



The Tamil Nadu Co-Operative Societies Act, 1961

Act 53 of 1961

Keyword(s):

By-Laws, Financing Bank, Nominal or Associate Member, Registered Society, Society, Society with Limited Liability, Supervising Union

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

THE FAMILNADU CO-OPERATIVE SOCIETIES ACT, 1961

TABLE OF CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS :

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

CHAPTER II.

REGISTRATION.

- 3 The Registrar.
- 4 Societies which may be registered.
- 5 Change of liability.
- 6 Conditions of registration.
- 7 Power of Registrar to decide certain questions.
- 8 Application for registration.
Registration.
- 9 Evidence of registration.
- 10 Amendment of the by-laws of registered society.
- 11 Power to direct amendment of by-laws.
- 12 Division and amalgamation of societies.
- 13-A Power to direct amalgamation in public interest, etc.
- 14 Transfer of assets and liabilities among registered societies.
- 15 Classification.
- 16 Conversion.

CHAPTER III.

QUALIFICATIONS OF MEMBERS AND THEIR RIGHTS AND LIABILITIES.

- 17 Qualifications for membership of society.
- 18 Disqualifications for membership of society.
- 19 Right of members to services by registered society and application for redress.

SECTIONS.

- 20 Expulsion.
- 21 Votes of members.
- 22 Inspection of accounts by member.
- 23 Restrictions on transfer of share or interest.
- 24 Transfer of interest on death of member.
- 25 Liability of past member or of the estate of a deceased member.

CHAPTER IV.

MANAGEMENT OF REGISTERED SOCIETIES.

- 26 General meetings.
- 27 Appointment of committees.
- 28 Disqualifications for membership of committee.
- 28-A Removal or disqualification.

CHAPTER V.

DUTIES AND PRIVILEGES OF REGISTERED SOCIETIES.

- 29 Address of societies.
- 30 Copy of Act, rules and by-laws to be open to inspection.
- 31 Societies to be bodies corporate.
- 32 First charge of society.
- 33 Charge of immovable property of members borrowing loans from certain registered societies.
- 34 Charge and set off in respect of shares or interest of member.
- 35 Financing bank not to have a claim on certain sums of money.
- 36 Shares, interest, etc., not liable to attachment.
- 37 Reserve fund and bad debt reserve not liable to attachment.
- 38 Register of members.
- 39 Proof of entries in societies, books.
- 40 Deduction from salary or wages.
- 41 Exemption from compulsory registration of instruments relating to shares and debentures of registered society.
- 42 Right to set off where a registered society purchases immovable property at a sale under Tamil Nadu Act II of 1864 for any sum due to it.
- 43 Power to exempt from stamp duty and registration fee.

CHAPTER VI.

STATE AID TO REGISTERED SOCIETIES.

SECTIONS.

- 44 Investment by Government in registered societies.
- 45 Provision of funds by Government to apex society.
- 46 Partnership of Government with apex society.
- 47 Subsidiary State Partnership Fund.
- 48 Approval of Government for purchase of shares.
- 49 Liability to be limited in respect of certain shares.
- 50 Restrictions on amount of dividend.
- 51 Indemnity of apex and central societies.
- 52 Disposal of share capital and dividend, etc.
- 53 Disposal of Principal State Partnership Fund and Subsidiary State Partnership Fund on winding up of an apex or central society.
- 54 Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.
- 55 Agreement by Government and apex societies.
- 56 Other forms of State aid to registered societies.
- 57 Provisions of this Chapter to override other laws.

CHAPTER VII

PROPERTY AND FUNDS OF REGISTERED SOCIETIES

- 58 Restrictions on loans.
- 59 Restrictions on borrowings.
- 60 Investment of funds.
- 61 Funds not to be divided among members.
- 62 Disposal of net profits.
- 63 Provident fund.

CHAPTER VIII**AUDIT, INQUIRY, INSPECTION, SURCHARGE AND SUPERSESSION.****SECTIONS.**

- 64 Audit.
- 65 Inquiry.
- 66 Inspection.
- 67 Inspection of books by financing bank.
- 68 Costs of inquiry and inspection.
- 69 Registered society to pay certain expenses.
- 70 Suspension of officer or servant of society.
- 71 Surcharge.
- 72 Supersession of committee.

CHAPTER IX.**SETTLEMENT OF DISPUTES.**

- 73 Disputes.

CHAPTER IX-A**STATE CO-OPERATIVE BANK AND CENTRAL CO-OPERATIVE BANKS.**

- 73-A Definitions.
- 73-B State Co-operative Bank and Central Co-operative Banks.
- 73-C Vesting of assets and liabilities.
- 73-D (Omitted).
- 73-E Central Co-operative Banks may function through the agency of other societies.
- 73-F Power to make rules.
- 73-G Provisions of this Chapter to override other provisions.

CHAPTER IX-B.**APEX SOCIETIES AND CENTRAL SOCIETIES.**

- 73-H Definitions.
- 73-I Application of this Chapter to apex societies and central societies.
- 73-J The Board of an apex society and central society.

SECTIONS.

- 73-K Membership of apex societies and central societies.
- 73-L Guarantee by Government of principal of, and interest on, loans and advances taken by apex societies and central societies.
- 73-M Power to make rules.
- 73-N Provision of this Chapter to override other provisions.

CHAPTER IX-C.

CO-OPERATIVE UNIONS.

- 73-O Definitions.
- 73-P Co-operative unions.
- 73-Q Registered societies to be members of co-operative unions.
- 73-R Vesting of assets and liabilities.
- 73-S Provisions of this Chapter to override other provisions.

CHAPTER IX-D.

INSURED CO-OPERATIVE BANKS.

- 73-T Order for winding up, division, amalgamation, supersession of committee, etc., of insured co-operative bank not to be made without sanction or requisition of Reserve Bank of India.

CHAPTER X.

JOINT FARMING SOCIETIES.

- 74 Application of Chapter.
- 75 Definitions.
- 76 Admission of members.
- 77 Creation of charge in favour of joint farming society by a member.
- 78 Agreement between the joint farming society and its members in respect of lands.
- 79 Vesting of lands in joint farming society and registration of agreement.
- 80 Prohibition against withdrawal of lands during the period of agreement.
- 81 Disposal of lands after the expiry of the agreement.
- 82 Principles and method of determining compensation for lands acquired under section 81.

SECTIONS.

- 83 Payment of compensation.
- 84 Restriction on the acquisition of land under the Land Acquisition Act, 1894, for joint farming societies.

CHAPTER X-A.

LIFT IRRIGATION SOCIETIES.

- 84-A Application of Chapter.
- 84-B Definitions.
- 84-C Declaration by members of a lift irrigation society.
- 84-D Agreement regarding period of membership, sharing of expenditure, etc.
- 84-E Prohibition against withdrawal of membership.
- 84-F Regulation of supply of water.
- 84-G Admission of transferees of land and heirs, etc., as members.
- 84-H Concessions and facilities for the small farmers' lift irrigation society.

CHAPTER XI.

WINDING UP AND CANCELLATION OF REGISTRATION OF REGISTERED SOCIETIES.

- 85 Winding up of registered societies.
- 86 Liquidator.
- 87 Powers of liquidator.
- 88 Cancellation of registration.
- 89 Bar of legal proceedings.
- 90 Restoration of society ordered to be wound up.

CHAPTER XII.

EXECUTION OF DECREES, DECISIONS, AWARDS AND ORDERS.

- 91 Power of the Registrar to recover certain sums by attachment and sale of property.
- 92 Recovery of debts.
- 92-A Publication of information respecting members or past or deceased members from whom any debt or outstanding demand is due to the society.
- 93 Registrar or person empowered by him to be a civil court for certain purposes.
- 94 Recovery of sums due to Government.

CHAPTER XIII.

APPEALS, REVISION AND REVIEW.

SECTIONS.

- 95 Co-operative Tribunal.
- 96 Appeals.
- 97 Revision.
- 98 Review.
- 99 Execution of orders passed in appeal, revision or review.
- 100 Bar of jurisdiction of civil courts

CHAPTER XIV.

OFFENCES AND PENALTIES.

- 101 Punishment for furnishing false information or disobeying summons or other lawful order, requisition or direction.
- 102 Punishment for acting in contravention of sections 32, 33, 77 or 84-C.
- 103 Prohibition of the use of the word 'Co-operative' or its equivalent.
- 104 Punishment for failure to give effect to decision or award in references.
- 105 Punishment for offences not otherwise provided for.
- 106 Cognizance of offence.
- 107 Delivery of possession of records and properties of a registered society.

CHAPTER XV.

MISCELLANEOUS.

- 108 Attachment of property.
- 109 Power to exempt societies from conditions as to registration.
- 110 Exemption of self-reliant societies.
- 111 Power to exempt registered societies.
- 112 Arbitrator in fixing compensation for lands acquired and the Tribunal to be civil courts.
- 113 Delegation of powers of Government.
- 114 Saving of existing societies.

SECTIONS.

- 115 Acts of societies, etc., not to be invalidated by certain defects.
- 116 Companies Act, 1956, not to apply.
- 117 Protection of action taken in good faith.
- 118 Construction of references to Co-operative Societies Act in enactments.
- 119 Power to make rules.
- 119-A Power of Registrar to give directions in the public interest, etc.
- 120 Power of Government to give directions.
- 121 Repeals and savings.
- 122 Power to remove difficulties.

[TAMIL NADU] ACT No. 53 OF 1961²

THE [TAMIL NADU] CO-OPERATIVE SOCIETIES ACT, 1961.

[Received the assent of the President on the 4th March 1962, first published in the Fort. St. George Gazette on the 14th March 1962 (Phalguna 23, 1883).]

An Act to amend and consolidate the law relating to, and to make better provision for the organisation of, co-operative societies in the ³[State of Tamil Nadu].

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among persons with common 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 ³[State of Tamil Nadu];

BE it enacted in the Twelfth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the ¹[Tamil Nadu] Co-operative Societies Act, 1961.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

² For statement of Objects and Reasons, see Fort St. George Gazette Extraordinary, dated the 28th March 1961, Part IV—Section 5, Page 157.

The provisions of the Tamil Nadu Co-operative Land Mortgage Banks Act, 1934 (Tamil Nadu Act X of 1934) as amended by the Tamil Nadu Co-operative Land Mortgage Banks (Amendment) Act, 1969 (Tamil Nadu Act 14 of 1969) shall override the provisions contained in this Act. Please see section 38-C of Tamil Nadu Act X of 1934.

³ This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(2) It extends to the whole of the ¹[State of Tamil Nadu].

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

2. In this Act, unless the context otherwise requires— Definitions.

(1) “by-laws” means the registered by-laws for the time being in force and includes a registered amendment of the by-laws ;

(2) “committee” means the governing body of a registered society to whom the management of its affairs is entrusted ;

(3) “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 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 ;

(4) “financing bank” means a registered society which has as its principal object the lending of money to other registered societies ;

(5) “Government ” means the State Government ;

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

(7) “nominal or 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 the by-laws ;

¹ This expression was substituted for the expression “State of Madras” by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(8) "officer" includes a president, vice-president, chairman, vice-chairman, secretary, assistant secretary, treasurer, member of committee, and any other person empowered under the rules or the by-laws to give directions in regard to the business of the society ;

(9) "registered society" means a society registered or deemed to be registered under this Act ;

(10) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act, and includes a person on whom all or any of the powers of a Registrar under this Act have been conferred under section 3 ;

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

(12) "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 a financing bank for the maintenance of fluid resources shall not be regarded as assistance under this clause, notwithstanding that the financing bank receives assistance from the Government ;

(13) "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 ;

(14) "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 ;

(15) "supervising union" means a registered society which has as its principal object the organizing, assisting, developing and supervising of registered societies which are its members or the carrying on of propaganda or the spread of education in co-operative principles and practices ;

(16) "Tribunal" means a Tribunal constituted under section 95 and having jurisdiction.

400

CHAPTER II.

REGISTRATION.

3. The Government may appoint a person to be The Registrar of Co-operative Societies for the ¹[State of Tamil Nadu] or any portion of it and may, by general or special order, confer on any other persons all or any of the powers of a Registrar under this Act.

4. (1) Subject to the provisions of this Act, a society which has as its object the promotion of the economic interests 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: ^{Societies which may be registered.}

Provided that the liability of a society of which a registered society is a member shall be limited.

(2) Whether the liability of the members of a registered society is unlimited or limited by shares, the liability of the Government or of a financing bank, which have or has taken shares in such registered society, shall be limited to the share capital subscribed by the Government or such financing bank.

5. (1) Subject to the proviso to sub-section (1) of section 4 and to any rules made in this behalf, a registered society may, by an amendment of its by-laws, change its liability from limited to unlimited or from unlimited to limited: ^{Change of liability.}

Provided that—

(i) the society shall give notice in writing of its intention to change its liability to all its members and creditors ;

(ii) any member or creditor shall, notwithstanding any by-law or contract to the contrary, have the option of withdrawing his shares, deposits or loans, as the case

¹ This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

may be, within two months of the service of such notice on him and the change shall not take effect until all such claims have been satisfied ; and

(iii) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1), the change shall take effect at once if all the members and creditors assent thereto.

Conditions
of registra-
tion.

6. (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 ten persons and where the object of the society is the creation of funds to be lent to its members, unless such persons—

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

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

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

Power of
Registrar to
decide
certain
questions.

7. When any question arises whether for the purposes of this Act any person is an agriculturist or a non-agriculturist or whether any person is a resident of, or owns immovable property in, a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular class or occupation, the question shall be decided by the Registrar.

Application
for registra-
tion.

8. (1) An application for registration shall be made to the Registrar.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of

section 6 and sub-section (1) of section 17 and who are not disqualified for admission as members under sub-section (1) of section 18 ; 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 ten other members or, when there are less than ten 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 persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

9. (1) If the Registrar is satisfied that the application for the registration of a society is in accordance with the provisions of this Act and the rules and that the proposed by-laws are not contrary to this Act or the rules or to co-operative principles and that the society will, in his opinion, work successfully, he may register the society and its by-laws. Registration.

(2) If the Registrar refuses to register a society and its by-laws, he shall communicate the order of refusal with the reasons for the refusal to any 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.

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

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

(2) An application for the registration of an 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 this Act or the rules, he may 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 refuses to register an amendment of the by-laws of a registered society, he shall communicate the order of refusal to the registered society 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 same is duly registered.

(6) 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.

(7) 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.

Power to
direct
amendment
of by laws

12. (1) Where the Registrar is satisfied that for the purpose of altering the area of operations 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, ~~for the purpose of the manner prescribed the financing~~

the institution in the manner prescribed the financing

(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 representations, 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.

13. (1) (a) Any registered society may, at a meeting of its general body specially called for the purpose of which at least seven clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The said resolution (hereinafter in this sub-section referred to as the preliminary resolution) shall contain proposals for the division 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 operations 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.

Division
and amalga-
mation of
societies.

(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-law 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 the period referred to in sub-clause (ii), intimate his intention to demand a return of the amount due to him.

(c) After the expiry of two months from the date of despatch 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 clause (e) and 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) provision shall be made by another resolution for—

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (b) ; and

(ii) 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).

(e) If the Registrar is satisfied that provision for the repayment of the share capital of 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 the 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).

103

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

(iii) Any creditor of any such society, may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the period referred to in sub-clause (ii), intimate his intention to demand a return of the amount due to him.

(c) After the expiry of two months from the date of despatch 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. 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 (f) and 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) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (b) ; and

(ii) 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).

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

(f) If the Registrar is satisfied that provision for the repayment of the share capital of 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 sufficient conveyance to vest in it all the assets and liabilities of the original societies.

Power to
direct amal-
gamation in
public inte-
rest, etc.,

¹ [13-A. (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 amalgamate, 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 those societies into a single registered society with such constitution, property rights, interest and authorities, and such liabilities, duties and obligations, as may be specified in the order.

¹ This Section was inserted by section 2 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1977 (President's Act 1 of 1977).

(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 ;

(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 as 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 if he be a member, and the amount in satisfaction of his dues if he be a creditor.

(5) Where two or more societies have been amalgamated, the registration of such societies shall be cancelled on the date of registration of the amalgamated society.

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

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

Transfer of assets and liabilities among registered societies.

(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-law to the contrary, by notice given to the society of which he is a member within a period of one month from the date of receipt by him of the preliminary resolution, intimate his intention to withdraw his share capital from the society.

(c) Any creditor of any such society may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the period referred to in clause (b), intimate his intention to demand a return of the amount due to him.

(3) After the expiry of two months from the date of despatch 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 capital of 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 the 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.

15. The Registrar shall, in accordance with the rules made in this behalf, classify registered societies with reference to their objects, area of operations, membership or any other matter specified in the rules. Classifications.

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

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 different from the one to which it belongs, the Registrar may direct the society to take action under this section.

CHAPTER III.

QUALIFICATIONS OF MEMBERS AND THEIR RIGHTS AND LIABILITIES.

17. (1) Subject to the provisions of section 18—

(a) any individual competent to contract under section 11 of the Indian Contract Act, 1872 (Central Act IX of 1872), Qualifications for membership of Society.

(b) any other registered society,

(c) the Government, and

(d) 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 a Hindu undivided family as such shall not be eligible for admission as a member of a registered society :

Provided further that persons who are 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.

(2) ¹[(a) (i) In the case of credit societies, distributive societies and marketing societies and such other class of registered societies, as the Government may, by notification, specify, every person 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 made in the form prescribed for the purpose, be deemed to have been admitted as a member of such society, with effect on and from the date of receipt of such application in the office of such society.

¹This clause was substituted for the following clause(a) by section 2 of the Tamil Nadu Co-operative Societies (Amendment) Act 1979 (Tamil Nadu Act 20 of 1979):—

“(a) In the case of such class of registered societies as may be prescribed, every person qualified for membership of any such society shall, on application made in the form, if any, prescribed for the purpose, be admitted by the committee as a member of the registered society of that class:

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

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

(iii) An application under sub-clause (ii) may be made by the committee or by any person aggrieved within fifteen days from the date on which the person sought to be removed is deemed to have been admitted as a member of the society under sub-clause (i).

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

(v) Every order under sub-clause (ii) passed in pursuance of an application made by the committee or by any person aggrieved shall be passed within thirty days from the date of receipt of the application by the Registrar :

Provided that if no order under sub-clause (ii) is passed on an application made by the committee or by any person aggrieved within thirty days from the date of receipt of the application by the Registrar, it shall be deemed that the Registrar has passed an order under sub-clause (ii) rejecting the application.

Explanation.—For the purposes of this clause,—

(i) ‘credit society’ means a registered society which has as its principal object the raising of funds to be lent to its members primarily for production or for any useful purpose ;

(ii) ‘distributive society’ means a registered society which has as its principal object the supply of the domestic and other requirements of its members for the consumption of such members ;

(iii) ‘marketing society’ means a registered society which has as its principal object the arranging for the marketing of the agricultural and other produce or pro-

ducts of its members or 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 a marketing society.]

(b) In the case of any other class of registered societies any person qualified for membership may, on application made in the form, if any, prescribed for the purpose, be admitted as a member of the society by the Committee:

Provided that the committee may, for good and sufficient reason to be recorded in the minutes of the meeting at which the application for admission is considered, refuse admission to any person and the decision of the committee refusing admission shall be communicated to the applicant:

Provided further that if the decision of the committee on the application is not communicated to the applicant within a period of two months from the date of the application, then, the committee shall be deemed to have passed a decision on the date of expiry of such period refusing to admit the applicant and the date of such expiry shall be deemed to be the date of such decision for the purpose of appeal.

(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 prescribed by the rules and the by-laws.

Disqualifica-
tions for
membership
of society.

18. (1) No person shall be eligible for admission as a member of a 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, such sentence not having been reversed and a period of five years has not elapsed from the date of the expiration of the sentence; or

(c) is a paid employee 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 one year has not elapsed from the date of such expulsion.

(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) :

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 employee of the 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.

(3) 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 society exclusively formed for the reclamation of such class of persons as may be prescribed and the provisions 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.

[(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, subject to any of the disqualifications mentioned in this section, shall be decided by the Registrar.]

19. (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 committee.

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

¹ This sub-section was added by Section (2) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act of 1975).

(2) If any member of any registered society is refused any service, or where the decision of the committee on his application for services is not communicated to him within a period of one month from the date of such application, he may apply to the Registrar for redress.

(3) An application to the Registrar under sub-section (2) shall be made within one month from the date of receipt of the decision of the committee refusing the service where any service is refused or within two months from the date of application to the society where the decision of the committee has not been communicated.

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

(5) Where any service is rendered by the committee in pursuance of an order under sub-section (4) the committee 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.

Expulsion.

20. (1) Any member of a 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.

(2) No member shall be expelled under sub-section (1) without being given an opportunity 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.

Votes of members.

21. (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 committee shall be decided by a majority of the members present and voting at the meeting and in every case of equality of votes, the question shall be deemed not to have been decided :

Provided that—

(a) in the case of an equality of votes at an election the choice shall be by casting lots;

(b) the society may by its by-laws restrict the right of a member to vote in any specified matter ;

(c) where the Government or a financing bank is a member of the society, every person nominated to the committee of the society by the Government or the financing bank, as the case may be, shall have one vote ;

(d) a nominal or an associate member shall not be entitled to vote ;

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

(2) A registered society which has invested any part of its funds in the shares of another registered society may appoint one of its members not disqualified for such appointment under the rules or the by-laws of such other society to vote in the affairs of such other society.

(3) Save as provided in sub-section (1) or sub-section (2), 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 financing bank shall not be entitled to vote at elections.

22. Any member of a registered society may, at any time during office hours and on payment of such fee as may be prescribed, by himself or by an agent who is a member specially authorised by him in writing, inspect the accounts of the society in so far as they relate to his transactions with it.

Inspection
of accounts
by member.

Restrictions
on transfer
of share
or interest

23. No transfer by a member of any share held by him or his 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 ;

(b) the transfer is made to the society or to a member of the society ; and

(c) the transfer is approved by the committee of the society.

Transfer of
interest on
death of
member.

24. (1) Subject to the provisions of section 34, 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 committee 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 money due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

609

(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.

25. (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—

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

(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 85 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 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.

CHAPTER IV.

MANAGEMENT OF REGISTERED SOCIETIES.

26. (1) (a) Subject to the provisions of this Act, the General 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 committee or any officer of a registered society of any power conferred on such committee or such officer by this Act or the rules or 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, and if so directed by the Registrar shall, provide by an amendment of its by-laws for the constitution of a 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 this 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.

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

(2) A general meeting of a registered society shall be held once in a 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 committee ;

(b) ¹[*** ***]

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

²[(d) disposal of the balance of the net profits as specified in sub-section (2) of section 62; and]

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

(3) (a) The committee 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 committee of the supervising union to which the society is affiliated ; or

(iii) the committee of the financing bank to which the society is affiliated ; or

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

(v) 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 committee refuses or fails to call a meeting in accordance with a requisition under clause (a) of sub-section (3), or if, in the opinion of the Registrar, there is no committee or officer competent under this Act

¹The following clause (b) was omitted by section 3 (1) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975):—

“(b) election of the members of the committee;”

²This clause was substituted for the following clause (d) by section 3 (2) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975):—

“(d) disposal of the net profits; and”

or the rules or the by-laws to call a meeting, or if there be a dispute regarding the competence of the committee to function, the Registrar may call the meeting himself.

(b) (i) If, at a special general meeting of the registered society called in pursuance of such requisition or by the Registrar himself under clause (a) of this sub-section the quorum is not present, the meeting shall stand adjourned to such other day and at such other time as the committee or the Registrar, as the case may be, may determine.

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

(iii) In respect of any meeting called under clause (a) of this sub-section, the Registrar may, notwithstanding anything contained in the by-laws of the society or of the supervising union, 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 authorize 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 the supervising union 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).

Appoint-
ment of
committees.

27. (1) The General body of a registered society shall constitute a committee in accordance with the by-laws and entrust the management of the affairs of the registered society to such committee :

Provided that, in the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider necessary ; but the committee appointed under this proviso shall cease to function as soon as a committee has been constituted in accordance with the by-laws:

Provided further that where the by-laws so provide, the Government or the Registrar may nominate all or any of the members of the committee for such period as may be specified in the by-laws.

(2) 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 nominate to the committee such number of persons not exceeding three or one-third of the total number of members of the committee, whichever is less, as the Government may determine. The Government or the financing bank may at any time withdraw any person or persons so nominated and fill up the vacancy or vacancies by fresh nomination.

*(3) [1(a) Except as otherwise provided for in the rules made under Chapters IX-A and IX-B of this Act or under Chapter I-A of the Tamil Nadu Co-operative Land Development Banks Act, 1934 (Tamil Nadu Act X of 1934), the term of office of an elected member of any committee constituted under this Act shall be three years.

¹ These clauses were substituted for the following clause (a) by section 4 (1) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975):-

“(a) The term of office of an elected member of any committee constituted under this Act shall be three years :

Provided that, as nearly as may be, one-third of the members elected to the committee at the first election shall retire at the end of the first year after such election and, as nearly as may be another one-third of the members elected as aforesaid shall retire at the end of the second year after such election, the members so to retire at the end of the first and second years aforesaid being determined by lot by the committee.”

* The term of office of the members of the committee of every co-operative society specified in Part-A, Part-B or Part-C of the Schedule to the Tamil Nadu Co-operative Societies (Appointment of Special Officers) Act, 1976 (President's Act 25 of 1976) including its president or vice-president holding office as such immediately before the date appointed by the Government under section 1(3) thereof expired on the said date and Special Officers were appointed by the Government for each of the above society. Please see sections 3 and 4 of President's Act 2 of 1976.

(aa) Notwithstanding anything contained in clause (a), the term of office of the elected members of every committee constituted under this Act and holding office as such on the date appointed under clause (b) of sub-section (2) of section 1 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975, shall expire on such date as may be specified by the Government, by notification, and different dates may be specified for different classes of societies.]

(b) The term of office of a member of any committee nominated thereto by the Government, the Registrar or the financing bank, if such member is a non-official, shall be three years.

(c) Notwithstanding anything contained in clause (a) but subject to such conditions as may be specified in the rules, the Registrar may, for reasons to be recorded in writing, direct that the term of office of the members of the committee ¹[** **] shall extend up to such date as he may fix.

(4) The election of the members of the committee shall be by ballot in such manner as may be prescribed :

Provided that any casual vacancy in the office of a member of the committee shall be filled in such manner as may be specified in the rules or the by-laws and a member of the committee filling a casual vacancy shall hold office so long only as the member of the committee whose place he takes would have been entitled to hold office if the vacancy had not occurred.

Disqualifica- 28. (1) No person shall be eligible for being
tions for
membership
of committee. elected or appointed as a member of a committee if he—

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

* The words "who are to retire under that clause" were omitted by section 4(2) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975).

(b) (i) is in default to the society or to any other registered society in respect of any loan or loans taken by him for such period as is prescribed in the by-laws of the society concerned or in any case for a period exceeding three months :

Provided that a member of the committee who has ceased to hold office as such under this sub-clause shall not be eligible for a period of one year from the date on which he ceased to hold office, for re-election as a member of the committee of the registered society of which he was a member or for election to the committee of any other registered society ; or

(ii) is a person against whom any decree, decision, award or order referred to in section 91 has been obtained; or

(c) is interested directly or indirectly in any contract made with the society, or in any sale or purchase made by the society privately or in any auction or in any contract or transaction of the society (other than investment and borrowing) involving financial interests, if the contract or transaction be subsisting or if the contract, sale, purchase or transaction be not completed :

Provided that this clause shall not apply to such class of contracts, sales, purchases or transactions as may be prescribed ; or

(d) is employed as legal practitioner on behalf of the registered society or against the registered society or on behalf of or against any other registered society which is a member of the former registered society ; or

(e) is a nominal or an associate member ; or

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

(g) has been sentenced for any offence under this Act, such sentence not having been reversed and

a period of three years has not elapsed from the date of the expiration of the sentence ; ¹[or]

²[(h) has been removed from the office of the member of the committee of the registered society or of any other registered society or disqualified under section 28-A.]

(2) A member of the committee 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 where a member of the committee ceases to hold his office as such by reason of having been sentenced for any offence under this Act, he shall be restored to office for such portion of the period for which he was elected or appointed as may remain unexpired at the date of such restoration if and when the sentence is annulled on appeal or revision and any person elected or appointed 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 brought to sale for recovery of any money due from such other member to the society.

(3) (a) No person shall, at the same time, be a member of the committees of more than five registered societies.

(b) Subject to the provisions of clause (a), no person shall, at the same time, be a member of the committees of more than two registered societies which, under

¹ This word was added by section 2(i) of the (Tamil Nadu Co-operative Societies (Amendment) Act, 1966 (Tamil Nadu Act 8 of 1966).

² This clause was inserted by section 2(ii) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1966 (Tamil Nadu Act 8 of 1966).

the rules, are classified as apex societies or of the committees of more than two registered societies which are classified as aforesaid as central societies.

(c) If any person is, on the date of his election or appointed as a member of the committee—

(i) a member of the committees of five registered societies ; or

(ii) a member of the committees of two registered societies which are classified in the manner specified in clause (b) as apex societies or central societies, and the committee to which he is elected or appointed on that date is the committee of any such apex society or, as the case may be, central society ;

then, his election or appointment on the date aforesaid shall be void.

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

(ii) If any person is at the commencement of this Act, a member of the committees of more than two registered societies which are classified in the manner specified in clause (b) as apex or central societies, then, subject to the provisions of sub-clause (i) and at the expiration of the period specified in that sub-clause he shall cease to be a member of the committees of all such apex societies or, as the case may be, central societies, unless he has previously resigned his membership of the committees of all but two of such apex societies, or, as the case may be, central societies.

(e) Nothing in this sub-section shall apply to a member nominated to the committee by the Government or the Registrar.

(4) No member of a committee against whom an order under sub-section (1) of section 71 has been passed, such order not having been set aside, shall be eligible for election or appointment as a member of the committee for a period of three years from the date of such order.

(5) (a) No member of a committee which has been superseded shall be eligible for election or appointment to the committee for a period of three years from the date of expiry of the period of supersession.

(b) No member of a committee in respect of which proceedings for supersession under section 72 are pending shall be eligible for election or appointment to the committee till the termination of those proceedings.

(6) Any question as to whether a member of the committee was or has become subject to any of the disqualifications mentioned in this section, shall be decided by the Registrar.

Removal or
disqualifi-
cation.

1[28-A. (1) Where in the course of an audit under section 64 or an inquiry under section 65 or an inspection under section 66 or section 67, it appears that a person who is, or was, a member of a committee has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society or of gross or persistent negligence in connection with the conduct and management of, or of gross mismanagement of, the affairs of the society, or of misfeasance or default in carrying out his obligations and functions under the law, the Registrar may, without prejudice to any other action that may be taken against such member, by order in writing, remove such person from the office of member of committee, if he holds such office, or disqualify him from holding in future the office, of a member of the committee, if he has ceased to hold such office.

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

¹ This section was inserted by section 3 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1966 (Tamil Nadu Act 8 of 1966).

515

CHAPTER V.

DUTIES AND PRIVILEGES OF REGISTERED SOCIETIES.

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

Address of societies.

30. Every registered society shall keep a copy of this Act and of the rules governing such society 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.

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

31. 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 all things necessary for the purposes for which it was constituted.

Societies to be bodies corporate.

32. (1) Subject to the prior claim, if any, of the Government in respect of land revenue or any money recoverable as land revenue, 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—

First charge of society.

(i) upon the crops or other agricultural produce of such member for the raising of which the loan was taken from the registered society by such member; and

(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.

(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 by the rules 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 charges 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.

Charge of
immovable
property of
members
borrowing
loans from
certain regis-
tered socie-
ties.

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

(i) a member who makes an application for a loan to a registered society 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 member with the previous written permission of the society in favour of which such charge has been created ;

(iii) no land or other immovable property in respect of which a declaration has been made under clause (i) or any part of such land or other immovable property or any interest in such land or other immovable property shall be sold or otherwise transferred until the entire amount of the loan or loans taken by the member from the society together with interest thereon is paid to the society; and any transaction made in contravention of this clause shall be null and void ;

(iv) the declaration made under clause (i) or any variation or cancellation thereof under clause (ii), shall be sent by 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.

34. 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 or the estate of a deceased member in or towards payment of any such debt.

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

Financing
bank not to
have a claim
on certain
sums of
money.

35. 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 63.

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

36. Subject to the provisions of section 34, the share or interest of a member in the capital of a registered society or the amount to the credit of an employee of the society in the provident fund established under section 63, including contributions, if any, made to the fund by the society or any sum invested by the society from out of the provident fund accumulations 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 or sum.

Reserve
fund and
bad debt
reserve not
liable to
attachment.

37. The reserve fund or the bad debt reserve of a registered society invested by such society in accordance with the provisions of section 60 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.

Register of
members,

38. 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 :—

(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.

39. (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 by the rules, 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. Proof of entries in societies' books.

(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 liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under sub-section (1), or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of the court or the arbitrator made for a special cause.

40. (1) A member of a registered society may execute an agreement in favour of that society providing that 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 due by him to the society in respect of any debt or other demand owing by the member to the society from time to time. Deduction from salary or wages.

(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 payable to the member in accordance with the requisition, and pay, within such time as may be specified in the rules 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 requisitions, exceeds one-half of his entire 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 entire 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 amount to be deducted according to their requisitions :

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

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

(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.

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

(6) If any employer or the officer disbursing the salary or wages of any such member as is referred to in sub-section (1), fails to comply with any of the provisions of this section, he shall be punishable with fine which may extend to five hundred rupees :

Provided that nothing contained in this sub-section shall apply to the Government or any officer of the Government.

(7) 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.

5/5

41. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian 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 to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

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

42. Where, under this Act or any rule made thereunder, any sum due to a registered society from any person is recoverable as an arrear of land revenue and the immovable property of such person is brought to sale under the provisions of the ¹ [Tamil Nadu] Revenue Recovery Act, 1864 (¹[Tamil Nadu] Act II of 1864), and the society is the purchaser at such sale, the provisions of section 36 of the said Act shall apply thereto as if for the third and fourth clauses thereof the following clauses were substituted, namely :—

“Third.—The sum due to the purchaser shall be set off, in whole or in part, against the purchase money and the remainder, if any, of the purchase money shall be paid to the Collector or other officer empowered by the Collector in that behalf within thirty days of the date of sale.

Fourth.—Where the purchaser refuses or omits to complete the payment of the remainder, if any, of the purchase money, the property shall be resold at the expense and hazard of such purchaser and the amount of all loss or

¹ These words were substituted for the word “Madras” by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the property, on the second sale, sells for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made."

Power to ex-
empt from
stamp duty
and registra-
tion fee.

43. The Government, by notification, may, in the 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.

Investment
by Govern-
ment in reg-
istered soci-
eties.

44. (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.

Provision of
funds by
Government
to apex
society.

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

Partnership
of Govern-
ment with
money.

46. (1) An apex society which is provided with money by the Government under section 45 shall, with the money, establish a fund to be called the "Principal Fund".

FIN

(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 (hereinafter in this Chapter referred to as the central society) to enable that society to purchase shares in other registered societies (hereinafter 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.

47. (1) A central society which is provided with moneys by an apex society from the Principal State Partnership Fund shall, with such moneys establish, a fund to be called the 'Subsidiary State Partnership Fund'. Subsidiary State Partnership Fund.

(2) A central society shall utilise 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.

48. 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. Approval of Government for purchase of shares.

49. Where shares are purchased in a registered society by— Liability to be limited in respect of certain shares.

(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 respect of such shares.

Restrictions
on amount
of dividend.

50. 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 shareholders of that society.

Indemnity of
apex and
central
society.

51. (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 repayment 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 repayment of the share capital invested in the society from the Subsidiary State Partnership Fund.

Disposal of
share capital
and divi-
dend, etc.

52. (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.

518

(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 moneys provided by them to an apex society under section 45.

53. (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 46.

54. 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.

55. 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 condition on which they shall provide moneys to the apex society for the purpose specified in sub-section (2) of section 46;

(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

Disposal of
Principal
State Part-
nership
Fund and
Subsidiary
State Part-

nership
Fund on
winding up
of an apex or
central
society.

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

Agreement
by Govern-
ment and
apex soci-
eties.

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 46.

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

§ 11

Other forms of State aid to registered societies.

(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 a registered society and dividends thereon at such rates as may be specified by the Government ;

(d) guarantee the repayment 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.

57. The provisions of sections 45 to 55 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Provisions of this Chapter to override other laws.

CHAPTER VII.

PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

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

Restrictions on loans.

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 loans as may be specified in the by-laws to any of its paid employees.

(2) Notwithstanding anything contained in sub-section (1), a registered society may make a loan to a depositor on the security of his deposit.

(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 of registered societies.

59. A registered society shall receive deposits and loans only to such extent and subject to such conditions as may be prescribed by the rules or the by-laws. Restrictions on borrowings.

60. Subject to the provisions of sub-section (3) of section 58, a registered society may invest or deposit its funds— Investment of funds.

(a) in the Government Savings Bank, or

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

(c) in the shares or securities of any other registered society, provided that no such investment shall be made in the shares of any society with unlimited liability except with the general or special sanction of the Registrar and subject to such limits as may be specified by him from time to time, or

(d) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar, or

(e) in any other mode permitted by the rules.

61. (1) 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: Funds not to be divided among members

~~Provided that payment may be made to a member for work done by him as secretary or as clerk on such scale as may be prescribed by the by-laws.~~

(2) Save as provided in sub-section (1), no payment shall be made out of the funds of a registered society to the president or to any officer of the society by way of honorarium for any service rendered by him to the society.

Disposal of
net profits.

¹[62. (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 such amount not exceeding,—

(i) five per cent of the net profits to the co-operative development fund ; and

¹ This section was substituted for the following section by section 5 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975) :—

“ 62. *Disposal of net profits.*—The net profits of any registered society as declared by the Registrar for the purposes of this Act in respect of any co-operative year shall be appropriated—

firstly, for being credited to a reserve fund, the amount so credited being not less than twenty-five per cent of the net profits ;

secondly, towards contribution to such other funds and at such rates as may be specified in the rules ;

thirdly, towards payment of dividends on shares to members at such rate as may be specified in the rules ;

fourthly, towards payment of bonus to members and paid employees of the registered society at such rate and subject to such conditions as may be specified in the rules ;

fifthly, towards contribution to the co-operative education fund at such rate not exceeding two per cent of the net profits as may be specified in the rules ;

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

seventhly, 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

eightly, the balance, if any, of the net profits being credited to the reserve fund”.

[The words “ not less than twenty per cent but not exceeding thirty per cent ” in clause firstly of the said original section were earlier substituted for the words “ not less than twenty-five per cent ” by section 2 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971)].

525

(ii) two per cent of the net profits to the co-operative education fund, as may be specified in the rules.

(b) Such contribution shall be made within such time and in such manner as may be prescribed.

(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. but not exceeding thirty per cent, of the net profits ;

secondly, towards contribution to such other funds and at such rates as may be specified in the rules ;

thirdly, towards payment of dividends on shares to members at such rate as may be specified in the rules ;

fourthly, towards payment of bonus to members and paid employees of the registered society at such rate and subject to such conditions as may be specified in the rules ;

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

sixthly, 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

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

63. (1) A registered society 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. Provident Fund.

(2) A provident fund established by a registered society under sub-section (1)—

(a) shall not be used in the business of the society ;

(b) shall not form part of the assets of the society; and

(c) shall not be liable to attachment or be subject to any other process of any court or other authority.

CHAPTER VIII.

AUDIT, INQUIRY, INSPECTION, SURCHARGE AND
SUPERSESSION.

Audit. 64. (1) The Registrar shall audit or cause to be audited by some person authorised by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) 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 authorised 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 in regard to the transactions and working of the society as the Registrar or the person authorised 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 94 :

Provided that the Government may remit the whole or any part of the fee payable for audit by any society or class of societies for any co-operative year.

65. (1) The Registrar may, of his own motion and shall, Inquiry. on the application of a majority of the committee or of not less than one-third of the members or on the request of the Collector, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

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

(a) He 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.

(b) 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 so 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 shall not be retained for more than [six months]¹ at a time except with the permission of the next higher authority.

(c) He may summon any person who, he has reason to believe, has knowledge of any of 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 authorised as aforesaid has reason to believe that such books, accounts or documents contain any entry relating to transactions of the society.

¹ These words were substituted for the words "sixty days" by section 6 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975).

(d) (i) He may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society or for a meeting of the committee, require any officer or officers of the society to call a general meeting or a meeting of the committee at such time and place at the 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 26 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 committee or officer or officers competent under this Act, the rules or the by-laws to call such meeting, or if there be a dispute regarding the competence of the committee, officer or officers to call such meeting, the Registrar or the person authorised by him under sub-section (1) shall have power to call the meeting himself and the provisions of clause (b) of sub-section (4) of section 26 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 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 Registrar may, by order in writing, direct 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.

66. (1) The Registrar may, of his own motion, or on Inspection. the application of a creditor of a registered society, inspect or direct any person authorized by him in this behalf by general or special order in writing to inspect the books of the society and the Registrar or the person so authorized shall have all the powers of the Registrar when holding an inquiry under section 65 :

Provided that no such inspection 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 as the Registrar may require.

(2) Where an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection—

(a) where the inspection is made on his own motion to the society; and

(b) where the inspection is made on the application of a creditor, to the creditor and to the financing bank, if any, to which the society is affiliated.

(3) 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 inspection.

67. A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank authorized by the committee of such financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts,

Inspection
of books
by finan-
cing bank.

documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

Costs of
inquiry
and in-
spection.

68. (1) Where an inquiry is held under section 65 or an inspection is made under section 66, the Registrar may, after giving the parties an opportunity of making their representations, apportion the costs, or such part of the costs as he may think right, between the society, the members or creditors demanding an inquiry or inspection, the officers or former officers of the society. Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 67, by the financing bank.

(2) Any sum awarded by way of costs under sub-section (1) may be recovered as if it were an arrear of land revenue.

Registered
society to
pay certain
expenses.

69. 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.

Suspension
of officer
or servant
of society.

70. (1) Where in the course of an audit under section 64 or an inquiry under section 65 or an inspection under section 66 or section 67, it is brought to the notice of the Registrar that a paid officer or servant of a registered society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion, there is *prima facie* evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of the society, direct the committee of the society pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

(2) On receipt of a direction from the Registrar under sub-section (1), the committee of the registered society shall, notwithstanding any provision to the contrary in the by-laws, place or caused to be placed the paid officer or servant under suspension forthwith.

(3) The Registrar may direct the committee to extend from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.

71. (1) Where in the course of an audit under section 64 or an inquiry under section 65 or an inspection under section 66 or section 67 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 contrary to 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 committee, liquidator or any creditor or contributory may inquire into the conduct of such person or officer or servant and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar or the person authorized as aforesaid thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, misapplication of funds, fraudulent retainer, breach of trust or wilful negligence as the Registrar or the person authorized as aforesaid thinks just: Surcharge.

Provided that no such inquiry ¹[shall be commenced] after the expiry of six years from the date of any act or omission referred to in this sub-section:

Provided further that no order shall be passed against any person referred to in this sub-section unless the person concerned has been given an opportunity of making his representations.

¹ These words were substituted for the words "shall be held" by section 7 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975), which was deemed to have come into force on the 2nd October 1963.

(2) Any sum ordered under this section to be repaid to a registered society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land revenue.

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

Supersession
of com-
mittee.

72. (1) (a) If, in the opinion of the Registrar, the committee of any registered society is not functioning properly or wilfully disobeys or wilfully fails to comply with any lawful order or direction issued by the Registrar under this Act or the rules, he may, after giving the committee an opportunity of making its representations, by order in writing, dissolve the committee and appoint either a person (hereinafter referred to as the special officer) or a committee of two or more persons (hereinafter referred to as the managing committee) to manage the affairs of the society for a specified period not exceeding two years.

(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 four years in the aggregate.

(2) Where a special officer is appointed, the Registrar may appoint an advisory board consisting of not more than five persons to advise the special officer in such matters as may be specified by him.

(3) The special officer or the managing committee 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 committee 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 or the managing committee 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.

424

(5) The special officer or the managing committee appointed under sub-section (1) shall, at the expiry of the period of his or its appointment arrange for the constitution of a new committee in accordance with the provisions of this Act, the rules and the by-laws.

(6) Before taking any action under sub-section (1) in respect of any registered society, the Registrar shall consult the financing bank to which the society is indebted.

(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 85.

(8) An order under sub-section (1) shall take effect from the date specified therein unless stayed by an order of the Government. Where an order under sub-section (1) is reversed on appeal, the special officer, or the managing committee, as the case may be, appointed under sub-section (1) shall forthwith hand over the management of the society to the committee.

CHAPTER IX

SETTLEMENT OF DISPUTES.

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

(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 committee or any officer, agent or servant of the society, or

(c) between the society or its committee and any past committee, 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 a deceased member whether such debt or demand be admitted or not, and

(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 :

Provided that no dispute relating to, or in connection with, any election to a committee 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) re-transfer 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 any dispute referred for decision is a dispute touching the constitution of the committee, 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 re-transferred 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.

¹ CHAPTER IX-A.

STATE CO-OPERATIVE BANK AND CENTRAL CO-OPERATIVE BANKS.

73-A. In this Chapter, unless the context otherwise Definitions. requires,—

(a) "Board" means the board of directors of the State Co-operative Bank.

¹ Chapter IX-A was inserted by section 2 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1970 (Tamil Nadu Act 29 of 1970), which was deemed to have come into force on the 10th November 1970.

(b) "Central Co-operative Bank" means a Co-operative Central Bank registered or deemed to be registered under this Act and which is a member of the State Co-operative Bank ;

(c) "Committee" in relation to a Central Co-operative Bank means the board of directors or the board of management or the committee of management or the governing body to whom the management of its affairs is entrusted ;

(d) "small farmer" means a person owning or cultivating not more than such extent of land as may be prescribed ;

(e) "State Co-operative Bank" means the Tamil Nadu State Co-operative Bank Limited ;

(f) "weaker sections of society" includes small farmers, Scheduled Castes, Scheduled Tribes and women.

State Co-operative Bank and Central Co-operative Banks.

73-B. (1) There shall be a State Co-operative Bank for the State of Tamil Nadu and as many Central Co-operative Banks as may be deemed necessary.

(2) On and from the date of the commencement of the Tamil Nadu Co-operative Societies (Amendment) Act, 1970 (hereinafter referred to as the Amendment Act)—

(i) the existing Tamil Nadu State Co-operative Bank Limited (Registered No. 18) shall be deemed to be, and shall be, the State Co-operative Bank ; and

(ii) every Co-operative Central Bank in existence shall be deemed to be, and shall be, a Central Co-operative Bank and a member of the State Co-operative Bank.

(3) (a) The Board shall consist of the Presidents or Chairmen, as the case may be, of all the Central Co-operative Banks, such number of other members to be elected and nominated as may be prescribed and *ex-officio* member to be specified in the rules, and the Committee shall consist of such number of members to be elected and nominated may be prescribed and an *ex-officio* member to be specified in the rules :

Provided that representation in the Committees shall be given to weaker sections of society :

Provided further that the number of nominated members shall not exceed one-fifth of the total number of members of the Board or the Committee:

Provided also that the existing members of the Board of Management of the Tamil Nadu State Co-operative Bank Limited (Registered No. 18) or of the Committee of the Co-operative Central Bank concerned, as the case may be, on the date of the commencement of the Amendment Act, shall subject to the provisions of section 28, continue as members of the Board or the Committee constituted for the first time after the date of the commencement of the Amendment Act, until the expiry of their existing term of office as members or until the date up to which their term of office as members has been extended under clause (c) of sub-section (3) of section 27:

Provided also that the *ex-officio* member shall not be entitled to vote at elections.

(b) The Government may, by order, depute one or more officers of the Government to attend any meetings of the Board and the Committee and to take part in the discussions thereat, but such officer or officers shall not have the right to vote.

(4) Every new Central Co-operative Bank registered after the date of the commencement of the Amendment Act shall, on such registration, be deemed to be, and shall be a member of the State Co-operative Bank :

Provided that any such member may, with the approval of the Registrar, be removed from membership of the State Co-operative Bank by a resolution of the Board; and any application for obtaining such approval shall be made within two months from the date of registration of the Central Co-operative Bank.

(5) Every registered society of such class as may be prescribed, shall on application made in the form, if any, prescribed for the purpose, be deemed to be admitted as a member of the Central Co-operative Bank on and from the date of receipt of such application by the Central Co-operative Bank :

Provided that any member deemed to be admitted under this sub-section may, with the approval of the Registrar, be removed from membership by the Committee ; and any application for obtaining such approval shall be made within two months from the date on which such member is deemed to be admitted.

Vesting of
assets and
liabilities.

73-C. On and from the date of the commencement of the Amendment Act, all assets and liabilities of the existing Tamil Nadu State Co-operative Bank Limited (Registered No. 18) and the existing Co-operative Central Banks shall stand transferred to, and vest in, the State Co-operative Bank and the corresponding Central Co-operative Banks, respectively.

[73-D * * * * *

Central Co-
operative
Banks may
function
through the
agency of
other
societies.

73-E. Any Central Co-operative Bank may function in any particular area within its area of operation through the agency of any other registered society, including any co-operative bank, subject to such conditions as the Registrar may, by general or special order, specify.

Power to
make rules.

73-F. (1) The Government may make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) all matters expressly required or allowed by this Chapter to be prescribed ;

¹ The following section was omitted by section 3 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1979 (Tamil Nadu Act 20 of 1979):—

“73-D. Guarantee by Government of principal of, and interest on, loans and advances taken by the State Co-operative Bank and Central Co-operative Banks.—(1) The Government may, subject to such maximum amount as may be fixed by them and subject to such conditions as they may think fit to impose, guarantee the repayment of the principal of, and the payment of interest on, any loan or advance taken by the State Co-operative Bank and each of the Central Co-operative Banks.

(2) The Government may, after consulting both Houses of the Legislature, increase the maximum amount of the guarantee fixed by them under sub-section (1).”

427

(ii) the number of members to be elected to the Board and the Committee and the number to be elected from each registered society or class of registered societies;

(iii) the number of members to be nominated to the Board and the Committee and their qualifications ;

(iv) the term of office of the members of the Board and the Committee ;

(v) the election and nomination of members to the Board and the Committee and their removal ;

(vi) the election of office-bearers to the Board and the Committee and their term of office ;

(vii) the constitution of the executive committee of the Committee and the delegation of the functions of the Committee to the executive committee.

73-G. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provision of this Act or in any rule or by-law (including the by-law of any registered society) or in any other law for the time being in force.] Provisions of this Chapter to override other provisions.

¹[CHAPTER IX-B.

²[APEX SOCIETIES AND CENTRAL SOCIETIES.]

73-H. In this Chapter, unless the context otherwise requires,— Definitions

(a) “apex society” means a registered society whose area of operations extends to the whole of the State of Tamil Nadu ; and

(i) which has as its principal object, the promotion of the principal objects and the provision of facilities for the operations of other registered societies affiliated to it ; or

¹ Chapter IX-B was inserted by section 2 of the Tamil Nadu Co-operative Societies (Third Amendment) Act, 1970 (Tamil Nadu Act 32 of 1970).

²This heading was substituted for the heading “APEX SOCIETIES” by section 2 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1971 (Tamil Nadu Act 38 of 1971).

(ii) which is classified by the Government, by notification, as an apex society ;

but does not include the Tamil Nadu Co-operative State Land Development Bank Limited and the Tamil Nadu State Co-operative Bank Limited ;

(b) " board " in relation to an ¹[apex society or central society] means the board of directors or the board of management or the committee of management or the governing body to whom the management of its affairs is entrusted ;

²[(bb) " central society " means a registered society whose area of operations is confined to a part of the State of Tamil Nadu ; and

(i) in which other registered societies are eligible to become members ; or

(ii) which is classified by the Government, by notification, as a central society ;]

(c) " notified date " in relation to an ¹[apex society or central society] means the date specified in a notification issued under section 73-I in relation to such society.

Application of this Chapter to ³[apex societies and central societies].

73-I. ⁴[(1)] The Government may, by notification, apply the provisions of this Chapter to any ¹[apex society or central society] from such date as may be specified in such notification.

⁴[(2)] Notwithstanding anything contained in clause (a) of section 73-H or in Chapter IX-A or in the Tamil Nadu Co-operative Land Development Banks Act, 1934 (Tamil

¹These words were substituted for the words "apex society" by section 4(i) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1971 (Tamil Nadu Act 38 of 1971).

²This clause was inserted by section 3 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1971 (Tamil Nadu Act 38 of 1971).

³These words were substituted for the words "apex societies" and "apex society" by section 4 (ii) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 31 of 1971).

⁴Section 73-I was renumbered as sub-section (1) of that section and this sub-section was added by section 2 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1973 (Tamil Nadu Act 9 of 1973).

Nadu Act X of 1934), the Government may, by notification, apply the provisions of sections 73-J and 73-M, in so far as they relate to the Managing Director, to the Tamil Nadu Co-operative State Land Development Bank Limited and the Tamil Nadu State Co-operative Bank Limited.]

73-J. (1) The board shall consist of—

(i) such number of members to be elected and nominated as may be prescribed,

The Board of an ¹[apex society and central society].

(ii) the Managing Director, if any, appointed under sub-section (2), and

(iii) an *ex-officio* member to be specified in the rules :

Provided that the number of nominated members shall not exceed one-fifth of the total number of members of the board:

Provided further that the existing members of the board on the notified date shall, subject to the provisions of section 28, continue as members of the board constituted for the first time after the notified date, until the expiry of their existing term of office as members :

Provided also that on the constitution of the board for the first time after the notified date, the existing office bearers of the board on the notified date shall cease to hold office as such and new office bearers shall be elected in accordance with the rules made under this Chapter.

(2) A Managing Director or an Executive Officer for each ²[apex society or central society] may be appointed in such manner as may be prescribed. The Managing Director, if appointed, shall be a member of the board *ex-officio*.

(3) The Government may, by order, depute one or more officers of the Government to attend any meetings of the board and to take part in the discussions of the board, but such officer or officers shall not have the right to vote.

¹These words were substituted for the words "apex societies" and "apex society" by section 4(ii) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

²These words were substituted for the words "apex society" by section 4(i) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1971 (Tamil Nadu Act 38 of 1971).

Membership
of ¹[apex
societies and
central
societies].

73-K. Every registered society of such class as may be prescribed, shall, on application made in the form, if any, prescribed for the purpose, be deemed to be admitted as a member of the ²[apex society or central society] on and from the date of receipt of such application by the ²[apex society or central society]:

Provided that any member deemed to be 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 on which such member is deemed to be admitted.

Guarantee by
Government
of principal
of, and
interest on,
loans and
advances
taken by
¹[apex
societies and
central
societies.]

73-L. (1) The Government may, subject to such maximum amount as may be fixed by them and subject to such conditions as they may think fit to impose, guarantee the repayment of the principal of, and the payment of interest on, any loan or advance taken by any ²[apex society or central society].

¹[apex
societies and
central
societies.]

(2) The Government may, after consulting both Houses of the Legislature increase the maximum amount of the guarantee fixed by them under sub-section (1).

Power to
make rules.

73-M. (1) The Government may make rules to carry out the purposes of this Chapter and different provisions may be made in the rules for different ³[apex societies or central societies].

(2) In particular and without prejudice to the generality of the forgoing power, such rules may provide for—

(i) all matters expressly required or allowed by this Chapter to be prescribed;

(ii) the classification of registered societies for the purposes of section 73-K;

¹ These words were substituted for the words "apex societies" by section 4(ii) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

² These words were substituted for the words "apex society" by section 4(i) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

³ These words were substituted for the words "apex societies" by section 4(i) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

(iii) the number of members to be elected to the board and the number to be elected from each district or from each registered society or class of registered societies ;

(iv) the number of members to be nominated to the board and their qualifications ;

(v) the term of office of the members of the board, and their removal ;

(vi) all matters relating to election and nomination of members to the board including the voters for such election and their disqualifications and the representation for special interests not otherwise represented in the board ;

(vii) the election of office bearers to the board, their term of office and their removal ;

(viii) the constitution of the executive committee of the board and the delegation of the functions of the board to the executive committee ;

(ix) the manner of appointment, qualifications, powers and functions of the Managing Director and of the Executive Officer and the delegation of their powers and functions.

73-N. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provision of this Act or in any rule or by-law (including the by-law of any registered society) or in any other law for the time being in force.] Provisions of this Chapter to over-ride other provisions.

[CHAPTER IX-C.

CO-OPERATIVE UNIONS.

73-O. In this Chapter, unless the context otherwise requires,— Definitions.

(a) “co-operative union” means a society which has as its principal object the undertaking of co-operative education, propaganda or training ; or mobilisation of savings ;

¹ Chapter IX-C was inserted by section 3 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

(b) "district co-operative union" means a co-operative union registered as a district co-operative union under this Act ;

(c) "taluk co-operative union" means a co-operative union registered as a taluk co-operative union under this Act ;

(d) "Tamil Nadu Co-operative Union" means the Tamil Nadu Co-operative Union Limited.

Co-operative
unions.

73-P. (1) There shall be a Tamil Nadu Co-operative Union for the State of Tamil Nadu and as many district co-operative unions and taluk co-operative unions as may be deemed necessary ;

(2) On and from the date of commencement of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (hereinafter in this Chapter referred to as the Amendment Act), the existing Tamil Nadu Co-operative Union Limited (Registered No. X 387) shall be deemed to be, and shall be, the Tamil Nadu Co-operative Union.

(3) The Tamil Nadu Co-operative Union shall be deemed to be an apex society for the purposes of Chapter IX-B.

Registered
societies to
be members
of co-opera-
tive unions.

73-Q. (1) Every registered society in the State of Tamil Nadu shall, with effect on and from the date of the commencement of the Amendment Act or with effect on and from the date of its registration, whichever date is later, be deemed to be a member of the taluk co-operative union or 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 provided in the by-laws of such union.

Vesting of
assets and
liabilities.

73-R. On and from the date of the commencement of the Amendment Act, all assets and liabilities of the existing Tamil Nadu Co-operative Union Limited (Registered No. X 387) shall stand transferred to, and vest in, the Tamil Nadu Co-operative Union.

430

73-S. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other provision of this Act or in any rule or by-law (including the by-law of any registered society) or in any other law for the time being in force.]

Provisions of this Chapter to override other provisions.

¹[CHAPTER IX-D.]

INSURED CO-OPERATIVE BANKS.

73-T. 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 ²[or an order sanctioning a scheme of compromise or arrangement or reconstruction (including reorganisation) of the bank] may be made only with the previous sanction in writing of the Reserve Bank of India ;

Order for winding-up, division, amalgamation, supersession of committee, etc. of insured co-operative bank not to be made without sanction or requisition of 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 ³[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 committee and the appointment of an administrator therefor for such period

¹This chapter was inserted by section 2 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1979 (Tamil Nadu Act 37 of 1979).

²These words were inserted by section 2(a) of the Tamil Nadu Co-operative Societies (Fourth Amendment) Act, 1979 (Tamil Nadu Act 67 of 1979).

³This expression was substituted for the expression "the Deposit Insurance Corporation Act, 1961" by section 2(b) of the Tamil Nadu Co-operative Societies (Fourth Amendment) Act, 1979 (Tamil Nadu Act 67 of 1979).

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 day immediately preceding the date of the first meeting of the new committee ;

(iv) no appeal, revision or review shall lie against an order referred to in clauses (i), (ii) or (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 ¹[the Deposit Insurance and Credit Guarantee Corporation] established under ²[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,—

³[(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)].

³[(ii) “ Insured co-operative bank ” means a registered society which is an insured bank under the provisions of ²[the Deposit Insurance and Credit Guarantee Corporation Act, 1961] (Central Act 47 of 1961) ;

³[(iii) “ transferee bank ” in relation to an insured co-operative bank, means a registered society,—

¹This expression was substituted for the expression “ the Deposit Insurance Corporation ” by section 2(c) of the Tamil Nadu Co-operative Societies (Fourth Amendment) Act, 1979 (Tamil Nadu Act 67 of 1979).

²This expression was substituted for the expression “ the Deposit Insurance Corporation Act, 1961 ” by section 2(b) of the Tamil Nadu Co-operative Societies (Fourth Amendment) Act, 1979 (Tamil Nadu Act 67 of 1979).

³Items (i) and (ii) in the Explanation were renumbered as items (ii) and (iii) respectively and this item was inserted by section 2(d)(i) of the Tamil Nadu Co-operative Societies (Fourth Amendment) Act, 1979 (Tamil Nadu Act 67 of 1979).

123

(a) into which such insured co-operative bank is divided under sub-section (1) of section 13 ¹[or converted under section 16] ; or

(b) with which such insured co-operative bank is amalgamated under sub-section (2) of section 13 or under section 13-A ; or

(c) to which the assets and liabilities of such insured co-operative bank are transferred under section 14.]

CHAPTER X.

JOINT FARMING SOCIETIES.

74. This Chapter shall apply only to joint farming ^{Application of Chapter.}
societies.

75. In this Chapter, unless the context otherwise ^{Definitions}
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 as its object the cultivation on a joint basis of the lands of the members pooled for the purpose and such other lands 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 lands, included all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of those lands under sub-section (2) of section 81 ;

¹These words were inserted by section 2(d)(ii) of the Tamil Nadu Co-operative Societies (Fourth Amendment) Act, 1979 (Tamil Nadu Act 67 of 1979).

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

Admission
of members

76. Notwithstanding anything contained in section 17, every application for membership of a joint farming society shall be considered by the committee which may grant or refuse admission.

Creation of
charge in
favour of
joint farm-
ing society
by a mem-
ber.

77. (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 75, 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.

78. A joint farming society may require any of its members to pool his lands for the purpose 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.

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

79. (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 75 shall in addition to the declaration made under sub-section (1) of section 77, 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.

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

(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.

Prohibition
against
withdrawal
of lands
during the
period of
agreement.

80. 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 75, shall, before the expiry of the period specified in the agreement executed by him under sub-section (1) of section 79, be entitled or allowed to withdraw the lands so pooled by him from the possession or control of the joint farming society.

Disposal of
lands after
the expiry of
the agree-
ment.

81. (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 79, purchase the lands pooled in the manner set out in clause (2) of section 75 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 they 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 **Fort St. George 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 of, 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 **Fort St. George 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 all 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 79, been constructed on, in or over, the lands wholly

** Now the Tamil Nadu Government Gazette.*

33

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 75 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 86, 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 (hereinafter 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.

82. (1) Where any lands are acquired under sub-section (2) of section 81, there shall be paid compensation, the amount of which shall be determined in the manner and in 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;

Principles and method of determining compensation for lands acquired under section 81.

(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 lands 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 75,

whichever is less ; and

53

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

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

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

83. 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.

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

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

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.

¹ [CHAPTER X-A.

LIFT IRRIGATION SOCIETIES.

84-A. This Chapter shall apply only to lift irrigation societies.

Application of Chapter.

84-B. 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 ;

¹ This chapter was inserted by section 2 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1970 (Tamil Nadu Act 31 of 1970), which was deemed to have come into force on the 10th November 1970.

(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.

Declaration by members of a lift irrigation society. 84-C. (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 lands 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, authorising 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) Any lift irrigation society taking a loan from any financing institution (other than the Government and 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 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 lift irrigation society, and such permission shall not be given by the lift irrigation society without the approval of the creditor.

535

(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.

84-D. (1) Notwithstanding anything contained in this Agreement 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 84-C execute an agreement with the lift irrigation society specifying—

(i) that he shall continue as member of such society so long as he continues to own the land for which water is supplied by the lift 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 overhead charges and depreciation) as may be determined by the committee 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 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 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.

**Prohibition
against with-
drawal of
membership.**

84-E. 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.

**Regulation
of supply of
water.**

84-F. The committee 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 committee in this behalf with the approval of the Registrar.

**Admission of
transferees
of land and
heirs, etc. as
members.**

84-G. 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 committee 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 committee ; and any application for obtaining such approval shall be made within two months from the date of admission of such member.

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

CHAPTER XI.

WINDING UP AND CANCELLATION OF REGISTRATION OF REGISTERED SOCIETIES.

85. (1) If the Registrar, after an inquiry has been held under section 65 or an inspection has been made under section 66 or section 67, or on receipt of an application made by not less than three fourths of the members of a registered society, is of opinion that the society ought to be wound up, he may, after giving the society an opportunity of making its representations, by order in writing direct it to be wound up. A copy of the order shall forthwith be communicated to the society by registered post. Winding up of registered societies.

(2) The Registrar may, 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 ten members and the number of members has been reduced to less than ten ; or

(b) where the society has not commenced working within the prescribed period or has ceased to work.

86. (1) Where the Registrar has made an order under section 85 for the winding up of a registered society, he may appoint a liquidator for the purpose and fix his remuneration. Liquidator.

(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, or damage to, such property, effects and claims.

(3) Where an appeal is preferred under clause (a) of sub-section (2) of section 96, an order of winding up of a registered society made under sub-section (1) of section 85 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 revest in the society.

**Powers of
liquidator**

87. (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 86 from the date on which the order takes effect and the liquidator shall have power to realize such assets by sale or otherwise.

(2) Subject to the control of the Registrar such liquidator shall also have power—

(a) to institute and defend suits and other legal proceedings on behalf of the registered society by his name of 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 the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society ;

(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, cash or other properties

537

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 proportions 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 claim, present or future, whereby the society may be rendered liable; and

(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 a 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.

(3) 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, on a requisition being made in this behalf by the Registrar to the Collector in the same manner as arrears of land revenue.

(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 records of the society in such place as the Registrar may direct.

Cancellation
of registra-
tion.

88. 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.

Bar of legal
proceed-
ings.

89. 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.

Restoration
of society
ordered to
be wound
up.

90. Where, in the opinion of the Registrar, a registered society which has been ordered to be wound up may be restored to a committee 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 and direct the liquidator to constitute a committee 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 committee.

CHAPTER XII.

EXECUTION OF DECREES, DECISIONS, AWARDS AND ORDERS.

91. The Registrar or any person subordinate to him empowered by the 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--

Power of the Registrar to recover certain sums by attachment and sale of property.

(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; 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 26 or sub-clause (ii) of clause (d) of sub-section (2) of section 65 ; or

(d) any sum awarded by way of costs, under section 68 to a registered society including a financing bank ; or

(e) any sum ordered under section 87 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 71 to be repaid to a registered society or recovered as a contribution to its assets,

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 or order, has been obtained or passed.

Recovery of
debts.

92. 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, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, subject to the rules and on application from a 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 32:

Provided that no sale shall 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 seven days from the date of such service.

Publication
of informa-
tion respect-
ing members
or past or de-
ceased mem-
bers from
whom any
debt or out-
standing de-
mand is due
to the
society.

[92 A. If the financing bank is of opinion that it is necessary 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.]

Registrar or
person em-
powered by
him to be a
civil court
for certain
purposes.

93. 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 step in aid of such recovery, to be a civil court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act, 1908 (Central Act IX of 1908).

This section was inserted by section 2 of the Tamil Nadu Co-operative Societies (Third Amendment) Act, 1979 (Tamil Nadu Act 66 of 1979).

391

94. (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 be recovered in the same manner as arrears of land revenue. Recovery of sums due to Government.

(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 deceased members :

Provided that the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of section 25.

CHAPTER XIII.

APPEALS, REVISION AND REVIEW.

95. (1) The Government may constitute as many Co-operative Tribunals as may be necessary for the purposes of this Tribunal. Act.

(2) Each Tribunal shall consist of one person only who shall be a judicial officer not below the rank of Sub-ordinate Judge.

(3) Each Tribunal shall have such jurisdiction and over such area, as the Government may, by notification from time to time, determine.

96. (1) Any person aggrieved by—

Appeals.

(a) any decision passed or order made under sub-section (1) of section 71, sub-section (2), sub-section (3) or sub-section (4) of section 73, section 91 or section 108 :
or

(b) any award of an arbitrator or arbitrators under sub-section (2) or sub-section (3) of section 73 ; or

(c) any award of an arbitrator under section may appeal 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 73 in respect of any matter relating to or in connection with, the constitution of a committee including any election thereto

(ii) any order of transfer, reference, withdrawal or retransfer of a dispute under sub-section (2) or sub-section (3) of section 73.

(2) (a) Any person aggrieved by any decision under section 7, refusal to register a society under section 11, amendment of the by-laws under section 11, registration of amendment of the by-laws under sub-section (2) of section 12, ¹[order under clause (a) (ii) of sub-section (2) of section 17 or approval of or refusal to approve the removal of a member under] ²[the proviso to sub-section (4) or the proviso to sub-section (5) of section 73-B] ³[the proviso to section 73-K] ⁴[or the proviso to section 84-G, approval of,

¹ This expression was substituted for the expression "approval of or refusal to approve the removal of a member under the proviso to clause (a) of sub-section (2) of section 17" by section 4 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1979 (Tamil Nadu Act 20 of 1979).

² This expression was inserted by section 3 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1970 (Tamil Nadu Act 32 of 1970), which was deemed to have come into force on the 1 November 1970.

³ This expression was inserted by section 3 of the Tamil Nadu Co-operative Societies (Third Amendment) Act, 1970 (Tamil Nadu Act 32 of 1970).

⁴ This expression was substituted for the expression "approval of or refusal to approve expulsion of a member under sub-section (2) of section 20" by section 3 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1970 (Tamil Nadu Act 32 of 1970), which was deemed to have come into force on the 1 November 1970.

refusal to approve, the expulsion of a member under sub-section (2) of section 20, the proposal to take a loan under clause (c) of sub-section (1) of section 84-C, the decision of the committee under clause (ii) of sub-section (1) of section 84-D, or the regulations under section 84-F], ¹[decision under sub-section (4) of section 18, or sub-section (6) of section 28] or ²[³(order under section 13-A, ⁴[section 28-A),] sub-section (1) of section 72, section 85, or section 119-A] may appeal, if such decision, refusal, registration, approval or order is that of—

(i) the Registrar of Co-operative Societies for the ⁵[State of Tamil Nadu], to the Government; or

(ii) any other person, to the Registrar aforesaid.

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 clause (b) of sub-section (2) of section 17 or who is aggrieved by any order of the liquidator under section 87, may appeal to the Registrar.

¹ This expression was substituted for the expression “decision under sub-section (6) of section 28” by section 8 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975).

² This expression was substituted for the expression “order under section 28-A, sub-section (i) of section 72 or section 85” by section 4(i) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

³ These words, figures and letters were substituted for the words, figures and letter “order under section 28-A” by section 3 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1977 (President’s Act 1 of 1977).

⁴ These words, figures and letter were inserted by section 4 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1966 (Tamil Nadu Act 8 of 1966).

⁵ This expression was substituted for the expression “State of Madras” by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(3) Any appeal under sub-section (1) or sub-section (2) shall, subject to the other provisions of this Act, be preferred within two months from the date 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 two months 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) ¹[Subject to the provisions of sections 97 and 98, the decision or order] of the appellate authority on appeal shall be final.

(6) The appellate authority may pass such interlocutory orders 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.

Revision. 97. (1) The Registrar may of his own motion or on application call for and examine the record of any officer subordinate to him and the Government may of their own motion or on application call for and examine the record of the Registrar, in respect of any proceeding not being a proceeding in respect of which an appeal to the Tribunal¹ is provided by sub-section (1) of section 96 to satisfy himself or themselves as to the regularity of such proceeding, 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 re-consideration, he or they may pass orders accordingly :

¹ These words and figures were substituted for the words "The decision or order" by section 4 (ii) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within three months from the date on which the proceeding, 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 representations.

(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 proceedings under this section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the Government may deem fit.

98. (1) The appellant or the applicant for revision or the respondent may apply for the review of any order passed under section 96 or section 97 on the basis of the discovery of new and important facts which, after the exercise of due diligence, were not then 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 :

Review.

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.

Execution of orders passed in appeal, revision or review.

99. Any order passed by the Tribunal, the Registrar or the Government under section 96, 97 or 98 shall be enforced by such authority and in such manner as may be prescribed.

Bar of jurisdiction of civil courts.

100. No order or award passed, decision or action taken or direction issued under this Act by an arbitrator, liquidator, the Registrar or an officer authorised or empowered by him, the Tribunal or the Government or an officer subordinate to them, shall be liable to be called in question in any court.

CHAPTER XIV.

OFFENCES AND PENALTIES.

Punishment for furnishing false information or disobeying summons or other lawful order, requisition or direction.

101. The committee of a registered society which, or officer, employee, or a paid servant or any member of society who, wilfully makes a false return or furnishes false information, or any person who wilfully or without reasonable excuse, disobeys any summons, requisition or other lawful order or direction issued under the provisions of this Act, or who wilfully 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 fine which may extend to one hundred rupees.

Punishment for acting in contravention of section 32, 33, 77 or 84-C].

102. Any person who acts in contravention of section (2) of section 32 or fails to deposit or entrust into 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 33 or sub-section (3) of section 77 ¹[or sub-section (3) of section 84-C] shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.

¹ This expression was substituted for the expression "section 33 or 77" by section 4 (i) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1970 (Tamil Nadu Act 31 of 1970) which was deemed to have come into force on the 10th November 1970.

² This expression was inserted by section 4 (ii) of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1970 (Tamil Nadu Act 31 of 1970), which was deemed to have come into force on the 10th November 1970.

103. (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 :

Prohibition of the use of the word 'Co-operative' or its equivalent.

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 therefor.

104. The committee of any registered society or an officer or an employee or a paid servant thereof who fails to give effect to any decision or award under section 73 or where an appeal against such decision or award has been filed, to the order passed by the appropriate appellate authority, such decision or award or order not being a money decree, shall be punishable with fine which may extend to five hundred rupees.

Punishment for failure to give effect to decision or award in references.

105. Any registered society 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.

Punishment for offences not otherwise provided for.

106. (1) No court inferior to that of a *presidency magistrate or a magistrate of the first-class shall try any offence under this Act.

Cognizance of offences.

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

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

* According to clauses (a) and (c) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any reference to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate with effect on and from 1-4-1974.

Delivery
of possession
of records
and properties
of a
registered
society.

107. (1) Where the committee of a registered society is reconstituted¹] or is superseded by the Registrar and a special officer or managing committee is appointed under section 72 or where the society is ordered to be wound up and a liquidator is appointed under section 86 and such reconstituted committee, special officer, managing committee 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 (hereinafter in this section referred to as the records and properties of the society)² [by the committee which was functioning immediately before such reconstitution or by the committee which has been superseded] or by the society which has been ordered to be wound up or by any person who is not entitled to be in possession of the records and properties of the society, any *presidency magistrate or any magistrate of the first-class in whose jurisdiction the office of the society or the records and properties of that society is or are situated shall, on application by the reconstituted committee, special officer, managing committee or liquidator and on production of a certificate from the Registrar in the prescribed form setting forth that the committee of the society has been reconstituted or superseded or that the society has been ordered to be wound up and that a special officer or managing committee or liquidator has been appointed as aforesaid direct delivery to the reconstituted committee, special officer, managing committee or liquidator of the possession of the records and properties of the society.

(2) No certificate shall be issued by the Registrar under sub-section (1) without making such inquiry as he deems necessary.

¹ The words "at a general meeting of the society" were omitted by section 9 (1) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975).

² These words were substituted for the words "by the committee which has been reconstituted or superseded" by section 9 (2) of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975).

* According to clause (a) and (c) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any reference to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate with effect on and from 1-4-1974.

443

(3) For the purpose of the proceedings under sub-section (1), the certificate aforesaid shall be conclusive evidence that the records and properties to which it relates belong to the registered society.

(4) The * presidency magistrate or the magistrate of the first class referred to in sub-section (1) may, pending disposal of an application for directing delivery to the reconstituted committee, special officer, managing committee or liquidator of the possession of the records and properties of the society mentioned in the certificate by the Registrar, appoint a Receiver to take possession of such records and properties or such portion thereof as may be necessary. The remuneration, if any, paid to the Receiver and other expenses incurred by him shall be paid out of the funds of the registered society concerned.

CHAPTER XV.

MISCELLANEOUS.

108. Where the Registrar is satisfied on the application of a registered society in respect of a reference made to him under sub-section (1) of section 73 or on the application of a liquidator appointed under section 86 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 87 or on the application of the committee or liquidator or any creditor to the society or otherwise in respect of any inquiry ordered into the conduct of any person under section 71 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

Attachment
of property.

* According to clauses (a) and (c) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any reference to a Magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate with effect on and from 1-4-1974.

may be passed against him by the liquidator or the Registrar, as the case may be, the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court.

Power to
exempt
societies from
conditions
as to
registration.

109. 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 any society from any of the requirements of this Act as to registration.

Exemption of
self-reliant
societies.

110. Nothing contained in section 19, or the second proviso to sub-section (1) or sub-section (2) of section 27 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.

Power to
exempt regis-
tered socie-
ties.

[111. Without prejudice to the power conferred by section 110, the Government may, by general or special order, whether prospectively or retrospectively,—

(a) exempt any registered society from any of the provisions of this Act¹ [or of the rules], or

(b) direct that such provisions shall apply to such society with such modifications as may be specified in the order.]

¹ This section was substituted for the following section by section 5 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971):—

“111. Power to exempt registered societies.—Without prejudice to the power conferred by section 110, the Government may, by general or special order exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.”

² These words were inserted by section 10 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1975 (Tamil Nadu Act 36 of 1975).

444

112. The arbitrator appointed under clause(b) of sub-section (1) of section 82 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.

Arbitrator in fixing compensation for lands acquired and the Tribunal to be civil courts.

113. (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 power to make rules and may in like manner withdraw such authority.

Delegation of powers of Government.

(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.

114. (1) Every society now existing 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), 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.

Saving of existing societies.

(2) Every society which has been registered under the law applicable to co-operative societies in the areas which formerly formed part of the 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 continue in force until they are altered or rescinded.

(3) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under the Acts mentioned in sub-section (1) shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

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

115. No act of a registered society or any committee 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 committees ;

(b) of any defect or irregularity in the election or appointment of a member of the committee 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 proceeding not affecting the merits of the case.

Companies Act, 1956, not to apply.

116. The provisions of the Companies Act, 1956 (Central Act I of 1956), shall not apply to registered societies.

Protection of action taken in good faith.

117. No suit, prosecution or other legal proceeding shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done under this Act or any rule or by-law made thereunder.

Construction of references to Co-operative societies Acts in enactments.

118. All references to the Co-operative Societies Act, 1912 (Central Act II of 1912) or the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) or the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952), occurring in any enactment made by any authority in India and for the time being in force in the ¹[State of Tamil Nadu] shall, in its application to the said State, be construed as references to this Act.

Power to make rules.

119. (1) The Government may, for the whole or any part of the ¹[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.

¹ This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(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 applications ;

(b) subject to the provisions of section 5, prescribe the procedure to be followed when societies change their form of liability ;

¹[(b-1) prescribe the procedure to be followed and conditions to be complied with for amalgamation of registered societies;]

(c) prescribe the matters in respect of which a society may or shall make by-laws and for 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 ;

(d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members ;

(e) provide for the payment to be made and the interests to be acquired before the exercise of the right of membership ;

(f) regulate the manner in which funds may be raised by means of shares or debentures or otherwise ;

(g) prescribe in the case of a financing bank (i) the proportion of individual members to society members in the constitution of its general body or its committee, and (ii) the maximum number of members of its committee ;

(h) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;

(i) provide for the appointment, suspension and removal of the members of the committee and other officers (not being a paid officer) and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers ;

¹ This clause was inserted by section 4 of the Tamil Nadu Co-operative Societies (Amendment) Act, 1977 (President's Act 1 of 1977).

(j) prohibit a society from appointing a defaulting member of any society to its committee or to the committee 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 ;

(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 of preparing it ;

(n) provide for the persons by whom and the form in which copies of 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 members 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 person 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 funds ¹[and other funds] and the objects to which such funds may be applied and for the investment of any funds under the control of a society ;

(v) prescribe the extent to which a society may limit the number of its members ;

(w) prescribe the conditions under which profits may be distributed to the members 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 86 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 all appeals and applications for revision and review under this Act and the fees to be paid in respect of such appeals and applications ;

(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 ;

¹ These words were inserted by section 6 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

(aa) provided for the custody of property attached under this Act ;

(bb) provide for the issue and service of processes and for proof of service thereof;

(cc) provides for the levy of fees for granting certified copies of documents in the Registrar's office ;

(dd) provides 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) provide for the recovery of costs awarded against the Government in cases under section 71;

(ff) prescribe the procedure for the attachment and sale of property under section 91;

(gg) prescribe the procedure and the disposal of the business of the Tribunal ; and

(hh) provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) All rules made under this Act shall be published in the *Fort St. George 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.

(4) Every rule made under this Act shall, as soon as made, be placed on the table of both Houses of the Tamil Nadu Legislative Assembly. If, before the expiry of the session in which it is so placed, 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.

1[119-A. (1) Subject to the rules made in this behalf, Power of Registrar to give directions in the public interest, etc.
where the Registrar is satisfied that in the public interest or for the purposes 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 class of registered societies generally, or for preventing the affairs of any registered society being conducted in a 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.]

120. (1) The Government may, 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 in due course the result of the inquiry made or the proceedings taken by him. Power of Government to give directions.

(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 representations.

This section was inserted by section 7 of the Tamil Nadu Co-operative Societies (Second Amendment) Act, 1971 (Tamil Nadu Act 39 of 1971).

Repeals and savings.

121. (1) The Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), except so much of section 30 thereof as relates to the powers of the Central Government, and any law corresponding to this Act in force in the added territory or in the transferred territory immediately before the commencement of this Act including the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952) (hereinafter in this section referred to as the corresponding law), shall stand repealed on such commencement.

(2) The repeal by sub-section (1) of the corresponding law shall not affect —

(i) the previous operation of the corresponding law or anything done or duly suffered thereunder ; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the corresponding law ; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law ; or

(iv) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ; and any such investigation, legal proceeding 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 corresponding law 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.

(4) For the purpose of facilitating the application of this Act in the added territory or the transferred territory, any court or other authority may construe this Act with such alterations not affecting the substance as the case may be necessary or proper to adapt it to the matter before the court or other authority.

(5) Any reference to the corresponding law in any law which continues to be in force in the added territory or the transferred territory after the commencement of this Act shall, in relation to that territory, be construed as a reference to this Act.

Explanation.—For the purpose of this section, the expression “added territory” shall mean the territories specified in the Second Schedule to the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (Central Act 56 of 1959), and the expression “transferred territory” shall mean the Kanyakumari district and the Shencottah taluk of the Tirunelveli district.

122. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty. Power to remove difficulties.

(2) Every order made under sub-section (1) shall, as soon as possible, after it is made, be placed on the table of both Houses of the Legislature, and if, 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 order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that such modification or annulment shall be without prejudice to the validity of anything previously done under that order.