member under this clause, he shall be restored to membership if and when the sentence is annulled on appeal or revision; or

- (c) becomes a paid officer or servant of the registered society or of its financing bank or of any registered society for which it is the financing bank; or
- (d) is expelled from membership under this Act; or
- (e) undertakes directly or indirectly any business or industry or activity similar to that of the registered society or inconsistent with, or prejudicial to, the work of the registered society; or
- (f) is also a member of a registered society of the same class except as otherwise prescribed: Provided that if at the commencement of this Act, any person is a member of more than one registered society of the same class, then at the expiry of a period of ninety days from such commencement, he shall cease to be a member of all such registered societies, unless he has previously resigned his membership of all but one registered society or Added by T.N.Act 19 of 1992.

Added by T.N.Act 19 of 1992 [(g) does not possess the qualification with reference to the principal object of the society prescribed in the rules or the by-laws.]

(3)(a) The provisions of clause (b) of sub-section (1) and clause (b) of sub-section (2) shall not apply to a person seeking admission to, or to a member of, a registered society exclusively formed for the reclamation of such class of persons as may be prescribed.

(b) The provision of clause (c) of sub-section (1) and clause (c) of sub-section (2) shall not apply to a person seeking admission to, or to a member of, a registered society which has as its principal object the provision of employment to its members or which is composed exclusively of the employees of the financing bank:

Provided that a member of the registered society composed exclusively of the employees of the financing bank shall not be eligible for election to the board of the financing bank:

(4) Any question as to whether an applicant for admission as a member of a society is, or a member of a registered society was, or has become, subjects to any of the disqualifications mentioned in this section, shall be decided by the Registrar.

24. Right of members to services by registered society and application for redress.-

(1) Every member of a registered society shall be entitled to the services available to the members of the registered society under the provisions of its by-laws and such services shall, on application made by him, be rendered to him by the board.

(2) If any member of any registered society is refused any services or where the decision of the board on his application for services is not communicated to him within such time as may be prescribed he may apply to the Registrar for redress.

(3) An application to the Registrar under sub-section (2) shall be made within such time as may be prescribed.

(4) If the Registrar is satisfied that the refusal of any service is unreasonable, improper or discriminatory, he may, after giving the board an opportunity of making its representations, by order, direct the board to render the service:

Provided that before passing an order under this sub-section, the Registrar shall consult the board of the financing bank of which the society is a member.

(5) Where any service is rendered by the board in pursuance of an order under sub-section (4), the board and the member to whom such service is rendered shall have the same rights and be subject to the same liabilities in relation to such service as if no such order has been made.

25. Expulsion

.-

(1) Any member of registered society who has acted adversely to the interests of the society may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of the members present and voting at the meeting. The quorum for such special meeting shall-

(i) in the case of societies having membership not exceeding one thousand, not less than one-fourth of the total membership, or one hundred members, whichever is less;

(ii) in other cases two hundred members;

Provided that no such special meeting shall be called by the board except upon the requisition in writing by not less than one-fourth of the total number of members of the society or twenty-five members, whichever is less.

(2) No member shall be expelled under sub-section (1) without being given an opportunity in the manner prescribed of making his representations and until the resolution referred to in that sub-section is approved by the Registrar. A copy of the resolution expelling the member as approved by the Registrar shall be communicated to the member.

26. Votes of members.-

(1) (a) No member of a registered society shall have more than one vote in the affairs of the society.

(b) Every question which may come before a meeting of a registered society or of the board shall save as otherwise provided, be decided by a majority of the members present and voting at the meeting and in every case equality of votes the president shall have a casting vote.

(c) Save as otherwise provided under this Act and the rules, no member of a registered society shall be deprived of his rights to vote in the election of the members of the board of such society:

Provided that-

(i) In the case of an equality of votes at an election or in a meeting called under clause (a) of sub-section (4) of section 32 or item (ii) of clause (e) of sub-section (2) of section 81, the choice or the decision, as the case may be, shall be, by casting lots;

(ii) the Government may make rules restricting the right of a member to vote in any specified matter in specified circumstances;

(iii) every person nominated to the board of a society by the Government or the Registrar or the prescribed authority or the financing bank, or the board of another registered society or

other interests (such as the Tamil Nadu State Agricultural Marketing Board), as the case may be, or an ex-officio member of the board, shall have one vote;

(iv) an associate member shall not be entitled to vote, except as otherwise provided in the rules;

(v) save as otherwise provided in the by-laws, a member who is a minor or of unsound mind shall not be entitled to vote.

1. Substituted by T.N.Act. 36 of 1989 [(2) Where a registered society has invested any part of its funds in the shares of or is a member of, another registered society (which latter society hereafter in this sub-section referred to as such other society) -

(a) in the case of a registered society of the same class or category, of such other society, the President of the first mentioned society, and

(b) in the case of any other registered society, one of the members of the board of that society not disqualified for such election under the rules or the by-laws of such other society elected from among themselves in such manner as may be prescribed,

Shall be the delegate of such registered society entitled to vote in the affairs of such other society.

(2-A) Where the Government are, or any body of persons referred to in item (iv) of clause (a) of sub-section (1) of section 21 is, a member of any registered society, the Government or, as the case may be, that body of persons may appoint a person to represent them or it on the general body or in a meeting thereof and to vote in the affairs, of such society].

(3) Save as provided Substituted by T.N.Act. 36 of 1989 [in the foregoing sub-section] no member of a registered society shall vote by proxy.

(4) Notwithstanding anything contained in this section, the nominee of the Government or of the Registrar or of the prescribed authority, if he is a Government servant, or the nominee of the financing bank or of the board of another registered society or of other interests (such as the Tamil Nadu State Agricultural Marketing Board), as the case may be, or the ex-officio member of the board shall not be entitled to vote at elections.

27. Inspection of accounts by members

.-

Any member of a registered society may, at any time during office, hours and no payment of such fee as may be prescribed, by himself or by an agent who is a member specially authorized by him in writing, inspect the accounts of the society in so far as they relate to his transactions with it.

28. Restrictions on transfer of share or interest.-

No transfer by a member of any share held by him interest in the capital of a registered society or any part thereof shall be valid unless-

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

(b) the transfer is made to a member of the registered society with the approval of the board.

29. Restriction on withdrawal of share or interest by members of registered societies.-

Except in the case of death or expulsion or removal of the member or the permanent shifting of his residence outside the area of operation of the registered society, the share or interest in the capital of such member shall not be refunded unless-

(a) such member has held the share or interest for not less than two years; and

(b) such refund is in accordance with the by-laws of the registered society;

Provided that the Government may, by rules, specify the class or classes of cases in respect in respect of which refund may be made before the expiry of the period of two years.

30. Transfer of share or interest on death of member

.-

(1) Subject to the provisions of section 42, on the death of a member of a registered society, the society shall transfer the share or interest of the deceased member in the capital to the person nominated in accordance with the rules, or if no person has been so nominated, to such person as may appear to the board to be the heir or legal representative of the deceased member:

Provided that such nominee, heir or legal representative, as the case may be, being eligible for admission, is admitted as a member of the society:

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in the capital of the society.

(2) Notwithstanding anything contained in sub-section (1) and subject to such conditions as may be specified in the rules, a registered society may of its own motion and shall, if so required by any such nominee, heir or legal representative, as the case may be, pay to him the value of the share or interest of the deceased member in the capital ascertained in accordance with the rules.

(3) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

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

31. Liability of past member or of the estate of a deceased member

.-

(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a registered society for the debts of the society as they existed,-

(a) in the case of a past member, on the date on which he ceased to be a member, and

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date:

Provided that the liability of the Government or of a financing bank which have or has taken shares in a registered society shall cease on the date on which the Government or the financing bank cease or ceases to be a member.

(2) Where the Registrar has, by order in writing under sub-section (1) of section 137 directed a registered society to be wound up, the liability of a past member or of the estate of a deceased member who ceased to be a member or, as the case may be, died within two years immediately preceding the date of the order shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or on the date of his death, as the case may be.

NOTES

S.31 : (Ss.25 & 47 " 1932 Act; S.25 of 1961 Act) " Society went into liquidation on 4.2.1933; Even on 1.12.1932 a member ceased to be a member of the said society. Liquidator levied contribution. The order made for contribution by the liquidator is not dependent nor is consequent on a debt due by a Registered Society and in view of this the order is not illegal.- (1945) 2 MLJ 263 " 58 L.W.469.

CHAPTER IV

Management of registered Societies.

32.General meetings.-

(1) (a) Subject to the provisions of this Act, the rules and the by-laws, the ultimate authority of a registered society shall vest in the general body of its members:

Provided that nothing contained in this clause shall affect the exercise by the board or any officer of a registered society of any power conferred on such board or such officer by this Act or the rules or by the by-laws.

(b) Notwithstanding anything contained in clause (a) where the area of operations of a registered society is not less than such area as may be prescribed, or where the registered society consists of not less than such number of members as may be prescribed, the registered society may provide by an amendment of its by-laws for the constitution of smaller body consisting of such number of the members of the registered society as may be prescribed, elected in accordance with the rules (hereinafter referred to as the representative general body) to exercise all or any of the powers of the general body as may be specified in the by-laws and any reference, by whatever form of words, in the Act to the general body or a meeting thereof shall, where a representative general body has been constituted under this clause, have effect in respect of the powers exercisable by the representative general body as if such reference were a reference to the representative general body or a meeting thereof, as the case may be:

Provided that the representative general body shall not alter any provision in the by-laws relating to its constitution or powers:

Provided further that nothing in this clause shall be construed as empowering the representative general body to elect the member of the board of the registered society; and the members of the board of that society shall be elected by all the members of the society in such manner as may be prescribed.

(c) The exercise of any power by the representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the by-laws.

(2) Omitted by T.N.Act 36 of 1989.[.] A general meeting of a registered society shall be held in a co-operative year for the purpose of-

(a) approval of the budget for the ensuing year with reference to the programme of the activities of the society prepared by the board:

Provided that if the general meeting does not approve the budget before the commencement of the year to which it relates, even after the budget is placed before it, the board shall refer the budget to the Registrar for approval. The registrar after examining the reasons for the non-approval for the budget by the general meeting, shall have power to modify the budget taking into account the interests of the registered society.

(b) consideration of the audit report and the annual report;

(c) disposal of the balance of the net profits as specified in sub-section (2) of section 72;

(d) consideration of the details of the services, if any rendered to any member of the board or any such near relation as may be prescribed of any member of the board during the preceding year, Omitted by T.N.Act 36 of 1989. [.]

Inserted by Ibid. [(dd) appraisal of the programme of the activities of the society; and]

(e) consideration of any other matter which may be brought forward in accordance with the by-laws.

Omitted by T.N.Act 36 of 1989 [(ii)] [..]

(3) (a) The board may, at any time, call a special general meeting of the registered society, and shall call such a meeting within one month of the date of a requisition in that behalf from-

(i) such number of the members or proportion of the total number of members as may be specified in the by-laws; or

(ii) the board of the financing bank to which the society is affiliated; or

(iii) any other registered society of such call as may be prescribed for the purpose; or

(iv) the Registrar.

(b) The requisition referred to in clause (a) shall be in writing and shall specify the subjects that shall be placed for consideration at the special general meeting.

(4) (a) If the board refuses or fails to call a meeting in accordance with a requisition under clause (a) of sub-section (3) or under sub-section (1) of section 25 or if, in the opinion of the Registrar, there is no board or officer competent under this Act or the rules or the by-laws to call a meeting, or if there be an order of the Registrar or of the civil court restraining the board to function, the Registrar shall if he is satisfied that there are sufficient and valid reasons to convene the special general meeting, call the meeting himself.

(b) If at a special general meeting of the registered society the quorum is not present for holding the meeting.

(i) in case where the meeting was called in pursuance of requisition from the members, the meeting shall stand dissolved; and

(ii) in any other case, the meeting shall stand adjourned to such other day, time and place as the board or the Registrar may determine.

If, at the adjourned meeting also, the quorum is not present for holding the meeting, the members present shall be the quorum.

(c) In respect of any meeting called under clause (a) of this sub-section, the Registrar may, notwithstanding anything contained in by-laws of the society, determine the period of notice for such meeting, the time and place of the meeting and the subjects to be considered thereat and may preside over such meeting or authorise any person to so preside.

(5) The Registrar may order that the expenses incurred in calling the special general meeting shall be paid out of the funds of the society or any other registered society at whose instance such meeting was called or by such person as, in the opinion of the Registrar, was responsible for the refusal or failure to call the meeting under sub-section (4)

NOTES

S.32 (s. 26 of 1961 Act) : Under S. 26 (1961 Act) the ultimate authority of a Society vests in the General Body. The Act makes provisions for expulsion of a member, if he acts adversely to the interest of society. But it does not provide for a removal of a member of a committee.

(S.28 of 1961 Act) (S.34 the present Act relates only to disqualification for membership of a committee. By laws of a society may provide for election or removal of the president or members of a committee- (1966) 2 MLJ 366.

S.32 (S.26 of 1961 Act) " Contravention of By laws " effect of " (196) 2 MLJ 366.

33. Constitution and meetings of the board.-

(1) (a) The management of every registered society shall vest in a board constituted in accordance with the provisions of this Act, the rules and the by-laws, which shall exercise

such powers and perform such duties as may be conferred or imposed on its by this Act, the rules and the by-laws.

Substituted by T.N.Act 19 of 1992. ["Provided that among the members elected to the board of every society belonging to such class or category of registered societies as may be prescribed, there shall be thirty percent representation for women and eighteen percent representation for Scheduled Castes and Scheduled Tribes and if the representatives of women or Scheduled Castes and Scheduled Tribes are not elected to that extent, then the elected numbers of the board shall, at the first meeting of the board after the election. Co-opt to the board, from among the members of the registered society, the representatives of women or Scheduled Castes and Scheduled Tribes. As the case may be, in accordance with such procedure as may be prescribed and notwithstanding anything contained in sub-section (3) the number of members of the board shall stand increased by such number as is co-opted under this proviso.

Provided further that among the members elected to the board of very weavers society, there shall be thirty percent representation for women and if the representatives of women are not elected to that extent then, the elected members of the board shall, at the first meeting of the board after the election, co-opt to the board , from among the members of such society, the representatives of women, in accordance with such procedure as may be prescribed and notwithstanding anything contained in sub-section (3), the number of members of the board of such society shall stand increased by such number as is opted under this proviso."]

Provided also that, in the case of a society registered after the commencement of this Act, the persons who have signed the application to register that society may constitute an interim board to conduct the affairs of that society for a period of three months from the date of registration or for such further period or periods not exceeding one year in the aggregate from the date of registration as the Registrar may consider necessary; but the interim board constituted under this proviso shall cease to function as soon as a board has been constituted in accordance with the provisions of this Act, the rules and the by-laws.

(b) Notwithstanding anything contained in clause (a) where the rules or the by-laws so provide, the Government or the Registrar may nominate all or any of the members of the board including the president and vice-president from among the members of the registered society or from among the Government servants or both.

Provided that no nomination shall be made in respect of all the members of the board.

(i) for more than six months in the case of registered societies where the nominated board has held office for two and a half years or more on the date of the commencement of this Act; and

(ii) for more than three years from the date of nomination in all other cases.

(2) Substituted by T.N.Act 36 of 1989. [Notwithstanding anything contained in sub-section (1) but subject to sub-section (3)]

(A) in the case of every scheduled co-operative society specified in Part A of the Schedule, the board shall consist of,-

(a)(i) such number of members elected from such area or from such class or category of registered societies as may be prescribed.

(ii) such number not exceeding three as may be prescribed, of experts nominated by the prescribed authority;

(iii) the prescribed number of members being the nominees of the prescribed apex societies or the prescribed central societies or such other prescribed interests relating to the functioning of the scheduled co-operative society concerned;

(b) the managing director, appointed under sub-section (7); and

(c) such ex-officio members not exceeding three as may be prescribed;

(B) in the case of every scheduled co-operative society specified in Part B of the Scheduled, the board shall consist of:-

(a) (i) such number of members elected from such area or from such class or category of registered societies as may be prescribed;

(ii) one expert nominated by the prescribed authority:

(iii) the prescribed number of members being the nominess of the prescribed apex societies or the prescribed central societies or such other prescribed interests relating to the function of the co-operative society concerned;

(b) the managing director, appointed under sub-section (7); and

(c) one ex-officio member as may be prescribed;

Substituted by T.N.Act 19 of 1992. [Provided that in the case of Scheduled co-operative societies in which the majority of members are individuals, among the members elected to the board of every such Scheduled co-operative society as may be prescribed, there shall be thirty per cent representation for women and eighteen per cent representation for Scheduled Castes and Scheduled Tribes and if the representatives of women or Scheduled Castes and Scheduled Tribes are not elected to that extent, then, the elected numbers of the board shall, at the first meeting of the board after the election, co-opt to the board, from among the members, if available, of the scheduled co-operative society, and if not so available, from among the members of the societies-

(i) affiliated to the scheduled co-operative society, or

(ii) affiliated to the societies which are affiliated to the scheduled co-operative society.

The representatives of women and Scheduled Castes and Scheduled Tribes, as the case may be, and, notwithstanding anything contained in sub-section (3), the number of members of the board shall stand, increased by such number as is co-opted under this proviso.]

Provided further that nothing contained in the first proviso shall be deemed to prevent

Substituted by T.N.Act 36 of 1989, [any woman or the members of the Scheduled Castes and Scheduled Tribes] for whom representations have been made thereunder in the board of every scheduled co-operative society from being to any of the seats in the board of the scheduled co-operative society.

Explanation 1.- For the purposes of sub-sections (1). (2) and (4) while calculating the thirty per cent or eighteen per cent of representation the fraction, if any, shall be ignored if it is less than half, or rounded off to the nearest whole number if it is equal to or more than half.

Explanation II:- For the purposes of sub-section (2) (A) (a) (ii) and sub-section (2) (B) (a)

(ii), "expert" means a person specially skilled in or having special knowledge of, or experience in matters connected with the business or objects of the scheduled co-operative society.

T.N.Act 36 of 1989 [(3) The board shall consist of:-

(a) in the case of an apex society, not less than eleven and not more than twenty nine members as may be specified in the rules or by-laws:

(b) in the case of a central society, T.N.Act 19 of 1992 [not less than eleven and not more than twenty-seven members] may be specified in the rules or by-laws: and

(C) in the case of primary society, T.N.Act 19 of 1992 [not less than seven and not more than seventeen members] as may be specified in the rules or by-laws.]

(4) (a) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (8) or clause (b) of sub-section (10), where the rules or the by-laws so provide, the Government or the Registrar for the State may, in the public interest, nominate the entire board including the president and vice-president of any-

(i) co-operative sugar mill

(ii) co-operative spinning mill

(iii) co-operative tea factory, or

(iv) such other prescribed registered society in which the Government-

(A) have taken not less than two-thirds of the shares, or

(B) given financial or other assistance to the extent of not less than two-thirds of the loans, advances and deposits received by the society.

The board so nominated shall consist of officers of the Government, the members of the registered society concerned and specialists or technical experts, specially skilled in, or having special knowledge of, or experience in, matters connected with the business or objects of the registered society concerned:

Provided that the power to nominate the entire board of such society under this clause shall not be exercised after the expiry of the period of five years from the date of the commencement of production or business for which the society is registered.

Provided further that subject to the provisions of the third proviso, in no case the aggregate period of office of the board nominated in respect of such society, either before or after the date of the commencement of the Act shall extend beyond the period of five years from the date of commencement of production or business for which the society is registered.

Provided also that where before the date of the commencement of this Act, a board has already been nominated in respect of such society and a period of four and a half years or more have elapsed after such commencement of production or business, the power to nominate the entire board under this clause in respect of such society, shall not be exercised after a period of six months from the date of the commencement of this Act and in such cases, the members of such board shall cease to hold office on the date of the expiry of the period for which the board was nominated or on the date of the expiry of the period of six months from the date of the commencement of this Act, whichever date is earlier.

(b) (i) After the expiration of the period for which the entire board referred to in clause (a) was nominated, the members of the board shall, subject to the provisions of sub-clause (ii), be elected in accordance with the Act, the rules and bye-laws.

Substituted by T.N.Act 19 of 1992. [Provided that among the members elected to the board of such of the societies referred to in clause (a) as may be prescribed, there shall be thirty per cent representation for women and eighteen per cent representation for Scheduled Castes and Scheduled Tribes and if the representatives of women or Scheduled Castes and Scheduled Tribes are not elected to that extent, then, the elected members of the board, shall at the first meeting of the board after the election, co-opt to the board, from among the members of the registered society, the representatives of women or Scheduled Castes and Scheduled Tribes, as the case may be in accordance with such procedure as may be prescribed, and notwithstanding anything contained in sub-section (3), the number of members of the board shall stand increased by such number as is co-opted under this proviso.]

(ii) Notwithstanding anything contained in sub-clause (i), the Government or the Registrar for the State, may nominate not exceeding one-third of the total number of members of the board of such society who shall be officers of the Government or specialists or technical experts, specially, skilled in, having special knowledge of, or experience in matters, connected with the business or objects of the registered society concerned:

Omitted by T.N.Act 36 of 1989 and Inserted by T.N.Act 26 of 1990 [Provided that for the purpose of computing the said one-third of the total numbers of the board, the number of members increased under the proviso to sub-clause (i) shall not be taken into account.]

(5) Notwithstanding anything contained in this Act or in any other law for the time being in force, the term of office of every member of every board constituted under the Tamil Nadu Co-operative Societies Act, 1961 (Tamil Nadu Act 53 of 1961) and holding office as such on the date of commencement of this Act, shall expire on such date as may be specified by the Government, by notification, and different dates may be specified for different classes or categories of societies.

(6) The Registrar may, by order, depute one or more officers subordinate to him to attend any meeting, of the board and take part in the proceedings of the board but such officer or officers shall not have the right to vote.

(7) The Government shall appoint a managing director to-

(i) every apex society.

(ii) every scheduled co-operative society, and

(iii) such other registered societies as may be notified by the Government. The qualifications and the powers and functions of the managing director shall be such as may be prescribed:

Provided that where the by-laws of any other registered society provide for the appointment of a managing director by the Registrar such appointment shall be made by the Registrar.

(8) Where the Government or a financing bank have or has taken shares in, or given financial or other assistance to, a registered society, the Government or the financing bank, as the case may be, may notwithstanding anything contained in sub-section (1) or sub-section (2)

nominate to the board of such registered society not more than two members if such registered society is an apex society, and one member in other case, and where the

Government or a financing bank nominate under this sub-section then notwithstanding anything contained in sub-section (3), the number of members of the board shall stand increased by such number as is nominated under this sub-section. The Government or the financing bank may at any time withdraw any person or persons fresh nomination.

Provided that where both the Government and financing bank have taken shares or given financial or other assistance, the Government shall determine whether the Government or the financing bank or both may make the nominations:

Provided further that the nominee of the Government to a board of a registered society under this sub-section shall be a Government servant:

Provided also that nothing contained in this sub-section shall apply to the board of any registered society referred to in sub-section (4)

(9) Every ex-officio member referred to in sub-section (2) and every Government servant nominated to a board of a registered society under clause (b) of sub-section (1) or under sub-section (8) shall refer to the Government in the case of an apex society, and to the Registrar in the case of any registered society and resolution of the board of such apex society or other registered society, as the case may be, which is in accordance with this Act, the rules and the by-laws or which is against the interests of such apex society or such other registered society, as the case may be.

(10) (a) The term of office of a member who is elected to any board constituted under this Act, the rules or the by-laws shall be three years.

(a) Inserted by T.N.Act 19 of 1992. [Every co-opted member of the board shall hold office only for such period for which such member would now been entitled to hold office of such member had been elected to this board]

(b) (i) The term of office of a member of any board nominated thereto by the Government, the Registrar or the prescribed authority or the financing bank, if such member is not Government servant, shall not exceed three years.

(ii) The term of office of a member of any board who is nominee of another society or other interest (such as the Tamil Nadu State Agricultural Marketing Board) shall not exceed three years.

(c) The Government, the Registrar, the prescribed authority or the financing bank or the board of another society or other interest may at any time withdraw any person or persons nominated and fillup the vacancy or vacancies by fresh nomination.

(11) Save as otherwise provided in this Act or the rules-

(a) the members of the board of the registered society shall be elected by the members of the registered society by secret ballot in such manner as may be prescribed.

(b) the office-bearers of the registered society Omitted by T.N.Act 36 of 1989 [and the delegated of the registered society to the general body of other registered society] shall be elected by the members of the board from among themselves by secret ballot in such manner as may be prescribed:

Omitted by T. N. Act 36 of 1989 [..]

Omitted by T. N. Act 36 of 1989 [..]

Provided Omitted by T. N. Act 36 of 1989 [..] that any casual vacancy in the office of a member of the board or an office-bearer Omitted by T. N. Act 36 of 1989[..] shall be filled up in such manner as may be prescribed and a member of the board or an office-bearer Omitted by T. N. Act 36 of 1989 [] filling a casual vacancy shall hold office so long only as the member of the board or the office-bearer Omitted by T. N. Act 36 of 1989 [.] whose place he takes would have been entitled to hold office if the vacancy had not occurred.

(12) Notwithstanding anything contained in this Act, where the by-laws of a registered society so provide, the general body of such society may, with the approval of the Registrar, entrust the management of the affairs of the society for period not exceeding three years at a time to an administrator who shall be a Government servant or Substituted by T.N.Act 36 of 1989 [and employee of the financing bank or an employee of any body corporate owned or controlled by the Government]. The administrator shall have power to exercise all or any of the functions of the board or of any officer of the society and to take such action as may be required in the interest of the society.

(13) The ordinary meetings of a board shall be held at least once in Substituted by T.N.Act 36 of 1989[every three months] for which a notice of not less than three clear days shall be given. The managing director in consultation with the president or in his absence the vice-president of such board or where there is no managing director, the president of such board, shall convene the meeting of such board.

(14) (a) The managing director in consultation with the president or in his absence the vice-president of the board or where there is no managing director, the president of such board, may, at any time, call a special meeting of the board and shall call such a meeting within fifteen days of a requisition in that behalf from

(i) not less than one third of the members of the board: or

(ii) the board of the financing bank to which such registered society is indebted : or

(iii) any other registered society of such class as may be prescribed for the purpose: or

(iv) the Registrar, for which a notice of three clear days shall be given to the members of the board.

(b) the requisition referred to in clause (a) shall be in writing and shall specify the subjects that shall be placed for consideration at such requisitioned meeting.

(15) If the managing director or the president, as the case may be, fails to call a meeting in accordance with a requisition under clause (a) of sub-section (14), the Registrar shall, if he is satisfied that there are sufficient and valid reasons to convene the board meeting, call the meeting himself and order that the expenses incurred in convening the meeting shall be paid out of the funds of the society.

(16) Notwithstanding anything contained in this Act, the nominee of the Government or of the Registrar or of the prescribed authority, if he is a Government servant or the nominee of the financing bank or to a land of a Registered society or the nominee of the Board of another registered society or other interests (such as he Tamil Nadu State Agricultural Marketing Board) or the ex-officio member of the board shall not be eligible to contest for any election in any registered society in his capacity such as member of that board.

Added by Tamil Nadu Act 19 of 1992 (17) Every co-opted member of the board shall have all the rights. Power and privileges of an elected member of the Board.

34. Disqualifications for membership of board.-

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1) No person shall be eligible for being elected or nominated as a member of a board of any registered society if he-

(a) is such near relation, as may be prescribed, of a paid employee of such registered society; or

(b) (i) is in default to such registered society or any other registered society, in respect of any loan or advance taken by him or dues under credit purchases made by him for a period exceeding three months: or

(ii) is a representative of a registered society which is in default to the financing bank or to any other registered society, in respect of any sum due by the registered society, for a continuous period of one year:

Provided that the disqualification in sub-clause (iii) shall operate only when default of the registered society exceeds thirty per cent of the sum due by that registered society; or

(iii) is a person against whom any decree, decision, award, order or certificate referred to in section 143 has been obtained; or a representative of the registered society against which such decree, decision, award, order or certificate has been obtained; or

(iv) is a person against whom proceedings have been initiated under sections 118, 119, 120, or 144 for the recovery of any debt; or

(c) (i) is employed as legal practitioner on behalf of the registered society or against it or on behalf of or against any other registered society which is a member of the first-mentioned registered society; or

(ii) was employed in any co-operative society or was working as Government servant engaged in administration or audit of co-operative societies and a period of two years has not elapsed from the date of his ceasing to be such employee or Government servant; or

(d) is an associate member; or

(e) is a minor or of unsound mind; or

(f) (i) has been sentenced for any offence under this Act other than an offence under section 162 such sentence not having been annulled and a period of three years has not elapsed from the date of the expiration of the sentence; or

(ii) has been sentenced for any offence involving moral turpitude punishable under any law with imprisonment for one year and upwards, such sentence not having been annulled and a period of five years has not elapsed from the date of the expiration of the sentence; or

(g) has been sentenced for an offence under section 162, such sentence not having been annulled; or

(h) has been removed or disqualified from holding the office of the member of the board of the registered society or of any other registered society under section 36; or

(i) does not know to read and write Tamil or English or such other language as the Government may notify in this behalf in relation to any particular area.

(2) A member of the board shall cease to hold his office as such if he-

(a) becomes subject to any of the disqualifications mentioned in sub-section (1);

Provided that a member of the board who ceases to hold office by reason of his having incurred the disqualification mentioned in,-

(i) sub-clause (i) of clause (b) of sub-section (1), shall not be eligible for re-election or re-nomination as a member of the board of the registered society of which he was member or for election or nomination to the board of any other registered society;

(ii) sub-clause (iii) or (iv) of the said clause (b), shall not be eligible for re-election or re-nomination as a member of that board or for election or nomination to the board of any other registered society, for a period of three years which shall be reckoned,-

(A) in the case of the disqualification mentioned in sub-clause (i) of the said clause (b), from the date on which the dues referred to therein have been fully cleared; and

(B) in the case of disqualification mentioned in sub-clause (iii) or (iv) of the said clause (b), from the date on which the dues involved in such decree, decision, award, order certificate or application in respect of which proceedings have been initiated, have been fully discharged: Provided further that where a member of the board ceases to hold his office as such by reason of his having been sentenced for any offence under this Act, and the sentence is annulled on appeal or revision he shall be restored to office for such portion of the period for which he was elected or nominated as may remain unexpired at the date of such restoration and any person elected or nominated to fill the vacancy in the interim shall, on such restoration, vacate office; or

(b) ceases to be a member of the registered society; or

(c) purchases directly or indirectly any property of another member of the registered society brought to sale for recovery of any money due from such other member to the registered society; or

(d) absents himself from four consecutive meetings of the board or from all meetings of the board for a continuous period of three months, whichever is longer.

Provided that the member ceasing to hold office under this clause may be restored in accordance with the procedure prescribed if such member makes an application for condonation of the absence.

(3) The board of a registered society may suo motu, and shall on an application made by any person, consider whether any member of the board was or has become disqualified to hold office as such under this section and take a decision. Such a decision shall be communicated to the member and the applicant concerned, if any:

Provided that no decision shall be taken unless the member of the board is given an opportunity of making his representation:

Provided further that pending such decision, the member of the board shall be entitled to continue as such as if he is qualified or is not disqualified.

(4) (a) No person shall, at the same time, be a member of the boards of more than three registered societies.

(b) subject to the provisions of clause (a), no person shall, at the same time, be a member of a board of more than one apex society or more than one central society.

(c) If any person is, on the date of his election or nomination as a member of the board already-

(i) a member of the board of three registered societies; or

(ii) a member of the board of an apex society or a central society and the board to which he is elected or nominated on that date is the board of an apex society, or, as the case may be, a central society, then, his election or nomination on the aforesaid shall be void.

(d) (i) If any person is, on the date of the commencement of this Act, member of the boards of more than three registered societies, then, at the expiration of the period of ninety days from such date of commencement he shall cease to be member of the boards of all such registered societies, unless he has previously resigned his membership of the boards, of all but three of these registered societies.

(ii) If any person, is on the date of commencement of this Act, member of the boards of more than one apex society or central society, then, at the expiration of the period specified in sub-clause (i) he shall cease to be member of the boards of such apex societies or, as the case may

be central societies, unless he has previously resigned his membership of the boards of all but one of such apex societies or, as the case may be, central societies:

Provided that nothing contained in this sub-section shall be construed as preventing any member of the board of an apex society or a central society from being a nominee of the board of that society in the board of any other apex society or central society or any society specified in sub-section (4) of section 33:

Provided further that no member shall be a nominee of the board of that society in more than one such board at the same time:

Provided also that a nominee of the board of an apex or a central society in the board of any other apex society or central society or a society specified in sub-section (4) of section 33 shall not be eligible to contest for any election or be entitled to vote at elections in the board of the other society.

(5) (a) No member of a board which has been superseded under section 88 and no person who was a member of such superseded board on the date of issue of notice of supersession shall be eligible for election or nomination to any board for a period of three years from the date of expiry of the period of supersession.

(b) No member of a board in respect of whom proceeding under section 87 is pending and no member of a board in respect of which proceeding under section 88 is pending, shall be eligible for election or nomination to the board till the termination of such proceeding.

(6) Whenever the Registrar has come to know that any member of the board of any registered society has become disqualified under this section the holder of office as such and that the board of the registered society either suo motu or on application made by any person has failed to give a decision under sub-section (3) within one month from the date of incurring the disqualification the Registrar may, at any time, by an order in writing decide the question and direct the removal of such member from the membership of the board, if he is found disqualified:

Provided that no member of the board shall be removed from such membership under this sub-section without such member and the board of which he is a member being given an opportunity of making his or its representation:

Provided further that pending such decision or removal, the member of the board shall be entitled to continue as such as if he is qualified or is not disqualified.

Substituted by T.N. Act 36 of 1989. [(7) No person shall be eligible for being elected or nominated as president for more than three registered societies.]

(8) The provisions of this section shall apply also to-

(a) the members of the board who are not Government servants, whether ex-officio members or members nominated by the Registrar, the prescribed authority or the Government; and

(b) the member of the board nominated by the financing bank or the board of other registered Society or other interest: but shall not apply to members of the board who are Government servants, whether ex-officio members or members nominated by the Registrar, the prescribed

NOTES

S.34 (s. 28 (2) of 1961 Act) S.28 (2) of 1961 Act provides that a member of the committee shall cease to hold office if comes under any of the disqualifications under S.28 (1) " Sec. 40 (1) of the Rules. The payment of arrears subsequent to the disqualification will not in any way later the situation. " (1970) 1 MLJ 197

S. 34 (1) (S.28 (1) of 1961 Act) " The subsection uses the word "Person" It cannot be termed that "person" would not include a registered society which can become a member of another society. In view of this the disqualification referred to in the sub-section would also take in society. " (1967) 1MLJ 405 : 80 LW 246.

35. Members of the board not to hold certain financial interests.- (1) Every person shall, prior to his election or nomination as a member of the board of any registered society, give such registered society, intimation of, and shall, before taking charge of his office as such member of the board sell or divest himself of any interest (other than investment and borrowing) which he may have for his own benefit whether in his own name or otherwise, in any contract made with the registered society or in any sale or purchase made by the registered society privately or in any auction or in any contract or transaction of the registered society; and it shall not be lawful for a member of the board of any such registered society, so long as he holds office to acquire or purchase any such interest (other than investment and borrowing) and if he, under any will or by succession or by gift becomes entitled for his own benefit to such financial interest, he shall sell the same within three months, sever any connections he may have and cease to have any such financial interest direct or indirect (other than investment and borrowing);

Provided that nothing contained in this sub-section shall apply to such class of contracts, sales, purchases or transactions as may be prescribed.

(2) Where any member fails to comply with the provisions of sub-section (1), the Registrar may, be any order in writing, remove such member from the office of membership of the board.

(3) No member shall be removed under sub-section (2) without being given an opportunity of making his representations. A copy of the order removing him shall be communicated to him.

36. Disqualification and removal.-

(1) Where in the course of an audit under section 80 or an inquiry under section 81 or an inspection or investigation under section 82 or inspection of books under section 83 it appears that a person who is, or was, a member of a board has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society or of any corrupt practice as defined in section 162 or of gross or persistent negligence in connection with the conduct and management of, or of gross mismanagement of the affairs of the society, the Registrar may, without prejudice to any other action that may be taken against such member by order in writing, disqualify him permanently from holding in future any office in any registered society. The Registrar shall, if such person holds office of member of the board, also by the same order remove him from that office.

(2) No person shall be disqualified or removed, under sub-section (1) without being given an opportunity of making his representations. A copy of the order disqualifying or removing him shall be communicated to him.

T.N.Act 19 of 1992. [36-A. Qualifications and disqualifications for co-option of members to board

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Notwithstanding anything contained in this Act, the provisions relating to the qualifications and disqualifications of the members of the board elected under this Act, shall as far as may be apply in relation to he members co-opted to the board under sub-sections (1),(2) and (4) of Section 33, as they apply to the members elected to the board."]

CHAPTER V

Duties and Privileges of registered societies.

37. Address of societies.-

Every registered society shall have an address registered in accordance with the rules, to which all notices and communications may be sent and send to the Registrar notice of every change thereof within thirty days of such changes.

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

.-

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

39. Societies to be bodies corporate

.-

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

40. First Charge of society

.-

(1) Notwithstanding anything contained in any law for the time being in force and subject to the prior claim, if any, of the Government in respect of land revenue, arrears of revenue other than land revenue, loans granted and advances made, any debt or outstanding demand due to a registered society from any member or past member or the estate of a deceased member shall be a first charge-

(i) upon the crops or other agricultural produce of such member whether or not raised with any loan taken from the registered society by such member;

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, supplied or purchased in whole or in part out of the loan of money given by the registered society, or on any articles manufactured from raw materials so supplied, or purchased or on any workshop, godown, or place of business constructed or purchased out of any such loan; and

(iii) upon any movable property which has been hypothecated, pledged or otherwise mortgaged by the member with the society and remaining in the custody of the member, or as the case may be, forming part of the estate of the deceased member.

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

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

from the member or the past member or the estate of the deceased member, as the case may be, in accordance with such scale as may be prescribed.

(4) Notwithstanding anything contained in any law for the time being in force, any transaction, made in contravention of sub-section (2) shall be null and void.

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

41. Charge of immovable property of members borrowing loans from certain registered societies.-

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

(i) a member who makes an application for a loan to a registered society other than a land development bank of which the majority of the members are agriculturists, shall, if he owns land, or other immovable property, make a declaration in the form prescribed, if any that he thereby creates a charge upon such land or other immovable property or such portion thereof as may be specified in the declaration, in respect of the loan, which the society may make to the member on the application and future loans, if any, that may be made to him, from time to time, by the society together with interest on such loan or loans;

(ii) a declaration made under clause (i) may be varied or cancelled at any time by the members with the previous written permission of the society in favour of which such charges has been created;

(iii) no land or other immovable property in respect of which declaration under clause (i) has been made and no part of, nor any interest in, such land or immovable property shall, without the consent of the society, be sold or otherwise transferred until the said declaration is cancelled; and any transaction made in contravention of this clause shall be null and void; Provided that it shall be lawful to a member to mortgage such land or other immovable property or any part thereof in favour of a land development bank.

(iv) the declaration made under clause (i) or any variation or cancellation thereof under clause (ii) shall be sent by a registered post by the society to the Sub Registrar having jurisdiction over the area in which the land or the other immovable property is situated:

(v) on receipt of the declaration or variation or cancellation, the Sub-Registrar shall register such declaration or variation or cancellation and issue a copy thereof to the registered society;

(vi) any declaration made under clause (i) or any variation or cancellation thereof under clause (ii), which has not been registered under clause (v) shall be null and void;

(vii) the declaration and the variation, if any upon registration under clause (v) shall be deemed to create an interest in the property to which the declaration relates and shall constitute notice to every person dealing with the said property.

42. Charge and set off in respect of shares or interest of member.-

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

43. Financing bank not to have a claim on certain sums of money.- No financing bank shall have a charge upon or be entitled to set off towards any debt due from a registered society-

- (i) any sum invested by a registered society with it, out of the reserve fund; or
- (ii) any sum invested with it by such society out of the provident fund established under section 78; or
- (iii) any sum invested with it by such society out of its employees gratuity fund, if any established under section 79.

44. Shares, interest, etc. not liable to attachment-

Subject to the provisions of section 42, the share or interest of a member in the capital of a registered society or the amount to the credit of a member in the thrift deposit held by the society or the amount to the credit of an employee of the society in the provident fund established under section 78, including contributions, if any, made to the fund by the society of any sum invested by the society from out of the provident fund accumulations or employees gratuity fund, if any, established, under section 79 shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member or employee of the society, as the case may be, and neither the Official Assignee under the Presidency-Towns Insolvency Act, 1909 (Central Act III of 1909), nor a Receiver under the Provincial Insolvency Act, 1920 (Central Act V of 1920), shall be entitled to or have any claim on such share, interest, amount of sum.

45. Reserve fund and bad debt reserve not liable to attachment.-

The reserve fund or the bad debt reserve of a registered society invested by such society in accordance with the provisions of section 68 shall not be liable to attachment under any decree or order of a court in respect of any debt or liability incurred by the society.

46. Register of members-

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

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

47. Proof of entries in societies' books.-

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

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall, in any legal proceeding to which the society or the liquidation 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 witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or the arbitrator made for a special cause.

48. Deduction from salary, wages or gratuity

.-

(1) A member of a registered society may execute an agreement in favour of that society providing that-

(a) his employer or the officer disbursing his salary or wages shall be competent, on a requisition in writing from the society to deduct every month from the salary or wages payable to him such amount as may be specified in the requisition towards the amount; and
(b) If he ceases to be an employee, his employer shall be competent on a requisition in writing from the society to deduct from the gratuity payable to such employee such amount as may be specified in the requisition towards the entire balance, due by him to the society in respect of any debt or other demand owing by the member to the society.

(2) (a) Where any such agreement as is referred to in sub-section (1) has been executed by a member of a registered society, the employer or the officer disbursing the salary or wages of such member shall, on receipt of a requisition from the society, make the deduction from the salary or wages or the gratuity, as the case may be, payable to the member in accordance with the requisition, and pay, within such time as may be prescribed in respect of any society or class of societies, the amount so deducted to the society.

(b) Where the amount to be deducted in any month in accordance with the requisition made by a society, or where a requisition has been made by two or more societies in respect of the same person, the total amount to be deducted in accordance with all the requisition exceeds one-half of his gross salary or wages for the month, the employer or the officer disbursing the salary or wages shall deduct from the salary or wages of such person only a sum representing one-half of his gross salary or wages for the month, The amount deducted shall, where deductions have been made against requisitions received from two or more societies, be paid by the employer or the officer disbursing the salary or wages to all the societies in proportion to the amounts to be deducted according to their requisitions:

Provided that where any amount is due to such class of registered societies as may be prescribed, the entire net salary or wages for the month or such portion thereof as may be prescribed in respect of any such class of societies may be deducted and paid as aforesaid.

(c) Where a requisition has been made by two or more societies for deduction from the gratuity in respect of the same person, the amount deducted from the gratuity shall be paid by the employer to all the societies in proportion to the amounts to be deducted according to their requisitions.

(3) The employer or the officer disbursing the salary or wages shall maintain such registers as may be prescribed.

(4) The provisions of this section shall apply to all such agreements of the nature referred to in sub-section (1) as are in force at the commencement of this Act and also to agreements of the said nature executed by the members of any society registered or deemed to be registered in any other State having reciprocal arrangements with the State of Tamil Nadu.

(5) The requisition of writing from any society registered or deemed to be registered in any other State having reciprocal arrangements with the State of Tamil Nadu in respect of a member of that society who for the time being is employed in the State of Tamil Nadu, received by his employer or the officer disbursing the salary or wages of such member, shall be acted upon as if such requisition has been made by a society registered in the State of Tamil Nadu and provisions of sub-section (2) in so far as it applies to a requisition made under sub-section (1) shall apply to requisition made under this sub-section.

(6) If any employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1) or sub-section (5) fails to comply with any of the provisions of this section, he shall be punishable with fine which may extend to five hundred rupees and in the case of continuing offence, with further fine of fifty rupees for each day on which the offence is continued after conviction therefore.

(7) The provisions of this section shall apply notwithstanding any law to the contrary for the time being in force.

(8) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any sum deducted under sub-section (2) or sub-section (5) but not paid to the society within the prescribed time may be recovered together with interest at such rate as may be prescribed from the date of such deduction and the cost involved in such recovery as if it were an arrear of land revenue and for the purposes of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

(9) Nothing contained in this section shall apply to establishments under a railway administration operating any railway as defined in clause (20) of Article 366 of the Constitution.

Explanation.-

For the purpose of this section and the Explanation under clause (a) of section 143, "State having reciprocal arrangements with the State of Tamil Nadu " means such State having reciprocal arrangements as the Government may, by notification, specify in this behalf.

49. Exemption from compulsory registration of the instruments relating to shares and debentures of registered society.-

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

- (1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property; or
- (2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder thereof 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 and such society.

50. Recovery of moneys due to registered society as arrears of land revenue

.-

(1) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any moneys due to registered society may be recovered as if it were an arrear of land revenue, and for the purposes of such recovery the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

(2) Where any moneys due to any registered society is recoverable from any person and the immovable property of such person is brought to sale under the provisions of the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864) and the registered society is the purchaser at such sale, the provisions of section 36 of the said Act shall apply to such sale as if the third and fourth clauses of the said section 36 were omitted.

51. Powers to exempt from stamp duty and registration fee.-

The Government, by notification, may in case of any registered society or class of registered societies, remit.-

(a) the stamp duty not being the stamp duty referred to in clause (a) of sub-section (2) of section 9 of the Indian Stamp Act, 1899 (Central Act II of 1899), with which, under any law for the time being in force, instruments executed by or on behalf of or in favour of a registered society or by an officer or member and relating to the business of such society or

any class of such instruments or decisions, awards or orders of the Registrar or arbitrators under this Act are respectively chargeable: and
(b) any fee payable under the law of registration for the time being in force.

CHAPTER VI

State aid to registered societies.

52. Investment by Government in registered societies.-

- (1) The Government may subscribe directly to the share capital of a registered society.
- (2) Notwithstanding any agreement to the contrary, the Government shall not be entitled to any dividend on the shares taken by them with any such registered society at a rate higher than that at which such dividend is payable in respect of any other share in that society.

53. Provision of funds by Government to apex society.-

The Government may, subject to appropriation by law, provide moneys to a registered society (hereafter in this chapter referred to as the apex society) for the purchase of shares in other registered societies.

54. Partnership of Government with apex society.-

- (1) An apex society which is provided with money by the Government under section 53 shall, with such moneys, establish a fund to be called the "Principal State Partnership Fund".
- (2) An apex society shall utilize the Principal State Partnership Fund for the purpose of-
 - (a) directly purchasing shares in other registered societies.
 - (b) providing moneys to a registered society (hereafter in this chapter referred to as the central society) to enable that society to purchase shares in other registered society (hereafter in this chapter referred to as the primary societies)
 - (c) making payments to the Government in accordance with the provisions of this chapter; and for no other purpose.

55. Subsidiary State Partnership Fund

- .-(1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys, establish a fund to be called the "Subsidiary State Partnership Fund".
- (2) A central society shall utilize the Subsidiary State Partnership Fund for the purpose of-
 - (a) purchasing shares in primary societies;
 - (b) making payments to the apex society in accordance with the provisions of this chapter; and for no other purpose.

56. Approval of Government for purchase of shares.-No shares shall be purchased in a registered society from the moneys in the Principal State partnership Fund or the Subsidiary State Partnership Fund except with the previous approval in writing of the Government.

57. Liabilities to be limited in respect of certain shares.-

Whereas shares are purchased in a registered society by-

- (a) the Government; or
- (b) an apex society or a central society from the Principal State Partnership fund or the Subsidiary State Partnership Fund, as the case may be, the liability in respect of such shares shall, in the event of the registered society being wound up, be limited to the amount paid in respects of such shares.

58. Restrictions on amount of dividend.-

An apex society which has purchased shares in other registered societies from the moneys in the Principal State Partnership Fund and a central society which has purchased shares in primary societies from the moneys in the Subsidiary State Partnership Fund shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other share holders of that society.

59. Indemnity of apex and central societies

.- (1) If a registered society in which shares are purchased from the Principal State Partnership Fund is wound up or is dissolved, the Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase. Provided that the apex society shall remit to the Government any money received from the liquidator of the dissolved society in payment of the share capital invested in the society from the said Partnership Fund and any dividend paid on such share capital.

(2) If a registered society in which shares are purchased from the Subsidiary State Partnership Fund is wound up or is dissolved, neither the Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase;

Provided that the central society shall credit to the Subsidiary State Partnership Fund and remit to the apex society to the credit of the Principal State Partnership Fund any money received from the liquidator of the dissolved society in payment of the share capital invested in the society from the Subsidiary State Partnership Fund and any dividend paid on such share capital.

60. Disposal of share capital and dividend, etc

.- (1) All moneys received by an apex society in respect of shares of other registered societies purchased from the money in the Principal State Partnership Fund on redemption of such shares or by way of dividends or otherwise shall be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the subsidiary State Partnership Fund on redemption of such shares or by way of dividends or otherwise, shall, in the first instance, be credited to that Fund and then transferred to the apex society which shall credit them to the Principal State Partnership Fund.

(3) All moneys and dividends referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the Government.

(4) Save as provided in sub-section (3), the Government shall not be entitled to any other return on the money provided by them to an apex society under section 53.

61. Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding-up of an apex or Central society.-

(1) If an apex society which has established a Principal State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the Government.

(2) If a central society which has established a subsidiary State Partnership Fund is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid and credited to the Principal State Partnership Fund from which it received moneys under clause (b) of sub-section (2) of section 54.

62. Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.-

Any amount in a Principal State Partnership Fund or a Subsidiary State Partnership Fund shall not form part of the assets of the apex society or the central society, as the case may be.

63. Agreement by Government and apex society.-

Subject to the foregoing provisions of this chapter-

(a) the Government may enter into an agreement with an apex society setting out the terms and conditions which they shall provide moneys to the apex society for the purpose specified in sub-section (2) of section 54;

(b) an apex society may, with the previous approval of the Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the Principal State Partnership Fund for the purpose specified in clause (b) of sub-section (2) of section 54.

64. Other forms of State aid to registered societies

.- Notwithstanding anything contained in this Act or any other law for the time being in force, the Government may subject to such conditions as they may, by general or special order, specify in this behalf-

(a) grant loans or make advances to any registered society;

(b) guarantee the repayment of principal and payment of interest on debentures issued by a registered society;

(c) guarantee the repayment of share capital of registered society and dividends thereon at such rates as may be specified by the Government;

(d) guarantee the payment of principal and payment of interest on loans and advances to a registered society;

(e) guarantee the repayment of deposits received by a registered society and payment of interest on such deposits; and

(f) give financial assistance in any other form including subsidies, to any registered society.

65. Provisions of this chapter to override other laws.-

The provisions of section 53 to 63 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

CHAPTER VII.

Property and funds of registered societies.

66. Restrictions on loans

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

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

Provided further that a registered society may make such loan as may be specified in the by-laws to any paid employees:

(2) Notwithstanding anything contained in sub-section (1)-

(a) a registered society may make a loan to a depositor on the security of his deposit:

(b) a financing bank may provide overdraft to, or discount bills and cheques of, depositors subject to such limits and conditions as may be prescribed; and

(c) a financing bank may make a loan to depositors on the security of gold jewels and silver ware, subject to such limits and conditions as may be prescribed; and

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

67. Restrictions on borrowings

.- A registered society shall receive deposits and loans only to such extent and subject to such conditions as may be prescribed or specified in the by-laws.

68. Investment of funds.-

Subject to the provisions of sub-section (3) of section 66, a registered society may invest or deposit its funds in-

(a) the shares or deposits of the financing bank, or

(b) the shares or deposits of any co-operative bank, or

(c) the shares or securities of any other registered society, or

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

(e) any other mode as may be prescribed;

Provided that no such investment shall be made in any manner as aforesaid, other than in the shares or deposits of the financing bank, except with the general or special sanction of the Registrar and subject to such terms and conditions as may be specified by him.

Explanation.-

For the purposes of this section, "co-operative bank" means such registered society as the Government may, by notification, specify in this behalf, to be a co-operative bank.

69. Funds not to be divided among members.-

No part of the funds of a registered society, except net profits as declared by the Registrar for the purposes of this Act, shall be divided by way of bonus or dividend or otherwise among its members;

Provided that payment may be made to a member for work done by him as clerk in such class or category of societies and on such scale as may be prescribed:

Provided further that payment of rebate on patronage may be made to members with the prior sanction of the Registrar:

Provided also that in the case of any registered society with accumulated losses but working on current profit, payment of honorarium may be made to the members of the board including the president and the vice-president, but the aggregate of the honorarium so paid shall not exceed five per cent of the current profit.

Explanation.-

For the purposes of this section "current profit" means the notional net profit of the registered society for the current year without taking into account the accumulated loss at the end of the previous year.

70. Expenditure from funds.-No registered society shall incur any expenditure out of its funds for any purpose not directly connected with the management or business of that society or on advertisement except in accordance with the rules made in this behalf.

71. Properties not to be misused.-

No property of a registered society, whether movable or immovable, shall be used or allowed to be used except in accordance with the provisions of this Act, the rules and the by-laws.

72. Disposal of net profits.-

(1) (a) A registered society shall, out of its net profits as declared by the Registrar for the purposes of this Act in respect of any co-operative year, contribute-

- (i) three per cent of the net profits to the co-operative research and development fund: and
- (ii) two per cent of the net profits to the co-operative education fund.

Within such time and in such manner as may be prescribed.

(b) The co-operative research and development fund and the co-operative education fund shall be maintained by the Tamil Nadu Co-operative Union Limited and administered by committees constituted in accordance with the rules. Such committees shall consist of nominees of the Government (who shall be specialists or technical experts in agricultural or animal husbandry or sugar technology or textile technology or in such other matters as may be prescribed or officers of the Government) and also nominees of the prescribed apex societies.

(2) The balance of the net profits as so declared shall be appropriated.-

Firstly, for being credited to a reserve fund, the amount so credited being not less than twenty per cent, of the net profits:

Secondly, towards contribution to an agricultural credit stabilization fund at fifteen per cent of the net profits in the case of every agricultural service co-operative society including the State and primary land development banks and other financing banks:

Provided that the State Land Development Bank shall also contribute to a failed wells fund and to a project service account at such rates as may be specified in the rules:

Thirdly, towards payment of honorarium to the members of the board including the president and the vice-president of the registered society at such rates and subject to such conditions as may be prescribed:

Provided that the aggregate of the honorarium so paid shall not exceed ten per cent of the net profits;

Fourthly, towards payment of dividend on shares to members at a rate not exceeding fourteen per cent per annum on the paid-up value of each share:

Provided that the Government may by general or special order permit any registered society or any class or category of registered societies to declare dividend at a rate exceeding fourteen per cent per annum subject to the condition that the amount of dividend in excess of fourteen per cent shall be credited to the share account of the members in such manner as may be prescribed;

Fifthly, towards payment of bonus to members with reference to business done with or services rendered to the registered society, at such rate and subject to such conditions as may be specified in the rules;

Sixthly, towards payment of bonus to paid employees of the registered society not governed by the Payment of Bonus Act, 1965 (Central Act 21 of 1965) at such rate and subject to such conditions as may be specified in the rules;

Seventhly, towards contribution to such other funds and at such rates as may be specified in the by-laws;

eighthly, towards contribution to the common good fund at such rate not exceeding ten per cent of the net profits as may be specified in the rules; and

Ninthly, the remainder, if any, of the net profits being credited to the reserve fund.

CHAPTER VIII

Paid Officers and servants of society.

73. Appointment of paid officers and servants of registered society and their conditions of service.-

Subject to the provisions of sections 74,75,76 and 77 and subject to the rules made in this behalf. a registered society may appoint such paid officers and servants as are necessary for the efficient performance of its functions:

Provided that the qualifications for the appointment of paid officers and servants, the conditions of service including disciplinary control and the cadre strength of such officers and servants of a registered society or class or category of registered societies shall be such as may be prescribed.

Explanation I.- For the purposes of this chapter " paid officers " does not include the president,vice-president and the members of the board.

Explanation II.-

For the purposes of this chapter and other provisions of this Act, "competent authority" authority constituted under sub-section (3) of section 75 and include the single officer referred to in the proviso to the said sub-section (3) of section 75.

74. Recruitment Bureaus.- (1) The Government may, by notification constitute Recruitment Bureaus at the State and district levels for the recruitment of such categories of paid officers and servants for employment by such class or classes or category or categories of registered societies as may be prescribed. Nothing contained in this section shall apply to any of the posts in respect of which common cadre of service has been constituted under section 75.

(2) The manner of constitution of the Recruitment Bureaus and the procedure to be followed by such Bureaus be such as may be prescribed.

75. Constitution of common cadre of service.-

(1) Notwithstanding anything contained in this Act or the bylaws made there under and subject to the rules made by the Government in this behalf, the Government may, in the interest of the co-operative movement, constitute from time to time, by order in respect of-

- (i) scheduled co-operative societies: or
- (ii) Primary societies affiliated to such scheduled co-operative societies, or
- (iii) co-operative sugar mills, co-operative spinning mills, co-operative tea factories and such other registered societies prescribed for the purpose of sub-section (4) of section 33; or
- (iv) such other class or category of registered societies in which the Government have taken shares or given financial or other assistance as may be notified by the Government.

One or more common cadre o service in respect of the posts of secretaries, assistant secretaries, executive officers assistant executive officers general managers, assistants general managers, managers, assistant managers. Purchase managers, purchase officers, assistant purchase officers, development officers, chief accountants, chief accounts officers, accounts officers and such other class or classes of posts as may be notified by the Government. The common cadre of service under this section may be constituted either separately in respect of the said posts in any group of registered societies mentioned in item (i) or item (ii) or item (iii) or item (iv) as the case may be or jointly for the aforesaid posts in one or more of the groups of registered societies mentioned in the said items (i), (ii), (iii), and (iv) or of two or more of the registered societies in any one of the groups mentioned in the said items.

(2) When any such common cadre of service is constituted under sub-section (1) in respect of any post, all the employees holding, such posts on the date of constitution of such common cadre of service, shall be deemed to have been absorbed in the common cadre of service with effect on land from the date of constitution of such common cadre of service:

Provided that the salary (including allowances) of any such employees shall not be varied to his disadvantages;

Provided further that any such employee may, within such period as may be prescribed, by notice in writing to the competent authority constituted under sub-section (3) intimate his option for not becoming a member of such common cadre of service, and in that event, his services in the registered society shall stand determined with effect on and from the date of such notice and he shall be entitled to either.-

(i) all the terminal benefits to which he would have been eligible under the by-laws or contract or award applicable to him immediately before the date of constitution of such common cadre of service as if such employee had retired from service ; or

(ii) compensation which shall be equivalent to fifteen days, salary of such employee (including allowances) for every completed year of continuous services or any part thereof in excess of six months whichever is higher.

Explanation. —

For the purpose of this sub-section, " continuous services" shall means an uninterrupted services including service which may be interrupted on account of sickness or authorized leave or an accident.

(3) The order under sub-section (1) shall provide for the constitution of the competent authority which shall be a committee consisting of both officers of the Government and non-officials and the total strength of such committee shall not exceed five, from among whom one of the officers of the Government not below the rank of Joint Registrar in the Co-operative Department or not below such rank in other departments of the Government as may be prescribed shall be appointed by the Government as the chairman to exercise the powers of recruitment, appointment, transfer and disciplinary control (including censure, stoppage of increment, withholding of promotion, suspension by way to punishment, reduction to a lower rank in the seniority list or to a lower post or time scale whether in the same service or in another service or to a lower stage in a time scale, compulsory retirement, removal or dismissal) and such other powers as may be prescribed in respect of holders of posts in such other powers as may be prescribed in respect of holders of posts in such common cadre of service. After the constitution of such competent authority, the registered society concerned cadre of service, exercise any of the powers which are conferred shall not in respect of holders of posts in such by or under this Act or the rules made thereunder on the competent authority in respect of each common cadre of service: There shall be a separate competent authority in respect of each common cadre of service.

Provided that the Government may direct that for such period not exceeding three years from the date of constitution of a common cadre of service, such committee in relation to that common cadre of service, shall consist of only a single officer of the Government not below the rank of Joint Registrar in the Co-operative Department or not below such rank in other departments of the Government as may be prescribed; and such officer shall be the "competent authority constituted under sub-section (3) of section 75" for the purposes of this Act and any reference to the competent authority in this Act shall, for the period mentioned in this proviso, be construed as a reference to the single officer aforesaid.

Provided further that the registered society under which an employee borne on a common cadre of service is for the time being employed shall also have the power to impose on such employee the penalty of censure or stoppage of increment up to two years without cumulative effect.

Explanation.-

For the purposes of this sub-section.-

(i) "officers of the Government" means Government servants subordinate to the Registrar for the State not below the rank of Deputy Registrar in the Co-operative Department or not below the rank of Assistant Director in other department of the Government:

(ii) "non-officials" means president, vice-president or any other member of the board of a registered society of the same class or category in respect of which common cadre of service is constituted.

(4) (a) The registered society under which an employee borne on a common cadre of service is employed may request the competent authority to take disciplinary action on, or to transfer, such employee, and if the competent authority fails to take action within a period of thirty days from the date of such request, the registered society may report the matter to the Registrar for taking such action as he may deem necessary.

(b) If in the opinion of the Registrar, whether upon a request under clause (a) of otherwise, it is necessary or expedient in the interest of any registered society, to take disciplinary action on, or to transfer from any registered society, an employee borne on a common cadre of service, the Registrar may direct the competent authority to take disciplinary action on, or to transfer, such employees; and where the competent authority fails so to do, the Registrar may himself take disciplinary action on, or order the transfer of, such employee from the registered society concerned.

(5) (a) Any employee of a common cadre of service aggrieved by any order of the competent authority relating to censure, stoppage of increment, withholding of promotion, suspension by way of punishment, reduction to lower rank, in the seniority list, or to a lower post or time scale whether in the same service or in another service or to a lower stage in a time scale, compulsory retirement, removal or dismissal, may appeal to the Registrar against such order within sixty days from the date of such order and the Registrar shall follow such procedure as may be prescribed for the disposal of the appeal.

(b) Where the order appealed against is that of the Registrar for the State, the appeal under sub-clause (a) shall lie to the Government:

Provided that in disposing of an appeal under this sub-section, the Registrar or the Government, as the case may be, shall give a reasonable opportunity of being heard to the parties concerned:

Provided further that the Registrar or the Government, as the case may be, may pass such interlocutory order pending the decision on the appeal as he or they deem fit:

Provided also that the Registrar or the Government, as the case may be, may award costs in any proceedings, under this sub-section to be paid either out of the funds of the competent authority or by such party to the appeal as the Registrar or the Government, as the case may be, may deem fit.

(6) (a) Any employee borne on a common cadre of service, aggrieved by an order relating to censure or stoppage of increment, passed by a registered society, may appeal to the competent authority.

(b) An appeal under this sub-section shall be made within sixty days from the date of the order appealed against and the competent authority shall follow such procedure as may be prescribed for the disposal of the appeal.

Provided that, in disposing of an appeal under this sub-section, the competent authority shall give a reasonable opportunity of being heard to the parties concerned.

Provided further that the competent authority may pass such interlocutory order pending the decision on the appeal as the competent authority may deem fit.

Provided also that the competent authority may award costs in any proceedings under this sub-section, to be paid either out of the funds of the registered society or by such party to the appeal, as the competent authority may deem fit.

(7) The provisions of section 41 of the Tamil Nadu Shops and Establishment Act, 1947 (Tamil Nadu Act XXXVI of 1947) shall not apply to the employees of common cadre of service constituted under sub-section (1).

(8) The Government may, by general or special order, require the registered society or class or category of registered societies concerned to make contribution of such sum as may be fixed by them towards the full or partial recoupment of the expenditure incurred or likely to be incurred by the competent authority.

(9) The Government may, by rules, specify the rate at which the registered societies shall contribute towards the salary (including allowances), subsistence allowance, leave salary, provident fund and gratuity and such other sums or allowances as may be prescribed of the employees of the common cadre of service.

(10) Any sum to be contributed under sub-section (8) or sub-section (9) may be recovered as if it were an arrear of land revenue and for the purposes of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

76. Suspension of a paid officer or servant of society-(1) Where-

(a) in the course of an audit under section 80 or an inquiry under section 81 or an inspection or investigation under section 82, or inspection of books under section 83, it is brought to the notice of the Registrar that a paid officer or servant of a registered society whether or not he is borne on a common cadre of service has committed or has been otherwise responsible for misappropriation, breach of trust or other offences in relation to any registered society and if, in the opinion of the Registrar, there is a prima facie evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of any such society, or

(b) a complaint against any paid officer or servant of any registered society whether or not he is borne on a common cadre of service of any alleged commission of any other offence involving moral turpitude is pending investigation or trial and if, in the opinion of the Registrar, the suspension of such paid officer or servant is necessary in the public interest or in the interest of such society, the Registrar may direct, where the paid officer or servant is borne on a common cadre of service, the competent authority constituted under sub-section (3) of section 75, and in other cases, the registered society under which the paid officer or servant is employed, pending such investigation, trial and disposal of the matter, to place or cause to be placed or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

(2) On receipt of a direction from the Registrar under sub-section (1), the competent authority or the registered society, as the case may be shall notwithstanding any provision to the contrary in the rules or the by-laws or the order under sub-section (1) of section 75, place or cause to be placed the paid officer or servant under suspension forthwith.

(3) The Registrar may direct the competent authority or the registered society, as the case may be, to extend or cause to be extended, from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.

(4) Notwithstanding anything contained in sub-sections (2) and (3) and without prejudice to the provisions contained in section 88, if, in the opinion of the Registrar, the competent authority or any registered society, as the case may be, either willfully disobeys or willfully fails to comply with any direction, issued under sub-section (1) or subsection (3), he may by order, place or cause to be placed the paid officer or servant under suspension forthwith or extend or cause to be extended from time to time the period of suspension of such paid officer or servant.

77. Removal of paid officer or servant of society-(1)

Where a paid officer or servant of a registered society has been found guilty or convicted by a competent court for an offence involving moral turpitude, the Registrar may, if in his opinion that the removal of such paid officer or servant is necessary in the public interest or in the interests of such society, after giving such officers or servant, and if such officer or servant is borne on a common cadre of service, the competent authority constituted under sub-section (3) of section 75 and in other cases, such registered society, an opportunity of making his or its representation, direct the competent authority or such registered society, as the case may be, to remove or cause to be removed such officer or servant from the service of such society.

(2) On receipt of a direction from the Registrar under sub-section (1), the competent authority or the registered society, as the case may be, shall notwithstanding any provision to the contrary in the rules or the by-laws or the order under sub-section (1) of section 75 remove or cause to be removed the paid officer or servant from the service of that society forthwith.

(3) Notwithstanding anything contained in sub-section (2), and without prejudice to the provisions contained in section 88, if in the opinion of the Registrar, the competent authority or the registered society, as the case may be either willfully disobeys or willfully fails to comply with any direction issued under sub-section (1), he may, by order, remove such paid officer or servant of that society.

(4) Where a paid officer or servant of a registered society removed from service under sub-section (2) or sub-section (3) is acquitted by the competent court, or when the conviction of such officer or servant is set aside on appeal or revision by the appellate court, such officer or servant shall be reinstated to the same post held by him prior to such removal.

78. Provident Fund.- (1) A registered society not being an establishment to which the Employees' Provident Funds and Miscellaneous Provision Act, 1952 (Central Act XIX of 1952) applies, may establish a provident fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the by-laws.

(2) A provident fund established by a registered society under sub-section (1) shall be invested in the financing bank, but shall not "

(a) be used in the business of the society:

(b) form part of the assets of the society:

(c) be liable to attachment or be subject to any other process of any court of other authority.

79. Gratuity Fund.-

(1) A registered society not being an establishment to which the Payment of Gratuity Act, 1972 (Central Act 39 of 1972) applies, may provide by its by-laws for payment of gratuity to the employees at such rates and on such conditions as may be specified in the by-laws and such society may establish a gratuity fund or make other arrangements for the purpose.

(2) A gratuity fund, if any, established by a registered society under sub-section (1) shall be invested in the financing bank, but shall not-

(a) be used in the business of the society:

(b) form part of the assets of the society:

(c) be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER IX**Audit, Inquiry, Inspection and Investigation,**

Surcharge and Supersession.

80. Audit-

(1) (a) The Registrar shall audit or cause to be audited by a person authorized by him by general or special order in writing in this behalf, the accounts of every registered society once at least in every co-operative year. The Registrar shall communicate the result of the audit to the registered society concerned.

(b) where such audit is caused to be made once in every co-operative year-

(i) the registered society shall prepare the financial statements and other details required for the completion of audit within three months from the close of its co-operative year or such further period or periods as the Registrar may permit provided that such extended period or periods shall not exceed six months in the aggregate, and

(ii) the audit shall be completed within a period of six months from the close of the co-operative year of the registered society concerned or such further period or periods as the Registrar may permit for reasons to be recorded in writing provided that such extended period or periods shall not exceed six months in the aggregate.

Added by T. N. Act 36 of 1989 [Explanation- In computing the period referred to in this clause, sub-section (4) of section 81, sub-section (4) of section 82, the second proviso to sub-section (1) of section 87, or the first proviso to clause (a) of sub-section(1) of section 88, any period or periods during which any proceeding under the respective provision was held up on account of any stay or injunction by the order of any court shall be excluded.]

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society.

(3) The Registrar or the person authorized by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon, any person in possession of or responsible for, the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every person who is or has at any time been an officer or employee of the society and every member and past member of the society shall furnish such information as regard to the transaction and working of the society as the Registrar or the person authorized by him may require.

(5) The Registrar may, by order in writing, direct any officer of the society to take such action as may be specified in the order to remedy within such time as may be specified therein the defects, if any, disclosed as a result of the audit.

(6) Every registered society shall pay to the Government such fee for the audit of its accounts for each co-operative year as may be fixed by the Registrar in accordance with the rules made in this behalf and the fee levied for audit shall be recoverable in the manner specified in section 148.

Provided that the Government may, by general, or special order, exempt any registered society or class of registered societies from the payment of the whole or any part of the fee payable for audit for any co-operative year.

(7) If the result of the audit discloses any defect, the registered society shall, within three months from the date of communication of the result of the audit, take steps to remedy the defects disclosed as a result of the audit, and report to the Registrar of the action taken by it thereon.

(8) If it appears to the Registrar, on an application by a registered society or otherwise that it is necessary or expedient to re-audit any account of that society, the Registrar may by order provide for such re-audit and the provisions of this Act applicable to audit of accounts of that society shall apply to such re-audit.

81.Inquiry.-(1) The Registrar may, of his own motion and shall, on the application of a majority of the board or of not less than one-third of the members or on the request of the financing bank or of the District Collector, hold an inquiry, or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financing condition of a registered society or any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice, or mismanagement in relation to that society or into any particular aspect of the working of that society.

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

(a) He shall at all reasonable times have free access to the books, accounts, documents, security, 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 any place at the head quarters of the society or any branch thereof.

(b) Where any person summoned under clause (a) fails or refuses to produce any record or property of the registered society as specified in the summons, any Metropolitan Magistrate or any Judicial Magistrate of the first class in whose jurisdiction the office of such society or the records and properties of such society is or are situated, shall, on application by the Registrar, or the person authorized by him under sub-section (1), direct the delivery to the Registrar of such person of the possession of the records and properties of such society. Provided that no such application shall be made by the person authorized under sub-section (1) without the previous sanction of the Registrar.

(c) He may seize the books, accounts or documents of the society, if he considers that such seizure is necessary to ensure the safety of such books, accounts or documents or to facilitate his inquiry, and shall give the person from whose custody the books, accounts or documents have been seized a receipt for the same:

Provided that the books, accounts or documents seized shall be retained by him only for so long as may be necessary for their examination and for the purpose of inquiry:

Provided further that the books, accounts or documents seized shall not be retained for more than three months at a time except with the permission of the next higher authority.

(d) He may summon any person who, he has reason to believe, has knowledge of any the affairs of the society and may examine such person on oath and may summon any person to produce any books, accounts or documents belonging to him or in his custody if the Registrar, or the person authorized as aforesaid has reason to believe that such books, accounts or documents contain any entry relating to transactions of the society.

(e) (i) He may, notwithstanding any rule or by-laws specifying the period of notice for a general meeting of the society or for a meeting of the board, require any officer or officers of the society to call a general meeting or a meeting of the board at such time and place at headquarters of the society or any branch thereof to consider such matters as may be specified by him and the provisions of sub-clauses (i) and (ii) of clause (b) of sub-section (4) of section 32 shall apply to any meeting called under this sub-clause as if it were a meeting called in pursuance of a requisition under clause (a) of sub-section (3) of that section.

(ii) If the officer or officers of the society refuses or refuse or fails or fail to call such meeting or if in the opinion of the Registrar there is no board or officer or officers competent under this Act, the rules or the by-laws to call such meeting, or if there be an order of the Registrar

or of the Civil Court restraining the board to function, the Registrar or the person authorized by him under sub-section (1) shall have power to call the meeting himself and provisions of clause (b) of sub-section (4) of section 32 and sub-section (5) of that section shall apply to such meeting as if it were a meeting called under clause (a) of the said sub-section (4).

(3) When an inquiry is held under this section, the Registrar shall within such time as may be prescribed communicate the result of the inquiry-

(i) In case the Government have subscribed directly to the share capital of the registered society or in case any moneys are due from the registered society either to the Principal State Partnership Fund or to the Subsidiary State Partnership Fund referred to in Chapter VI, to the Government or to any officer appointed by the Government in this behalf;

(ii) to the financing bank, if any, to which the society is affiliated, and,

(iii) to the society concerned.

(4) The inquiry shall be completed within a period of three months from the date of ordering the inquiry or such further period or periods not exceeding three months as a time as the next higher authority may permit provided that such extended periods shall not exceed six months in the aggregate.

(5) It shall be competent for the Registrar to withdraw any inquiry from the person authorized by him under sub-section (1) and to hold the inquiry himself or entrust it to any other person as he deems fit.

(6) The Registrar may, by order in writing, direct the registered society or any officer of the society or its financing bank to take such action as may be specified in the order to remedy, within such time as may be specified therein, the defects, if any, disclosed as a result of the inquiry.

NOTES

S.81 (S.65 OF 1961 Act) read with S.174 (S.115 of 1961 Act) The power under this Section is after the failure of the officer to call the meeting. This power flows from the refusal of the officer to call such a meeting and the enquiry officer had failed to require the officer to call such a meeting, the enquiry officer has no power to act under S. 65 (2) (d) (ii) (of 1961 Act) S.115 (1961 Act) cannot cure this defect. Removal of the existing members and election of new members will not come under S. 65 of 1961 Act} See R. 30 of 1961 Rules " (1968) 1 MLJ 258.

82. Inspection and investigation

- (1) The Registrar may, of his own motion, or on the application of a creditor of a registered society inspect or investigate or direct any person authorized by him in this behalf by general or special order in writing to inspect the affairs of the registered society in general or to investigate into any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice or mismanagement in relation to that society or into any particular aspect of the working of that society and the Registrar or the person so authorized shall have all the powers of the Registrar when holding an inquiry under section 81:

Provided that no such inspection or investigation shall be made or directed on the application of a creditor unless the creditor-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

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

(2) Where an inspection or investigation is made under sub-section (1), the Registrar shall within such time as may be prescribed communicate the results of such inspection or investigation to the society and where the inspection or investigation is made on the

application of a creditor, also to the creditor, and to the financing bank, if any, to which the society is affiliated.

(3) It shall be competent for the Registrar to withdraw any inspection or investigation from the person to whom it is entrusted and to conduct the inspection or investigation himself or entrust it to any other person as he deems fit.

(4) The inspection or investigation shall be completed within a period of three months from the date of ordering the inspection or investigation or such further period or periods not exceeding three months at a time as the next higher authority may permit provided that such extended periods shall not exceed six months in the aggregate.

(5) The Registrar may, by order in writing, direct the registered society or any officer of the society to take such action as may be specified in the order to remedy within such time as may be specified therein the defects, if any, disclosed, as a result of the inspection or investigation.

NOTES

S.49 & 51 of 1932 Act_ These two sections are not intended to operate on parallel lines. The special provisions of s. 49 will exclude the general one in S. 51 & S. 49 makes special provision in respect of misappropriation of funds or breach of trust by persons in management of society or by any past or present officer.- 69 LW 947 : (1956) 2 MLJ 613.
S. 49 and 51 of 1932 Act _ A claim against a person in management of society and the fraudulent retention of a money or other property of society will not fall under S.49 " AIR 1965 SC 621.

S.49 & 51 of 1932 Act- Failure of president to perform his functioning resulting in heavy loss to society proceedings under s.49 has to be initiated " (1967) 2 MLJ 79.

83. Inspection of books by financing bank.-

(1) A financing bank may at any time, but shall at least once in every year, inspect through an officer or a member of its paid staff the books of every registered society which is indebted to it. A financing bank shall also have the right to inspect the books of any other registered society financed by the registered society which is indebted to the financing bank.

(2) An officer or member of the paid staff of the financing bank inspecting the books of a registered society shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of that society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of that society.

(3) For the purposes of making inspection under sub-section (2), the officer or member of the paid staff referred to in that sub-section shall also have power to summon any person in possession of, or responsible for, the custody of any books, accounts, documents, securities, cash and other properties referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the registered society or any branch thereof in respect of which the inspection is made.

84. Maintenance of accounts and books by registered society.-

The chief executive that is, the principal paid officer of every registered society by whatsoever designation he is called, or the president of that society, if there is no such chief executive in that society, shall be bound to keep and maintain such accounts and books relating to that society in such manner as may be prescribed. He shall be responsible for the correct and upto date maintenance of such accounts and books and for producing them when called for in connection with the audit under section 80 or inquiry under section 81 or inspection or investigation under section 82 or inspection of books under section 83.

85. Costs of inquiry and inspection, etc

.- (1) Where an inquiry is held under section 81 or an inspection or investigation is made under section 82 the Registrar may, after giving the parties an opportunity of making their representations, order the recovery of the entire cost or such part of the cost as he may think just from the society or the members or the creditors demanding the inquiry or inspection or investigation or from the officers or former officers of the society in such proportion as may be determined by the Registrar from all or any of them. Costs may also be awarded by the Registrar to the financing bank in the cast of inspection of books under section 83, by the financing bank.

(2) Any sum awarded by way of costs or ordered to be recovered under sub-section (1) may be recovered as if it were an arrear of land revenue and for the purposes of such recovery the Registrar shall have the powers of Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

86. Registered society to pay certain expenses.-

Every registered society shall pay to the Government such sum as may be determined in the prescribed manner in respect of any special or additional staff employed by the Government for the purpose of the society.

87. Surcharge

.- (1) Where in the course of an audit under section 80 or an inquiry under section 81 or an inspection or investigation under section 82 or inspection of books under section 83 or the winding-up of a society, it appears that any person who is or was entrusted with the organization or management of the society or any past or present officer or servant of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has made any payment which is not in accordance with this Act, the rules or the by-laws the Registrar himself or any person specially authorized by him in this behalf, of his own motion or on the application of the board, liquidator or any creditor or contributory may frame charges against such person or officer or servant and after giving a reasonable opportunity to the person concerned and in the case of a deceased person, to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof with interest at any such rate as the Registrar or the person authorized as aforesaid thinks just or to contribute such sum to the assets of the society by way of compensation respect of the misappropriation, misapplication of funds, fraudulent retainer, breach of trust or willful negligence or payments which are not accordance with this Act, the rules or the by-laws as the Registrar or the person authorized as aforesaid thinks just.

Provided that no action shall be commenced under this sub-section after the expiry of seven years from the date of any act or omission referred to in this sub-section:

Provided further that the action commenced under this sub-section shall be completed within a period of six months from the date of such commencement or such further period or periods as a the next higher authority may permit but such extended period or periods shall not exceed six months in the aggregate.

(2) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force any sum ordered under this section to be repaid to a registered society or recovered as a contribution to its assets may be recovered as if it were an arrear of land revenue and for the purpose of such recovery the

Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

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

(4) The Registrar or the person authorized by him, shall, when acting under this section, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examining of witnesses.

88. Supersession of board.-

(1) (a) The Registrar,-

(i) may, if he is of opinion that the board of any registered society is not functioning properly or willfully disobeys or willfully fails to comply with any order or direction issued by the Registrar under this Act or the rules;

(ii) shall, where for two consecutive co-operative years-

(A) in the case of a financing bank, more than sixty per cent of the total dues of the financing bank from its members remain unpaid or the number of defaulting member of such financing bank exceeds sixty per cent of the total number of members indebted to such bank, and

(B) in the case of other registered societies, more than seventy per cent of the total dues to the registered society from its members remain unpaid or the number of defaulting members of such registered society exceeds seventy per cent of the total number of members indebted to such society, after giving the board of the registered society or the financing bank, as the case may be, an opportunity of making its representation, by order in writing, supersede the board and appoint Substituted by T. N. Act 36 of 1989 [a Government servant or an employee of any body corporate owned or controlled by the Government] (hereafter referred to as the special officer) to manage the affairs of the society for a specified period not exceeding one year;

Provided that an order under this sub-section shall be passed within a period of three months from the date of issue of notice of supersession or such further period or periods as the next higher authority may permit but such extended period or periods shall not exceed six months in the aggregate;

Provided further that in computing the total dues remaining unpaid for the purposes of item (ii), any installment or sum which is not recoverable by reason of any remission or suspension or order of stay passed by the appropriate authority due to adverse seasonal conditions or any other reason shall be excluded in respect of that installment or sum;

Provided also that for the purposes of computing the number of defaulting members referred to in item (ii), any member who is not liable to pay any installment or sum by reason of any remission or suspension or order of stay passed by the appropriate authority due to adverse seasonal conditions or any other reason shall be excluded in respect of that installment or sum.

(b) The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than two years in the aggregate:

Provided that where on the date of commencement of this Act, the period of supersession exceeds one and a half years, the Registrar may extend the period of supersession for such further period or periods not exceeding six months in the aggregate.

(2) Where a special officer is appointed, the Registrar may appoint an advisory board consisting of not more than five persons from among the members of that society who are not disqualified for being elected or nominated to the board of that society to advise the special officer in such matters as may be specified by him. The Registrar may at any time withdraw any persons so appointed under this sub-section and fill up the vacancy or vacancies by fresh appointment.

(3) The special officer appointed under sub-section (1) shall, subject to the control of the Registrar and to such directions as he may, from time to time, give, have power to exercise all or any of the functions of the board or of any officer of the society and to take such action as may be required in the interest of the society.

(4) The Registrar may fix the remuneration payable to the special officer appointed under sub-section (1). The amount of remuneration so fixed and such other expenditure incidental to the management of the society during the period of supersession as may be approved by the Registrar shall be payable from the funds of the society.

(5) The special officer appointed under sub-section (1) shall arrange for the constitution of a new board in accordance with the provisions of this Act, the rules and the by-laws so that the new board may be constituted and the members thereof come into office at the expiry of the period of his appointment.

(6) Before passing an order under sub-section (1)(a)(i) in respect of any registered society, the Registrar shall consult, in the manner prescribed the board of the financing bank to which the society is indebted.

Provided that if the financing bank does not communicate its comments within fifteen days of the receipt of a communication from the Registrar in this regard, the board of the financing bank shall be deemed to have no comments to make on the order proposed to be passed under sub-section (1).

(7) Nothing contained in this section shall be deemed to affect the power of the Registrar to order the winding up of the society under section 137.

(8) An order under sub-section (1) shall take effect from the date specified therein unless stayed by an order of the appellate authority. Where an order under sub-section (1) is reversed on appeal, the special officer appointed under sub-section (1) shall forthwith hand over the management of the society to the board.

(9) Any paid officer or servant of the registered society against whom there is a prima facie evidence that he was also responsible for the acts leading to the supersession of the board under this section, shall without prejudice to any other action that may be taken against him under this Act or any other law, be liable to disciplinary action including suspension, pending enquiry into grave charges.

NOTES

S.88 : (S. 43 " 1932 Act, S. 72 of 1961 Act) _ The satisfaction contemplated is the subjective satisfaction of the Registrar and not objective. This cannot be questioned in a court. The court can interfere only if it is made out that satisfaction was the result of caprice, partiality or prejudice. But it is not open to the Court to substitute its own judgment for that of the Registrar. In this respect, though the Registrar's functions are quasi judicial, it is not required that all the procedure expected to be followed by Courts should be observed._ (1951) 2 MLJ 96 : 64 L.W. 643.

S.88 (S. 72 of 1961 Act) _ Power of dissolution _ Subjective satisfaction of the Registrar _ (1970) 1 MLJ 178 LW 98. (FB)

S.88 (S.72 of 1961 Act) _ Proper procedure for exercising power. There must be material on which the Registrar has to form his opinion. Duty of the Registrar _ Explained. _ AIR 1970 SC 1992 : (1971) 1 MLJ 63 (SC)

89. Appointment of Special Officer in certain circumstances

:- (1) Where-

(i) the term of office of the board of any registered society has expired and a new board cannot be constituted in accordance with the provisions of this Act, the rules and the by-laws: or

(ii) the new board constituted fails to enter, or is prevented from entering upon office on the expiration of the term of office of the earlier board: or

(iii) the existing board has tendered resignation en-bloc; or

(iv) (a) vacancies have arisen for any reason, or

(b) one or more members of the board have tendered resignation and the number of remaining members cannot form the quorum for the meeting of the board.

The Registrar may, of his own motion or on application of any member of the registered society, and in the case of new board which has failed to enter, or prevented from entering, upon office, after giving the members of the said board an opportunity of making their representations, by order appoint Substituted Act T. N. 36 of 1989. [a Government servant or an employee of any body corporate owned or controlled by the Government] (hereinafter referred to as the special officer for a specified period not exceeding six months to manage period not exceeding six months to manage the affairs of the registered society pending the constitution of new board, or as the case may be, the entering upon office by the new Board: Provided that the period specified in such order may, for special reasons to be recorded in writing by the Registrar, be extended from time to time but such order shall not remain in force for more than one year in the aggregate.

(2) The provisions of sub-sections (2) to (5) and sub-sections (7) and (8) of section 88, so far as may be, shall apply in relation to the appointment of a special officer under sub-section (1), as they apply in relation to the appointment of a special officer under sub-section (1) of the said section 88.

CHAPTER X

Settlement of disputes

90. Disputes

.- (1) If any dispute touching the constitution of the board or the management or the business of a registered society (other than a dispute regarding disciplinary action taken by the competent authority constituted under sub-section (3) of section 75 or the Registrar or the society or its board against a paid servant of the society) arises-

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

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

(c) between the society or its board and any past board, any officer, agent or servant, or any past officer, past, agent or past servant, or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased servant of the society, or

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

Explanation.-

For the purposes of this section, a dispute shall include-

(i) a claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of the deceased member whether such debt or demand be admitted or not.

(ii) a claim by a registered society against a member, past member or the nominee, heir or legal representative of a deceased member for the delivery of possession to the society of land or other immovable property resumed by it for breach of the conditions of assignment or allotment of such land or other immovable property and

(iii) a decision by the board under sub-section (3) of section 34;

Provided that no dispute relating to, or in connection with, any election shall be referred under this sub-section till the date of the declaration of the result of such election.

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

(a) decide the dispute himself or transfer it for disposal to any person subordinate to and empowered by him; or

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

(3) Subject to such rules as may be prescribed, the Registrar may withdraw any dispute referred under sub-section (1) to any person subordinate to him or transferred under clause (a) or referred under clause (b) of sub-section (2) by the Registrar or any person subordinate to him and-

(a) decide the dispute himself; or

(b) transfer it for disposal to any person subordinate to and empowered by him; or

(c) refer it for disposal to an arbitrator or arbitrators; or

(d) retransfer the same for disposal to the person from whom it was withdrawn; or

(e) refer it for disposal to the arbitrator or arbitrators from whom it was withdrawn.

(4) If a question arises, whether for the purposes of this section any person is or was a member of a registered society, or whether the dispute referred for decision is a dispute touching the constitution of the board, or the management or the business of the society, such question shall be decided by the Registrar.

(5) Where any dispute referred to the Registrar under sub-section (1) or withdrawn by him under sub-section (3) relates to immovable property, the Registrar or the person or the arbitrator or arbitrators to whom it is transferred, referred or retransferred under sub-section (2) or sub-section (3) may, on the application of a party to the dispute direct that any person who is interested in such property, whether such person be a member or not, be included as a party to the dispute and any decision that may be passed on the reference, by the Registrar, the person, the arbitrator or arbitrators aforesaid, as the case may be, shall be binding on the party so included, provided that he shall be liable only to the extent of such property.

(6) The Registrar may pass such interlocutory orders as he may deem fit in the interests of justice.

(7) Nothing contained in the Arbitration Act, 1940 (Central Act X of 1940) shall apply to any arbitration under this section.

(8) Nothing contained in section 34 of the Code of Civil Procedure, 1908 (Central Act V of 1908) shall apply to any decision passed or award made under this section.

(9) (a) The period of limitation for referring a dispute under this section shall be regulated by the provisions of the Limitation Act, 1963 (Central Act 36 of 1963) as if the dispute were a suit and the Registrar a civil court,. Subject to the following modifications, namely:-

(i) when the dispute relates to a society in respect of which a special officer has been appointed under section 88 or to a society which has been ordered to be wound up under section 137, the period of limitation shall be six years from the date of the order issued under section 88 or section 137, as the case may be:

(ii) save as otherwise provided in clause (i), when the dispute relates to any act or omission on the part of any of the parties referred to in clause (b) or clause (c) of sub-section (1), the period of limitation, shall be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(iii) when the dispute is in respect of, or in connection with, any election, the period of limitation shall be two months from the date of declaration of the result of the election.

(b) Notwithstanding anything contained in clause (a), the Registrar may admit a dispute after the expiry of the period of limitation if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation has expired.

NOTES

S. 73 _ Petitioner in charge of Co-operative Society _ Deficit of stock in the society noticed _ Petitioner prosecuted for breach of trust and misappropriation by the Deputy Registrar _ Same Deputy Registrar appointed to adjudicate on the dispute on same set of facts _ Award proceedings _ held violated _ 1996 (II) MLJ 70.

S. 73 and 95 : Decision of the Tribunal under Sec.95, upholding an award _ Execution proceedings praying for appointment the Inspector of Survey to demarcate in accordance with approved layout _ Order granting prayer and for delivery _ Fresh proceedings initiated by the plaintiff in the suit out of which this appeal arose, passing of award therein with observations _ Appeal therefore being dismissed, execution proceedings, taken pursuant to that award _ obstruction and removal thereof orders by executing Court and affirmed in CRP _ Present suit claiming title to the extent of 800 sq.ft. suit filed in City Civil Court suit dismissed and appeal there from dismissed _ 1995 (1) LW 659 (D.B)

S. 90 (S. 73 of 1961 Act) An employee under suspension and facing disciplinary proceedings retired. His claim for arrears of salary and Bonus. The Registrar is empowered to entertain claim for arrears of salary and not bonus. See R.46 (5) of 1961 Rules _ (1972) 2 MLJ 134.

S.90 (S.73 of 1961 Act) : Read with S. 153 (S. 97 of 1961 Act) A dispute relating to the validity of nomination is a dispute touching the business of society. But it could be raised only after result of the election is declared _ (1966) 2 MLJ 415 : 79 LW 713.

S. 90 (S. 73 of 1961 Act) Past members claim for certain amounts due to him from the society is also covered under this section. A civil suit for this claim is outside the purview of Civil Court and only to be decided by the Registrar _ (1966) I MLJ 180.

S. 90 (1) Meaning of _ Dispute touching the society suit for specific performance in Civil Court held, maintainable _ 1995 (2) L.W. 785.

CHAPTER XI

Insured co-operative banks.

91. Order for winding-up, division, amalgamation, etc., of insured co-operative bank not to be made without sanction of Reserve Bank of India,-

Notwithstanding anything contained in this Act, in the case of an insured co-operative bank-

(i) an order for the winding up or division or amalgamation or transfer of assets and liabilities of the bank or an order sanctioning a scheme of compromise or arrangement or reconstruction (including division or re- organization) of the bank may be made only with the previous sanction in writing of the Reserve Bank of India;

- (ii) an order for the winding- up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances referred to in section 13-D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);
- (iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made by the Registrar for the supersession of the board and the appointment of an administrator therefore for such period or periods not exceeding five years in the aggregate as may, from time to time, be specified by the Reserve Bank of India, and the administrator so appointed shall, after the expiry of his term of office, continue in office until the date immediately preceding the date of the first meeting of the new board;
- (iv) no appeal, revision or review shall lie against an order referred to in clauses (i), (ii) and (iii) made with the previous sanction in writing or on the requisition of the Reserve Bank of India and such order or sanction shall not be liable to be called in question in any manner, and
- (v) the liquidator or the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance and Credit Guarantee Corporation established under section 3 or the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961), in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation.- For the purposes of this section,-

- (i) "co-operative bank" shall have the meaning assigned to it in the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);
- (ii) "insured co-operative bank" means a registered society which is an insured bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (Central Act 47 of 1961);
- (iii) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 2 of 1934);
- (iv) "transferee bank" in relation to an insured co-operative bank, means a registered society,-
 - (a) into which such insured co-operative bank is divided under sub-section (1) of section 13 or converted under section 17; or
 - (b) with which such insured co-operative bank is amalgamated under sub-section (2) of section 13 or under section 14; or
 - (c) to which the assets and liabilities of such insured co-operative bank are transferred under section 15.

CHAPTER XII

Joint farming societies

92. Application of chapter.-

This chapter shall apply only to joint farming societies.

93. Definitions.-

In this chapter, unless the context otherwise requires,-

- (1) "competent authority" means any person or authority authorized by the Government, by notification, to perform the functions of the competent authority under this chapter for such area as may be specified in the notification;
- (2) "joint farming society" means a registered society, which has its object the cultivation on a joint basis of the lands of the members pooled for the purpose and such other land owned or

possessed by such registered society, where substantially the members or the members of their families engage themselves in such cultivation and are remunerated for the services rendered by them to the society;

(3) "person interested" in relation to land, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of those lands sub-section (2) of section 100;

(4) "works" includes buildings, structures and improvements of every description.

94. Admission of members.-

Notwithstanding anything contained in section 21 every application for membership of a joint farming society shall be considered by the board which may grant or refuse admission.

95. Creation of charge in favour of joint farming society by a member.-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, a member of a joint farming society whose lands have been pooled in the manner set out in clause (2) of section 93, shall, if so required by such society make a declaration in the form prescribed that he thereby creates a charge upon those lands in respect of any loan taken by the joint farming society in connection with, or to facilitate the operations, of such society and the charge so created shall be deemed to have been transferred to the person from whom the joint farming society has taken the loan.

(2) No declaration made under sub-section (1) shall be varied or cancelled by a member without the previous written permission of the joint farming society; and the joint farming society shall not give such permission without the approval of the person to whom the charge stands transferred under sub-section (1).

(3) (a) No land in respect of which a declaration has been made under sub-section (1) or any part of such land or any interest in such land shall be sold or otherwise transferred without the previous written permission of the joint farming society, and such permission shall not be given by the joint farming society without the approval of the person to whom the charge stands transferred under sub-section (1).

(b) Notwithstanding anything contained in any law for the time being in force, any transaction made in contravention of clause (a) shall be null and void.

(4) The declaration made under sub-section (1) or any variation or cancellation thereof shall be sent by registered post by the joint farming society to the Sub-Registrar having jurisdiction over the area in which the lands are situated.

(5) On receipt of the declaration, variation or cancellation, the Sub-Registrar shall notwithstanding anything contained in any law for the time being in force, register such declaration, variation or cancellation and issue a copy thereof to the joint farming society.

(6) Any declaration made under sub-section (1) or any variation or cancellation thereof which has not been registered under sub-section (5) shall notwithstanding anything contained in this Act or in any other law for the time being in force, be null and void.

(7) The declaration and the variation, if any, upon registration under sub-section (5) shall be deemed to create an interest in the property to which the declaration relates and shall constitute notice to every person dealing with the said property.

96. Agreement between the joint farming society and its members in respect of lands.-

A joint farming society may require any of its members to pool his lands for the purposes of cultivation by the joint farming society on a joint basis and for that purpose to place those lands at the disposal of the joint farming society for such period not being less than five years as may be agreed upon by the joint farming society and such member.

97. Vesting of lands in joint farming society and registration of agreement

- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, every member of a joint farming society whose lands have been pooled in the manner set out in clause (2) of section 93, shall, in addition to the declaration made under sub-section (1) of section 95, execute an agreement with the joint farming society specifying the period for which the lands shall vest in the joint farming society, the basis on which the share of his income shall be determined and such other matters as may be prescribed.

(2) The agreement executed under sub-section (1) shall be sent by registered post by the joint farming society, to the Sub-Registrar having jurisdiction over the area in which the lands are situated.

(3) On receipt of the agreement, the Sub Registrar shall, notwithstanding anything contained in any law for the time being in force, register such agreement and issue a copy thereof to the joint farming society.

(4) Any agreement executed under sub-section (1), which has not been registered under sub-section (3) shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be null and void.

98. Prohibition against withdrawal of lands during the period of agreement.-

Notwithstanding anything contained in this Act or in any other law for the time being in force, no member of a joint farming society whose lands have been pooled in the manner set out in clause (2) of section 93, shall, before the expiry of the period specified in the agreement executed by him under sub-section (1) of section 97, be entitled or allowed to withdraw the lands so pooled by him from the possession or control of the joint farming society.

99. Disposal of lands after the expiry of the agreement- (1) The joint farming society may after the expiry of the period specified in the agreement executed by the member under sub-section (1) of section 97, purchase the lands pooled in the manner set out in clause (2) of section 93 by such member or exchange those lands for other lands of equal value belonging to the joint farming society.

(2) (a) Notwithstanding anything contained in sub-section (1), the Government may, if any are of opinion that it is necessary to acquire the lands specified in sub-section (1), at any time acquire those lands by publishing in the Tamil Nadu Government Gazette, a notice to the effect that the Government have decided to acquire the lands in pursuance of this sub-section: Provided that before publishing such notice, the Government shall call upon the owner, or any other person who in the opinion of the Government may be interested in, the lands to be acquired to show cause why the lands should not be acquired, and after considering the cause, if any, shown by any person interested in the lands and after giving the parties an opportunity of making their representations, the Government may pass such orders as they deem fit.

(b) When a notice as aforesaid is published in the Tamil Nadu Government Gazette, the lands to which such notice relates shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from encumbrances.

(c) No land shall be acquired under this sub-section except in the following circumstances, namely:-

(i) where any works have, during the period specified in the agreement executed under sub-section (1) of section 97, been constructed on, in or over, the lands wholly or partially at the expense of the joint farming society and the Government decide that the value of or the right to use such works should be secured or preserved for the purposes of the joint farming society; or

(ii) where the lands to be acquired could not, in the opinion of the Government, be severed from the other lands which are cultivated in the manner specified in clause (2) of section 93, without detriment to the other lands cultivated as aforesaid.

(3) (a) Where any lands acquired under sub-section (2) are transferred to a joint farming society and such joint farming society proposes to sell or otherwise transfer any such land or portion thereof or in the event of the joint farming society being ordered to be wound up, the liquidator appointed under section 138, proposes to sell or otherwise transfer any such land or portion thereof, the person who immediately before the acquisition of such land or portion under sub-section (2) was the owner thereof (hereafter in this sub-section referred to as "the previous owner" which expression shall include his successors in interest) shall have the right to acquire such land or portion in preference to all other persons.

(b) The joint farming society or the liquidator, as the case may be, proposing to sell the land or portion thereof shall give notice to the previous owner of the price at which the joint farming society or the liquidator is willing to sell it.

(c) The previous owner to whom a notice is given under clause (b) shall lose the right under clause (a) unless within three months from the date of the receipt by him of such notice he pays or tenders the price specified in such notice to the joint farming society or the liquidator, as the case may be.

100. Principles and method of determining compensation for land acquired under section 99-

(1) Where any land is acquired under sub-section (2) of section 99, there shall be paid compensation the amount of which shall be determined in the manner and accordance with the principles hereinafter set out, that is to say-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) where no such agreement can be reached, the Government shall appoint as arbitrator, a judicial officer not below the rank of Subordinate Judge;

(c) the government may in any particular case, nominate a person having expert knowledge as to the nature of the land acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(e) the arbitrator shall after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to-whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-section (2) so far as they are applicable;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 (Central Act X of 1940) shall apply to arbitrations under this section.

(2) The amount of compensation payable for the acquisition of lands under sub-section (1) shall be-

(a) (i) the price which the lands would have fetched in the open market if they had been sold on the date of acquisition after deducting from such price the value of the works constructed on, in or over, the lands by the joint farming society; or

(ii) twice the price which the lands would have fetched in the open market if they had been sold on the date on which the lands, were pooled in the manner set out in clause (2) of section 93,

Whichever is less; and

(b) such sum or sums, if any, as may found necessary to compensate the person interested for all or any of the following matters, namely:-

(i) expense on account of vacating the lands; and

(ii) any other matter which may be relevant to the circumstances of the case.

101. Payment of compensation._ The amount of compensation payable under an award shall, subject to the rules, be paid by the competent authority to the person or persons, entitled thereto in such manner and within such time as may be specified in the award.

102. Restriction on the acquisition of land under the Land Acquisition Act, 1894, for joint farming societies._

Notwithstanding anything contained in the Land Acquisition Act, 1894 (Central Act I of 1894), no land shall be acquired under the Act for the purpose of a joint farming society of the extent of the land to be so acquired exceeds ten per cent of the total extent of the lands pooled by the members.

Provided that no land shall be acquired as aforesaid unless the purpose of a joint farming society for which it is so acquired is a purpose specified in the rules made in this behalf.

CHAPTER XIII.

Lift irrigation societies.

103. Application of Chapter._

This chapter shall apply only to lift irrigation societies.

104. Definitions._

In this chapter, unless the context otherwise requires,-

(1) "lift irrigation society" means a society the principal object of which is to supply water by lift irrigation mainly for agricultural purposes;

(2) "small farmers lift irrigation society" means a lift irrigation society of which no member owns more than such extent of land as may be prescribed.

105. Declaration by members of a lift irrigation society._

(1) (a) Notwithstanding anything contained in this Act or in any other law for the time being in force, every person making an application for admission as a member of a lift irrigation society shall specify in such application the particulars of the land for which he desires supply of water by the lift irrigation society and, if the by-laws of such society so require, also make a declaration in the form prescribed authorizing the lift irrigation society to mortgage the lands specified in the application as, security for any loan to be taken by the lift irrigation society in connection with, or to facilitate, the operations of such society.

(b) Where a declaration referred to in clause (a) is made by any person and such person is admitted as a member of the lift irrigation society, such society shall be entitled to mortgage the lands specified in the declaration or any portion thereof in favour of the Government, any land development bank or any other financing institution from which such society takes a loan (hereinafter in this section referred to as the creditor) and such mortgage shall be binding on the person who made the declaration and his successors-in-interest in such lands.

- (c) An lift irrigation society taking a loan from any financing institution (other than the Government or any land development bank) shall obtain the prior approval of the Registrar.
- (2) No declaration made under sub-section (1) shall be varied or cancelled by a member without the previous written permission of the lift irrigation society and the lift irrigation society shall not give such permission without the approval of the creditor.
- (3) (a) No land in respect of which a declaration had been made under sub-section (1) or any part of such land or any interest in such land shall be sold or otherwise transferred without the previous written permission of the lift irrigation society, and such permission shall not be given by the irrigation society without the approval of the creditor.
- (b) Notwithstanding anything contained in any law for the time being in force any transaction made in contravention of clause (a) shall be null and void.
- (4) The declaration made under sub-section (1) or any variation or cancellation thereof shall be sent by registered post by the lift irrigation society to the Sub-Registrar having jurisdiction over the area in which the lands are situated.
- (5) On receipt of the declaration, variation or cancellation, the Sub-Registrar shall, notwithstanding anything contained in any law for the time being in force, register such declaration, variation or cancellation and issue a copy thereof to the lift irrigation society.
- (6) Any declaration made under sub-section (1) or any variation or cancellation thereof which has not been registered under sub-section (5) shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be null and void.
- (7) The declaration and the variation, if any, upon registration under sub-section (5) shall be deemed to create an interest in the property to which the declaration relates and shall constitute notice to every person dealing with the said property.

106. Agreement regarding period of membership, sharing of expenditure, etc._

- (1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, every person on being admitted as a member of a lift irrigation society, shall, in addition to the declaration, if any, made under sub-section (1) of section 105, execute an agreement with the lift irrigation society specifying-
- (i) that he shall continue as a member of such society as long as he continues to own the land for which water is supplied by the irrigation society or any portion thereof;
- (ii) that he agrees to pay his share of the capital expenditure and the maintenance charges for providing supply of water (including over-head charges and depreciation) as may be determined by the board from time to time, with the approval of the Registrar; and
- (iii) such other matters as may be prescribed.
- (2) The agreement executed under sub-section (1) shall be sent by registered post by the lift irrigation society to the Sub-Registrar having jurisdiction over the areas in which the lands are situated.
- (3) On receipt of the agreement the Sub-Registrar shall, notwithstanding anything contained in any law for the time being in force, register such agreement and issue a copy thereof to the lift irrigation society;
- (4) Any agreement executed under sub-section (1) which has not been registered under sub-section (3) shall, notwithstanding anything contained in this Act or in any other law for the time being in force, be null and void.
- (5) The lift irrigation society shall be entitled to collect any sum due to the society under the agreement executed under sub-section (1) or on any account whatsoever by any member or past or deceased member.

107. Prohibition against withdrawal of membership._

Notwithstanding anything contained in this Act or in any other law for the time being in force, no member of a lift irrigation society shall, so long as he continues to own the land for which water is supplied by the lift irrigation society or any portion thereof, be entitled to withdraw his membership.

Provided that the lift irrigation society may, subject to such conditions as may be prescribed, permit any member to withdraw.

108. Regulation of supply of water._ The board of a lift irrigation society shall have the right to regulate the supply of water from the works of the society in accordance with such regulations as may be made by the board in this behalf with the approval of the Registrar.

109. Admission of transferees of land and heirs, etc., as members_

Where a member of a lift irrigation society,-

- (i) sells or otherwise transfers any land for which water is supplied by the lift irrigation society or any portion thereof; or
- (ii) dies;

The transferee, or the heir or the legal representative, as the case may be, shall, if he is qualified for membership of such society on application made in the form, if any, prescribed for the purpose, be admitted by the board as a member of the lift irrigation society:

Provided that any member admitted under this section may with the approval of the Registrar be removed from membership by the board; and any application for obtaining such approval shall be made within two months from the date of admission of such member.

110. Concession and facilities for the small farmers' lift irrigation society._

Without prejudice to the provisions of Chapter VI, a small farmers' lift irrigation society shall be entitled to such special concessions and facilities as may be prescribed.

CHAPTER XIV.

Land Development Banks.

111. Application of chapter._

This Chapter shall apply only on land development banks.

112. Definitions._ In this Chapter, unless the context otherwise requires,-

- (1) primary land development bank' means a co-operative primary land development bank registered or deemed to be registered under this Act;
- (2) State Land Development Bank' means the "Tamil Nadu Co-operative State Land Development Bank Limited".
- (3) Trustee' means the Trustee referred to in section 115.

113. State and primary land development banks._

- (1) There shall be a State Land Development Bank for the State of Tamil Nadu and as many primary land development banks as may be deemed necessary.
- (2) Every primary land development bank shall, with effect on and from the date of the commencement of this Act or with effect on and from the date of its registration, whichever is later, be deemed to be a member of the State Land Development Bank.
- (3) The board of the State Land Development Bank shall have a general power of supervision over the primary land development banks.

114. Purposes for which loans may be granted.- A primary land development bank or the State Land Development Bank may grant loans for all or any of the following purposes, namely:-

- (a) development of agricultural including making land fit for cultivation, improvement of land, development of sources of irrigation;
- (b) (i) Animal husbandry,
- (ii) Pisciculture including fish catching,
- (iii) Apiculture,
- (iv) Sericulture,
- And all activities incidental or ancillary thereto;
- (c) construction of permanent farm houses with storage facilities, cattle sheds, pump sheds, tractor sheds and shed for processing of agricultural produce;
- (d) activities connected with processing, storage, transport and marketing of produce of agriculture, animal husbandry, pisciculture, apiculture and sericulture including farm based industries connected thereto;
- (e) purchase of tools, implements, machinery and cattle for use in any of the above purposes;
- (f) the purchase or acquisition of agricultural lands by agriculturists or tenants;
- (g) such other purposes at the Government may, by notification, specify in this behalf.

115. Appointment of Trustee, his powers and functions.- The Registrar or such other person appointed by the Government in this behalf, shall be the Trustee for the purpose of securing the fulfillment of the obligations of the State Land Development Bank to the holders of debentures issued under section 116 by the board of that bank. The mortgages and other assets transferred or deemed under to provisions of section 121 to have been transferred by the primary land development bank to the State Land Development Bank shall vest in the Trustee from the date of such transfer. The holders of the debentures issued under sub-section (1) of section 116 shall have a floating charge on all such mortgages and assets, on the amount paid under such mortgages and remaining in the hands of the board of the State Land Development Bank or of the Trustee and on the other properties of the State Land Development Bank. The powers and functions of the Trustee shall be governed by the provisions of this Chapter and the instrument of trust executed between the State Land Development Bank and the Trustee, as modified from time to time by mutual agreement between the board of the State Land Development Bank and the Trustee.

116. Issue of debentures by the board of State Land Development Bank.-

- (1) (a) With the previous sanction of the Trustee, the board of the State Land Development Bank may issue debentures of one or more denominations for such periods as it may deem expedient on the security of the mortgages and other assets transferred or deemed under the provisions of section 121 to have been transferred by the primary land development banks to the State Land Development Bank and of the other properties of the State Land Development Bank.
- (b) Such debentures may contain a term fixing a period not exceeding ten years from the date of issue during which they shall be irredeemable, or reserving to the board of the State Land Development Bank 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-holder concerned, not less than three months' notice in writing.
- (c) The total amount due on the debentures issued by the board of the State Land Development Bank under this sub-section (including those issued before the commencement of this Act) and outstanding at any time shall not exceed the aggregate of the amounts due on

the mortgages, and the value of the other assets, transferred or deemed under the provisions of section 121 to have been transferred by the primary land development banks to the State Land Development Bank and subsisting at such time and the amounts paid under the mortgages aforesaid and remaining in the hands of the board of directors of the State Land Development Bank, or of the Trustee, at that time.

(2) (a) Notwithstanding anything contained in sub-section (1) in respect of loans granted to such.

(i) corporations;

(ii) local bodies;

(iii) institutions'

(iv) co-operative societies; and

(v) individuals

as may be approved by the Government, the board of the State Land Development Bank may, with the previous permission of the Trustee, issue debentures with Government guarantee and without the security of mortgages, of one or more denominations for such periods as it may deem expedient and subject to such conditions as the Government may think fit to impose.

(b) The debentures issued under clause (a) may contain a term, fixing a period not exceeding ten years from the date of issue during which they shall be irredeemable or reserving to the board of the State Land Development Bank the right to call in at any time any of such debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned, not less than three months' notice in writing.

117. Discontinuance or modification of guarantee by Government._

The Government may, after consulting the board of the State Land Development Bank and the Trustee-

(a) by notification; and

(b) by notice for not less than fourteen days in such of the principal newspapers in the State of Tamil Nadu and of other States as the Government may select in this behalf,

Discontinue any guarantee given by them in respect of the debentures issued under section 116 or restrict the maximum amount thereof or modify, the conditions subject to which it is given, with effect from a specified date, not being earlier than six months from the date of publication of the notification.

In cases where the maximum amount of the guarantee is to be restricted or the conditions subject to which the guarantee is given are to be modified, the notification and notice aforesaid shall set forth with sufficient clearness the scope and effect of the restriction or modification.

Explanation._

The withdrawal, restriction or modification of any guarantee under this sub-section, shall not affect in any way the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

118. Recovery of moneys due to primary land development banks by distraint and sale of produce._

If any installment payable under a mortgage executed in favour of a primary land development bank of any part of such installment remains unpaid for more than one month from the date on which it fell due, the board of the primary land development bank may, in addition to any other remedy available to the primary land development bank, apply to Registrar for the recovery of such installment or part thereof by distraint and sale of the produce of the mortgaged land including the standing crops thereon. On receipt of such application, the Registrar or any person authorized by the Registrar in this behalf may,

notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882) take action to distrain and sell such produce in the manner prescribed.

119. Power of sale without the intervention of Court._ Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), where a power of sale without the intervention of the court is expressly conferred on the primary land development bank by the mortgage deed or any other document, the board of the primary land development bank shall in case of default in utilization of land or part thereof or in case of default of payment of the mortgage money or any part thereof, have power in addition to any other remedy available to the to bring the mortgaged property to sale, without the intervention of the court in the manner prescribed.

120. Recovery of moneys due to land development banks as arrears of land revenue._ (1) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any moneys due to a primary land development bank or the State Land Development Bank may be recovered as if it were an arrear of land revenue and for the purposes of such recovery the registrar or any officer of the State Land Development Bank or primary land development bank authorized by the registrar in this behalf shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

(2) Where any moneys due to any primary land development bank or the State Land Development Bank is recoverable from any debtor and the immovable property of such debtor is brought to sale under the provisions of the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864) and the primary land development bank or the State Land Development Bank is the purchaser at such sale, the provisions of section 36 of the said Act shall apply to such sale as if the third and fourth clauses of the said section 36 were omitted.

NOTES

S.120 and 152 _ T.N. Revenue Recovery Act _ Sec. 14-A Order of Special Officer cum Registrar, Co-operative Societies directing attachment of movables and immovable invoking provision of Revenue Recovery Act _ as contemplated in S. 120 of Co-op. Soc. Act appeal to Tribunal under S. 152 dismissed as not maintainable CRP under Art 227 entertained and allowed _ 1995 (2) LW 247.

121. Mortgages executed in favour of primary land development banks, etc., to stand vested in State Land Development._

The mortgages executed in favour of, and all other assets transferred to, a primary land development bank, by the members thereof shall, with effect on and from the date of such execution or transfer, be deemed to have been transferred by such primary land development bank to, and shall vest in, the State Land Development Bank.

122. Powers of Primary land development bank where mortgages property is wholly or partially destroyed or the security is rendered insufficient._

Where any property mortgaged to a primary land development bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the board or the primary land development bank, to provide further security enough to render the whole security sufficient or to repay such portion of the loan as may be determined by the board of the primary land development bank has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to

fall due at once and the board of the primary land development bank shall be entitled to take action against the mortgagor for the recovery thereof under this Act.

Explanation._ A Security is sufficient within the meaning of this section; unless the value of the mortgaged property exceeds the amount for the time being due to the primary land development bank by such proportion as may be specified in the by-laws of the primary land development bank.

123. Power of board of the State Land Development Bank or Trustee to give directions to primary land development bank for taking action for recovery of moneys due, etc.-

(1) The board of the State Land Development Bank or the Trustee may direct the board of a primary land development bank to take action for the recovery of moneys due to that primary land development bank against any person who has defaulted in the payment of his dues to, or has failed to provide adequate security under section 122 to, that bank and, if the board of the primary land development bank neglects or fails to do so, the board of the State Land Development Bank itself or the trustee himself may take such action.

(2) (a) Where such action is taken by the board of the State Land Development Bank, the provisions of this Act and of any rules or by-laws made there under shall apply in respect thereto as if all references to the primary land development bank and to its board in the said provisions were references to the State Land Development Bank and to its board respectively.

(b) Where such action is taken by the Trustee, the provisions of this Act and of any rules or by-laws made there under shall apply in respect thereto as if all references to the primary land development bank and to its board in the said provisions were references to the trustee.

124. Mortgagor's power to lease._ (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), or any other law for the time being in force, no mortgagor of property mortgaged to a primary land development bank, shall except with the prior consent in writing of the bank, and subject to such terms and conditions as the bank may impose lease or create any tenancy rights upon any such property.

Provided that, the rights of the primary land development bank shall be enforceable against the tenant-purchaser, the lessee or the tenant as the case may be, as if such tenant-purchaser or the lessee or the tenant were the mortgagor.

(2) Where the land mortgaged with possession to a land development bank is in the actual possession of a tenant, the mortgagor or the land development bank shall give notice to the tenant to pay the rent to the land development bank and on such notice being given, the tenant shall for the duration of the lease or of the mortgage, whichever is shorter, be deemed to have attorney to the land development bank.

125. Mortgage not to be questioned on insolvency of mortgagor._

Notwithstanding anything contained in the Presidency Towns Insolvency Act, 1909 (Central Act III of 1909) or the Provincial Insolvency Act, 1920 (Central Act V of 1920), a mortgage executed in favour of a primary land development bank shall not be called in question in any insolvency proceedings 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 primary land development bank a preference over the other creditors of the mortgagor.

126. Priority of mortgage over other claims._

(1) A mortgage executed in favour of a primary land development bank shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883 (Central Act XIX of 1883) granted after the execution of the mortgage.

(2) Without prejudice to the provisions of sub-section (1) and notwithstanding anything contained in this Act or in any other law for the time being in force, a mortgage executed in favour of a primary land development bank shall, subject to the claim of the Government in respect of land revenue, have priority over all other claims against the property secured by such mortgage.

127. Verification of encumbrances

._ Every primary land development bank shall, before advancing any loan on the security of any immovable property, verify encumbrances, if any, for-

- (i) a period of thirteen years immediately preceding the date of application for such loan; and
- (ii) a further period on and from the date of such application up to four months from the of execution of the mortgage.

128. Right of primary land development bank to pay prior debts of mortgagor._ Where a mortgage is executed in favour of a primary land development bank for payment of prior debts of the mortgagor the bank may notwithstanding the provisions of section 83 and 84 of the Transfer of Property Act, 1882 (Central Act IV of 1882) by notice in writing, require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice. If 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 shall be bound to receive payment of the amount offered by the primary land development bank towards the debt but such receipt shall not prejudice the rights, if any, of such person to recover the balance claimed by him.

129. Power to summon witnesses and requisition documents._

(1) Subject to such restrictions, limitations and conditions as may be prescribed, the Registrar and persons subordinate to the registrar who are authorized by him in this behalf by general or special order in writing, and such other persons, being officers of the State Land Development Bank or of the primary land development bank as the Government may, by notification, authorize in this behalf, shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit in respect of the following matters, namely_

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commission for the examination of witnesses.

(2) Any of the officers or persons authorized by or under sub-section (1) may require any person present before him to furnish any information or to produce any document then and there in his possession or power.

(3) Any officer or person before whom any documents is produced under sub-section (1) or sub-section (2) shall have power to take, or to authorize the taking of, such copies of the documents or of any entries therein as such officer or person may consider necessary. Copies so taken shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein, as the case may be.

(4) (a) Any person who willfully or without reasonable excuse disobeys any summons, requisition or order issued under sub-section (1) or sub-section (2) shall be punishable with fine which may extend to fifty rupees, and in the case of continuing disobedience with an

additional fine which may extend to five rupees for every day during which such disobedience continues after conviction for the last such disobedience.

(b) No court inferior to that of a Metropolitan magistrate or a Judicial Magistrate of the first-class shall try any offence under clause (a).

(c) No prosecution shall be instituted under clause (a) without the previous sanction of the Registrar and such sanction shall not be given without giving the person concerned a reasonable opportunity to represent his case.

130. Registration of documents executed on behalf of a primary land development bank or of the State Land Development Bank.-

(1) Notwithstanding anything contained in the Registration Act, 1908 (Central Act XVI of 1908) it shall not be necessary for any member of the board, secretary or other officer of a primary land development bank or of the State Land Development Bank to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

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

131. Power of primary land development bank to receive moneys and grant valid discharges notwithstanding assignment of mortgage deeds to the State Land Development Bank

._ Notwithstanding that a mortgage executed in favour of a primary land development bank has been transferred, or is deemed under the provisions of section 121 to have been transferred, to the State 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 the State Land Development Bank or 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 the State Land Development Bank, or the Trustee and communicated to the primary land development bank, be entitled to-

(i) sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage; or

(ii) release on repayment of any part of the moneys due to the primary land development bank, and with the previous permission of the board of the State Land Development Bank and the trustee, any portion of the property subjected to the mortgage proportionate to the moneys repaid and execute and register the deed releasing that portion of the property.

132. Special provisions for mortgage executed by managers of joint Hindu families, karnavans of Marumakkattayam, tarwards or tavazhis or of Nambudri illoms, etc.

_ Every mortgage executed in favour of a primary land development bank by manager of a joint Hindu family or a karnavan of a Marumakkattayam, tarward or tavazhi or of a Nambudri illom or the manager of a Thiyya of Ezhava family or the ejaman or ejamanthi of an Aliyasantana family shall notwithstanding any law to the contrary, be binding on the members thereof, whether majors or minors.

133. Proof of documents and of entries therein._

Any primary land development bank or the State Land Development Bank may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such documents; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

134. Service of notice._

The provisions of sections 102 and 103 of the Transfer of the Property Act, 1882 (Central Act IV of 1882), and of any rules made under section 104 of that Act shall apply so far as may be in respect of all notices to be served under this Chapter.

135. Power to make regulations._

(1) The board of the State Land Development Bank may, subject to the approval of the trustee, make regulations not inconsistent with the provisions of this Chapter and the rules made thereunder for the purpose of giving effect to the provisions of this Chapter.

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

- (a) for fixing the period of debentures and rate of interest payable thereon;
- (b) for calling in debentures after giving notice to debenture-holders;
- (c) for the issue of new debentures in place of debentures damaged or destroyed;
- (d) for converting one class of debentures into another bearing a different rate of interest;
- (e) for the submission of returns and reports by primary land development banks in respect of their transactions.
- (g) for the periodical settlement of accounts between primary land development banks and the State Land Development Bank and for the payments of the moneys recovered by primary land development bank on mortgages transferred or deemed under the provisions of section 121 to have been transferred to the State Land Development Bank;
- (h) for prescribing the form in which applications to primary land development banks for loans should be made and for the valuation of the property offered as security for such loans;
- (i) generally for carrying out the purposes of this Chapter.

136. The provisions of this Chapter to override other provisions._

The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provisions of this Act or in any rules or by-laws or in any other law for the time being in force.

CHAPTER XV

Winding-up and Cancellation of Registration of

Registered Societies

137. Winding-up of registered societies._

If the Registrar in the course of an audit under section 80 or after an inquiry has been held under section 81 or an inspection or investigation has been made under section 82 or an inspection of books has been made under section 83 or on receipt of an application made by not less than three-fourths of the members of a registered society or on receipt of a resolution of general body of registered society, is of opinion that the society ought to be wound up, he may issue a notice to the society calling upon it to make its representations to the registrar within one month from the date of receipt of such notice and the society shall follow such

procedure as may be prescribed in this regard. A copy of the notice issued to the society shall be communicated to every member of the society in such manner as may be prescribed. The Registrar any, after considering the representations, if any, received from the society or from any member and on being satisfied that the society ought to be wound up, issue an order to that effect and shall communicate such order to the society by registered post.

(2) The Registrar may of his own motion and after giving a registered society an opportunity of making its representation by order in writing direct the winding-up of a registered society- (a) where it is a condition of the registration of the society that the society shall consist of at least twenty-five members and the number of members has been reduced to less than twenty-five; or

(b) where the society has not commenced working within the prescribed period or has ceased to work.

Explanation._ For the purpose of this sub-section the expression "ceased to work" means the cessation of the primary activities by the society for at least two consecutive years.

(3) A copy of an order made under sub-section (1) or under sub-section (2) shall be communication by registered post to the society and to the financing bank, if any, of which the society is member.

NOTES

Ss.137, 138 & 139 (Ss. 47 & 48 _ 1932 Act. S. 85,86,48 of 1961 Act) _ The society went into liquidation. A member was indebted to the society. Liquidator passed our order against him under S. 47 (1932 Act) The Liquidator applied to the Deputy Registrar to execute the order. In consequent the member's properties were sold. The member moved the Deputy Registrar for setting aside the sale. It was rejected. The member moved the Civil Court for the same relief. The suit was held not maintainable._ (1945) 2 MLJ 112: 58 LW 341.

Ss.137, 138 and 139 (S. 47 (3) (b) & (6) _ 1932 Act, S, 85, 86 and 87 of 1961 Act)_ The liquidator has power to decide who are the members. Once he decides the same and applies to court to enforce the order for recovery, the Court has the right to decide the question whether he is a member. The Court has power to decide to decide the same. _ (1938) 2 MLJ 980 : 48 L.W. 903.

Ss.137, 138, 139 _ (S. 47 of 1932 Act) Ss. 85,86,87 of 1961 Act_ Liquidator _ Power to decide as regards membership _ Power of Court_ (1938) 2 MLJ 980.

138. Liquidator._

(1) Where the Registrar has made an order under section 137 for the winding-up of a registered society, he may appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall on appointment take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient to prevent loss or deterioration of a or damage to property, effects and claims.

(3) Where an appeal is preferred under clause (a) of sub-section (2) of section 152, an order of winding-up of a registered society made under sub-section (1) of section 137 shall not operate thereafter until the order is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding-up of a registered society is set aside in appeal the property, effects and actionable claims of the society shall retest in the society.

139. Powers of liquidator._

(1) Subject to any rules made in this behalf, the whole of the assets of a registered society in respect of which an order for winding-up has been made, shall vest in the liquidator, appointed under section 138 from the date on which the order takes effect and the liquidator shall have power to realize such assets by sale or otherwise.

(2) Such liquidator shall, subject to the control of the Registrar, also have power-

(a) to institute and defend suits and other legal proceedings on behalf of the registered society by the name of his office;

(b) to determine, from time to time, the contribution (including debts due) to be made or remaining to be made by the members or past members or by any officer or servant or former officer or servant or by estates or nominee, heirs or legal representatives of deceased members, officers or servants to the assets of the society;

Provided that the contribution to be made under this clause by a nominee, heirs or legal representatives of a deceased member, officer or servant shall be limited to the extent of the assets of the deceased in the hands of such nominee, heir or legal representative;

(c) to investigate all claims against the registered society, and subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, case or other properties belonging to, or in the custody of, the society by the same means and so far as may be in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908);

(e) subject to any rules made in this behalf, to pay claims against the registered society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; to apply the surplus, if any, remaining after payment of the claims for the payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(f) to determine by what persons and in what proportion the costs of the liquidation are to be borne;

(g) to determine whether any person is a member, past member, or nominee of deceased member;

(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;

(i) to carry on the business of the society so far as may be necessary for the beneficial winding-up of the same;

(j) with the previous approval of the prescribed authority, to make any compromise or arrangement with creditors or persons having any claims, present or future, whereby the society may be rendered liable;

(k) with the previous approval of the prescribed authority, to compromise all calls or liabilities to any calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and alleged contributory or other debtor or contributory or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding-up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof; and

(1) to specify the time or times within which the creditors shall prove their claims against the registered society or be included for the benefit of any distribution made before those claims are proved.

(3) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any sum ordered under this section to be recovered as a contribution to the assets of a registered society or as costs of

liquidation may be recovered as if it were an arrear of land revenue and for the purposes of such recovery the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

(4) Save as provided in sub-section (3), orders made under this section shall, on application, be enforced by any civil court having local jurisdiction in the same manner as a decree of such court.

(5) When the affairs of a registered society have been wound up, the liquidator shall make a report to the Registrar and deposit the record of the Society in such place as the Registrar may direct.

NOTES

S. 139 (S. 48 of 1932 Act, S. 87 of 1961 Act) _ Liquidator appointed by the Registrar is not an officer of the Government. Notice contemplated under S. 80 CPC for filing suit against him is not necessary _ (1940) 2 MLJ 241 : 52 LW 131.

S. 139 (S. 48 of 1932 Act, and S. 87 of 1961 Act) _ Execution sale by Liquidator _ Civil Suit _ whether maintainable _ 58 LW 541 : (1945) 2 MLJ 112.

140. Cancellation of registration._ (1) Where the affairs of a registered society have been completely wound up, the Registrar shall make an order cancelling the registration of the society. On the cancellation of its registration the society shall cease to exist as a corporate body from the date of such order of cancellation.

(2) An order made under sub-section (1) shall be communicated by a registered post to the society and to the financing bank, if any, of which the society was a member.

141. Bar of legal proceedings._

Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter connected with the winding-up or cancellation of the Registration of a registered society under this Act, and when a liquidator has been appointed, no suit or other legal proceeding shall lie or be proceeded with against the liquidator as such or against the society or any member thereof on any matter touching the affairs of the registered society, except by leave of the Registrar and subject to such terms as he may impose;

Provided that where the winding-up order is cancelled or withdrawn under section 142, the provisions of this section shall cease to operate in respect of the liability of the society and its members to be sued but they shall continue to apply to the liquidator already appointed.

NOTES

S. 141 : (S. 48 of 1932 Act, S. 89 of 1961 Act) _ Suit or other Legal proceedings _ whether includes Appeal _ (1945) 2 MLJ 279 : 67 LW 547.

S. 141 : (S. 48 of 1932 Act, S. 89 of 1961 Act) _ S. 48 of the 1932 Act does not apply to cases where as society was itself a party to an order in proceedings instituted by virtue of the Act _ (1942) 2 MLJ 72 : 54 LW 176.

S. 141 (S. 89 of 1961 Act) _ When once a society enters upon liquidation, S. 89 (1961 Act) bars the jurisdiction of civil Court. The affairs of society includes also a claim against the society. In view of this a suit for arrears of rent cannot be proceeded with " Touching the affairs of the society" _ meaning of (1970) 1 MLJ 18.

142. Restoration of society ordered to be wound up_ Where, in the opinion of the Registrar, a registered society which has been ordered to be wound up may be restored to a board constituted in accordance with the provisions of this Act, the rules and the by-laws, he may, at any time before the affairs of the society have been completely wound up, cancel or

withdraw the order of winding-up in consultation with the board of the financing bank and direct the liquidator to constitute a board in accordance with the provisions of this Act, the rules and the by-laws and hand over the management of the registered society to such board. Added by T.N. Act 36 of 1989 [Provided that the Registrar shall not cancel or withdraw the winding up of any insured co-operative bank without the prior permission of the Reserve Bank of India.]

CHAPTER XVI.

Execution of decrees, decisions, awards and orders

143. Power of the Registrar to recover certain sums by attachment and sale of property._

The Registrar or any person subordinate to him empowered by Registrar in this behalf may, subject to the rules and without prejudice to any other mode of recovery provided by or under this Act, recover_

(a) any sum due under a decree or an order of a civil court, a decision or an award of the Registrar or any person subordinate to and empowered by the Registrar or arbitrator or arbitrators or an order of the Registrar.

Explanations_

For the purpose of this clause, " Registrar" and " arbitrator" shall also include the Registrar of the State having reciprocal arrangements with the State of Tamil Nadu and any arbitrator appointed by such Registrar; or

(b) any sum due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to the Government including any costs awarded to the Government in any proceedings under this Act; or

(c) any sum ordered to be paid towards the expenses of a general meeting of a registered society called under sub-section (4) of section 32 or sub-clause (ii) of clause (e) of sub-section (2) of section 81; or

(d) any sum awarded by way of costs under section 85 to a registered society including a financing bank; or

(e) any sum ordered under section 139 to be recovered as a contribution to the assets of a registered society or as costs of liquidation; or

(f) any sum ordered under section 87 to be repaid to a registered society or recovered as contribution to its assets; or

(g) any amount due under a certificate granted by the Registrar under sub-section (1) of section 150, together with the interest, if any, due on such sum and the costs of process by the attachment and sale or by the sale without attachment of the property of the person against whom such decree, decision, award, order or certificate, has been obtained or passed.

NOTES

S.s 143, 152, 153 and 180 (P) (iv) (Ss. 91, 96, 97, 97 and 119 (2) P (IV) of 1961 Act) S. 96 does not contemplate that the power to entertain appeals against the decisions made under S. 91 are subject to any rules, Such a rule and be only rules of procedure and it cannot take away the power of appeal. Rules should be consistent with the Act._ (1970) 1 MLJ 280.

S. 143 (S. 51 of 1932 Act and S. 91 of 1961 Act)_ Registrar, is a civil Court within the meaning of S. 25 of T.N. Debt. Conciliation Act _ (1953) 1 MLJ 542.

144. Recovery of debts._

Notwithstanding anything contained in this Act or in any order law for the time being in force and without prejudice to any other mode of recovery which is being taken or may be taken, the Registrar or any person subordinate to him empowered by the Registrar in this behalf may subject to the rules and on application from the registered society for the purpose, recover any debt or outstanding demand due to the society by any member or past or deceased member by sale of the property or interest in property which is subject to a charge under sub-section (1) of section 40 ;

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

145. Publication of information respecting members or past or deceased members from whom any debt or outstanding demand is due to the society._

If the financing bank is of opinion that it is necessary or expedient, in the public interest or for the purpose of securing the recovery of any debt or outstanding demand due to any registered society which is affiliated to the financing bank to publish the names of any members or past or deceased members from whom any debt or outstanding demand is due to the registered society, the financing bank may, subject to such conditions as may be prescribed, cause to be published in such manner as it thinks fit the names of such members.

146. Registrar or person empowered by him to be a civil court for certain purposes._

The Registrar or any person empowered by him in that behalf shall be deemed when exercising any power under this Act for the recovery of any amount by the attachment and sale or by the sale without attachment of any property, or when passing any orders on any application made to him for such recovery or to take some steps in aid of such recovery, to be civil for the purposes of Article 136 of the Schedule to the Limitation Act, 1963 (Central Act 36 of 1963).

NOTES

S. 146 (s.57b of 1932 Act and S. 93 of 1961 Act)_ In the process of execution of the award for the realization of the amounts due there under and in sale and other proceedings, the Registrar is deemed to be a civil court. Still in obtaining delivery of possession, of property at a sale held by the Registrar, Rule 70 makes the purchaser a sale as court action purchaser. This is made clear from the words as if the immovable property purchased had been decreed to the purchaser of the Court. In these cases Art 180 of the Limitation Act applies (Now Art. 134 of 1963 Act) _ (1980) 1MLJ 259.

147. Officers or servants of registered societies and sale officers not to bid at sales._ At any sale of movable or immovable property held for the recovery of any money due to a registered society, no officer or servant of such society or of the financing bank (except on behalf of the society or of the financing bank of which he is an officer or servant) and no sale officer or other person having any duty to perform in connection with such sale shall, either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

148. Recovery of sums due to Government._

(1) All sums due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to the Government including any costs awarded to the government in any proceeding under this Act may, without prejudice to any other mode of recovery provided by or under this Act, be recovered in the same manner as

arrears of land revenue and for the purposes of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

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

Provided that the liability of the past members and of the estates of the deceased members shall in all cases be subject to the provisions of Section 31.

149. Powers of financing bank to proceed against the members of registered society._

(1) Where a member of a registered society has committed default in the payment any debt due by him to such society, such society shall take action for the recovery of the debt within such time as may be prescribed.

(2) Where any registered society is unable to pay its debt due to the financing bank by reason of its members committing default in the payment of debts due to such society and if such society fails to take action for the recovery of the debt within the period prescribed under sub-section (1) or in the opinion of the financing bank to which such society is indebted the action taken by such society, is not adequate, the financing bank may, without prejudice to any other mode of recovery which is being taken or may be taken and after giving such society an opportunity of making its representation, take action against such defaulting members for the recovery of the debts.

(3) Where the financing bank takes action against the defaulting member the provisions of the Act, the rules and the by-laws shall apply as if all references to the registered society or its board in the said provisions were references to the financing bank.

150. Powers of the Registrar to issue certificate for recovery of sums due from members of registered society._

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, and without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, the Registrar may, on the application made by a registered society for the recovery of any sum due to it from any of its members and after making such enquiry as he deems fit, issue a certificate for recovery of such sums:

Provided that every application under this sub-section shall be accompanied by a statement of accounts in respect of the sums to be recovered from the member:

Provided further that no such certificate under this sub-section shall be issued unless the member concerned has been given an opportunity of making his representation.

(2) A certificate issued by the Registrar under sub-section (1) shall be final and conclusive evidence of the sum due to the registered society from its members and the same may be recovered as if it were an arrear of land revenue and for the purposes of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

CHAPTER XVIII

Appeals, Revision and Review.

151. Co-operative Tribunal.-

(1) The Government may constitute as many Tribunals as may be necessary for the purpose of this Act.

(2) Each Tribunal shall consist of once or more persons possessing such qualifications as may be prescribed.

Provided that at least one person shall be a judicial officer not below the rank of a Subordinate Judge.

(3) Each Tribunal shall have such jurisdiction and over such area, as the Government may, may notification, from time to time, determine.

152. Appeals._ (1) Any person aggrieved by-

(a) any decision or award passed or order made or proceedings taken under sub-section (1) of section 87, sub-section (2), sub-section (3) or sub-section (4) of section 90, section 118, section 119, section 143, section 144 or section 167; or

(b) any award of an arbitrator or arbitrators under sub-section (2) or sub-section (3) of section 90;

(c) any award of an arbitrator under section 100,

May appeal shall to the Tribunal;

Provided that nothing contained in clause (a) or clause (b) of this sub-section shall apply to_

(i) any decision, order or award under sub-section (2), sub-section (3), or sub-section (4) of section 90 in respect of any matter relating to, or in connection with, the constitution of a board including any election thereto; or

(ii) any decision, order or award under sub-section (2), sub-section (3) or sub-section (4) of section 90 in respect of any matter relating to, or in connection, with, any matter not being a money claim;

(iii) any order of transfer, reference, withdrawal or re-transfer of a dispute under sub-section (2) or sub-section (3) of section 90.

(2) (a) Any person aggrieved by any-

(i) decision under section 7, sub-section (4) of section 23, sub-section (6) of section 34; or

(ii) refusal to register the society under section 9 or the amendment of the by-laws under section 11; or

(iii) registration of amendment of the by-laws under sub-section (2) of section 12; or

(iv) approval of or refusal to approve the expulsion of a member under sub-section (2) of section 25, the proposal to take loan under clause (c) of sub-section (1) of section 105, the decision of the board under clause (ii) of sub-section (i) of section 106, the regulations under section 108 or the removal of a member under the proviso to section 109; or

(v) order under section 14, clause (ii) of sub-section (2) of section 21, section 36, sub-section (1) of section 88, sub-section (1) of section 89, section 137 or section 181,

May appeal if such decision, refusal, registration, approval or refusal to approve or order is that of-

(A) the Registrar for the State, to the Government; or

(B) any other person, to the Registrar.

Explanation._

For the purposes of this clause, "person aggrieved" means in relation to section 11 or section 12, the registered society.

(b) Any person, who is refused admission to a registered society under sub-section (2) of section 21 or who is aggrieved by any order of the liquidator under section 139, may appeal to the Registrar.

- (3) Any appeal under sub-section (1) or sub-section (2) shall, subject to the other provisions of the Act, be preferred within sixty days from the date of communication of the decision, order, award, refusal, registration or approval complained of, but the appellate authority may admit an appeal preferred after the said period of sixty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.
- (4) In disposing of an appeal under this section, the appellate authority may, after giving the parties an opportunity of making their representations, pass such order thereon as the appellate authority may deem fit.
- (5) Subject to the provisions of section 153 and 154, the decision or order of the appellate authority on appeal shall be final.
- (6) The appellate authority may pass such interlocutory order pending the decision on the appeal as the appellate authority may deem fit,
- (7) The appellate authority may award costs in any proceedings before the appellate authority to be paid either out of the funds of the registered society or by such party to the appeal as the appellate authority may deem fit.

NOTES

S. 152 and 183 : (S. 96 and S.121 (3) of 1961 Act) Proceedings initiated under old Act. Award passed after the coming into force of new Act. Appeal under the new Act is competent _ (1969) 2 MLJ 418.

S.152 and R. 107 (8) _ Excuse delay in filing appeal, before the Tribunal _ Consideration Contents and form of an award Failure to specify requirements laid down in R.107 (8) _ Whether limitation of 60 days could be applied and whether such notice can be construed as an award _ 1995 (2) LW 218.

S. 152 (3) R.107 (8) (c) _ Appeal to Tribunal against award of arbitration _ Mere intimation of the passing of an expert award, will not constitute Communication of the award as specified in R. 107 (8) (c) _ Filing of petition before the Tribunal to excuse delay in filing appeal held not necessary and tribunals' order holding that appeal was filed out of time set aside.

153. Revision

._ (1) The Registrar may of his own motion or on application, call for and examine the record of any officer subordinate to him or of the board or any officer of a registered society or of the competent authority constituted under sub-section (3) of section 75 and the Government may, of their own motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the rules or the by-laws not being a proceedings in respect of which an appeal to the Tribunal is provided by sub-section (1) of section 152 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein; and, if, in any case., it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly.

Provided that every application to the Registrar or the Government for the exercise of the powers under this section be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Registrar or the Government, as the case may be, may suspend the execution of the decision or order pending the exercise of his or their power under sub-section (1) in respect thereof.

(4) The Registrar or the Government may award costs in any proceedings under this section to be paid either out of the funds of the society or by such part to the application for revision as the Registrar or the Government may deem fit.

NOTES

S. 153 (S. 97 of 1961 Act) Rejection of a nomination "Rights available " (1966)2 MLJ 415 : 79 LW 713.

154. Review_ (1) The appellant or the applicant for revision or the respondent may apply for the view of any order passed under section 152 or section 153 on the basis of the discovery of new and important facts, which after the exercise of due diligence, were not them within his knowledge or could not be produced by him when the order was made or on the basis of some mistake or error apparent on the face of the record or for any other sufficient reason. Provided that no application for review shall be preferred more than once in respect of the same order.

(2) Every application for review shall be preferred within such time and in such manner as may be prescribed.

(3) The decision or order passed on the application in review shall be final.

(4) The authority competent to pass orders on an application for review may pass such interlocutory orders pending the decision on the application for review as that authority may deem fit.

(5) The authority referred to in sub-section (4) may award costs in any proceedings for review to be paid either out of the funds of the registered society or by such party to the application for review as it may deem fit.

155. Execution of orders passed in appeal, revision or review.-

Any order passed by the Tribunal, the Registrar or the Government under section 152, 153 or 154 shall be enforced by such authority and in such manner as may be prescribed.

156. Bar of jurisdiction of civil courts._

Notwithstanding anything contained in any other law for the time being in force no order or award passed, decision or action taken or direction issued under this Act by an arbitrator, a liquidator, the Registrar or an officer authorized or empowered by him, the Tribunal or the Government or any officer subordinate to them, shall be liable to be called in question in any court and no injunction shall be granted by any court in respect of anything which is done or intended to be done by order under this Act.

NOTES

S. 156 (S. 100 of 1961 Act) _ Power under s.96 of 1961 Act _ (1970) 1 MLJ 280.

1992 (1) L.W. 216. No suit is maintainable against a co-operative Society.

1992 (2) L.W. 88 Suit not maintainable.

CHAPTER VIII

Offences and Penalties

157. Punishment for furnishing false information or disobeying summons or other lawful order, requisition or direction._

(1) The board of a registered society which willfully makes a false return or furnishes false information shall be punishable with fine which may extend to five hundred rupees.

(2) Any officer, employees or a paid servant or any member of the society who willfully makes a false return or furnishes false information, or any person who willfully or without any reasonable excuse, disobeys any summons, requisition or other lawful order, or direction issued under the provisions of this Act, or who willfully withholds or fails to furnish any information lawfully required from him by a person authorized in this behalf under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

NOTES

S. 157 (S. 101 of 1961 Act) Scope of _ the conviction under S. 101 relates to the conduct _ unconnected with his official duty _ Effect of _ (1979) 1 MLJ 374.

158. Punishment for acting in contravention of section 40, 41, 95 or 105 _

Any person who acts in contravention of sub-section (2) of section 40 or fails to deposit or entrust to custody property subject to a prior charge in favour of any registered society when required to do so by the society under sub-section (3) of that section or who acts in contravention of clause (iii) of section 41 or sub-section (3) of section 95 or sub-section (3) of section 105 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

159. Prohibition of the use of the word 'co-operative or its equivalent:-

(1) No person other than a registered society shall trade or carry on business under any name or title of which the word 'co-operative' or its equivalent in any regional language is part without the sanction of the Government.

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

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with further fine of fifty rupees for each day on which the offence is continued after conviction thereof.

160. Punishment for failure to give effect to decision, award or order_ The board of any registered society or an officer or an employee or a servant thereof who fails to give effect to any decision or award under section 90 or to any order passed by the appropriate appellate authority where an appeal against such decision or award has been filed such decision or award or order not being a money decree, shall if such failure is by:

(a) the board, be punishable with fine which may extend to five hundred rupees; and

(b) an officer or an employee or a paid servant of such society, be punishable with imprisonment for a term which extend to six months or with fine which may extend to five hundred rupees or with both.

161. Punishment for misuse of properties of the society

" (1) Any officer of a registered society or an employee or paid servant or any member of such society, who uses or allows the use of the properties, other than funds of any society

otherwise than in accordance with the provisions of this Act, the rules or the by-laws of the society, shall be punishable with fine which may extend to five hundred rupees.

(2) Substituted by T.N. Act 36 of 1989 [Whoever not entitled to be in possession of any of the records and properties of the society (whether or not member of the board which has been reconstituted or superseded or a member, officer, an employee, or a paid servant of any society which has been ordered to be wound up) referred to in sub-section (1) of section 165 prevents the re-constituted board, special officer or liquidator, as the case may be, from obtaining the possession of the said records and properties of the society shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both and shall also be liable to fine which may extend to one hundred rupees for every day of such prevention until seizure of such records and properties of the society under sub-section (4) of section 165]

162. Punishment for corrupt practice. (1) Where any officer of a registered society, or an employee or a paid servant or any member of such society-

(a) receives or sanctions a benami loan; or

(b) commits any irregularity in receipt or sanction of loan or in purchases or causes deficits in stocks; or

(c) accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatever, other than legal remuneration as a motive or reward for doing or forbearing to do any official act or showing or forbearing to show in the exercise of his official functions favour or disfavor to any person or for rendering or attempting to render any service or disservice to any person ; or

(d) uses or allows the use of funds of any society otherwise than in accordance with the provisions of this Act, the rules or the by-laws of the society;

He shall be deemed to be guilty of corrupt practice. Where any officer of the society signs in the minutes of the board meeting without actually attending such meeting he shall also be deemed to be guilty of corrupt practice.

Explanation.-

For the purposes of this sub-section,-

(i) irregularity in receipt or sanction of loan includes,-

(a) receipt of loan by, or sanction of loan to, any person who does not own or cultivate-

(A) any land, or

(B) the extent of land shown in the application for loan, where owning or cultivating land is a condition for the sanction of loan; and

(b) fictitious loan;

(ii) irregularity in purchases includes purchases made, with the intention to gain wrongfully, of-

(a) sub-standard or adulterated goods;

(b) goods by paying higher prices; and

(c) goods in excess of the requirements.

(2) Every person found guilty of any corrupt practice shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(3) Every person sentenced for an offence under sub-section (2) shall be disqualified permanently to be an officer or an employee or a paid servant of any registered society.

(4) Save as otherwise provided in the proviso to clause (a) of sub-section (2) of section 34, where an officer or an employee or paid servant of a society ceases to hold office as such by reason of having been sentenced for an offence under sub-section (2), he shall, if and when the sentence is annulled on appeal or revision,-

(a) in case he is an officer of the society, be restored to such portion of the period for which he was elected or nominated as may remain unexpired on the date of such restoration and any person elected or nominated to fill the vacancy in the interim shall, on such restoration, vacate office or

(b) in case he is an employee or paid servant, be restored to such office as he was holding office at time of conviction.

(5) Any action taken against any person under this section shall not affect, and shall be in addition to, any other proceedings by way of investigation or otherwise which might apart from this Act be instituted against him.

163. Punishment for offences not otherwise provided for._

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

164. Cognizance of offences._

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

(2) Every offence under this Act shall for the purpose of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), be deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given without giving to the person concerned a reasonable opportunity to represent his case.

165. Delivery of possession of records and properties of a registered society

.- (1) Where a Special Officer is appointed under section 88, or under section 89 or where the society is ordered to be wound up and a liquidator is appointed under section 138 and such reconstituted board, special officer, or liquidator is resisted in, or prevented from, obtaining possession of the books, accounts, documents, securities, cash and other properties, whether movable or immovable, of the society (hereafter in this section referred to as the records and properties of the society) by the board which has been reconstituted or superseded or by the society which has been ordered to be wound up or by any person the society, the reconstituted board, special officer or liquidator may apply to any Metropolitan Magistrate or a Judicial Magistrate of the first class in whose jurisdiction the office of the society or the records and properties of that society is or are situate for delivery of possession of the records and properties of the society

(2) Where in the opinion of the Registrar, the records and properties of any society are in possession of a person not entitled to be possession thereof for any reason or where the Registrar is satisfied that the records and properties of the society are likely to be tampered with or destroyed, or the funds and properties of the society are likely to be misappropriated or misapplied, he or any person authorized by him in this behalf may apply to any Metropolitan Magistrate or a Judicial Magistrate of the first class in whose jurisdiction the office of the society or the records and properties of that society is or are situate for delivery of possession of the records and properties of the society.

(3) Every application under sub-section (1) shall be accompanied by a copy of the order made under sub-section (1) of section 88 or, as the case may be, section 89 or under section 137.

(4) On receipt of an application under sub-section (1) or sub-section (2), the Metropolitan Magistrate or the Judicial Magistrate of the first class, as the case may be, shall by a warrant, authorize any police officer not below the rank of Sub-Inspector to enter and search any place

where the records and properties of the societies are kept or are believed to be kept and seize such records and properties and the records and properties so seized shall handed over to-

(a) in case the application is made by the reconstituted board, special officer, or liquidator, to such board, officer or liquidator; or

(b) in case the application is made by the Registrar or any person authorized by him, to the Registrar or to such authorized person:

Provided that the records and properties so handed over to the Registrar or to any person authorized by him shall be retained by the Registrar or such authorized person only for so long as may be necessary for their examination and for the purpose of inquiry, if any:

Provided further that the records and properties shall not be retained for more than three months at a time except with the permission of the next higher authority.

(5) All searches or seizures made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), relating to searches made under the authority of a warrant issued by a Magistrate.

166. Registrar's Powers to enforce performance of duties._

(1) If at any time, it appears to the Registrar that a registered society has made default in performing any duty imposed by or under this Act or has failed to comply with a lawful order of the Registrar, he may by order in writing, fix a period for the performance of such duty or for the compliance of the order.

(2) If such duty is not performed or the order of the Registrar is not complied within the period so fixed, the Registrar or any person authorized by him in this behalf may take or cause to be taken such action as may be necessary and recover the expenses of taking such action from the society as if it were an arrear of land revenue and for the purposes of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act., 1864 (Tamil Nadu Act II of 1864).

(3) Notwithstanding anything, contained in sub-sections (1) and (2) the Registrar may direct the officer or officers, whom he considers responsible for the default to perform the duties or failure to comply with the order, to pay to the society the expenses recovered under sub-section (2).

(4) The Registrar may, where the officer or officers fail to pay the expenses referred to in sub-section (2), by order require such officer or officers to pay to the society such sum not exceeding twenty-five rupees as he may think fit each day until his direction under sub-section (3) is carried out.

(5) No order or direction under this section shall be made or issued except after giving the society or officer concerned an opportunity of making its or his representations.

(6) The action taken under this section shall be without prejudice to any other action that may be taken under this Act and the rules.

CHAPTER XIX.

Miscellaneous

167. Furnishing of security and attachment of property.-

(1) Where the Registrar is satisfied on the application of a registered of society in respect of a reference made to him under sub-section (1) of section 90 or on the application of a liquidator appointed under section 138 in respect of the proceedings of such liquidator for determining the contribution to be made by a person to the assets of the society under clause (b) of sub-section (2) of section 139 or on the application of the board or liquidator or any creditor to the

society or otherwise in respect of any inquiry ordered into the conduct of any person under section 87 that any party to the reference or the person, as the case may be, is about to dispose of or remove from the local limits of the jurisdiction of the Registrar, the whole or any part of his property with intent to defeat or delay the execution of any decision that may be passed on the reference or of any order that may be passed against him by the liquidator or the Registrar, as the case may be, the Registrar may, by order, direct the party or the person, to furnish security in such sum and within such time as may be specified in such order and to produce and place at the disposal of the Registrar when required, the said property or such part thereof as may be sufficient for the execution of any decision or order aforesaid.

(2) The Registrar may also in the order made under sub-section (1), or by a separate order, direct the conditional attachment of the said property or such part thereof and such attachment shall have the same effect as if it had been made by a competent civil court.

Provided that no order for conditional attachment shall be made under this sub-section unless the Registrar, for the reasons to be recorded in writing, is satisfied that the whole or any part of the property will be disposed of or removed with intent to defeat or delay the execution of any decision or order of the liquidator or the registrar, as the case may be.

168. Power to exempt societies from conditions as to registration._

Notwithstanding anything contained in this Act, the Government may by special order in each case and subject to such conditions, if any, as they may impose, exempt a society from all or any of the requirements of this Act as to registration.

169. Exemption of self-reliant societies._

Nothing contained in clause (b) of sub-section (1) of section 33 or sub-section (8) thereof shall apply to any self-reliant society or class of self-reliant societies which complies with such conditions as the Government may by general or special order, specify.

170. Power to exempt registered societies._ Without prejudice to the power conferred by section 169, the Government may, in the public interest, by general, or special order, whether prospectively or retrospectively.-

(a) exempt any registered society, from any of the provisions other than clause (b) of sub-section (1) of section 88 and sub-section (1) of section 89 of this Act, or of the rules, subject to such conditions as may be specified; or

(b) direct that provisions of the rules shall apply to such society with such modifications as may be specified in the order.

171. Arbitrator in fixing compensation for lands acquired and Tribunal to be civil courts._ The arbitrator appointed under clause (b) of sub-section (1) of section 100 and the Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit or when hearing an appeal.

172. Delegation of powers of Government

.- (1) The Government may, by notification, authorize any authority or officer to exercise any of the powers vested in them by this Act except the powers conferred under sections 170 and 180 and may in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such officer as may be empowered by the Government in this behalf. The Government shall also have power to control and revise the acts or proceedings of any officer so empowered.

173. Saving of existing societies._

(1) Every society existing on the date of commencement of this Act which has been registered under the Co-operative Credit Societies Act, 1904 (Central Act X of 1904), or under the Co-operative Societies Act, 1912 (Central Act II of 1912), or under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), or under the Tamil Nadu Co-operative Societies Act, 1961 (Tamil Nadu Act 53 of 1961) and every society to which the Tamil Nadu Co-operative Land Development Banks Act, 1934 (Tamil Nadu Act X of 1934) applied immediately before the date of the commencement of this Act shall be deemed to be registered under this Act; and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(2) Every society which has been registered under the law applicable to co-operative societies in the areas which formerly formed part to State of Pudukkottai or in the Kanyakumari district or the Shencottah taluk of the Tirunelveli district or in the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959, (Central Act 56 of 1959) shall if the Registrar, by an order in writing, so declares, be deemed to be registered under this Act and its by-laws shall so far as the same are not inconsistent with the express provisions of this Act continue in force until they are altered or rescinded.

(3) All appointments, rules, regulations and orders made, notifications and notices issued and suits and other proceedings instituted under the Act mentioned in sub-section (1) shall, so far as may be deemed to have been respectively made, issued and instituted under this Act.

174. Act of societies, etc., not to be invalidated by certain defects._ No act of registered society or any board or of any officer of the society shall be deemed to be invalid merely on the ground-

(a) of any vacancy or defect in the organization of the society or the formation of the general body or the constitution of the representative general body or of the board;

(b) of any defect or irregularity in the election Inserted by T.N. Act 19 of 1992. [or co-option] or nomination or appointment as the case may be, of a member of the board or an officer of the society or of any disqualification of such member or officer; or

(c) of any defect or irregularity in such act or proceedings not affecting the merits of the case.

NOTES

S. 174 (S. 115 of 1961 Act) _ Read with S. 65 of 1961 Act _ Scope of _ (1968) 1 MLJ 258.

175. Companies Act, 1956 not to apply._

The provisions of the Companies Act, 1956 (Central Act I of 1956) shall not apply to registered societies.

176. Protection of action taken in good faith._

No suit, prosecution or other legal proceeding shall lie against the Government or any officer or servant of the Government or the Registrar or any person authorized by him for anything which is in good faith done or intended to be done under this Act or any rule or by-law made thereunder.

177. Construction of references to Co-operative Societies Act in enactments._ All references to the Co-operative Societies Act, 1912 (Central Act II of 1912), or the Madras Co-operative Societies Act (VI of 1932), the Tamil Nadu Co-operative Land Development Banks Act, 1934 (Tamil Nadu Act X of 1934) or the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952), the Tamil Nadu Co-operative

Societies Act, 1961 (Tamil Nadu Act 53 of 1961), occurring in any enactment made by any authority in India and for the time being in force in the State of Tamil Nadu shall, in its application to the said State, be construed as references to this Act.

178. Writing off non-recoverable assets. _ The general body of any registered society may, with the approval of the Registrar, write off such of its assets as are bad and cannot be recovered.

179. Power to amend Schedule. _

- (1) The Government may, by notification, from time to time, amend the Schedule.
- (2) When the Schedule is so amended, any reference to the Schedule in this Act, shall be construed as a reference to the Schedule as so amended.

180. Power to make rules

- ._ (1) The Government may, for the whole or any part of the State of Tamil Nadu and for any registered society or class of such societies, make rules to carry out all or any of the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may-
- (a) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such application and the fees to be paid in respect of such applications.
 - (b) subject to the provisions of section 5, prescribe the procedure to be followed when societies change their form of liability;
 - (c) prescribe the procedure to be followed and conditions to be complied with for the amalgamation of registered societies;
 - (d) prescribe the matters in respect of which a society may or shall make by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation and the fees to be paid in respect of application for registration of amendment to by laws;
 - (e) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the admission, expulsion, disqualification and removal of members;
 - (f) provide for the payment to be made and the interests to be required before the exercise of the right of membership.
 - (g) regulate the manner in which funds may be raised by means of shares or debentures or otherwise and the manner in which fluid resources may be maintained for repayment of deposits.
 - (h) provide for general meetings of the members and for the procedure at such meetings and powers to be exercise by such meeting;
 - (i) Provide for the election, Inserted by T.N. Act 19 of 1992. [co-option] nomination, suspension, resignation and removal of the members of the board and other officers (not being a paid officer) and for the convening of, and the procedure at meetings of, the board and for the powers to be exercised and the duties to be performed by the board and other officers.
 - (j) prohibit a society from electing or co-opting or nominating a defaulting member of any society to its board or to the board of any other society and allowing him to exercise his rights of membership in the society or to represent it in another society and vote;

- (k) prescribe the accounts and books to be kept and maintained by a society and in the case of failure to keep or maintain, provide for the levy of expenses for writing them up or of withdrawing any form of assistance;
- (l) provide for the periodical publication of a balance sheet showing the assets and liabilities of a society;
- (m) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted, and in case of failure to submit any such return, for the levy of the expenses for preparing it;
- (n) provide for the persons by whom and the form in which copies of the entries in books of societies may be certified and for the charges to be levied for the supply of such copies;
- (o) provide for the formation and maintenance of a register of member and, where the liability of the members is limited by shares, of a register of shares;
- (p) provide for-
 - (i) the appointment of an arbitrator or arbitrators to decide disputes;
 - (ii) the procedure to be followed in proceedings before the Registrar, arbitrator or arbitrators or other persons deciding disputes including the appointment of a guardian for a party to the dispute, who is a minor or who by reason of unsoundness of mind or mental infirmity is incapable of protecting his interests.
 - (iii) the levy of the expenses incidental to such proceedings; and
 - (iv) the enforcement of the decisions or awards in such proceedings;
- (q) provide for the withdrawal of members and for the payments, if any, to be made to members who withdraw and for the liabilities of past members or the estates of deceased members;
- (r) prescribe the prohibitions and restrictions subject to which societies may trade with persons who are not members;
- (s) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred.
- (t) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the periods for which loans may be made and the amount which may be lent, to an individual member;
- (u) provide for the formation and maintenance of reserve fund and other funds and the objects to which such fund may be applied and for the investment of any funds under the control of society;
- (v) prescribe the extent to which a society may limited the number of its members;
- (w) prescribe the conditions under which profit may be distributed to the member of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;
- (x) prescribe the procedure to be followed by a liquidator appointed under section 138 and provide for the disposal of the surplus assets, if any, of the society;
- (y) prescribe the procedure to be followed in presenting and disposing of appeals, applications for revision and review, other petitions and applications under this Act, the rules and the by-laws and the fees to be paid in respect thereof;
- (z) prescribe the period for which and the terms under which aid may be given by the Government to societies and the terms under which the Government may guarantee the payment of interest on debentures issued or deposits received by societies;
- (aa) provide for the custody of the property attached under this Act
- (bb) provide for the issue and service of process and for proof of service thereof;
- (cc) provide for the levy of fees for granting certified copies of documents in the Registrar's office;

- (dd) provide, for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or any person empowered by him;
- (ee) prescribe the procedure for the attachment and sale of property under section 143 and for attachment under section 167;
- (ff) prescribe the procedure and the disposal of the business of the Tribunal;
- (gg) provide for the prescription by the Registrar of rates of travelling allowance, daily allowance, sitting fees and other compensatory allowances to the members of the societies and of the boards;
- (hh) provide for the prescription by the Registrar of the securities to be furnished by the employees of societies;
- (ii) provide for the maintenance of records and particulars pertaining to the societies;
- (jj) provide for the preparation of financial statements and other details for audit and prescribe the procedure for conducting audit;
- (kk) provide for the procedure to be followed in making of application for, and the grant of, extension of time under this Act;
- (ll) provide for restrictions on hypothecation of shares by members;
- (mm) provide for the manner of election of delegate of one society to the general body of another society and the powers and functions of such delegate;
- Substituted by T.N. Act 36 of 1989 [(nn) provide for the constitution of executive committee or any sub-committee by the board and for delegating any of the powers or duties of the board to such committee or sub-committee;]
- (oo) provide for the constitution of advisory bodies in specified class or category of societies and the functions of such advisory bodies;
- (pp) provide for the procedure to be followed in making purchases by sample, description or specification and where purchase is made by sample, description or specification, provide for the manner of, and matters incidental to, the verification that the goods received conform to such sample, description or specification;
- (qq) prescribe prohibitions or restrictions subject to which societies may make purchases or transact their business;
- (rr) prescribe prohibitions against societies entrusting the whole of their business to others or prescribe restrictions subject to which societies may entrust any part of their business to others; and
- (ss) Provide for all matters expressly required or allowed by this Act to be prescribed by, or specified in the rules
- (3) The Government may make rules making it obligatory on the part of the registered societies-
 - (a) to purchase commodities intended for sale directly from producers or producer's societies, or
 - (b) to purchase for purposes of sale standardized products bearing AGMARK or ISI mark.
- (4) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.
- (5) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of Houses of the Legislature, and it, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

181. Power of Registrar to give directions in the public interest, etc._ (1) Where the Registrar is satisfied that in the public interest or for the purpose of securing proper implementation of co-operative production and other development programmes approved or undertaken by the Government or to secure the proper management of the business of any registered societies generally, or for preventing the affairs of any registered society being conducted in manner detrimental to the interests of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of registered societies generally or to any registered society or registered societies in particular, he may, by order issue directions to them from time to time, and all registered societies, or the registered society concerned, as the case may be, shall be bound to comply with such directions. (2) The Registrar may, by order, modify or cancel any directions issued under sub-section (1), and in modifying or cancelling such directions may impose such conditions as he may deem fit.

NOTES

S. 181 and R. 149 (119-A of 1961 Act) "Action of the Co-operative Society cannot be questioned by its employee in a Writ Petition -1992 (1) LW 145 F.B. relied on Writ petition seeking a direction to quash the communication issued by the Deputy Registrar to a co-operative society to cancel the appointment of the Writ Petitioners as violative of R. 149 Not maintainable scope of the Registrar's power under s. 181 to issue directions " 1994 (1) LW 526 : 1994 Writ L.R. 333.

182. Power of Government to give directions

._ (1) The Government may, in the public interest, by order, direct the Registrar to make an inquiry or to take appropriate proceedings under this Act, in any case specified in the order, and the Registrar shall report to the Government the result of the inquiry made or the proceedings taken by him within a period of six months from the date of such order or such further period as the Government may permit.

(2) In any case, in which a direction has been given under sub-section (1), the Government may, notwithstanding anything contained in this Act, call for and examine the record of the proceedings of the Registrar and pass such orders in the case as they may think fit: Provided that before passing any order under this sub-section the person likely to be affected by such order shall be given an opportunity of making his representation.

183. Repeals and savings._ (1) The Tamil Nadu Co-operative Societies Act, 1961 (Tamil Nadu Act 53 of 1961) and the Tamil Nadu Co-operative Land Development Banks Act, 1934 (Tamil Nadu Act X of 1934) (hereafter in this section referred to as the said Acts), are hereby repealed.

(2) The repeal, by sub-section (1), of the said Acts shall not affect - (i) the previous operation of the said Acts or anything done or duly suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the said Acts; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Acts; or

(iv) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Subject to the provisions of sub-section (2) anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, or any rule, regulation or form framed, certificate granted or registration effected, under the said Act shall be deemed to have been done or taken under this Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under this Act.

184. Power to remove difficulties.-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions which appears to them to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the date of commencement of this Act.

Tamil Nadu State Acts