



The Orissa Co-Operative Societies Act, 1962

Act 2 of 1963

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Apex Society, Central Co-Operative Bank, Central Society, Co-Operative Bank, Co-Operative Farming Society, Financing Bank, Society with Limited Liability, Society with Unlimited Liability, State Co-Operative Union

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ORISSA ACT 2 OF 1963
THE ORISSA CO-OPERATIVE SOCIETIES
ACT, 1962

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SCHEDULE

ORISSA ACT 2 OF 1963

[THE ORISSA CO-OPERATIVE SOCIETIES
ACT, 1962]

[Received the assent of the President on the 3rd
February 1963, first published in an extraor-
dinary issue of the Orissa Gazette, dated
the 15th February 1963]

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

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Orissa
Co-operative Societies Act, 1962.

Short title,
extent and
commence-
ment.

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

(3) It shall come into force² on such date as
the State Government may by notification appoint.

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

Definitions

(a) 'apex society' means a society having the
whole of the State of Orissa as its area
of operation and having as its members
other societies with similar objects and
declared as such by the Registrar;

(b) 'bye-laws' means the registered bye-laws
for the time being in force;

1. For the Statement of Objects and Reasons, see *Orissa Gazette*, Extra-ordinary, dated the 19th March 1962 (No. 161) and for Report of Select Committee, see *ibid.*, dated the 21st August 1962 (No. 413).

2. Came into force with effect from the 1st July 1965 vide Notification No. 12477-2C-XII-A-2/6.-CF., dated the 23rd June 1965, published in *Orissa Gazette*, Extraordinary dated the 26th June 1965 (No. 885).

(Sec. 2-*contd.*)

¹[(b-1) 'Central Co-operative Bank' shall have the same meaning as assigned under the Reserve Bank of India Act, 1934; ^{2 of 1934}

(b-2) 'Central Society' means a society not less than five members of which are societies;]

(c) 'committee' means the managing committee of a society by whatever name called, to which the management of the affairs of the society is entrusted by or under this Act or by the bye-laws of the society;

²[(c-1) 'Co-operative Bank' shall have the same meaning as assigned under the Deposit Insurance Corporation Act, 1961; ^{47 of 1961}

(d) 'co-operative farming society' means a society in which, with the object of increasing agricultural production employment and income and better utilisation of resources, lands are pooled together and are jointly cultivated by the members on behalf of the society;

³[(d-1) '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 and 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;]

(e) 'financing bank' means a society which includes among its objects the creation of funds for making advances in cash or kind to other societies and persons who are its members and to persons who have deposited money therein;

1. Inserted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 2(a).

2. Inserted by *ibid.*, s. 2(b).

3. Inserted by the Orissa Co-operative Societies (Second Amendment) Act, 1970 (Or. Act 21 of 1970), s.2(a).

(Sec. 2-*contd.*)

(f) 'member' means a person joining in the application for the registration of a society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a nominal and an associate members,

¹[(f-1) 'near relative' means father, mother, husband, wife, son, daughter, undivided brother, unmarried sister and son's wife;]

(g) 'officer' means any person empowered under the rules or the bye-laws to give directions in regard to the affairs of a society and includes the President, Vice-President, Chairman, Vice-Chairman, Managing Director, Secretary, ²[Assistant Secretary,] Manager, Member of Committee, Treasurer or Administrator of such society;

(h) 'prescribed' means prescribed by rules made under this Act;

(i) 'Registrar' means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

(j) 'rules' means the rules made under this Act;

(k) 'society' means a co-operative society registered or deemed to be registered under this Act;

1. Inserted by the Orissa Co-operative Societies (Second Amendment) Act, 1970 (Or. Act 21 of 1970), s. 2(b).

2. Inserted by *ibid.*, s. 2(c).

(Sec. 3)

(l) 'society with limited liability' means a society, in which the liability of its members, for the debts of the society in the event of its being wound up is limited by its bye-laws—

(i) to the amount, if any, unpaid on the shares respectively held by them; or

(ii) to such amount as they may, in accordance with such bye-laws, respectively, undertake to contribute to the assets of the society;

(m) 'society with unlimited liability' means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society; and

[(m-1) 'standard acre' shall have the same meaning as assigned to it under the Orissa Land Reforms Act, 1960;] Orissa Act 16 of 1960.

(n) 'State Co-operative Union' means the society registered under the Orissa Co-operative Societies Act, 1951 by the name of the Orissa State Co-operative Union Limited. Orissa Act 11 of 1952.

CHAPTER II

REGISTRATION OF CO-OPERATIVE SOCIETIES

Registrar

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

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

(Secs. 4-6)

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

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

4. Subject to the provisions of this Act, a co-operative society which has as its object the promotion of economic interests of its members in accordance with co-operative principles, or a co-operative society established with the object of facilitating the operations of such a society, may be registered under this Act. Societies which may be registered.

5. (1) A co-operative society may, subject to the provisions of sub-section (2), be registered with limited or unlimited liability. Registration with limited or unlimited liability.

(2) Unless the State Government by general or special order otherwise direct, no society shall be registered after the commencement of this Act with unlimited liability, if it has any society as its member.

(3) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a co-operative society registered under this Act with limited liability.

6. (1) An application for the registration of a co-operative society shall be made to the Registrar in such form as the Registrar may, from time to time, specify, and the applicants shall furnish to him all such information about the society as he may require. Application for registration of co-operative societies.

(2) Every such application shall conform to the following requirements, namely :—

(a) the application shall be accompanied by five copies of the proposed bye-laws of the society ;

(Sec. 7)

- (b) where all the applicants are individuals, the number of applicants shall not be less than ten ;
- (c) where the objects of the society include the creation of funds to be lent to its members and where all the applicants are individuals, the applicants shall reside in the same village or town or in the same group of villages or belong to the same class or pursue the same occupation ; and
- (d) the application shall be signed by everyone of the applicants who is an individual and in the case of applicants other than individuals by a person duly authorised by such applicant in that behalf.

Registration

7. (1) If the Registrar is satisfied —

- (a) that the application complies with the provisions of this Act and the rules ;
- (b) that the objects of the proposed society are in accordance with section 4 ;
- (c) that the aims of the proposed society are not inconsistent (with the principle of social justice) ;
- (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules ; and
- (e) that the proposed society complies with the requirement of sound business and has reasonable chances of success ;

the Registrar may register the co-operative society and its bye-laws.

(2) Where the Registrar refuses to register a co-operative society, he shall communicate the order of refusal together with the reasons therefor, to such of the applicants as may be prescribed.

(Secs. 8-11)

8. Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is a society duly registered under this Act.

Registration certificate.

9. A co-operative society registered under this Act shall be a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it was constituted.

Co-operative societies to be bodies corporate.

10. (1) A society may, by an amendment of its bye-laws, change its name.

Change of name of a society.

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

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

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

Change of liability.

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

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

(Sec. 12)

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

- (a) the assent thereto of all members and creditors has been obtained ; or
- (b) all claims of members and creditors who exercise the option referred to in subsection (2) within the period specified therein have been met in full.

Amendment
of bye-laws
of a society

12. (1) No amendment of any bye-law of a society shall be valid unless such amendment has been registered under this Act.

[(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment—

- (i) is not contrary to the provisions of this Act and the rules;
- (ii) does not conflict with co-operative principles;
- (iii) satisfies the requirements of sound business;
- (iv) will promote the economic interests of members of the society;
- (v) is not inconsistent with the principles of social justice; and
- (vi) is well defined and does not in any way hamper the principal objects of the society;

he may register the amendment:

Provided that an amendment made with the prior approval of the Registrar shall be registered by him.]

¹ Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 3(a).

(Sec. 13)

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

(4) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with the reasons therefor, to the society.

¹ [(5) Where in the case of an apex society, Central Society, Co-operative Bank or Financing Bank or in the case of any other society assisted by the State or Central Government in any of the forms specified in sub-section (1) of section 31, the Registrar is of the opinion that an amendment of the bye-laws of any such society is necessary or desirable in the interest thereof, he may, in the prescribed manner, call upon the society to make such amendment within such period as he may specify in that behalf.

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

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

² [Provided that an amendment made with the prior approval of the Registrar shall come into operation with effect from the date on which the resolution in respect thereof is passed at the general meeting of the society.]

1. Inserted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 3 (2).

2. Added by *ibid.*, s. 4.

(Sec. 14)

Amalgama-
tion, transfer
of assets and
liabilities
and division
of societies.

14. (1) A society may, with the previous approval of the Registrar and by a resolution passed by a majority of the members present and voting at a general meeting of the society—

(a) transfer its assets and liabilities in whole or in part to any other society which is prepared to accept them: or

(b) divide itself into two or more societies.

(2) Any two or more societies may, with the approval of the Registrar, by a resolution passed by a majority of the members present at an ordinary general meeting of each such society specially convened for the purpose of which at least seven days, clear notice has been given to each member and subject to the other condition of this section amalgamate into a single co-operative society.

(3) The Registrar, after an inspection is made under section 64 or an enquiry is held under section 65 may, with the consent of the concerned financing bank, if any, and subject to the prescribed conditions, order—

(i) that two or more societies with the same or having over-lapping or adjoining areas of operation and having similar objects shall amalgamate themselves and form a new society; or

(ii) that a society shall be divided into two or more societies.

(4) The resolution of a society under sub-section (1) or sub-section (2) or the order made under sub-section (3) shall contain all particulars of the transfer, division or amalgamation as the case may be.

(5) When a society has passed any such resolution under sub-section (1) or sub-section (2) or when an order has been passed by the Registrar under sub-section (3), the society concerned shall give notice thereof in writing in the prescribed manner to all its members and creditors and, notwithstanding any by-laws or contracts to the contrary, any member of

(Sec. 15)

creditor shall, during the period of one month from the date of issue of the notice, have the option of withdrawing his shares, deposits or loans, as the case may be.

(6) Any member or creditor who does not exercise his option within the period specified in sub-section (5) shall be deemed to have assented to the proposals contained in the resolution or order, as the case may be.

(7) A resolution or order passed under this section shall not take effect until all claims of members and creditors who exercise the option referred to in sub-section (5) within the period specified therein, have been met in full.

(8) Where a resolution or an order passed under this section involves the transfer of any assets and liabilities, the resolution or order shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

(9) The amalgamation or division of societies shall not affect any rights or obligation of the societies so amalgamated or divided or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated or divided; and accordingly such legal proceedings may be continued or commenced by or against the amalgamated society or, as the case may be, the new societies.

15. (1) Where the whole of the assets and liabilities of a society are transferred to another society in accordance with the provisions of section 14 the registration of the first mentioned society shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body.

Cancellation of registration certificates of societies in certain cases.

(2) Where two or more societies are amalgamated into a new society in accordance with the provisions of section 14 the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and such amalgamating societies shall be deemed to have been dissolved and shall cease to exist as corporate bodies.

(Sec. 16)

(3) Where a society is divided into two or more societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER III

MEMBER OF THE CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

Persons who may become members.

16. (1) No person shall be admitted as a member of society except the following, namely;—

- (a) an individual competent to enter into a contract under section 11 of the Indian⁹ of 1872 Contract Act, 1872;
- (b) any society;
- (c) the State Government;
- (d) the Central Government; and
- (e) any other person as may be prescribed:

Provided that nothing in this sub-section shall debar a student, who is a minor, from becoming a member of a society formed for the benefit of the students of an educational institution.

[(2) No society shall, without sufficient cause, refuse admission as member to any person who is duly qualified therefor and the decision refusing admission shall be communicated by the society to the person concerned with reasons for such refusal within thirty days from the date of application for membership failing which such person shall be deemed to have been admitted as a member of the society with effect from the date following the date of expiration of the said period of thirty days.

(2-a) Where a person is deemed to have been admitted as a member of a society in pursuance of the preceding sub-section, the society may file an application before the Registrar within sixty days from the date with effect from which such person is

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 5.

2. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1975 (Or. Act 25 of 1975), s. 2.

(Sec. 16)

deemed to have been admitted as a member for cancellation of the membership, whereupon the Registrar shall, after making such enquiry as he deems fit, pass such order as he thinks proper.]

¹[(3) Notwithstanding anything contained in the preceding sub-sections—

(a) no individual shall be eligible to be a member of an apex society or a Central Co-operative Bank; and

(b) no individual shall be eligible to be a member of any society if he or any of his near relatives having common economic interest with him carries on any business similar to the one carried on by the society.]

(4) Any individual, who was continuing as a member of any society immediately prior to the date of coming into force of the Orissa Co-operative Societies (Amendment) Ordinance, 1970 and who is not otherwise eligible to be a member of such society in accordance with ² [the provisions of clause (a) of sub-section (3)], shall have to resign his membership within three months from such date, failing which he shall be deemed to have ceased from being a member and upon such resignation or cessor the society shall, subject to the provisions of sub-section (4) of section 23 refund his contribution to the share capital of the society.] Or. Ordinar. ca. 17 of 1970.

³[(5) Any individual, who was continuing as a member of any society immediately prior to the 25th day of August, 1970 and who is not otherwise eligible to be a member of such society in accordance with the provisions of clause (b) of sub-section (3), shall have to resign his membership within three months from the said date, failing which he shall be deemed to have ceased from being a member and upon such resignation or cessor the society shall, subject to the provisions of sub-section (4) of section 23, refund his contribution to the share capital of the society.

1. Substituted by the Orissa Co-operative Societies (Second Amendment) Act, 1970 (Or. Act 21 of 1970), s. 3 (a).

2. Substituted by *ibid.*, s. 3 (b).

3. Inserted by *ibid.*, s. 3 (c).

(Sec. 17)

Explanation—For the purposes of sub-section (3)—

- (a) the business of money-lending shall be deemed to be similar to the business carried on by a Primary Agricultural Credit Society, Co-operative Bank or a Land Development Bank;
- (b) the business carried on by a trader shall be deemed to be similar to the business carried on by a marketing co-operative society and Consumer's Co-operative Societies;
- (c) the business carried on by a contractor shall be deemed to be similar to the business carried on by a labour contract co-operative society or a forest marketing co-operative society; and
- (d) a near relative of an individual shall, unless the contrary is proved, be deemed to have common economic interest with such individual.]

Affiliation to
the State Co-
operative
Union.

17. Notwithstanding anything in section 16 in respect of the membership in the State Co-operative Union such of the societies shall be bound to affiliate themselves to and become members of the Union as may, subject to the rules made in that behalf, be declared from time to time by the State Government, having regard to their income and activities and the number and nature of their members, to be liable to become such members of the Union:

Provided that if any such society as aforesaid fails to comply with the requirements of this sub-section within such time as may be prescribed, the Registrar shall have the power to declare such society to have become affiliated to and a member of the Union and thereupon the society shall remain subject to all the obligations and entitled to all rights and privileges as a member of the Union and be liable to pay all fees and contributions in accordance with the bye-laws of the Union.

(Secs. 18-21)

18. (1) A society may admit any person as a ^{Nominal or} nominal or associate member. _{associate members.}

(2) A nominal member shall not be entitled—

(a) to any share, in any form whatsoever, in the assets or profit of the society; and

(b) to be elected to the Committee of a society.

(3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

19. No member of a society shall exercise the ^{Member not} rights of a member unless he has made such payments _{to exercise} to the society in respect of membership or has acquired ^{rights till} such interest in the society, as may be specified in _{due payment} the bye-laws. _{made.}

20. Every member of a society shall have one ^{Vote of} vote in the affairs of the society: _{members.}

Provided that—

(a) a nominal or associate member shall not have the right to vote;

(b) where the State Government or the Central Government is a member of the society, each person nominated by or on behalf of such Government on the committee of the society shall have one vote.

21. (1) Every member of a society shall exercise ^{Manner of} his vote in person and no member shall be per- _{exercising} mitted to vote by proxy. _{vote.}

(2) Notwithstanding anything contained in sub-section (1) where a member of the society belongs to any of the categories specified in clauses (b) and (e) of sub-section (1) of section 16 such member may, subject to any rules made under this Act, appoint any person to vote on its behalf in the affairs of such society.

(Secs. 22-23)

Restriction
of holding of
shares.

22. In any society no member belonging to the category mentioned in clause (a) of sub-section (1) of section 16 shall,—

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

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

Restrictions
on transfer
of shares or
interest.

23. (1) The transfer of a share or interest of a member in the capital of a society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section 22,

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

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

(3) Where a member of a co-operative farming society has pooled lands in favour of the society no such land shall be withdrawn from the society within such period as may be specified in the bye-laws of such society:

[(4) Notwithstanding anything contained in the preceding sub-section where a person ceases to be a member of any society by reason of resignation or expulsion or by reason of incurring any disqualification provided under this Act or the Rules or under the bye-laws of the society, the society may retire the shares of or the interest in the share capital held by such person on payment of the face value of such share or interest.]

(Secs. 24-25)

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

Transfer of
interest on
death of
member.

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

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind or a person suffering from any other disqualification, if any, under the bye-laws from acquiring by inheritance or otherwise the share or interest of a deceased member in a society or from receiving dividend or benefit accruing in respect of such share or interest.

(2) Notwithstanding anything contained in sub-section (1) any such nominee, heir, or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules.

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

(4) All transfers and payments made by a 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 for the debts of the society as they existed—

Liability of
past member
and estate
of 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.

(Secs. 26-27)

(2) Where a society is ordered to be wound up under section 72, 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 of winding up, 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 death, as the case may be.

Restriction on transfer of possession of and interest in land held under the society.

26. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, a member of a society, the object of which is the reclamation and colonisation of land or the acquisition of land and the leasing out thereof to its members, shall not be entitled to transfer possession of or interest in any land held by him under the society, to any person except to the society or with the previous approval of the society given in accordance with the bye-laws to a member thereof or to a person whose application for membership has been accepted by the society.

(2) No land held under a society specified in sub-section (1) by a member thereof shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or a member thereof.

CHAPTER IV

MANAGEMENT OF SOCIETIES

Final authority in a society.

27. The final authority in a society shall vest in the general body of members :

Provided that where the bye-laws of a society provides for the constitution of a smaller body consisting of delegates of members of the society elected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body, as may be prescribed or in the absence of rules in this behalf as may be specified in the bye-laws of the society :

Provided further that nothing in this section shall affect any powers conferred on a committee or any officer of a society by the rules or the bye-laws.

(Sec. 28)

28. (1) The management of a society shall vest in a Committee constituted in accordance with the rules and its bye-laws and the committee so constituted shall exercise such powers and perform such duties as may be conferred or imposed by or under this Act.

(2) The Committee of a society which is assisted by the State Government or Central Government in any of the forms specified in sub-section (1) of section 31 shall consist of not less than five and not more than eleven members :

Provided that—

- (a) the aforesaid maximum limit in the cases of a Central Society and an Apex Society shall be fifteen and twenty-one, respectively ;
- (b) in the case of a Regional Co-operative Marketing Society the Committee shall not include more than three members representing the individual members of the society to be chosen from among members who have marketed their produces through the society in the prescribed manner during the preceding two co-operative years and the remaining members of the Committee shall be representatives of the societies which are members of the said Marketing Society ;¹[*]
- (c) in the case of primary Agricultural Credit Co-operative Societies and Service Co-operative Societies at least one-third of the members of the Committee shall be persons owning not more than three standard acres of land or persons who are landless cultivators² [; and]

1. Substituted by the Orissa Co-operative Societies (Second Amendment) Act, 1970 (Or. Act 21 of 1970), s. 5 (a).

2. Omitted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act 1 of 1978), s. 2 (a) i).

3. Substituted by *ibid.*, s. 2 (a) (ii).

(Sec. 28—contd.)

¹[(d) in the cases of Farmer Services Co-operative Societies and Large size Multi-purposes Co-operative Societies, at least two thirds of the members of the Committee shall respectively be small farmers and members belonging to the Scheduled Tribes.

²[*Explanation I*—‘small farmer’ means a person who owns not more than five acres of unirrigated land or two and a half acres of irrigated land.]

Explanation II—The principles for determining whether a society is a Large Size Multi purpose Co-operative Society or not, shall be as may be prescribed.]

(2-a) If the bye-laws of a society which were in force immediately prior to the³[date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1978] are inconsistent with the provisions contained in sub-section (2), the society shall, within three months from the said date, amend the bye-laws so as to bring them in conformity with the said sub-section failing which the Registrar shall make the necessary amendment and register the same in the manner provided in sub-section (6) of section 12.

(2-b) Upon an amendment being made under sub-section (2-a) the society shall wherever necessary, reconstitute the Committee within one month from the date of enforcement of the amendment in accordance with the bye-laws as so amended failing which the Registrar shall remove the Committee and thereupon the provisions contained in section 32 in so far as they relate to management of the affairs of the society and reconstitution of its Committee, shall apply to the society :

Provided that the Committee shall be reconstituted within six months from the date of its removal.]

1. Omitted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act 1 of 1979), s. 2 (a) (iii).

2. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1979 (Or. Act 7 of 1979), s. 2, w. e. f. the 1st January 1979.

3. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act 1 of 1979), s. 2 (b).

(Sec. 28—contd.)

(3) No person shall be eligible [for being chosen or for continuing as a member or President] of the Committee of a society if he—

- (a) is an applicant to be adjudicated an insolvent or an undischarged insolvent ; or
- (b) has been sentenced for an offence involving moral turpitude such sentence not having been reversed. ; or
- (c) is of unsound mind or is a deaf-mute or is suffering from leprosy ; or
- (d) is a paid employee of the society, the financing bank of the society or of any other society of which such society is the financing bank. :

Provided that nothing in this clause shall debar—

- (i) any person specifically permitted by the Registrar in that behalf from becoming the Secretary of the society ; or
- (ii) the paid employees of societies from becoming members of the Committee of a society composed exclusively of such employees ; or
- (e) has failed to make any payment to the society or to any other society in respect of any loan granted to him by such society for such period as may be prescribed in the bye-laws of the society which has advanced the loan or in any case for a period exceeding six months ; or
- (f) is interested directly or indirectly in any contract made with the society or in any sale or purchase made by the society or in any contract or transactions of the society (other than investment and borrowing) involving financial interests, if the contract or transaction, sale or purchase be not complied ; or

(Sec. 28—contd.)

(g) has been expelled from a society under the provisions of its bye-laws :

Provided that this disqualification shall not apply where more than two years have elapsed from the date of such expulsion or where the Registrar has sanctioned the re-admission or admission within the said period of any such member as a member of the same society or any other society, as the case may be.

[(4) No individual shall, whether by himself or as a representative of a society, be eligible to become a member or President of the Committee of any society assisted by the State or Central Government in any of the forms specified in sub-section (1) of section 31 or of any Central Society, Apex Society or Co-operative Bank if he—

- (a) has completed two consecutive terms as member of the Committee; or
- (b) has held such office for a total period of nine years, by the date of filing of his nomination.

(4-a) No individual shall, at any time, whether by himself or as a representative of any society, hold office as a member of the Committees of—

- (a) more than two primary societies;
- (b) more than one Central Society including a Central Co-operative Bank;
- (c) More than one apex society.

(4-b) Any person holding office as a member or President of the Committee of any society, who would not have been eligible under sub-section (4) to hold such office had that sub-section been in force at the time when he became such member or President, as the case may be, shall have to resign his membership within three months from the date of coming into force of the Orissa Co-operative Societies (Amendment) Ordinance, 1970, failing which he shall be deemed to have ceased from such membership.

Orissa Ordinance No. 1 of 1970.

(Sec. 28-A)

(4-c) If any person holds office on the aforesaid date as a member of the Committees of more than one society in contravention of sub-section (4-a) then, unless he resigns his membership from the required number of Committees so as to bring his membership within the limit specified in that sub-section within three months from the said date, the Registrar may, after giving him a reasonable opportunity of being heard, remove him from membership of all or any of the Committees]

¹[(4-d) Nothing in sub-sections (4) and (4-a) shall apply to any person nominated by the State Government to the Committee of any society.]

²[(5) If in the opinion of the Registrar—

- (a) a member or President of a Committee of a society has incurred any of the disqualifications mentioned in sub-section (3), or
- (b) any officer of a society who having the power, by or under the bye-laws of the society, to remain in custody of any cash belonging to the society, keeps in his custody, without reasonable cause, any such money in excess of the permissible limit beyond the period allowed under such bye-laws or in any other manner not permitted thereunder,

the Registrar may, by order in writing, after giving such member, President or officer a reasonable opportunity of being heard, remove him from his office and thereupon he shall be deemed to have vacated the office with effect from the date of the said order]

³[28-A. (1) Subject to the following provisions the election of the President and the members of the Committee of a society shall be held and conducted in the prescribed manner.

Election of
members of
Committee.

1. Substituted by the Orissa Co-operative Societies (Second Amendment) Act, 1970 (Or. Act 21 of 1970), s. 5 (b).

2. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act 1 of 1979), s. 2 (d).

3. Substituted by the Orissa Co-operative Societies (2nd Amendment) Act, 1970 (Or. Act 21 of 1970), s. 6.

(Sec. 28-A-contd.)

(2) The Registrar shall, by general or special order, appoint one or more election officers for holding such election and different election officers may be appointed for different classes of societies or for different areas.

(3) The Secretary or the Executive officer of the society shall intimate the due date of expiry of the term of office of the existing Committee to the concerned election officer at least three months prior to such date.

[(4) Upon receipt of the intimation as aforesaid or upon his own information as to the aforesaid date, the election officer shall forthwith—

- (a) fix the date of the general meeting of the society for holding the election and publish such date in the prescribed manner:

Provided that in no case the period intervening between the date of such publication and the date of election meeting so fixed shall be less than two months;

- (b) direct the Secretary or the Executive Officer of the Society to prepare the forms of notice for the meeting and deliver them to him on or before a date to be specified in that direction.]

(5) After receipt of the forms the election officer shall serve the notices on all the members of the society under certificate of posting at the cost of the society.

(6) The election officer or if he is unable to attend, any person specially authorised by him in that behalf shall preside over, conduct and regulate the proceedings at the meeting.

(7) All casual vacancies in the Committee of a society shall be filled up in accordance with the provisions contained in the bye-laws of the society.]

(Secs. 29-31)

29. A general meeting of a society shall be held <sup>Annual
General
meeting.</sup> once in a year for the purpose of—

- (a) approval of the programme of the activities of the society prepared by the committee for the ensuing year;
- (b) election, if any, in the prescribed manner of the members of the committee other than nominated members;
 - [(b-1) reviewing the loans advanced to the members of the committee or any of their near relatives having common economic interest and if necessary to direct action for recovery of such loan;]
- (c) consideration of the audit report and the annual report;
- (d) disposal of the net profits; and
- (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

30. (1) The committee of a society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from the financing bank of which the society is a member or from such number of members, or such proportion of the total number of members, as may be prescribed. <sup>Special
general
meeting.</sup>

(2) If a special general meeting of a society is not called in accordance with such requisition, the Registrar or any person authorised by him in this behalf, shall have the power to call such meeting and such meeting shall be deemed to be a meeting called by the committee.

31. (1) Where the State Government or Central Government— <sup>Nominees of
the Govern-
ment on the
committee
of a society.</sup>

(Sec. 32)

- ¹[(a) has subscribed to the share capital of a society or has granted any assistance in cash or in kind or in any other manner; or]
- (b) has assisted indirectly in the formation or augmentation of the share capital of a society as provided in Chapter VI; or
- (c) has guaranteed the repayment of principal, and payment of interest on debentures issued by a society; or
- (d) has guaranteed the repayment of principal and payment of interest on loans and advances to a society;

the State Government or the Central Government, as the case may be, or any authority specified by such Government in this behalf shall have the right to nominate one-third of the total number of members of the committee of such society.

²[Provided that the number of members so nominated shall in no case exceed three.]

(2) A member nominated on the committee of a society under sub-section (1), shall hold office during the pleasure of the State Government or the Central Government or the specified authority, as the case may be.

Supersession
of committee
and power to
disqualify
officers of
the society.

32.³[(1) If, in the opinion of the Registrar, the Committee of any Society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interest of the Society or its members, or is otherwise not functioning properly, the Registrar may, after giving the Committee an opportunity to state its objections, if any, within twenty-one days from the date of service of the notice issued in that behalf, by order in writing stating reasons therefor, remove the Committee:]

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 8.

2. Inserted by the Orissa Co-operative Societies (Amendment) Act, 1975 (Or. Act 25 of 1975), s. 3.

3. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1980 (Or. Act 10 of 1980), s. 2 (a), w. c. f. the 5th November, 1980.

(Sec. 32—contd.)

Provided that for any sufficient cause to be recorded the Registrar may, in any case, further extend the aforesaid period, so however that, the total period shall not exceed thirty days from the date of service of the notice.]

(2) The committee or the Administrator or Administrators or the society so appointed shall, subject to the control of the Registrar and to such instructions 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 take all such action as may be expedient in the interests of the society and shall be deemed for all purposes of this Act and the rules and bye-laws to be the committee of such society.

(3) The committee or Administrators or the society shall, at the expiry of its or their term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(4) Before taking any action under sub-section (1) in respect of a society, the Registrar shall consult the financing Bank to which it is indebted and consider the opinion, if any, received from such Bank.

(5) If the Registrar, while making an order under sub-section (1), is of the opinion that any past or present officer of the society has been party to or responsible for the mismanagement thereof or has failed to perform any duty lawfully assigned to him, he may, by order in writing after giving such officer an opportunity to state his objection, disqualify him from being a member of a committee in respect of the society for a period not exceeding three years to be specified in the order and every order made under this sub-section shall state the reasons for which it is made and shall be communicated to the society and the officer concerned.

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

(Sec. 33)

[(7) Notwithstanding anything contained in this section, if, in the opinion of the Registrar, the Committee of any Society is acting in a manner prejudicial to the interests of the Society or its members, or has committed such serious irregularities or illegalities that further continuance of the Committee would be detrimental to the interests of the Society, the Registrar may, at any time before or after giving opportunity to such Committee to state objections as required under sub-section (1), suspend the Committee and make such arrangements as he thinks proper for the management of the affairs of the Society during the period of suspension of the Committee :

Provided that if the Committee so suspended is re-instated the period of suspension shall count towards its term.

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

Securing
possession of
records, etc.

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

(Sec. 33-A)

(2) The Registrar may, if he has reason to believe that any records of any society are likely to be tampered with or suppressed or that any property of any society is likely to be removed or misappropriated, authorise any person to enter and search any place where such records or property are kept or are believed to be kept and to seize such records and property and in the event of such person being prevented from making any such entrance, search or seizure, the Registrar may apply to the Subdivisional Officer having jurisdiction for securing such records and property.

(3) On receipt of an application under subsection (1) or (2), the Subdivisional Officer may, by a warrant authorise any Police Officer, not below the rank of a Sub-Inspector, to enter and search any place where the records and property are kept or are believed to be kept and to seize such records and property and the records and property so seized shall be handed over to the applicant.

Explanation—For the purposes of this section “Subdivisional Officer” means the principal Revenue Officer of the subdivision.

[33-A. The Registrar may classify the societies in the State into different classes and may—

Qualification
etc. of
employees of
Societies.

- (a) fix the number and designation of the employees to be employed by the different classes of societies; and
- (b) make rules regulating the qualification, remuneration, allowances and other conditions of service of such employees.

(Sec. 34)

CHAPTER V

PRIVILEGES OF SOCIETIES

First charge
of Society
on certain
assets.

34. (1) Notwithstanding anything contained in any law for the time being in force, but subject to any claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a society by any member or past or deceased member shall be a first charge upon the [lands,] crops and other agricultural produce cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past members or forming part of the estate of such deceased member, as the case may be.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

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

(5) Without prejudice to the provisions of sub-section (4), the charge created under sub-section (1) shall have priority over any claim of the Government in respect of a loan granted under Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884 or the Bihar and Orissa State Aid to Industries Act, 1923 after the grant of the loan by the society anything contained in sub-section (1) notwithstanding.

(Secs. 35- 35-A)

(6) The provisions contained in sections 85 and 90 shall, *mutatis mutandis*, apply in respect of a mortgage executed in favour of a society.

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

Deduction of dues of society from salaries of members.

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

(3) If an employer, other than the State or Central Government or a Local authority, fails to deduct or having deducted fails to pay any amount as required under sub-section (2), the Registrar may, on the application of the society and after giving such employer a reasonable opportunity of being heard direct him to pay to the society within such period as has been specified in the agreement executed, under sub-section (1) a sum not exceeding the amount which he has failed to deduct or to pay, as the case may be:

Provided that nothing in sub-section (1) shall apply to persons employed in Railways within the meaning of the Constitution and to persons employed in mines and oilfields.

¹[35-A. Where a requisition in writing from any Society registered or deemed to be registered in any reciprocating State in respect of a member of that

Deduction of dues of a Society of a reciprocating State.

(Secs. 36—38)

Society, who has executed an agreement of the nature described in sub-section (1) of section 35 in favour of that Society and who for the time being is employed in the State of Orissa, is received by his employer, the requisition shall be acted upon as if it had been made by a Society registered under this Act in the same manner as is provided in the said section.

Explanation—For the purposes of this section 'reciprocating State' means any State which the State Government may, by notification declare to be a reciprocating State.]

Charge and set-off in respect of share or interest of member in the capital of a society.

36. A society shall in respect of any debt or outstanding demand owing to it, have a charge upon the share or interest in the capital of and on the deposits made by a member, a past member or a deceased member and on any dividend, rebate, bonus or profits payable to any such member and may set off any sum credited or payable to a member towards payment of any such debt or outstanding demand:

Provided that no financing bank to which a society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

Shares or interest not liable to attachment.

37. Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of section 36 the share or interest of a member, a past member or a deceased member in the capital of a society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

Exemption from certain taxes, fees and duties.

38. (1) The Government may, by notification in the official Gazette, remit in respect of any class of societies—

(a) the stamp duty chargeable under any law for the time being in force in respect of any class of instruments executed by or on behalf of a society or by an officer or member thereof and relating to the business of such society, or in respect of

(Sec. 39)

any award or order made under this Act, in cases where, but for such remission, the society, officer or member, as the case may be, would be liable to pay such stamp duty;

- (b) any fee payable under any law for the time being in force relating to the registration of documents or court fees:

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

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

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

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

Exemption from compulsory registration of instruments.

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

(Secs. 40—43)

CHAPTER VI

STATE-AID TO SOCIETIES

Promotion
of co-oper-
ative move-
ment.

40. It shall be the duty of the State Government to encourage and promote the co-operative movement in the State and to take such steps in this direction as may be necessary.

Direct part-
nership of
State Gov-
ernment in
societies.

41. (1) The State Government may subscribe directly to the share capital of a society.

(2) Notwithstanding any agreement to the contrary, the State Government shall not be entitled to a dividend on the shares of any such society at a rate higher than that at which such dividend is payable to any other shareholder of the society.

Indirect
partnership
of State
Government
in societies.

42. The State Government may, provide moneys to an apex society for the purchase of shares in other societies.

Principal
State Partner-
ship Fund.

43. (1) An apex society, which is provided with moneys by the State Government under section 42 shall, with such moneys, establish a fund to be called the 'Principal State Partnership Fund'.

(2) An apex society shall utilise the 'Principal State Partnership Fund' only for the purposes of—

(a) directly purchasing shares in other societies;

(b) providing moneys to a society (hereinafter in this chapter referred to as 'Central Society') to enable that society to purchase shares in other societies (hereinafter in this chapter referred to as 'Primary Societies') ; and

(c) making payments to the State Government in accordance with the provisions of this chapter.

(Secs. 44—47)

44. (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' only for the purposes of—

- (a) purchasing shares in primary societies; and
- (b) making payments to the apex society in accordance with the provisions of this chapter.

45. No shares shall be purchased in a 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 State Government. Approval of State Government for purchase of shares.

46. Where any shares are purchased in a society by—

- (a) the State Government ; or
- (b) an apex society or a Central Society from the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund' respectively;

Liability to be limited in respect of certain shares.

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

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

(Secs. 48-49)

Indemnity of
apex and
Central
Societies.

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

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

Disposal of
share capital
and
dividend, etc.

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

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

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

(4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 42.

(Secs. 50—53)

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

Disposal of 'Principal State Partnership Fund, and, Subsidiary State Partnership Fund, on winding up of an apex or a Central Society.

(2) If a Central Society which has established a 'Subsidiary State Partnership Fund' is wound up or 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 43.

51. Any amount to the credit of a 'Principal State Partnership Fund' or a 'Subsidiary State Partnership Fund' shall not be deemed to form part of the assets of the apex society or the Central Society, as the case may be.

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

52. Subject to the foregoing provisions of this Chapter—

Agreement by the State Government and apex societies.

(a) the State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 43;

(b) an apex society may, with the previous approval of the State Government, enter into an agreement with a Central Society, setting out the terms and conditions on which it shall provide moneys to that society from the 'Principal State Partnership Fund' for the purpose specified in clause (b) of sub-section (2) of section 43.

53. Notwithstanding anything contained in any law for the time being in force, the State Government may—

Other forms of State aid to societies.

(Secs. 54—56)

- (a) give loan or make advances to societies;
- (b) guarantee the repayment of principal and payment of interest on debentures issued by a society ;
- (c) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the State Government ;
- (d) guarantee the repayment of principal and payment of interest on loans and advances to and deposits with a co-operative society; and
- (e) give financial assistance in any other form, including subsidies, to any society.

Provision of this Chapter to override other laws,

54. The provisions of sections 42 to 52 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law, for the time being in force.

CHAPTER VII

PROPERTIES AND FUNDS OF SOCIETIES

funds not to be divided.

55. (1) No part of the funds other than the net profits of a society shall be paid by way of bonus or dividend or otherwise distributed among its members:

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

(2) Nothing in sub-section (1) shall be construed so as to debar any payment from being made out of such fund to a member as wages or as price of the produce of such member supplied to the society.

Disposal of net profits and constitution of Co-operative Education Fund.

56. (1) A society shall, out of its net profits in any year—

(Sec. 56—contd.)

- (a) transfer an amount not less than ten per cent in the case of a Co-operative farming society and not less than twenty-five per cent in any other case, of the profits to the reserve fund ; and
- (b) credit such portion of profits, as may be prescribed, to the Co-operative Education Fund constituted under sub-section (3).

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

- (a) payment of dividend to members on their paid-up share capital at a rate not exceeding nine per cent of such share capital;
- (b) payment of bonus to members on the amount or volume of business done by them with the society, to the extent and in the manner specified in the bye-laws;
- (c) constitution of or contributions to, such special fund as may be specified in the bye-laws;
- (d) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 ;
- (e) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws ;
- (f) payment of bonus to Government servants who are sent on deputation to the society or are engaged whole-time in connection with the affairs of the society ; and
- (g) payment of honorarium to members of the Committee for rendering specific services provided that the aggregate of such honorarium paid during any year does not exceed an amount equal to ten per centum of the net profits of that year.

(Secs. 57—59)

(3) There shall be constituted a Co-operative Education Fund which shall vest in the State Co-operative Union and shall be administered by the said Union in the prescribed manner ; and all contributions made by Government or by any institution or society to the Fund shall, in addition to the amounts specified in clause (b) of sub-section (1), be credited to that Fund.

Investments
of funds.

57. A society may, subject to such conditions or limitations, if any, as may be prescribed, invest or deposit its funds which are not utilised in its business operations—

(a) in Government Savings Bank ;

(b) in its Financing Bank;

(c) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 ;

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(d) with the general or special orders of the Registrar and subject to such conditions as he may impose—

(i) in the shares, debentures or securities of or as deposits with any other society; or

(ii) any other bank approved by the Registrar in that behalf ; or

(e) in any other manner as may be prescribed.

Restrictions
on borrow-
ings.

58. (1) A society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

(2) Without prejudice to the provisions of sub-section (1), a co-operative farming society may receive loans on the security of lands pooled together for purposes of the society.

Restriction
on loans.

59. (1) A society shall not advance a loan to any person other than a member except with the general or special sanction of the Registrar.

(Secs. 60—62)

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

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

61. (1) A society may establish a contributory provident fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the bye-laws of the society. Provident Fund.

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

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

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

62. (1) The Registrar shall audit, or cause to be audited by an Auditor duly authorised by him in this behalf, the accounts of every society once at least in every year and by such date as may be prescribed. Audit

(2) The audit under sub-section (1) shall be conducted according to the rules and shall include—

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

(Sec. 62—contd.)

- (c) an examination of overdue debts, if any ;
- (d) a valuation of the assets and liabilities of the society ;
- (e) an examination of the transaction, including the monetary transactions of the society within such limits as may be prescribed ;
- (f) an examination of the statement of accounts, including the statement of receipts and charges, the balance-sheet, the profits and loss account and the statement of net profits available for distribution in accordance with this Act and the rules for the preceding year, to be prepared by the Committee in such form as may be directed by the Registrar ; and
- (g) any other matter that may be prescribed or directed by the Registrar.

(3) The statements of accounts including the balance-sheet, the statement of profit and loss and the statement of net profits thus audited together with the modifications, if any, made therein by the Registrar and certified by him shall be final and binding on the society.

(4) (a) The Registrar or the Auditor shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to or in the custody of the society and shall, in so far as is necessary for carrying out any of the purposes of this Act, have power to summon and enforce the attendance of any person and to examine him on oath or affirmation and to compel the production of any books, accounts, documents, securities, cash and other properties at any place at the headquarters of the society or any branch thereof and to issue commission for the examination of witnesses by the same means and so far as may be, in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1908. 5 of 1908

(Secs. 63—64)

(b) The Registrar or the Auditor may require any person present before him to furnish any information or to produce any document in his possession or power.

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

(5) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the Auditor may require.

63. (1) If the result of the audit held under section 62 discloses any defects in the working of a society, the Registrar may bring such defects to the notice of the society, and if the society is affiliated to another society also to the notice of such other society.

Communica-
tion of
defects in
audit to
societies.

(2) The Registrar may make an order directing the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit.

64. (1) This Registrar, may of his own motion, or on the application of a creditor of a society, inspect or direct any person authorised by him by order in writing in this behalf, to inspect the books of the society:

Inspection of
books of a
society.

Provided that no such inspection shall be made on the application of a creditor unless the applicant—

(a) satisfies the Registrar, that the debt is subsisting 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.

(Sec. 65)

(2) The Registrar shall communicate the result of any such inspection—

- (a) where the inspection is made of his own motion, to the society ; and
- (b) where the inspection is made on the application of a creditor, to the creditor and the society.

(3) Inspection of books may also be made by—

- (a) a financing Bank in respect of any society to which it has made any advance ;
- (b) an apex society in respect of any central society to which it has provided moneys or any primary society in which such central society owns shares ; and
- (c) a central society in respect of any primary society in which it owns shares,

and the results of such inspection, if any, shall, as soon as may be, be reported to the society whose books are so inspected and to the Registrar for such action as he may deem fit and proper.

Enquiry by Registrar .

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

(2) An inquiry of the nature referred to in subsection (1) shall be held on the application of—

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

(Sec. 65—contd.)

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

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

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

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

(Sec. 66)

(d) if he has reasons to believe that the continuance of any officer of the society in office will be detrimental to the interests of the society, he may, by order assigning reasons therefor, suspend such officer or member from holding the office during the pendency of the enquiry :

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

Provided further that no order of suspension shall be passed by any officer below such rank as may be prescribed unless he happens to be the Registrar.

(4) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and also to such other societies, if any, to which it may be affiliated.

(5) Where the Registrar or any person authorised by him is, in the course of an enquiry under sub-section (1) or sub-section (2), satisfied that the books and records of a society are likely to be tampered with or the funds and property of the society are likely to be misappropriated or misapplied, he may issue an order directing a person to seize and take possession of such books, records, funds or property and the officer or officers of the society responsible for the custody of such books, records, funds or property shall give delivery thereof to the person so directed and in the event of such person being prevented from making the seizure the provisions of sub-sections (2) and (3) of section 33 shall, *mutatis mutandis*, apply.

Costs of inquiry.

66. Where an inquiry is held under section 65 or an inspection is made under section 64 on the application of a creditor, the Registrar may apportion the costs, or such part of the costs as he may deem fit, between the society to which the society concerned is affiliated, the society, the member or creditor demanding an enquiry or inspection, and the officers or former officers of the society :

(Sec. 67)

Provided that—

- (a) no order of apportionment of the costs shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard;
- (b) the Registrar shall state in writing the grounds on which the costs are apportioned.

67. (1) If in the course of an audit, inquiry and inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, of his own motion or on the application of the Committee, liquidator or any creditor, hold an inquiry himself or direct any person authorised by him, by an order in writing in this behalf, to inquire into the conduct of such person :

Provided that no such inquiry shall be held after the expiry of six years from the date of any act or omission referred to in this sub-section.

(2) Where an inquiry is held under sub-section (1), the Registrar may, after giving the person concerned an opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable and all such orders shall have effect without prejudice to any other action that may be lawfully taken against him.

(Sec. 68)

CHAPTER IX

SETTLEMENT OF DISPUTES

Disputes
which may
be referred
to arbitra-
tion.

68. (f) Notwithstanding anything contained in any law for the time being in force, any dispute touching the constitution, management or the business of a society, other than a dispute regarding disciplinary action taken by a society or its committee against a paid servant of the society, shall be referred to the Registrar if the parties thereto are among the following, namely :—

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

Explanation 1—A claim in respect of any sum payable to or by a society by or to a person or society or a liquidator mentioned in clauses (a) to (d) shall be a dispute touching the business of the society within the meaning of this section even in case such claim is admitted and the only point in issue is the ability to pay and the manner of enforcement of payment.

(Sec. 68—contd.)

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

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

Explanation IV—Any dispute arising in connection with the election of any officer of the society shall be a dispute within the meaning of this section.

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

Explanation VI—The question whether a person or any one of his near relatives is carrying on similar business as is done by the society or whether such near relative has common economic interest with such person shall be a dispute within the meaning of this section.]

(2) Any person, society, Financing Bank or liquidator referring a dispute to the Registrar under sub-section (1) shall deposit in advance such fees as may be prescribed.

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

1. Inserted by the Orissa Co-operative Societies (Second Amendment) Act 1970 (Or. Act 21 of 1970), s. 9.

(Secs. 69-70)

(4) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

(5) Nothing in this section shall, where the dispute relates to the recovery of the dues of any society from any of its members, be construed to debar any Financing Bank of such society from referring such dispute to the Registrar.

Limitation

69. (1) When the dispute is between a society or its committee and any past committee, any past officer, past agent or past servant or the nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society and when the dispute relates to any act or omission on the part of either party to the dispute the period of limitation shall be six years from the date on which such act or omission, with respect to which the dispute arose, took place.

(2) When the dispute relates to any sum including interest thereon, if any, due to a society by a member thereof it may be referred within the same period after the death or cessation of membership of such members as would otherwise have been allowed from the time prescribed therefor.

Reference of
disputes to
arbitration.

70. (1) The Registrar, may, on receipt of a reference of a dispute under section 68—

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been invested by the State Government with powers in that behalf, or
- (c) refer it for disposal to one arbitrator appointed by the Registrar.

(Secs. 71-72)

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of the said sub-section and decide it himself or transfer the same to another person so invested or to another arbitrator so appointed.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interests of justice.

71. Where in the course of settlement of a dispute under section 70 or any proceedings under this Act, or in any suit, a loan taken from or a mortgage executed in favour of a society, whether before or after the commencement of this Act, is called in question on the ground that it is taken or executed by the manager of a joint Hindu family for a purpose not binding on the members thereof, whether major or minor, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force, rest upon the party which calls such loan or mortgage in question.

Loan taken or mortgage executed by members of joint Hindu families.

CHAPTER X

WINDING UP AND DISSOLUTION OF SOCIETIES

72. (1) If the Registrar, after an inquiry has been held under section 65 or an inspection has been made under section 64 or upon perusal of the audit report or on receipt of an application made by not less than three-fourths of the members of a society, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up.

Winding up of societies.

(Secs. 73-74)

(2) The Registrar may of his own motion, make an order directing the winding up of a 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 a period of eighteen months from the date of its registration or has ceased to work.

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

Liquidator

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

(2) A liquidator shall, on appointment, take into his custody or under his control all the books and records of the society and 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 order of winding up of a society is cancelled by the Registrar under sub-section (3) of section 72 or is set aside in appeal, the property, effects and actionable claims of the society shall revert in the society.

Priority of contribution assessed by a liquidator.

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

(Sec. 75)

75. (1) Subject to any rules made in this behalf, the whole of the assets of a society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 73 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

Powers of liquidator.

(2) Such liquidator shall also have power, subject to the control of the Registrar—

- (a) to institute and defend suits and other legal proceedings on behalf of the society, by the name of his office ;
- (b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officer or former officers, to the assets of the society ;
- (c) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of priority arising between claimants ;
- (d) to pay claims against the 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, the surplus, if any, remaining after payment of the claims being applied in 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 ;
- (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne ;
- (f) to determine whether any person is member, past member or nominee of a deceased member ;

(Sec. 76)

- (g) to give such direction 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 ;
- (h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same ;
- (i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim present or future, whereby the society may be rendered liable ; and
- (j) to compromise all calls or liabilities to 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 a contributory or alleged contributory or other debtor 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 in security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

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

Disposal of
surplus
assets.

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

- (a) any object specified in that behalf in the bye-laws of the society ;
- (b) an object of local public utility ;
- (c) a charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890;

(Secs. 77-78)

- (d) any union of co-operative societies, the object of which is the development of the co-operative movement ; and
- (e) reserve fund of a new society, if and when established with the same object and the same area of operation as of the society wound up.

77. Where in respect of a society which has been ordered to be wound up under section 72, no liquidator has been appointed under section 73, after two months from the date of such order, or if an appeal has been filed from the date of confirmation of the order in appeal, or where the affairs of a society in respect of which a liquidator has been appointed under section 73, have been wound up, the Registrar shall make an order cancelling the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

Cancellation of registration of a society.

CHAPTER XI

¹[LAND DEVELOPMENT BANK]

78. ²[1] In this Chapter—

Definitions

- (a) 'Board' means the Board of Director of the ³[State Land Development Bank] ;
- (b) ¹['Land Development Bank'] means a Co-operative ¹[Land Development Bank] registered or deemed to be registered under this Act and admitted as a member of the ³[State Land Development Bank] ;
- (c) ³['State Land Development Bank'] means the Orissa State Co-operative ¹[Land Development Bank] Limited ; and
- (d) 'Trustee' means the Trustee referred to in section 79.

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "Land Mortgage Bank".

2. Re-numbered by *ibid.*, s. 9.

3. Substituted by *ibid.*, s. 16 for "State Land Mortgage Bank".

(Secs. 79—81)

¹[(2) Land development banks may be established for advancing loans, other than short-term loans, for such purposes connected with Land improvement, productivity of land and agricultural development as may be specified in the bye-laws of the respective land development banks.]

Appointment of Trustee and his powers and functions.

79. (1) The Registrar, or where the State Government appoint any other person in this behalf, such person shall be the Trustee for the purpose of securing the fulfilment of the obligation of the ²[State Land Development Bank] to the holders of debenture issued by the Board.

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

Trustee to be a corporation sole.

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

Issue of debentures by the Board.

81. (1) With the previous sanction of the Trustee, the Board may from time to time issue debentures of one or more denominations for such periods as it may deem expedient, on the security of the mortgages and assets held by or transferred or deemed under the provisions of section 87 to have been transferred by the ³[Land Development Bank] to the ³[State Land Development Bank] and other properties of such Bank.

(2) Such debentures may contain a term fixing a period not exceeding ten years from the date of issue during which they shall be irredeemable, or reserving to the Board the right to call in at any time of the

1. Inserted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 9.

2. Substituted by *ibid.*, s. 16 for "State Land Mortgage Bank".
Substituted by *ibid.*, s. 16 for "Land Mortgage Bank".

(Sec. 82) *

debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months notice in writing.

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

(a) the total amount due on the mortgages held by the ¹ [State Land Development Bank] or transferred or deemed under the provisions of section 87 to have been transferred to it by the ¹ [Land Development Bank] and the value of the assets in respect of the land mortgage business held by the ¹ [State Land Development Bank] and subsisting at such time ; and

(b) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time.

(4) Notwithstanding anything contained in this Chapter—

(a) the Board may, with the previous sanction of the Trustee, issued debentures on the security of mortgages executed in favour of the ¹ [State Land Development Bank]; and

(b) all mortgages executed in favour of the said Bank prior to the coming into force of this Act, shall be deemed to be mortgages executed under clause (a).

(5) The provisions contained in this Chapter, which are applicable to mortgages executed in favour of a land mortgage bank, shall, *mutatis mutandis*, apply to mortgages executed or deemed to be executed in favour of the ¹ [State Land Development Bank] under sub-section (4).

82. The holders of the debentures shall have a floating charge on—

(a) all such mortgages and assets as are referred to in clause (a) of sub-section (3) of section 81 ;

Charge of debenture holders on certain properties.

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "State Land Mortgage Bank" and for "Land Mortgage Bank" respectively.

(Sec. 83) C)

(b) the amount paid under such mortgage and remaining in the hands of the Board or of the Trustee ; and

(c) the other properties of the [State Land Development Bank].

Guarantee by State Government of principal and interest on debentures.

83. (1) The principal of, and interest on, the debentures issued under section 81 shall in respect of such maximum amount as may be fixed by the State Government and subject to such condition as it may think fit to impose, carry the guarantee of the State Government.

(2) The State Government may, subject to any law made by the Legislature increase the maximum amount of any guarantee given under sub-section (1).

(3) The State Government may, after consulting the Board and the Trustee—

(a) by notification in the Official Gazette ; and

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

discontinue any guarantee given by it or restrict the maximum amount thereof or modify the condition, subject to which it is given, with effect from a specified date, not being earlier than six months from the date of the publication of the notification in the Official Gazette :

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

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

(Secs. 83-A--83-B)

¹ [83-A. Any land development bank may grant loan to its members against the creation of a charge on or mortgage of land free of encumbrances.]

Grant of loan by land development Bank.

² ³ [83-B. (1) Every applicant for a loan to a land development bank shall make a declaration in the form prescribed by the land development bank before an officer authorised by the Registrar in this behalf, on solemn affirmation that the land sought to be mortgaged is free from all encumbrances and that the mortgagor is in possession thereof and has the right to create the mortgage.

Applicant for loan to make a declaration.

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

(3) If at any time a declaration made under sub-section (1) is found to be false or defective, the land development bank shall, subject to the provisions of section 85, have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the mortgage deed and the development bank may proceed against all such properties of the mortgagor under section 91.

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

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

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act 1 of 1979), s. 3.

2. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1976), s. 10.

3. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act 1 of 1979), s. 4.

(Secs. 83-C-83-D)

Order
granting loan
conclusive of
certain
matters.

83-C. A written order by the land development bank or any committee or other person authorised by this Act or the bye-laws of the bank to grant loans for any of the purposes specified in the bye-laws of the concerned bank, granting, either before or after the commencement of this Act, a loan for the benefit of the land or for any productive purpose specified therein shall, for the purposes of this Act, be conclusive of the following matters, namely:—

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

Charge how
created and
its effect.

[83-D. (1) Every applicant for a loan to be given by a land development bank against the creation of a charge on any land which he owns or in which he has an interest shall, on his application being granted, make a declaration in the prescribed form declaring that thereby he creates in favour of that bank a charge on such land or his interest therein, as the case may be to secure the loan.

(2) A declaration made under sub-section (1) may be varied from time to time by the applicant with the consent of the bank in whose favour the declaration has been made and any such variation shall take effect from such date on which the variation if it had been an original declaration, would have effect under sub-section (3).

(Sec. 83-E)

(3) Notwithstanding anything contained in the Registration Act, 1908, a charge in respect of which a declaration has been made under sub-section (1) or in respect of which a variation has been made under sub-section (2) by an applicant in favour of the bank in respect of loan given by that bank shall be deemed to have been duly registered in accordance with the provisions of that Act, with effect from the date of the charge or variation, as the case may be, provided that the bank sends to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged is situate, within a period of thirty days, by registered post with acknowledgement due, two copies of the documents creating such charge or variation duly certified to be true by an employee of the bank authorised to sign on its behalf.

16 of 1908

(4) Notwithstanding anything contained in any law for the time being in force, an applicant who has availed of a loan from a land development bank by creating a charge on land or interest therein, shall not, so long as the loan continues to be outstanding, lease out or create any tenancy right on such land or interest without prior permission in writing of the bank.

(5) Any lease granted or tenancy rights created in contravention of this section shall be void.

83-E (1) Notwithstanding anything contained in any other law, when a mortgage is executed or a charge is created in favour of a land development bank by one or more of the co-sharers of a Hindu Joint Family or by any co-owner or by any purchaser from them, who is or are in possession of the said property on the date of the mortgage or charge and such possession is certified by a Revenue Officer not below the rank of a Revenue Inspector in the form to be prescribed by the State Land Development Bank, the same shall remain a first charge on the said land, and the certificate of possession so granted shall be conclusive and binding and shall not be called in question in any Court or Tribunal.

Charge created or mortgage executed by a member of Hindu Joint Family or co-owners.

(2) Notwithstanding anything contained in any other law, custom or usage to the contrary, any loan given by a land development bank shall remain a first

(Secs. 84-85)

charge on the property so mortgaged till it is fully satisfied and discharged, notwithstanding a partition, settlement, sale, gift, transfer, encumbrance, charge or any other liability made or created, whether by or through court, or under any Act, mutual agreement, arbitration or by any other means, and any person who acquires the said property in any manner whatsoever shall be liable to discharge the loan.

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

Other
guarantees
by State
Government.

84. Where the [State Land Development Bank] or a [land development bank] has given a loan to a member for the development of any land in excess of the amount of the loan to which such member would be entitled on the basis of the value of the land as determined in accordance with the principles of valuation approved by the State Government, the State Government may, if they think fit, guarantee for a specified period the repayment of the loan to the extent of the excess.

Priority of
mortgage
over certain
claims.

85. (1) Notwithstanding anything contained in any law for the time being in force but subject to any claim of the Government in respect of land revenue or any money recoverable as arrears of land revenue and to the provisions of sub-section (2), any debt or outstanding demand due to the State Land Development Bank or any land development bank on account of a mortgage executed by any member or past or deceased member in favour of such bank shall be a first charge upon the land so mortgaged.

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

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970) s. 16 for "State Land Mortgage Bank" and for "Land Mortgage Bank".

2. Substituted by *ibid.*, s. 11.

(Secs. 85-A—87)

85-A. (1) Mortgages executed in favour of a land development bank either before or after the commencement of this Act, by the manager of a Hindu Joint Family shall, notwithstanding any law to the contrary, be binding on all the members thereof, if the loan secured by the mortgagor was granted for any purpose of agricultural development of the land in accordance with the bye-laws of the bank.

Mortgages executed by managers of Joint Hindu families.

(2) Where such mortgage is called in question on the ground that it was executed by the manager of a Hindu Joint Family for a purpose not binding on the members thereof whether majors or minors, the burden of proving the same shall, notwithstanding any law to the contrary, be on the party alleging it.

32 of 1956 85-B. Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a land development bank, subject to the modification that reference to the Court made therein shall be construed as reference to the Collector or his nominee and, the appeal against the order of the Collector or his nominee shall lie to the Revenue Divisional Commissioner having jurisdiction.]

Section 8 of Act 32 of 1956 to apply to mortgages.

86. (1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a [land development bank] or the [State Land Development Bank] to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

Right of land development bank or the State Land Development Bank to purchase mortgaged property.

Orissa Act 16 of 1960. (2) Nothing in the Orissa Land Reforms Act, 1960 fixing a maximum limit of agricultural holding shall apply to the acquisition of land by a [land development bank] or the [State Land Development Bank] under sub-section (1).

87. The mortgages executed in favour of, and all other assets transferred to a [Land Development Bank] by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such [land development bank] to the [State Land Development Bank] and shall vest in the Trustee.

Mortgages executed in favour of land development bank to stand vested in State Land Development Bank.

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16, for "State Land Mortgage Bank" and "Land Mortgage Bank".

(Secs. 87-A—88) -87-A)

¹[87 A. (1) Notwithstanding anything contained in this Act or in the relative mortgage bonds, the mortgages executed in favour of the State Land Development Bank by the individual members thereof shall be deemed to be mortgages executed in favour of the land development bank operating in the area wherein the mortgaged properties are situate and the said members shall be deemed to be members and debtors of such land development bank, with effect from the date on which the State Land Development Bank transfers the amounts due thereon, and the shares held by the members to the land development bank concerned.

(2) Notwithstanding anything contained in this Act or in the relative mortgage bonds, a mortgage executed in favour of a land development bank in respect of properties situate within the area of operation of another land development bank newly or subsequently established shall be deemed to be executed in favour of such other bank and the mortgagor shall be deemed to be a member and debtor of such other bank with effect from the date on which the former bank transfers the amounts due thereon and the shares held by the member to the later bank.

(3) All moneys due under a mortgage transferred under this section shall be payable to the land development bank to which the mortgage is transferred under sub-section (1) or sub-section (2) and such bank shall be entitled to receive money, to grant valid discharge and to sue on the mortgage or take any other proceedings for the recovery of money due thereunder.]

Power of land development bank to receive moneys and grant discharges.

88. Notwithstanding that a mortgage executed in favour of a²[Land development bank] has been transferred, or is deemed under the provisions of section 87, to have been transferred, to the³[State Land Development Bank]—

1. Inserted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 12.

2. Substituted by *ibid.*, s. 16, for "Land Mortgage Bank".

3. Substituted by *ibid.*, for "State Land Mortgage Bank".

(Sec. 89)

- (a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to such ¹ [Land development bank] and such payment shall be as valid as if the mortgage had not been so transferred; and
- (b) the ¹[Land development bank] shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to it, be entitled to sue on the mortgage or take any other proceedings for the recovery of the moneys due under the mortgage.

89. (1) Where a mortgage is executed in favour of a ¹ [land development bank] for payment of prior debts of the mortgagor, the bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice.

Right of land development bank to pay prior debts of mortgagor.

4 of 1882

(2) Where any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:

Provided that where there is a dispute as regards the amount of any such debt the person to whom such debt is due shall be bound to receive payment of the amount offered by the ¹[land development bank] towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970) s. 16 for "Land Mortgage Bank".

(Secs. 90-91)

Distrain
when to be
made.

90. (1) If any instalment payable under a mortgage executed in favour of a ¹ [land development bank], or the ¹ [State Land Development Bank,] or any part of such instalment has remained unpaid for more than one month from the date on which it fell due the committee or the Board, as the case may be, may, in addition to any other remedy available to the bank, apply to the Registrar for the recovery of such instalment or part thereof by distraint and sale of the produce of the mortgaged land including the standing crops thereon.

(2) On receipt of such application, the Registrar may, notwithstanding anything contained in the Transfer of Property Act, 1882 take action in the ⁴ of 1882 manner prescribed for the purpose of distraining and selling such produce.

2 * * *

(3) The value of the property distrained shall, as nearly as possible, be equal to the amount due and the expenses of the distraint and sale.

Power of
sale when to
be exercised.

91. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 where a power ⁴ of 1882 of sale without the intervention of the court is expressly conferred on the ¹ [State Land Development Bank] or the ¹ [land development bank] by the mortgage deed, the Board or the committee of such bank, as the case may be, or any person authorised by such Board or Committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the court after hearing the objections, if any, of the mortgagor.

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

(a) notice in writing requiring payment of such mortgage money or any part thereof, as the case may be, has been served upon—

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16, for "State Land Mortgage Bank" and "Land Mortgage Bank".

2. Deleted by *ibid.*, s. 13.

(Sec. 92)

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

92. Where any property mortgaged to the ¹ [State Land Development Bank] or a ² [land development bank] is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the Board or the Committee of such bank, as the case may be, for providing further security to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Board or the Committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the Board or the Committee, as the case may be, shall be entitled to take action against the mortgagor under section 90 or 91 for the recovery thereof.

Powers of Land Development Bank where mortgaged property is destroyed or security becomes insufficient.

Explanation—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the ¹ [State Land Development Bank], or the ² [land development bank], as the case may be.

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "State Land Mortgage Bank."

2. Substituted by *ibid.*, for "Land Mortgage Bank".

(Secs. 93-94)

Power of Board or of Trustee to distrain and sell property, etc.

93. (1) The Board or the Trustee may direct the Committee of a ¹ [land development bank] to take action against a defaulter under sections 90, 91 or 92 and if the Committee neglects or fails to do so, the Board or the Trustee may take such action.

(2) (a) Where such action is taken by the Board, the provision of this chapter and of any rules made in this behalf shall apply in respect thereto as if all references, to the ¹ [land development bank] or to its Committee in the said provisions were references to the ¹ [State Land Development Bank] and the Board, respectively.

(b) Where such action is taken by the Trustee, the provisions of this Act, and of any rules made thereunder shall apply in respect thereto as if all references to the ¹ [Land Development Bank] or to its Committee in the said provisions were references to the Trustee.

Title of Purchaser not to be questioned.

94. Where any property is sold in exercise or purported exercise of a power of sale under section 90 or 91, the title of the purchaser shall not be questioned on the ground that—

- (a) the circumstances required for authorising the sale had not arisen;
- (b) due notice of the sale was not given; or
- (c) the power of sale was otherwise improperly or irregularly exercised;

but any person who has suffered any damage by an unauthorised, improper or irregular exercise of any such power shall have a remedy in damages against the ¹ [State Land Development Bank] or, as the case may be, the ¹ [Land Development Bank].

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "State Land Mortgage Bank" and "Land Mortgage Bank".

(Secs. 95—97)

95. Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of the ¹[State Land Development Bank] or a ²[Land Development Bank] shall not be called in question on the ground that it was not executed in good faith or valuable consideration or on the ground that it was executed in order to give such bank a preference over the other creditors of the mortgagor.

Mortgage not to be questioned on insolvency of mortgagor.

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

Appointment of Receiver and his powers.

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

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

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

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

Mortgagor's powers to lease.

(2) Any lease granted in contravention of sub-section (1) shall be void.

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "State Land Mortgage Bank".

2. Substituted by *ibid.*, for "Land Mortgage Bank".

(Secs. 98-99)

Registration of documents executed on behalf of a land development bank or of the State Land Development Bank.

[98. (1) Notwithstanding anything contained in the Indian Registration Act, 1908—

16 of 1908

(a) it shall not be necessary to register a mortgage executed in favour of the State Land Development Bank or any land development bank where the concerned bank sends within such time and in such manner as may be prescribed a copy of the mortgage deed to the registering officer having jurisdiction, who shall file such copy in the book maintained under section 51 of the said Act; and

(b) it shall not be necessary for any officer of the State Land Development Bank or any land development bank to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of the said Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration or a copy of such instrument is sent for being filed may, if he thinks fit, refer to the officer who has executed the instrument for information respecting the same, and being satisfied of the execution thereof, shall register the instrument or, as the case may be, file the copy thereof.

Mortgage by members of Scheduled Castes and Tribes.

98-A. Notwithstanding anything contained in any other law for the time being in force it shall not be necessary for persons belonging to the Scheduled Tribes or Scheduled Castes for obtaining the permission of any authority as required by any such law for mortgaging any immovable property belonging to him in favour of any society including a land development bank.]

Delegation of certain powers by Board.

99. The Board may, if it thinks fit, delegate all or any of its powers under sections 91, 93 and 96 to an executive committee constituted by it and consisting of two or more of its members.

(Secs. 100-101)

of 1882 100 The provisions of sections 102 and 103 of the Transfer of Property Act, 1882 and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections shall, so far as may be, apply in respect of all notices to be served under this chapter.

Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to notices under this Chapter.

101. (1) The Board may, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Chapter—

Power of the Board to make regulations.

- (a) for fixing the period of debentures and the rate of interest payable thereon;
- (b) for calling in debentures prior to the date fixed for redemption after giving notice to debenture-holders;
- (c) for the issue of new debentures in place of debentures damaged or destroyed;
- (d) for converting one class of debentures into another bearing a different rate of interest;
- (e) for the inspection of the account books and proceedings of ¹ [land development bank];
- (f) for the submission of returns and reports by ¹ [land development bank] in respect of their transactions;
- (g) for the periodical settlement of accounts between ¹ [land development bank] and for the payment of amounts recovered by ¹ [land development bank] on mortgages transferred or deemed under the provisions of section 87 to have been transferred to the ² [State Land Development Bank];

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "Land Mortgage Bank".

2. Substituted by *ibid.*, for "State Land Mortgage Bank".

(Secs. 101-A—200)

- (h) for specifying the form in which applications to ' [land development bank] for loans should be made and for the valuation of the properties afforded as security for such loans;
- (i) for the investment of moneys realised from mortgagors; and
- (j) generally for the purpose of carrying out the provisions of this chapter.

Certain provisions to apply to charge.

²[101-A. The Provisions contained in sections 85, 86, 87, 87-A, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98-A and section 101, shall, *mutatis mutandis*, apply to charges (including any variations thereto) created in favour of a land development bank.]

CHAPTER XII

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

Enforcement of charge.

102. Notwithstanding anything contained in Chapter IX, or in any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf, may, on the application of a society, make an order directing the payment of any debt or outstanding demand due to the society by

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, s. 16 for " Land Mortgage Bank".

2. Inserted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act I of 1979), s. 6.

(Sec. 103)

any member or past or deceased member, by sale of the property or any interest therein, which is subject to a charge under sub-section (1) of section 34:

Provided that no order shall be made under this section, unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within seven days from the date of such service.

103. (1) Every order made by the Registrar under sub-section (2) of section 67 or under section 102 or sub-section (1) of section 108, every decision or award made under section 70, every order made by the liquidator under section 75 and every order made under sections 109, 111, 112, 113 and 114 shall, if not carried out—

Execution of orders, etc

- (a) on a certificate signed by the Registrar, or any person authorised by him in this behalf, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such court; or
- (b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

Provided that any application for the recovery in such manner of any sum shall be made—

- (i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf;
- (ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, from the date of the order, decision or award, as the case may be; or

(Secs. 104-105)

(c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a society against whom the order, decision or award has been obtained or passed.

(2) The provisions of clause (c) of sub-section (1) shall apply with such modifications, if any, as may be directed by the State Government, in regard to the recovery of like sums due to societies registered or deemed to be registered in any other State of India under any law relating to societies for the time being in force in that State as if such societies had been registered in the State of Orissa under this Act.

(3) In the case of recovery under clause (b) of sub-section (1), the Registrar or any person authorised by him in this behalf by general or special order shall be deemed to be the person to whom the arrear of land revenue, as the case may be, is due or payable.

(4) The provisions contained in the Schedule shall apply in respect of execution proceedings taken under clause (c) of sub-section (1).

Registrar
or person
empowered
by him to be
a Civil
Court for
certain pur-
poses.

104. The Registrar or any person empowered by him in this behalf shall be deemed when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application, made to him for such recovery or for taking a step-in-aid of such recovery, to be a Civil Court for the purpose of Article 182 of the first schedule to the Indian Limitation Act, 1908.

9 of 1908

Attachment
of property
before award
of order.

105. If the Registrar is satisfied on an application, report, inquiry or otherwise, that any person with intent to delay or obstruct the enforcement of

(Sec. 106) .

any order, decision or award that may be made against him under the provisions of this Act—

- (a) is about to dispose of the whole or any part of his property; or
- (b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or liquidator, as the case may be;

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

C. P. Act II of 1898.
C. P. Act I of 1920.
Orissa Regulation 5 of 1936, Orissa Regulation 4 of 1936.

106. (1) Notwithstanding anything contained in the Central Provinces Tenancy Act, 1898, of the Central Provinces Tenancy Act, 1920, or the Angul Laws Regulation, 1936, or the Khondmals Laws Regulation, 1936, or any other law for the time being in force, defining the rights of tenants on the land and the relation between Government and tenant or the landlord and tenant, it shall be lawful in an area in the State of Orissa, where any of the above enactments is in force, for—

Rights of transfer of land of a society in certain area and the society's right to bring it to sale.

- (a) a member of a society or a person other than a member to whom loan has been made in accordance with provisions of section 59, whether such member is an occupancy tenant or otherwise, to mortgage to the society his rights in his holding as a security for the loan advanced to him or to sell such right for the purpose of repaying such loan or advance; or
- (b) the Registrar or a person authorised by him in this behalf to recover the sum due under an award, decision or order under this Act from any person in accordance with the provisions of clause (c) of subsection (1) of section 103; or

(Secs. 107-108)

(c) the collector to recover the sum under an award, decision or order under this Act from any person in the same way as if it were an arrear of land revenue; or

(d) the [land development bank] to bring to sale under section 91, the property mortgaged to it.

Recovery of sums due from a salary earner.

107. Notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law ^{5 of 1908.} for the time being in force, any sum payable in accordance with an award or decision made under section 70 in respect of default in the payment of a loan taken under section 35 or of any instalment of such a loan, shall be recoverable if the salary (including other emoluments) of the member exceeds rupees one hundred per mensem, by the attachment of such salary to the extent of instalment in respect of which the default has been made or one-half of the difference between such salary and hundred rupees whichever is less.

Property from which sums due from a society to Government and others can be recovered:

108. (1) All sums due from a society to Government or Orissa Khadi and Village Industries Board established under the Orissa Khadi and Village Industries Board Act, 1955 including any cost ^{Orissa Act 3 of 1956.} awarded under any provision of this Act may, on an order issued by the Registrar in this behalf, be recovered in the same manner as is provided under sub-section (1) of section 103.

(2) All sums recoverable from a society in accordance with order, decision or award under this Act may be recovered—

(i) from the property of the society; or

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "Land Mortgage Bank."

(Sec. 109)

- (ii) from members, past members or the estates of deceased members of the society or their sureties, to such extent and in such proportion as may be determined by the Registrar subject to the extent of the indebtedness of such members, past members and deceased members to the society and to the provisions of section 69.

CHAPTER XIII

APPEAL, REVISION AND REVIEW

109. (1) An appeal shall lie under this section ^{Appeal} against the following orders and decisions, namely:—

- (a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a society;
- ¹[(b) an order of the Registrar made under sub-section (4) of section 12 refusing to register an amendment of the bye-laws of a society or an order made under sub-section (6) of that section registering an amendment of such bye-law];
- (c) an order directing amalgamation or division under sub-section (3) of section 14 ;
- ²[(d) a decision of a society refusing to admit any person as a member of the society or expelling any member of the society ³[. . .]];
- ⁴[(d-1) an order of the Registrar passed under sub-section (2-a) of section 16;]
- ⁵[(e) an order of the Registrar removing a member or President of a Committee or an Officer of a society under section 28;]
- ⁶[(e-1) an order touching the election of members of the Committee of any society;

¹ Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 15(a)(i).

² Substituted by *ibid.*, s. 15(a)(ii).

³ Deleted by the Orissa Co-operative Societies (Amendment) Act, 1975 (Or. Act 25 of 1975), s. 4(a).

⁴ Inserted by the Orissa Co-operative Societies (Amendment) Act, 1975 (Or. Act 25 of 1975), s. 4(b).

⁵ Substituted by the Orissa Co-operative Societies (Amendment) Act, 1978 (Or. Act 1 of 1979), s. 7.

⁶ Substituted by the Orissa Co-operative Societies (Second Amendment) Act 1970 (Or. Act 21 of 1970), s. 10.

(Sec. 109—contd.)

- (f) an order of the Registrar removing the Committee of a society or disqualifying any officer thereof made under section 31;
- (g) an order of suspension of an officer under section 65;
- (h) an order made by the Registrar under section 66, apportioning the cost of an enquiry held under section 65 or an inspection made under section 64;
- (i) an order of surcharge made by the Registrar under section 67;
- (j) a decision or award under section 70;
- (k) an order made by the Registrar under section 72 directing winding up of a society;
- (l) any order made by the liquidator of a society in exercise of the powers conferred on him under section 75;
- (m) an order made by the Registrar under section 103;
- (n) an order for attachment of any property made by the Registrar under section 105; or
- (o) any other order or decision as may be prescribed.

[(2) An appeal under sub-section (1) shall be made within sixty days from the date of publication or communication of the order or decision, as the case may be—

- (a) if the decision or order was made by the Registrar, to the State Government; or
- (b) if the decision or order was made by any other person including an officer exercising all or any of the powers of or under the authority of the Registrar or by a Society, to the Registrar.]

(Secs. 110-111)

Provided that if in the case of application for the registration of a society or for the registration of an amendment of the bye-laws of a society no orders are passed within three months from the date of the application the applicant may, at his option, file an appeal within sixty days from the expiry of the aforesaid period of three months as if the failure to pass the said order were an order of refusal specified in clause (a) or (b) of sub-section (1) as the case may be:

[Provided further that in cases where an application for membership of any society is deemed to have been rejected the period of limitation as aforesaid shall run from the date of expiry of the period allowed to the society for communicating its decision to the applicant.]

(3) No appeal shall lie under this section from any decision or order made by the State Government or the Registrar in appeal as the case may be.

(4) An appeal against an order specified in clause (a) or (b) of sub-section (1) and an appeal under the proviso to sub-section (2) shall be disposed of within two months from the date of filing of the appeal.

110. The State Government, may, by general or special order delegate their power of hearing appeals under the provisions of this Act, except the power of hearing appeals against orders of the Registrar passed under sections 32 and 67 to any authority specified in such order. Delegation of power to hear appeals.

111. (1) Any authority may, on the application of any party interested, review any order or decision or award made by him in any case and pass such order as he thinks fit: Review

Provided that no such application shall be entertained unless the authority is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence

((Sec. 112))

was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the fact of the record or for any other sufficient reason:

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

(2) An application for review under sub-section (1) shall be made within ninety days from the date of the communication of the order or decision or award.

Power of
revision by
Registrar.

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

[(2) An application for revision shall be made within ninety days from the date of the decision or order sought to be revised :

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

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1980 (Or. Act 10 of 1980), s. 4, w. e. f. the 5th November, 1980.

(Secs. 113-114)

113. (1) The State Government may, of their own motion or on application by any person considering himself aggrieved and after giving the parties concerned a reasonable opportunity of being heard, call for and examine the record of any proceeding before the Registrar in which no appeal lies, for the purpose of satisfying themselves as to the legality or propriety of any decision made or order passed and may pass such order thereon as they may deem fit.

Power of
revision by
State
Government

Explanation—For the purposes of this sub-section, Registrar shall not include any person exercising all or any of the powers of the Registrar.

¹[(2) An application under sub-section (1) shall be made within ninety days from the date of the decision or order sought to be revised :

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

²[113-A. The State Government may, by general or special order, delegate their powers under section 113 to any authority specified in such order.]

Delegation
of power of
revision.

114. Where an appeal or revision or review is made under sections 109, 111, 112 or 113, the State Government or the Registrar as the case may be, may in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal, revision or review as may be deemed fit.

Interlocutory
orders by
Government
or Registrar

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1980 (Or. Act 10 of 1980), s. 5, w. e. f. the 5th November, 1980.

2. Inserted by the Orissa Co-operative Societies (Second Amendment) Act, 1970 (Or. Act 21 of 1970), s. 11.

(Sec. 115)

CHAPTER XIV

OFFENCES AND PENALTIES

Offences

115. (1) Any person other than a society carrying on business under any name or title of which the word "Co-operative" or its equivalent in any Indian language, is part, without the sanction of the State Government shall be punishable with fine which may extend to two hundred rupees.

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a society who contravenes the provisions of section 34 by disposing of any property in respect of which the society is entitled to have a first charge under that section or does any other act to the prejudice of such claim, shall be punishable with fine, which may extend to two hundred rupees or with simple imprisonment which may extend to one month or with both.

(3) A society or an officer or a member thereof wilfully making a false return or furnishing false information; or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees.

(4) Any employer other than the State or Central Government or a local authority, who, without sufficient cause, fails to pay to a society the amount deducted by him under section 35, within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with fine which may extend to five thousand rupees.

(Sec. 115-*contd.*)

(5) (a) An officer or member who destroys, mutilates, alters, falsifies or abets the destruction, mutilation, alteration falsification of any book, paper or security or makes or abets the making of any false or fraudulent entry in any register, book of account or document belonging to a society and such action is not done in good faith; or

(b) an officer or member of a society or any other person who does any act or omission declared by the rules to be an offence; shall be punishable with fine which may extend to two hundred rupees.

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

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

(8) If any officer of a society or any of his near relatives having common economic interest fails to repay the total demand of the society outstanding against him by the due date, the Registrar shall be informed within fifteen days of such due date failing which the officer or employee of the society responsible for sending such information shall be punishable with fine which may extend to two hundred rupees.

1. Inserted by the Orissa Co-operative Societies (Second Amendment) Act, 1970 (Or. Act 21 of 1970), s.12.

(Secs. 116—119)

(9) If the Secretary or the Executive Officer of the society fails to send the intimation in due time as required by sub-section (3) of section 28-A, he shall be punishable with fine which may extend to two thousand rupees or with simple imprisonment which may extend to two months.]

[(10) An applicant for a loan from a land development bank, who wilfully makes a false or defective declaration, shall be punishable with fine which may extend to two thousand rupees or with imprisonment which may extend to six months or with both.]

116. (1) No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(2) No prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar.

CHAPTER XV

MISCELLANEOUS

117. No person other than a society shall trade or carry on business under any name or title of which the word "Co-operative" or its equivalent in any Indian language is part:

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

2 of 1912

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

119. Every society shall, keep a copy of this Act, the rules and its bye-laws open for the purpose of reference free of charge at all reasonable times at the registered office of the society.

(Secs. 120-121)

120. (1) In exercising the function conferred on it by or under this Act, the Registrar, any person authorised by the Registrar, in this behalf the arbitrator or any other person deciding a dispute and the liquidator of a society shall have all the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

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

(2) In the case of any affidavit, any officer appointed by the Registrar, the arbitrator, or any other person deciding a dispute, the liquidator or the person authorised by the Registrar, as the case may be, in this behalf may administer the oath to the deponent.

121. (1) Save as provided in this Act no civil or revenue Court shall have any jurisdiction in respect of—

- (a) the registration of a society or bye-laws or of an amendment of a bye-law;
- (b) the removal of a committee ;
- (c) any dispute required under section 68 to be referred to the Registrar; and
- (d) any matter concerning the winding up and the dissolution of a society.

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

(Secs. 122-125)

(3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any Court on any ground whatsoever.

Power to exempt societies from conditions of registration.

122. Notwithstanding anything contained in this Act, the State 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.

Power to exempt class of societies.

123. The State Government may, by general or special order exempt any society or any class of societies from any of the provisions of this Act or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the Order.

Register of members.

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

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

Proof of entries in societies' books.

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

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

(Secs. 126-128)

(3) No officer of a society and no officer in whose office the books of a society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court or the arbitrator made for special cause.

126. Service of every notice on order issued or made under this Act, shall be made in the prescribed manner. Service of notice under the Act.

127. No suit shall be instituted against a society or any of its officers in respect of any act touching the constitutions, management or the business of the society until the expiration of two months after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left. Notice necessary in suits

128. (1) No act of a society or of a committee or of any office or liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society or in the constitutions of committee, or in the appointment or election of the officer or liquidator or on the ground that such officer or liquidator was disqualified for his appointment or election. Acts of societies, etc., not to be invalidated by certain defects.

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

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

(Secs. 129—133-A)

Indemnity

129. No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have done under this Act.

Registrar to be public servant.

130. The Registrar and any person exercising the powers of the Registrar shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860

Companies Act, 1956 not to apply.

131. The provisions of the Companies Act, 1956 shall not apply to any society. 1 of 1956

Limitation

132. Save as otherwise provided in sections 69, 109, 111, 112 and 113 the provisions of the Indian Limitation Act, 1908 shall apply to all disputes, appeals, reviews and revisions made under this Act. 9 of 1908

Saving of existing societies.

133. (1) Any society now existing which has been registered under the Co-operative Credit Societies Act, 1904 or under the Co-operative Societies Act, 1912, or under the Orissa Co-operative Societies Act, 1951, shall be deemed to be registered under this Act, and its bye-laws shall, so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded. 10 of 1904
2 of 1912
Orissa Act
11 of 1952

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

Special provisions relating to insured co-operative banks

[133-A. Notwithstanding anything contained in this Act, in the case of an insured co-operative bank—

- (i) an order for winding up, amalgamation or division of the bank shall not take effect unless previous sanction therefor has been accorded in writing by the Reserve Bank of India;

(Sec. 133-A—contd.)

(ii) an order for winding up of the bank shall be made by the Registrar if so required by the Reserve Bank of India in the circumstances mentioned in section 13-D of the Deposit Insurance Corporation Act, 1961;

47 of 1963

(iii) if so required by the Reserve Bank of India in writing in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management thereof, the Registrar shall pass an order for the removal of the committee of the bank and for appointment of an Administrator therefor, for such period, not exceeding five years in the aggregate, as may, from time to time, be specified by the Reserve Bank:

Provided that no such order for removal shall be passed without giving the concerned committee a reasonable opportunity of being heard;

(iv) no appeal, revision or review shall lie against an order referred to in clause (i), (ii) or (iii) made or passed with the previous sanction in writing or on the requisition of the Reserve Bank of India and no such order or sanction shall be liable to be called in question in any manner;

(v) the liquidator of the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961, in the circumstances, to the extent and in the manner provided in section 21 of that Act.

47 of 1963

(Sec. 134)

Explanation I—For the purposes of this section —

- (i) “insured co-operative bank” means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961; 47 of 1961
- (ii) “transferee bank” in relation to an insured co-operative bank means a co-operative bank—
 - (a) with which such insured co-operative bank is amalgamated; or
 - (b) to which the assets or liabilities of such insured co-operative bank are transferred; or
 - (c) into which such insured co-operative bank is divided or converted under the provisions of section 14;
- (iii) “Reserve Bank of India” means the Reserve Bank of India established under the Reserve Bank of India Act, of 1934.] 2 of 1934

Powers to make rules.

134. (1) The State Government may, after previous publication, make rules to carry out the purposes of this Act.

(2) All rules made under this section shall as soon as they are made be laid before the State Legislature for a period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Legislature may make therein during the said period.

(Sec.134-*contd.*)

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

- (a) the applicant to whom the order refusing the registration of a society may be sent by the Registrar ;
- (b) the procedure and conditions for change in the form and extent of the liability of a society ;
- (c) the matters in respect of which a society shall or may make bye-laws ;
- (d) the procedure to be followed for amendment of bye-laws by a society ;
- (e) the qualifications or disqualifications of individuals who may be admitted as members of societies ;
- (f) the provision for a second or casting vote by the Chairman of a meeting of a society ;
- (g) the appointment by a society of one of its members to represent and vote on its behalf at a meeting of another society of which it is a member ;
- (h) the maximum number of shares or portion of the share capital of a society which may be held by an individual member ;
- (i) the procedure for nomination of a person to whom the share on interest of a member on his death may be transferred or the value thereof may be paid ;
- (j) the mode in which the value of a deceased member's share shall be ascertained ;
- (k) the election of members of committee by the general body of a society and election of a preliminary committee by the applicants for the registration of the society to conduct the affairs of the society for certain period ;

*(Sec. 134-*contd.*)*

- (l) the requisitioning of a general meeting of a society ;
- (m) the remuneration payable to a new committee or administrators appointed in place of a committee removed by the Registrar ;
- (n) the qualifications of employees of societies ;
- (o) the prohibition against officers of a society being interested in contracts with the society ;
- (p) the matters connected with the direct and indirect partnership of the State Government in societies ;
- (q) the rate at which dividend may be paid by societies ;
- (r) the payment to be made to the 'Co-operative Education Fund' by a society out of its net profits and the mode of its investment ;
- (s) the mode of investment of funds of a society ;
- (t) the objects of the reserve fund of a society and mode of its investment ;
- (u) the mode of disposal of reserve fund of a society on its winding up ;
- (v) the extent and conditions subject to which a society may receive deposits and loans ;
- (w) the restrictions on transactions by a society with non-members ;
- (x) the restrictions on grant of loans by a society against its shares ;
- (y) the form and standards of fluid resources to be maintained by societies accepting deposits and granting cash credits ;
- (z) the levy of audit fees on societies ;

(Sec. 134-*contd.*)

- (aa) the procedure to be followed in proceedings before the Registrar, arbitrator or other person deciding disputes ;
- (bb) the conditions subject to which assets of a society shall vest in a liquidator and the procedure to be adopted in winding up of a society ;
- (cc) the procedure for recovery of amounts due or payable to a society ;
- (dd) the mode of making attachment before judgment ;
- (ee) the procedure for the distraint and sale of property, mortgaged to a '[land development bank] ;
- (ff) the manner of registering the address of a society ;
- (gg) the account books and registers to be kept by a society and power of Registrar to direct the accounts and books to be written up ;
- (hh) the manner of certification of entries in the books of a society and copies of documents kept by it in the course of its business ;
- (ii) the statements and returns to be furnished by societies to the Registrar, Financing Bank and the Apex Society ;
- (jj) the restrictions on persons appearing as legal practitioner ;
- (kk) the inspection of documents and the levy of fees for granting certified copies thereof ;
- (ll) inspection by financing Bank and Apex Societies and calling of general meeting and right of free access to books, accounts, securities, etc., and to issue summons for their production ;

(Secs. 135—138)

(mm) the furnishing of information by members as to their financial position and alienation of their immovable properties and creditors of members to furnish statement of their claim ;

(nn) the contents to be included in the audit report ;

(oo) the fee payable for filing memorandum of appeal or application for revision or review ; or

(pp) any other matter which has to be or may be prescribed.

Co-operative Council.

135. There shall be a State Co-operative Council constituted by the State Government, for the State of Orissa, whose function will be to formulate plan and policies for the development of Co-operative Movement in the State as may be prescribed.

Construction of references to Co-operative Societies Act, 1912, etc., in enactments.

136. All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in India and for the time being in force in the State of Orissa, shall, in the application of any such enactment to the said State, be construed as references to this Act. ^{2 of 1912}

Power to remove difficulties.

137. (1) If any doubt or difficulty arises in giving effect to the provisions of this Act the State Government may as occasion may require, by order do anything not inconsistent with the provisions of this Act or the rules made thereunder which appears to them necessary for the purposes of removing the doubt or difficulty.

(2) An order made under sub-section (1) shall be laid as soon as may be before the State Legislature.

Repeal

138. The Orissa Co-operative Societies Act, 1951 is hereby repealed. ^{Orissa Act 11 of 1952.}

SCHEDULE

[See SECTION 103 (4)]

1. (1) When immovable property has been sold by the Registrar under clause (c) of sub-section (1) of section 103, any person owning such property or holding an interest therein or when the property sold has been mortgaged to the ¹[State Land Development Bank] or a ²[land development bank,] any person entitled to a notice under section 91, may, within thirty days of the date of the sale, apply to the Registrar to have the sale set aside on his depositing with him—

Application to set aside sale.

(a) for payment to the purchaser as compensation a sum equal to five per centum of the purchase money ;

(b) for payment to the State Government, the society, the ¹[State Land Development Bank] or the ²[Land Development bank] or the liquidator in consequence of whose application the sale was held, the amount specified in the proclamation of sale for the recovery of which the sale was ordered to be held together with interest thereon and the expenses of attachment, if any, and sale and other costs due, in respect of such amount, less any amount which may since the date of such proclamation have been received by the State Government, the society, the ¹[State Land Development Bank], the ²[land development bank] or the liquidator, as the case may be.

(2) At any time within thirty days from the date of sale of immovable property, under section 103 the society, the ¹[State Land Development Bank], the ²[Land Development Bank] or the liquidator at whose instance the sale was held, or any person entitled to share in ratable distribution of assets or whose interests are affected by the sale, may apply to the Registrar to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it :

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

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "State Land Mortgage Bank".

2. Substituted by *Ibid.*, for "Land Mortgage Bank".

(Sch.-contd.)

(3) The purchaser at any such sale may also, within the period of thirty days from the date of sale, apply to the Registrar to set aside the sale, on the ground that the person from whom the sum is recoverable under the award, decision or order in execution of which the sale was held, had no saleable interest in the property sold.

(4) When the Registrar has reason to think that the sale ought to be set aside on the ground of irregularity, mistake or fraud, notwithstanding that no application to set aside the sale has been made or on grounds other than those mentioned in any application made and rejected, he may, after giving an opportunity to all parties concerned of being heard and after recording his reasons in writing, set aside the sale at any time before it is confirmed.

(5) When a person applies under sub-paragraph (2) to set aside the sale of immovable property in which he is interested, he shall not, unless he withdraws his application, be entitled to make an application under sub-paragraph (1).

(6) On receipt of application and deposit under sub-paragraph (1), the Registrar shall set aside the sale and shall pay back to the purchaser the purchase money so far it has been deposited together with the five per cent of such money deposited by the applicant.

(7) If the sale is set aside under sub-paragraphs (2), or (4), the Registrar shall return the purchase money to the purchaser with or without interest as he may decide and may direct a fresh sale.

Explanation—For the purposes of this Schedule “Registrar” shall include any other person empowered by the Registrar under clause (c) of sub-section (1) of section 103.

Confirmation
of sale.

2. On the expiration of thirty days from the date of the sale, if no application to have the sale set aside has been made under paragraph 1 or if such application has been made and rejected and if the Registrar has not taken action under sub-paragraph (4) of that paragraph, he shall make an order confirming the sale which shall thereupon become absolute.

(Sch.-contd.)

3. When a sale has been made under section 103 and has been confirmed and made absolute under paragraph 2, the title of the purchaser shall not be questioned in any Court by any person, whose interest has been sold, or his successor-in-interest, on any ground whatsoever.

Title of purchaser not to be questioned.

4. (1) The proceeds of sale under section 103 shall be applied as follows :—

Distribution of proceeds of sale.

Firstly, in payment of all costs, charges and expenses properly incurred as incidental to the attachment, if any, custody, sale or attempted sale ;

Secondly, in payment of all interest due on account of the principal sum under the award, decision or order, as the case may be ;

Thirdly, in payment of the principal money due under the award, decision or order, as the case may be ; and

Lastly, the residue, if any, thereafter remaining, shall be paid to the person whose property was sold or to his successor-in-interest.

(2) All payments of such residue made in accordance with sub-paragraph (1) shall be valid and effectual against any demand relating thereto, made by any person upon the Registrar or the Society, the ¹[State Land Development Bank], the ²[Land Development Bank] or the liquidator, as the case may be, in consequence of whose application the sale was held.

5. (1) When the sale is confirmed under paragraph 2, the Registrar shall on application grant a certificate in the prescribed form specifying who, at the time of the sale, is declared to be the purchaser and such certificate shall bear the date on which the sale was made absolute.

Certificate of sale.

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

16 of 1908

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "State Land Mortgage Bank".

2. Substituted by *ibid.*, for "Land Mortgage Bank."

(Sch.-contd.)

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

B. & O. Act
2 of 1913,Delivery of
property to
purchaser.

6. (1) When the immovable property sold is in the occupancy of the persons, whose right, title and interest in the property have been sold, or of some person on behalf of such person or mortgagor, or of some person claiming under a title created by such person subsequently to the attachment of such property other than a lease for a period not exceeding five years created by the mortgagor subsequent to the mortgage in favour of the ¹[State Land Development Bank] or the ²[Land Development Bank], as the case may be, and a certificate in respect thereof has been granted under paragraph 5, the Registrar granting the certificates shall, on the application of the purchaser order delivery to be made by putting such purchaser or any person, whom he may appoint to receive delivery on his behalf, in possession of the property and if need be, by removing any person who refuses to vacate the same.

(2) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under paragraph 5, the Registrar granting the certificate shall, on the application of the purchaser, and after notice to such tenant or other person, order delivery to be made, by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the person from whom the sum under the award, decision or order, as the case may be, was recoverable, has been transferred to the purchaser.

1. Substituted by the Orissa Co-operative Societies (Amendment) Act, 1970 (Or. Act 5 of 1970), s. 16 for "State Land Mortgage Bank".

2. Substituted by *ibid.*, for "Land Mortgage Bank".

(3) In regard to the cases dealt with in subparagraphs (1) and (2) the provisions of rules 97 to 103 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 shall, *mutatis mutandis*, of 1908 apply.

ANNEXURE

PROVISIONS OF THE ORISSA CO-OPERATIVE SOCIETIES
(AMENDMENT) ACT, 1980 (ORISSA ACT 10 OF 1980),
NOT INCORPORATED IN THE ORIGINAL ACT

* * *

Amendment
of section
109.

3. In section 109 of the principal Act, for sub-section (2) excluding the provisos, the following sub-section shall be substituted, namely :—

[(2) An appeal under sub-section (1) shall be made within sixty days from the date of publication or communication of the order or decision, as the case may be, to such authority as may be prescribed.]

1. Came into force w. e. f. 20th July 1981, vide-S. R. O. No. 575/81. published in an extraordinary issue of the Orissa Gazette No. 913, dated the 20th July 1981.

ORISSA ACT 1 OF 1979

*THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1978

[Received the assent of the President on the 23rd July 1978, first published in an extraordinary issue of the Orissa Gazette, dated the 25th January 1979]

AN ACT TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962

BE it enacted by the Legislature of the State of Orissa in the Twenty-ninth Year of the Republic of India, as follows:-

Short title
and
commence
ment.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 1978.

(2) It shall come into force at once.

Amendment
of section 28.

2. In section 28 of the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the Principal Act),-

Orissa Act
2 of 1963.

(a) in sub-section (2), in the proviso,-

(i) in clause (b), the word “and” occurring at the end shall be omitted;

(ii) in clause ©, for the full stop “.” the semi-colon and the word “;and” shall be substituted;

(iii) after clause ©, the following new clause and explanations shall be inserted namely:-

“(d) in the cases of Farmers Services Co-operative Societies and Large Size Multi-purposes Co-operative Societies, at least two-thirds of the members of the Committee shall respectively be small farmers and members belonging to the Scheduled Tribes.

Explanation I- “Small farmer” means a person who owns not more than five acres of land.

Explanation II- The principles for determining whether a society is a Large size Multi-purpose Co-operative Society or not, shall be as may be prescribed.”;

(b) in sub-section (2-a), for the figures letters and words “25th day of August, 1970”, the words and figures “date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1978” shall be substituted;

(c) in sub-section (3), for the words “to become a member of President” the words “for being chosen or for continuing as a member of President” shall be substituted;

(d) for sub-section (5) the following sub-section shall be substituted, namely-

“(5) If in the opinion of the Registrar,-

(a) a member of President of a Committee of a society has incurred any of the disqualifications mentioned in sub-section (3), or

(b) any officer of a society who having the power, by or under the bye-laws of the society, to remain in custody of any cash belonging to the society, keeps in his custody, without reasonable cause, any such money in excess of the permissible limit beyond the period allowed under such bye-laws or in any other manner not permitted thereunder, the Registrar may, by order in writing after giving such member, President or officer a reasonable opportunity of being heard, remove him from his office and thereupon he shall be deemed to have vacated the office with effect from the date of the said order.”.

Amendment
of section 83-
A

3. For section 83-A of the Principal Act, the following section shall be substituted namely:-

“**83-A.** Any land development bank may grant loan to its members against the creation of a charge on or mortgage of land free of encumbrances”.

Amendment
of section 83-
B.

4. For section 83-B of the Principal Act, including its marginal heading the following section shall be substituted, namely:-

Applicant
for loan to
make a
declaration.

“**83-B.** (1) Every applicant for a loan to a land development bank shall make a declaration in the form prescribed by the land development bank before an officer authorised by the Registrar in this behalf, on solemn affirmation that the land sought to be mortgaged is free from all encumbrances and that the mortgager is in possession thereof and has the right to create the mortgage.

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

(3) If at any time a declaration made under sub-section (1) is found to be false or defective, the land development bank shall, subject to the provisions of section 85, have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the mortgage deed and the development bank may proceed against all such properties of the mortgager under section 91.

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

(4) Only those applications which conform to the requirements of sub-section (1) shall, in accordance with the rules made in that behalf, be taken into consideration by the bank.”.

Insertion
new
sections
83-D and
83-E.

5. After section 83-C of the principal Act, the following new section shall be inserted, namely:-

Charge
how
created
and its
effect.

“**83-D.**(1) Every applicant for a loan to be given by a land development bank against the creation of a charge on any land which he owns or in which he has an interest shall, on his application being granted, make a declaration in the prescribed form declaring that thereby he creates in favour of that bank a charge on such land or his interest therein, as the case may be, to secure the loan.

(2) A declaration made under sub-section (1) may be varied from time to time by the applicant with the consent of the bank in whose favour the declaration has been made and any such variation shall take effect from such date on which the variation if it had been an original declaration, would have effect under sub-section(3).

(3) Notwithstanding anything contained in the Registration Act, 1908, charge in respect of which a declaration has been made under sub-section (1) or in respect of which a variation has been made under sub-section (2) by an applicant in favour of the bank in respect of loan given by that bank shall be deemed to have been duly registered in accordance with the provisions of that Act, with effect from the date of the charge or variation, as the case may be, provided that the bank sends to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged is situate, within a period of thirty days, by registered post with acknowledgement due, two copies of the document creating such charge or variation duly certified to be true by an employee of the bank authorised to sign in its behalf.

16 of 1908

(4) Notwithstanding anything contained in any law for the time being in force an applicant who has availed of a loan from a land development bank by creating a charge on land or interest therein, shall not, so long as the loan continues to be outstanding, lease out or create any tenancy right on such land or interest without prior permission in writing of the bank.

(5) Any lease granted or tenancy rights created in contravention of this section shall be void.

Charge
created or
mortgage
executed by
a member
of Hindu
Joint
Family or
co-owners.

83-E. (1) Notwithstanding any thing contained in any other law, when a mortgage is executed or a charge is created in favour of a land development bank by one or more of the co-sharers of a Hindu Joint Family or by any co-owner or by any purchaser from them, who is or are in possession of the said property on the date of the mortgage or charge and such possession is certified by a Revenue Officer not below the rank of a Revenue Inspector in the form to be prescribed by the State Land Development Bank, the same shall remain a first charge on the said land, and the certificate of possession so granted shall be conclusive and binding and shall not be called in question in any Court or Tribunal.

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

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

Orissa Act
21 of 1972,
Orissa Act
16 of 1960.

Insertion of
new section
101-A.

6. After section 101 of the Principal Act, the following new section shall be inserted, namely:-

Certain
provisions
to apply to
charge.

“101-A. The provisions contained in sections 85,86,87,87-A,88,89,90,91,92,93,94,95,96,98-A and section 101, shall, *mutatis mutandis* apply to charges including any variations thereto) created in favour of a Land Development Bank.

Amendmen
t of section
109.

7. In section 115 of the Principal Act, in sub-section (1), for clause (e) the following clause shall be substituted, namely:-

Amendment
of section
115.

8. In section 115 of the Principal Act, after sub-section (9) , the following new sub-section shall be inserted, namely:-

“(10) An applicant for a loan from a Land Development Bank, who willfully makes a false or defective declaration, shall be punishable with fine which may extend to two thousand rupees or with imprisonment which may extend to six months or with both.”.

ORISSA ACT 7 OF 1979

* THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1979

[Received the assent of the Governor on the 27th March 1979, first published in an extraordinary issue of the Orissa Gazette, dated the 29th March 1979]

AN ACT TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962

BE it enacted by the Legislature of the State of Orissa in the Thirtieth Year of the Republic of India, as follows:-

Short title and commencement.

1. This Act may be called the Orissa Co-operative Societies (Amendment) Act, 1979.

(2) It shall be deemed to have come into force on the 25th day of January, 1979.

Amendment of section 28.

2. In section 28 of the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the Principal Act) in sub-section (2), in the proviso, for Explanation I to clause (d), the following Explanation shall be substituted, namely:-

Orissa Act
2 of 1963.

“Explanation I- ‘small farmer’ means a person who owns not more than five acres of unirrigated land or two and a half acres of irrigated land.”

Repeal and savings.

3.(1) The Orissa Co-operative Societies (Amendment) Ordinance, 1979 is hereby repealed.

Orissa
Ordinance
No. 2 of
1979.

(2) Notwithstanding such repeal, any order made, anything done or any action taken under the Principal Act as amended by the said Ordinance, shall be deemed to have been made, done or taken under the Principal Act as amended by this Act.

*For the Bill, See *Orissa Gazette*, Extraordinary, dated the 27th February 1979 (No. 251)

ORISSA ACT 19 OF 1983

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1982

[Received the assent of the President on the 23rd September 1983 first published in an Extraordinary issue of the Orissa Gazette dated the 11th October, 1983]

AN ACT TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962

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

Short title and
Commencem
ent.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 1983.

(2) Section 12 shall be deemed to have come into force with effect the fifth day of November, 1980 and other sections shall come into force at once.

Amendment
of Section 2.

2. In Section 2 of the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the principal Act),-

Orissa
Act 2 of
1963.

(a) for clause (a), the following clauses shall be substituted, namely:-

“(a) ‘apex society’ means a society having the whole of the State of Orissa as its area of operation and consisting of societies as its members, and declared as such by the Registrar;

Provided that such society may have individuals and other bodies corporate as nominal or associate members, as the case may be;

(a-1) ‘associate member’ means a member who holds jointly a share in a society with others, and is admitted as such, but whose name does not stand first in the share certificate”;

(b) after clause (f-1), the following new clause shall be inserted, namely:-

“(f-2) ‘nominal member’ means a person admitted as such to a society, after its registration, in accordance with the bye-law;”

(c) after clause (n) the following new clause shall be inserted, namely:-

“(o) ‘Tribunal’ means ‘Co-operative Tribunal’ constituted under section 67-A.”

Amendment
of Section 6.

3. In section 6 of the principal Act, in sub-section (2), for clause (b), the following clause shall be substituted, namely:-

Amendment of
Section 14.

- “(b) Where all the applicants are-
- (i) individuals the number shall not be less than ten;
 - (ii) Societies, the number shall not be less than five in case of a Central Society and Central Co-operative bank and ten in case of an apex society and viable in the opinion of the Registrar;”.

4. In section 14 of the principal Act,-

- (a) sub-section (3) shall be deleted;
- (b) in sub-section (4), the words, brackets and figure “or the order made under sub-section (3)” shall be deleted;
- (c) in sub-section (5), the words. Brackets and figure “or when an order has been passed by the Register under sub-section (3)” shall be deleted;
- (d) In sub-section (6), the words and comma “ or order, as the case may be” shall be deleted;
- (e) in sub-section (7), the words ‘ or order” shall be deleted;
- (f) in sub-section (8), the words “ or an order’ shall be deleted;

Insertion of
new section
14-A.

5. After section 14 of the principal Act, the following new section shall be inserted namely:-

Compulsory
reorganization
of
amalgamation
of societies.

- “**14-A.** (1) Notwithstanding anything contained in this Act, if the registrar for reasons to be recorded is of the opinion that-
- (a) for ensuring viability of any society or societies; or
 - (b) for avoiding over-lapping or conflict of jurisdiction of the society in any area or
 - (c) ‘in order to secure proper management of any society; or
 - (d) in the public interest; or
 - (e) in the interest of depositors; or
 - (f) in the interest of co-operative movement in the State as a whole; or
 - (g) in the interest of the co-operative credit structure in the State as a whole, it is necessary to reorganize any society or societies or to amalgamate any two or more societies into a single society, the registrar may, after consulting the financing bank of the society or societies, by order published in the Official Gazette, direct such reorganization or amalgamation, as the case may be.

- (2) The order under sub-section (1) may provide for-
- (a) reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in or against any such society to be reorganized or amalgamated to such extent as the registrar considers necessary in the interest of such persons for the maintenance of the business of that society having due regard to the proportion of the assets of such society and its liability; and
 - (b) such incidental, consequential and supplemental matters as may, in the opinion of the Registrar, be necessary to give effect to the reorganization or amalgamation of the society or societies.
- (3) No order under sub-section (1) shall be made unless the Registrar-
- (a) has given every society concerned an opportunity of stating its objections and suggestions on the order proposed to be made; and
 - (b) has considered the objections and suggestions so made by every such society, or its members, depositors, creditors, employees, or any other persons concerned, within such period, not being less than fifteen days from the date of receipt of the proposed order, as the Registrar may fix in that behalf.
- (4) An order issued under sub-section (1) shall, notwithstanding anything contained in this Act, or in any other law or in any contract, award or instruments for the time being in force, be binding on all societies and their members, depositors, creditors, employees and other persons having any right, assets, or liabilities in relation to all or any of the concerned societies.
- (5) On and from the date the reorganization or the amalgamation takes effect, the assets and liabilities referred to therein shall stand reorganized or amalgamated, as the case may be, with the assets and liabilities of the resulting society or societies formed out or such reorganization or amalgamation members, creditors and debtors of such society or societies shall be deemed to be members, creditors and debtors, as the case may be, of such resulting society or societies as ordered by the Registrar.
- (6) In case of the society or societies directed to be reorganized or amalgamated, the registration of the reorganized or merged society or societies, as the case may be shall be, deemed to be cancelled from the date on which the reorganization or amalgamation takes effect.
- (7) Notwithstanding anything contained in the Transfer of property Act, 1882 or the Registration Act, 1908, an order issued under this section shall be sufficient conveyance to transfer the assets and liabilities of the society or societies covered by any order passed under sub-section (1)".

4 of 1882
16 of 1908

6. In section 16 of the principal Act, in sub-section (3), for clause (a), the following clause shall be substituted, namely:-

“(a) no individual shall be eligible to be a member of an apex society or a Central Co-operative Bank:

Provided that an individual shall be eligible to become a nominal or associate member; and”.

Amendment of Section 18.

7. In Section 18 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) A ‘nominal member’ shall not be entitled-

(a) to any share, in any form whatsoever, in the assets or profits of the society

(b) to attend the general body meeting of the society; and

(c) to be elected to the Committee of the society.”.

Insertion of new Section 21-A.

8. After Section 21 of the principal Act, the following new section shall be inserted, namely:-

Power of general body to expel member.

“**21-A** (1) Any society may, by resolution passed by two-thirds majority of the members present at a meeting of the general body, expel a member who acts adversely or whose continuance is considered detrimental or prejudicial to the interest of the society.

Provided that no such resolution shall be valid unless the member concerned is given an opportunity of representing his case before the general body in the prescribed manner.

(2) A copy of the resolution so passed shall be communicated to the member concerned and also shall be published in the notice board of the society.’

Amendment of Section 28.

9. In Section 28 of the principal Act,

(a) after sub-section (I-b) the following new sub-section shall be inserted, namely;-

“(1-c) Notwithstanding anything contained in this Act, in case of a society registered after the commencement of the Orissa Co-operative Societies (Amendment) Act, 1983 the Registrar may nominate the first committee of the society to manage the affairs of the society for a period two years initially which may be extended by him from time to time so however that the aggregate period does not exceed four years:

Orissa Act of 1983.

Provided that where a society in which shares have been subscribed or liabilities by way of guarantee for borrowing exceeding fifty percentum of the working capital of the society has been undertaken by the Government, the term of the nominated Committee may further be extended by the State Government for such period or periods as may be considered expedient not exceeding two years in the aggregate”.

(b) in clause (d) of sub-section (2) for the words “two thirds of the members the words “two thirds of the elected members” shall be substituted .

(c) in sub-section (3)-

(i) for the words, comma and hyphen “No person shall be eligible for being chosen or for continuing as a member or President of the Committee of the a society, if he” the words, commas and hyphen “No individual shall, whether by himself or as a representative of the society, be eligible for being chosen or for continuing as a member or president of the Committee of a society, if he-“ shall be substituted;

(ii) for clause (e) the following clause shall be substituted, namely;-

“(e) has failed to make payment of any amount due whether in cash or in kind to the society or to any other society on account of any loan or otherwise within three months from the date of notice by the society for payment of such dues;

(iii) for clause (g)excluding the proviso, the following clause shall be substituted, namely:

“(g) has been expelled from a society under Section 21-A;”.

(iv) after clause (g), the following new clauses shall be inserted, namely;-

“(h) has been convicted on charge of misappropriation or defalcation of funds of any society or has been found liable in a surcharge proceeding until such conviction or liability is reversed; or

(i) has been dismissed, discharged or removed from the service of the Government, Public Sector, Undertaking Local Body, a Co-operative Society or any other body corporate as a result of disciplinary proceedings on charge of embezzlement, misappropriation or any other misconduct involving moral turpitude unless the order of such dismissal, discharge or removal has been reversed; or

(j) is holding any office of the profit under the State or Central Government, or under any local authority or aided educational institution;

Provided that nothing in this clause shall debar nay such person from becoming a member or the President of the Committee of a society formed exclusively of such persons and a person nominated under sub-section (1) of section 31; or

(k) is debarred under the Representation of the People, Act, 1951 to contest election.

(d) after sub-section (3), the following new sub-section shall be inserted, namely:-

“(3-a) A representative of a society or a body corporate shall not be eligible for being chosen or for continuing as a member or president of the Committee of any other society in cases where the society or the body corporate which he represents-

- (f) has failed to pay any amount due in cash or in kind to the society or any other society on account of any loan or otherwise within three months from the date of notice by such society for payment of such dues; or
- (ii) ceases from the membership of the society; or
- (iii) is ordered to be wound up or dissolved.

(3-b) (1) Notwithstanding anything contained in this Act, there shall be a Chief Executive for every society, by whatever designation called, who shall be appointed on whole time basis by the Committee subject to the approval of the Registrar. Such Chief Executives shall be deemed to be a member of the Committee in case of an apex society and any other society or class of societies as the State Government may, by notification from time to time, specify.

(2) Subject to the overall control of the Committee, the Chief Executive shall-

- (a) manage the day to day business of the society,
- (b) operate the accounts of the society,
- (c) be responsible of making arrangements for safe custody of cash,
- (d) sign on the documents for and on behalf of the society,
- (e) make arrangements for the proper maintenance of various books and records of the society, for the correct preparation, timely submission of periodically statements and return in accordance with the provisions of this Act and the rules and bye-law made thereunder.
- (f) be competent to convene meetings of the General Body, the Committee and sub-Committee, if any, and maintaining proper records for such meetings,
- (g) be competent to make appointments to posts in the society in accordance with the rules prescribed excepting the posts relating to which the power of appointment vests in the committee,
- (h) assist the committee in the formulation of policies, objectives and planning's, etc.

- (i) furnish to the committee periodical information necessary for apprising the operation and function of the society, and
- (j) perform such other duties and exercise such other powers, as may be prescribed or as may be specified in the bye-law of the society.

(3-c) The Chief Executive shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code”.

45 of 1860

- (e) for sub-section (4-a), the following sub-section shall be substituted, namely:-

“(4-a) No individual shall at any time, whether by himself or as a representative of any society, hold office as a member of the Committee of more than one Primary Society, Central, Society including a Central Co-operative Bank or apex society.”;

- (f) in clause (a) of sub-section (5), for the words, figure and brackets “disqualifications mentioned in sub-section (3)” the words, figures and brackets “disqualifications mentioned in sub-sections (3), (3-a), (4), and (4-a)” shall be substituted;
- (g) after sub-section (5), the following new sub-section shall be inserted, namely-

“(6) Where any vacancy in the office of a member or the President of a Committee arises by reasons of death, resignation or removal of any member or the President or by withdrawal of its representative by a member, society, such vacancy-

- (a) shall be filled up in the same manner as it was originally filled up;
- (b) shall, within fifteen days from the date of its occurrence, be intimated by the Chief Executive of the Society to the Election Officer the authority having power to fill up the vacancy and the Election Officer or the authority, as the case may be, shall take steps to fill up the vacancy within a period not exceeding six months from the date of receipt of the intimation.”.

Amendment of
Section 28-A.

10. In section 28-A of the principal Act,-

- (a) sub-section (7) shall be omitted;
- (b) after sub-section (7) so omitted the following new sub-section shall be inserted, namely:-

“(8) Any expenditure required to be incurred in holding of election of members and President of a Committee or in connection with matters

incidental thereto shall be met by the society under the direction of the Election Officer.”.

Amendment
of Section 31.

11. In section 31 of the principal Act, after sub-section (2), the following new sub-section shall be inserted, namely;-

“(3) A person nominated to the Committee of a society under sub-section (1) shall not be eligible to contest any election for the office of the President or any other office bearer of the Committee of a society.”.

Amendment of
Section 32.

12. In section 32 of the principal Act,-

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) If, in the opinion of the registrar, the Committee of any society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the Bye-laws, or committee any act which is prejudicial to the interest of the society or its members, or is otherwise not functioning properly the Registrar may, after giving the Committee an opportunity to state its objections if any, within twenty-one days from the date of service of the notice issued in that behalf, by order in writing stating reasons therefore, remove the Committee; and appoint-

(b) a new Committee consisting of not less than three and not more than five members of the society in its place.

(c) one or more Administrators who need not be members of the society, or

(d) any other society with its consent,

to manage the affairs of the society for a period not exceeding two years as may be specified in the order and the said period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed four year:

Provided that, for any sufficient cause to be recorded, the Registrar may, in any case, extend the aforesaid period of twenty-one days so however that, the total period does not exceed thirty days from the date of service of the notice.”;

(b) for sub section (4), the following sub-section shall be substituted namely;-

“(4) Before taking any action under sub-section (1) in respect of a society, the Registrar shall consult the financing Bank to which it is indebted and consider the opinion received from such Bank:

Provided that when no opinion is received from such Bank within a period of thirty days from the date of reference by the Registrar, it shall be deemed that such Bank has agreed to the action proposed to be taken by the Registrar under sub-section (1).”.

Insertion of
new section
33-B.

13. After section 33-A of the principal Act, the following new section shall be inserted, namely:-

“33-B (1) Notwithstanding anything contained in this Act, the Registrar, if so considers necessary in the interest of the Co-operative movement in the State, may create a common cadre of employees belonging to such class of societies as may be specified therein and for that purpose, constitute an appointment Committee or otherwise any Apex or Central Society including Central Bank to which such class of societies are affiliated, to exercise the powers of appointment, transfer and discipline in respect of all or any of the categories of employees of such class of societies, as may be specified by him in that behalf;

Provided that a society or a class of societies may exercise the powers of discipline in respect of any cadre employee posted under such society or class of societies as the case may be, to the extent specified in the regulation made under sub-section (2).

(2) The registrar may, for the purpose of regulating the matters of appointment, transfer and discipline as provided under sub-section (1) make such regulations as may be necessary.

(3) Save as provided in sub-section (1) on and from the date such appointment Committee is constituted or any Apex or Central Society including Central Bank is authorized under sub-section (1), the concerned class of societies shall have no powers to deal with matters relating to appointment, transfer and discipline in respect of employees of the category or categories specified under the said sub-section.

(4) The Registrar shall have power to require the societies of the concerned class to contribute such sum every year towards expenditures as the appointment Committee so constituted or the Apex or the central Society including Central Bank so authorized under sub-section (1), may incur or has incurred for the purpose. If any society fails to pay the require some to such authority and within such time as may be specified by the Registrar, the Registrar may, on receipt of information from such specified authority and after such enquiry as he may consider necessary, make an order requiring the concerned society to pay the amount within a certain time, and every such order shall be enforceable against the society as if it were a decision under section 70 of the Act.”.

Amendment
of Section
34.

14. For section 34 of the principal Act, the following section shall be substituted, namely:-

“**34.** (1) Notwithstanding anything contained in any law for the time being in force, but subject to any claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a society by any member or past or deceased member shall be a first charge upon the land or interest in any land, crops and other agricultural produce, cattle, except those required or ploughing the field of the member, fodder of cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials belonging to such member, past member or forming part of the estate of such deceased member, as the case may be.

(2) Any member owning any land or other immovable property or having interest in any land or in such property, who applies to the society for a loan., shall make a declaration in the prescribed form declaring that thereby he creates in favour of the society, a charge on such land or other immovable property or his interest in any such land or property, as the case may be, to secure the loan to be granted to him by the society including the interest thereon.

(3) The declaration made under sub-section (2) may be varied or cancelled by the member at any time with the consent of the society in whose favour such declaration has been made.

(4) The declaration made under sub-section (2) and any variation or cancellation thereof made under sub-section (3) shall be sent by registered post by the society concerned to the Sub-registrar having jurisdiction over the area in which such land or property situates, on receipt of which the Sub-registrar shall, if it is in order, register such declaration or the variation or cancellation thereof and issue a copy thereof to the said society. Where it is not in order, he shall return it to that society without registration. The declaration or any variation or cancellation thereof shall have effect only on the date of registration.

(5) No person shall transfer any property which is subject under sub-section (1) or sub-section (2) except with the previous permission in writing of the society which holds the charge.

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

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

5 of 1920

(8) Without prejudice to the provisions of sub-section (7), the charge created under sub-section (1) or sub-section (2) shall have priority over any claim of the Government in respect of a loan granted under the Land Improvement Loans Act, 1883 or the Agriculturists Loan Act, 1884 or the Orissa State Aid to Industries Act, 1978 after the grant of the loan by the society anything contained sub-section (1) not withstanding.

19 of 1883
12 of 1884
Orissa Act
32 of 1978.

(9) The provisions contained in section 85 shall *mutatis mutandis*, apply in respect of a charge created in favour of a society under sub-section (1) or sub-section (2).”

Amendment
of Section
35.

15. In section 35 of the principal Act, in sub-section (3) the comma and the words, “other than the State or Central Government or a Local authority,” shall be deleted.

Amendment
of Section 56.

16. In section 56 of the principal Act,-

- (i) in the marginal heading, the words “and constitution of Co-operative Education Fund” shall be deleted;
- (ii) in sub-section (1), for clause (b), the following clause shall be substituted, namely:-

“(b) credit four per cent of such profits to the Co-operative Education Fund constituted under section 56-A.”; and

(iii) for sub-section (3), the following sub-section shall be substituted namely:-

“(3) Notwithstanding anything contained in this section a Co-operative Society shall contribute annually to the Co-operative Education Fund constituted under section 56-A a sum as the State Government may, by notification, specify from time to time or four per cent of the net profit (earned) by the society, whichever is more:

Provided that the State Government may, for reasons to be recorded in writing, by general or special order, exempt any society or class of societies from payment of such contribution”.

Insertion of a new section 56-A.

17. After section 56 of the principal Act, the following new section shall be inserted, namely:-

Co-operative Education Fund.

56-A. (1) There shall be constituted a Co-operative Education Fund which shall vest in the State Co-operative Union and shall be administered by the said Union in the prescribed manner.

(2) The Co-operative Education Fund shall consist of all contributions made by Government or by any institution or society in addition to the amounts specified in clause (b) of sub-section (1) or in sub-section (2) of section 56.”

Insertion of a new section 59-A.

18. After section 56 of the principal Act, the following new section shall be inserted, namely:-

Restriction on interest.

“**59-A.** Notwithstanding anything contained in any law or agreement for the time being in force, a society shall not charge on account of interest on any short term loan, whether advanced before or after the commencement of the Orissa Co-operative Societies (Amendment) Act, 1983 a sum greater than that of the principal.

Explanation- For the purpose of this section the expression “short term loan” shall mean a loan repayable within a period of fifteen months”.

Amendment of Section 67.

19. In section 67 of the principal Act, in sub-section (1) for the existing proviso the following proviso shall be substituted, namely:-

“Provided that no such enquiry shall be held after the expiry of a period of three years from the date any at or omission referred to in this sub-section was first detected during the course of such audit, enquiry and inspection or the winding up to a society”.

Insertion of new chapter VIII-A.

20. After chapter VIII of the principal Act, the following new chapter shall be inserted, namely:-

“CHAPTER VIII-A

CONSTITUTION AND POWERS OF TRIBUNAL

Constitution
of Co-
operative
Tribunal.

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

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

Powers of
the Tribunal.

67-B. (1) Any dispute arising in connection with election of any officer of an apex society shall be referred to the Tribunal in the manner and within the period prescribed in this behalf.

(2) The tribunal may, pending the decision of the dispute, make such interlocutory orders as it may deem necessary in the interest of justice.

(3) The Tribunal may call for and examine records of proceeding in which appeal lies to it, but appeal has not been filed, for the purpose of satisfying itself as to the legality or propriety of any order passed or decision made therein and if in any such case it appears to the Tribunal that any order or decision should be revised, modified or annulled, it may make such order as it thinks fit, after affording to the person likely to be affected adversely by such order, an opportunity of being heard.

(4) While deciding appeals, the Tribunal may exercise all the powers conferred upon the appellate Court by Order XLI of the First Schedule of the Code of Civil Procedure, 1908.

5 of 1908

67-C. All orders and decisions of the Tribunal shall be final and shall not be questioned in any Court of law.

Amendment
of Section 68.

21. In section 68 of the principal Act, in sub-section (1), after the words “against paid servant of the society” the words “and any dispute arise in connection with the election of any officer of an apex society” shall be inserted.

Amendment
of Section
69.

22. For section 69 of the principal Act, the following section shall be substituted, namely:-

“69. (1) When the dispute is between a society or its Committee and any past Committee, past officer, past agent or past servant or the nominee, heir or legal representative of any deceased Officer, deceased agent or deceased servant of the society and when the dispute relates to any act or omission on the part of either party to the dispute, the period of limitation shall be four years from the date on which such act, or omission with respect to which the dispute arose, was first detected during the course of any inspection, enquiry, audit or winding up of the society.

(2) When the dispute relates to any sum including interest thereon, if any, due to a society by a member thereof, it may be referred within a period of four years from the date of death or cession of membership of such member.”.

Amendment
of Section 78.

23. In section 78 of the principal Act,-

(i) in sub-section (1), for clause (b), the following clause shall be substituted, namely;-

“(b) ‘land Development Bank’ means a Co-operative Land Development bank registered or deemed to be registered under this Act, and includes a Co-operative Society or a body corporate admitted as a member of the State Land Development Bank or as an agent of the Land Development Bank, and”

(ii) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Land Development Banks may advance loans, other than short term loans, for purposes connected with-

- (a) improvement of land;
- (b) productivity of land;
- (c) development of agriculture;
- (d) objects allied to agriculture such as,-
 - (i) dairy;
 - (ii) poultry, and
 - (iii) fishery, and
- (e) such other occupation of the agriculturist as the State Government may by notification from time to time, specify.”

Amendment of
Section 109.

24. In section 109 of the principal Act,-

(a) in sub-section (1)-

(i) for clause © the following clause shall be substituted, namely;-

“© an order directing re-organization or amalgamation under sub-section (1) or section 14-A”; and

(ii) clause (e-1) shall be deleted;

(b) for sub-section (2) the following sub-section shall be substituted, namely:-

“(2) An appeal under sub-section (1) shall be made within sixty days from the date of pronouncement or communication of the order or decision, as the case may be, to-

- (a) The Tribunal, if it is an order or decision specified in clauses (e), (f), (i), (j), (m), and (n); and
- (b) such authority as may be prescribed, if it is an order or decision specified in clauses other than those specified in clause (a)”.
- (c) the second proviso to sub-section (2) shall be deleted;
- (d) after sub-section (4), the following new sub-section shall be inserted, namely:-

“(5) No appeal against a decision or award requiring payment of an amount of rupees two thousand or more shall be entertained under clause(j) of sub-section (1) unless the appellant deposits fifty per cent of such amount with the appellate authority.

Provided that the appellate authority may, for reasons to be recorded in writing, reduce the aforesaid amount in any case.”.

Amendment
of section
115.

25. In section 115 of the principal Act, in sub-section (4) the words “other than the State or Central Government or a local authority” shall be deleted.

Amendment
of section
133-A.

26. In section 133-A of the principal Act,-

- (a) for clause (i), the following clause shall be substituted, namely:-

“(i) an order or approval to pass a resolution for winding up, amalgamation, division, compromise or transfer of assets and liabilities of the bank shall not take effect unless previous sanction therefore has been accorded in writing by the Reserve bank of India”. And

- (b) the proviso to clause (iii) shall be deleted.

Transitory
provisions.

27. (1) All proceedings relating to dispute connected with election of any Officer of an apex society and all appeals against the orders and decisions specified in clauses (e), (f), (i), (j), (m) and (n) of sub-section (1) of section 109 of the principal Act, which are pending before any authority on the date of constitution of the Tribunal under section 67-A of the principal Act shall stand transferred to and shall be disposed of by the Tribunal in accordance with law.

(2) Pending constitution of the Tribunal, all disputes and appeals specified in sub-section (1) shall be entertained and disposed of by the prescribed authorities as if this Act has not come into force.

ORISSA ACT 32 OF 1992.

*** THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1992**

[Received the assent of the Governor on the 28th November 1992 first published in an extraordinary issue of the Orissa Gazette, dated the 1st December 1992]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

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

Short title
and commence-
ment.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 1992.

(2) It shall be deemed to have come into force on the 11th day of September, 1992.

Amendment
of section 28.

2. In the Orissa Co-operative Societies Act, 1962, in section 28,—

Orissa Act
2 of 1963.

(i) in sub-section (2-a), in clause (i), for the words "four months", the words "eight months" shall be substituted;

(ii) in sub-section (3), clause (1) shall be omitted.

* For the Bill, see *Orissa Gazette, Extraordinary*, dated the 6th November 1992 (No. 1496)

ORISSA ACT 23 OF 1994

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1994

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(g) nothing in this sub-section amended by the Orissa Co-operative Societies (Amendment) Act, 1994 shall be construed to affect the functions and powers of a Committee constituted prior to such amendment, as long as it continues in Office; and

(v) in sub-section (3),—

(a) in the opening portion, for the word "President" the words and commas "the President or as the Vice-President, if any", shall be inserted;

(b) in clause (c), for the word "Committee" occurring in clause (ii) the words "General Body or, as the case may be, Smaller General Body" shall be substituted, and for the word and full stop "expires" occurring at the end of the proviso to the said clause, the word and semi-colon "expires; or" shall be substituted; and

(c) after clause (c), the following clause shall be inserted with effect from the 1st day of January, 1995, namely:—

"(p) has more than two children;

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

Amendment of section 28-A. 4. In the principal Act, in section 28-A, after clause (ii) of sub-section (1), the following clause shall be inserted, namely:—

"(iii) The Vice-President of the Committee of every Primary Society shall be elected by, and from amongst, the elected members of the Committee in the prescribed manner;

Provided that where the President of the Committee of such a Society elected under this section is not a woman, the office of the Vice-President of the Committee shall be reserved for women."

General amendment of Orissa Act 2 of 1963. 5. In the principal Act, the expressions "State Land Development Bank" "Land Development Bank", "Co-operative Land Development Bank" and "Orissa State Co-operative Land Development Bank", the expressions "State Co-operative Agricultural and Rural Development Bank", "Co-operative Agricultural and Rural Development Bank" "Co-operative Agricultural and Rural Development Bank" and "Orissa State Co-operative Agricultural and Rural Development Bank" shall respectively be substituted.

Amendment of Orissa Act 28 of 1991. 6. In the Orissa Co-operative Societies (Amendment) Act, 1991, in clause (c) of section 30, after the brackets and figure "(3)", the comma, brackets and figure "(4)" shall be inserted.

Savings 7. (1) Any reference to the State Land Development Bank or a Land Development Bank in any law or instrument for the time being in force in the State shall, with effect from the date of commencement of section 5 of this Act, be construed as reference to the State Co-operative Agricultural and Rural Development Bank or, as the case may be, Co-operative Agricultural and Rural Development Bank within the meaning of principal Act.

(2) With effect from the aforesaid date and until such time as the names of the State Land Development Bank or the Land Development Banks functioning in the State on the said date are changed into the State Co-operative Agricultural and Rural Development Bank or, as the case may be, Co-operative Agricultural and Rural Development Banks, all acts done by them or mortgages and other documents executed by them or in their favour and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed by or against them as the State Co-operative Agricultural and Rural Development Bank or, as the case may be, Co-operative Agricultural and Rural Development Banks.

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***THE ORISSA CO-OPERATIVE SOCIETIES (SECOND AMENDMENT)
ACT, 1994**

[Received the assent of the Governor on the 9th January, 1995 first published in an extraordinary issue of the *Orissa Gazette*, dated the 11th January 1995]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

BE it enacted by the legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Orissa Co-operative Societies (Second Amendment) Act, 1994.

Insertion of new section 14-B.

2. After section 14-A of the Orissa Co-operative Societies Act, 1962, the following section shall be inserted, namely :—

Orissa Act
2 of 1994.

Special provision in respect of certain sick Societies.

“14-B. (1) (a) Subject to the provisions of section 123, and notwithstanding anything to the contrary contained in any other provisions of this Act and the Rules or Bye-laws framed thereunder, or any other law for the time being in force, where the Registrar, for reasons to be recorded, is of the opinion that a Co-operative Society in which majority of the shares have been subscribed or liabilities by way of guarantee for borrowing exceeding fifty per centum of the working capital of the Society have been undertaken by the State Government, has become sick and there is no possibility of rehabilitating it, the Registrar may, in the public interest, after consulting the State Government and the financing Banks, if any, to which such Society is indebted, by notice in writing, call upon the Committee of the Society to transfer, within such time as may be specified therein, its assets and liabilities, to any other Society or person, or a Company, firm or body, whether incorporated or not, on such terms and conditions as may be formulated by him.

(b) If, within the time specified in the notice referred to in clause (a), the Committee fails to make the transfer directed therein, the Registrar shall, by order, published in the Gazette, make such transfer, and with effect from the date of publication of the order, the assets and liabilities of the Society shall stand so transferred:

Provided that no order under this clause shall be made, unless the Registrar has given an opportunity to the General Body, creditors, depositors, employees of the Society and any other persons concerned to state their objections, or make representations, if any, within such time, from the date of receipt of the proposed order, as may be specified by the Registrar in his notice containing the said order to such persons, and has considered the objections and representations, if any, so made.

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

(3) The order under sub-section (1) may provide for:—

(a) reduction of the interest or right which the members, depositors, creditors, employees and other persons concerned may have in or against the Society, to such extent as the Registrar considers necessary, having due regard to the proportion of the assets of the Society to its liabilities; and

(b) such incidental, consequential and supplemental matters as may, in the opinion of the Registrar, be necessary to give effect to the said transfer,

(4) For the purposes of this section, it shall be competent for the State Government to give such direction to the Registrar, as it may deem proper in the facts and circumstances of every case.

Explanation—For the purposes of this section ‘Company’ shall mean a company as defined in the Companies Act, 1956”.

1 of 1994.

*For the Bill see *Orissa Gazette*, Extraordinary, dated the 14th December, 1994 (No. 1498).

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1996

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PREAMBLE

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2. Amendment of section 2
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10. Repeal and savings.

ORISSA ACT 7 OF 1996

***THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1996**

[Received the assent of the Governor on the 21st April 1996, first published in an extraordinary issue of the Orissa Gazette, dated the 22nd April 1996]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962

B it enacted by the Legislature of the State of Orissa in the Forty-seventh Year of the Republic of India as follows :—

Short title
and commen-
cement.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 1996.

(2) It shall be deemed to have come into force on the 2nd February, 1996.

Amendment
of section 2.

2. In the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the principal Act), in section 2,— Orissa Act 2
of 1963.

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) “Apex Society” means a Society having the whole of the State of Orissa as its area of operation, and declared as such by the Registrar; and

(ii) for clause (b-2), the following clause shall be substituted, namely :—

“(b-2) “Central Society” means a Society declared as such by the Registrar’.

Amendment
of section 16

3. In the principal Act, in section 16,—

(i) in sub-section (1), the proviso to clause (b) shall be omitted; and

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1-a) Notwithstanding anything to the contrary contained in any other provisions of this Act, and the rules affiliated or bye-laws, framed thereunder the members of the Primary Societies to a Central Society or an Apex Society shall be deemed to be the members of their respective Central Society or, as the case may be, the Apex Society or both, with effect from the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1996”.

Amendment
of section 20.

4. In the principal Act, in section 20, clause (a) of the proviso shall be omitted.

Amendment
of section 21.

5. In the principal Act, in Section 21, in the proviso to sub-section (1), for clause (a), the following clause shall be substituted, namely :—

“(a) where the member is a society, through its—

(i) President; or

(ii) Vice-President, in case such member society does not have a President or having a President, such President is unable to exercise the vote; or

(iii) representative, in case such member society does not have a President or Vice-President or having a President and Vice-President, none of them is able to exercise the vote”;

Amendment
of section 27.

6. In the principal Act, in the first proviso to section 27, the words “and amending the bye-laws of the Society” occurring at the end shall be omitted.

Amendment
of section 28.

7. In the principal Act, in section 28,—

(i) for sub-section (1-a), [the following sub-section shall be substituted, namely;—

“(1-a) there shall be a President and a Vice-President of the Committee who shall have such powers, duties and responsibilities as may be prescribed”;

(ii) in sub-section (2),—

(a) in clause (a), for the opening line and sub-clause (i), the following shall be substituted, namely:—

“The Committee of a Society shall, excluding the members deemed or nominated as members under sub-section (3-b) of section 28 and sub-section (1) of section 31, consist of,—

(i) Twenty-one members in the case of an Apex Society and fifteen in the case of a Central Society including the President and the Vice-President”; and

(b) after clause (e), the following clauses shall be inserted, namely:—

“(e-1) in the case of a Central Society, three members each shall be from the Scheduled Castes and Scheduled Tribes, four from Other Backward Classes and five from other categories of members, so however that, among each of the said Scheduled Castes, Scheduled Tribes and Other Backward Classes of members, there shall be one woman and among the other categories, there shall be two women.

(e-2) in the case of an Apex Society, four members shall be from the Scheduled Castes, five from the Scheduled Tribes and six each from the Other Backward Classes and other categories of members, so however that there shall be one woman each from the said Scheduled Castes and Scheduled Tribes, two women among the Other Backward Classes and three women among the other categories of members”.

(c) for clauses (f) and (g), the following clauses shall respectively be substituted, namely:—

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

(i) in the event of the seats in the Committee reserved for Women, Scheduled Castes, Scheduled Tribes and Other Backward Classes categories of members remaining unfilled in any election of a Primary, Central or Apex Society, the Committee of the Society shall co-operative the required number of such categories of members from amongst the members of the Society to fill up such seats, and for the purpose of making such co-option, the unfilled seats reserved for the said categories shall not invalidate the constitution or functioning of the Committee, if otherwise, it would be having a quorum;

(ii) the term of office of every such co-opted member shall be co-terminus with the other members of the Committee;

(iii) in the event of any seat in the Committee reserved for Women, Scheduled Castes, Scheduled Tribes and Other Backward Classes categories of members remaining vacant for non-availability of required number of such categories of members in the membership of a Society for the said purpose of co-option, any vacancy as a consequence thereof shall not invalidate the constitution or functioning of the Committee, provided there is a quorum.

(g) (i) Notwithstanding anything to the contrary contained in this Act, rules and bye-laws, the Committee of every Central Society and Apex Society existing immediately before the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 1996 shall stand dissolved with effect from the said date, and the members including the President and the Vice-President of every such Committee shall be deemed to have vacated their offices on that date:

Provided that nothing in this clause shall be construed to affect the functions and powers of the Committee of a Primary Society constituted before the commencement of the Orissa Co-operative Societies (Amendment) Act, 1996, as long as it continues in Office;

(ii) Upon such dissolution the management of the Society shall vest in the Registrar, and the Registrar shall nominate a Committee from amongst, the members of the Society, as far as practicable; representing the Scheduled Castes, Scheduled Tribes, Other Backward Classes and Women, to manage the affairs of the Society till the Committee is constituted in accordance with the provisions of this Act as amended by the Orissa Co-operative Societies (Amendment) Act, 1996;

(iii) Every Society, the Committee of which stands dissolved under sub-clause (i), shall amend its bye-laws, as may be necessary, so as to bring them in conformity with the provisions of this Act as amended by the Orissa Co-operative Societies (Amendment) Act, 1996, and reconstitute the Committee within six months from the date its Committee so stood dissolved; and

(iv) In the event of Society failing to so amend its bye-laws and reconstitute the Committee within the period specified in sub-clause (iii), the Registrar shall make such amendment and reconstitute the Committee within six months following the date of expiry of the period so specified."

Amendment
of
section 28-A.

8. In the principal Act, in section 28-A, in sub-section (1),—

(a) for clause (i), the following clause shall be substituted, namely :—

"(i) The President of the Committee of every Society shall be indirectly elected, in the manner prescribed, by and from among the members of the Committee." ; and

(b) in clause (iii), for the words "The Vice-President of the Committee of every Primary Society", the words "The Vice-President of the Committee" shall be substituted.

Amendment
of
section 32.

9. In the principal Act, in section 32, after sub-section (6), the following sub-section shall be inserted, namely:—

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

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

Repeal and
savings.

10. (1) The Orissa Co-operative Societies (Amendment) Ordinance, 1996 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Orissa
Ordinance
No. 1 of
1996.

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1997

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PREAMBLE:

SECTIONS:

1. Short title and commencement
2. Amendment of Section 16
3. Amendment of Section 19
4. Amendment of Section 28
5. Amendment of Section 28-A

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1997

[Received the assent of the Governor on the 15th May 1997, first published in an extraordinary issue of the Orissa Gazette, dated the 19th May 1997]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

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

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 1997.

(2) It shall come into force on the date of its publication in the *Orissa Gazette*.

Amendment
of section
16.

2. In the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as **Orissa Act** the principal Act), in Section 16, for sub-section (1-a), the following sub-sections of 1963, shall be substituted, namely:—

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

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

(ii) Upon such cessation:—

(a) the central or apex society, as the case may be, shall refund the share capital contribution made and membership fees paid, if any, to the said members.

(b) the member shall liquidate the liabilities incurred, if any, in the capacity as deemed member of the Central Society or as the case may be, Apex Society in accordance with the schedule of repayments determined or to be determined by the said society.”.

Amendment
of section
19.

3. In the principal Act, after section 19, the following proviso shall be inserted, namely:—

“Provided that the provisions of this section shall not apply to the members of the Committee of the Primary Societies who shall be deemed to be members of the Central Society or as the case may be, the Apex Society in accordance with the provisions of sub-section (1-a) of Section 16.”.

Amendment
of section
28.

4. In the principal Act, in section 28, in sub-clause (iv) of clause (g) of sub-section (2), for the words “six months”, the words “ten months” shall be substituted.

Amendment
of section
28-A.

5. In the principal Act, in section 28-A, in clause (ii) of sub-section (1), after the words “the prescribed manner”, the commas and the words, “by and from among the General Body of members of the Society qualified for the purpose,” shall be inserted.

ORISSA ACT 7 OF 1997

* THE ORISSA CO-OPERATIVE SOCIETIES (SECOND AMENDMENT) ACT, 1996

[Received the assent of the President on the 8th July 1997, first published in an extraordinary issue of the Orissa Gazette, dated the 23rd July 1997]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

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

Short title
and com-
mencement.

1. (1) This Act may be called the Orissa Co-operative Societies (Second Amendment) Act, 1996.

(2) It shall come into force on the date of its publication in the *Orissa Gazette*.

Amendment
of section
14-B.

2. In the Orissa Co-operative Societies Act, 1962, in section 14-B,—

Orissa Act
2 of 1963.

(a) in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely:—

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

(i) has become sick and it is not possible to rehabilitate it or run it in a viable manner; or

(ii) being in processing, manufacturing or other industrial sector, has its processing, manufacturing or other units lying either incomplete for want of required funds for completing those, or idle, or under utilised, for want of working capital for running it, or for any other reasons; or

(iii) being in a marketing, trading commercial or any other sector, has ceased to undertake necessary operations, or cannot undertake such operations in a viable manner;

and it is necessary, in the public interest, to transfer the assets and liabilities of the said Society, to any other Society or person, or a company, firm or body, whether incorporated or not, the Registrar may, after consulting the Financing Banks and other institutions to which such Society is indebted, and the State Government, on the choice of a transferee, nature of transfer, and other incidental, consequential and supplemental matters, by notice in writing, call upon the Committee of the Society to transfer, within such time, as may be specified therein its assets and liabilities to any other Society or person, or a company, firm or body, whether incorporated or not, on such terms and conditions as may be formulated by the Registrar:

Provided that no such consultation shall be made without determining the value of the assets and liabilities of the Society concerned by a valuer to be appointed, and through a procedure to be adopted with the previous approval of the Government."

(ii) after clause (b), the following clause shall be added, namely:—

"(c) The Registrar shall, within such time and in such manner as may be considered reasonable by him, in the facts and circumstances of the transfer under clause (b) settle the claims, if any, of the members, depositors, creditors, employees of the Society and other persons concerned having any right, assets or liabilities in relation to the Society in accordance with law, so however that no such right, asset or liability of any of the persons aforesaid, existing as on the date of the transfer, is increased, and make payments due, if any, under the settlement, to the Society or any such persons,"

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

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

(c) after sub-section (4), the following sub-section shall be added, namely:—

"(5) Notwithstanding anything contained in the Transfer of Property Act, 1882 or the Registration Act, 1908, an order issued under this section shall be sufficient conveyance to transfer the assets and liabilities of the society."

(d) For the Explanation, the following Explanation shall be substituted namely:—

"Explanation:—For the purposes of this section,—

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

ORISSA ACT 9 OF 1997

THE ORISSA CO-OPERATIVE SOCIETIES (SECOND AMENDMENT) ACT, 1997

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2. Amendment of section 28
3. Repeal and Savings

ORISSA ACT 9 OF 1997

* THE ORISSA CO-OPERATIVE SOCIETIES (SECOND AMENDMENT) ACT, 1997

[Received the assent of the Governor on the 17th October 1997, first published in an extraordinary issue of the Orissa Gazette, dated the 20th October 1997]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

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

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Co-operative Societies (Second Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the 22nd day of August, 1997.

Amendment
of section
28.

2. In the Orissa Co-operative Societies Act, 1962, in section 28, in sub-clause (iv) of clause (g) of sub-section (2), for the words "ten months", the words "nineteen months" shall be substituted.

Repeal and
Savings.

3. (1) The Orissa Co-operative Societies (Amendment) Ordinance, 1997 is hereby repealed.

Orissa
Ordinance
No. 3 of
1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

*For the Bill see *Orissa Gazette*, Extra ordinary, dated the 15th September 1997 (No. 1166).

ORISSA ACT 6 OF 1998

* THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1998

Received the assent of the Governor on the 21st April 1998, first published in an Extraordinary Issue of the Orissa Gazette, dated the 17th April 1998]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

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

Short title
and Commencement.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 1998.

(2) It shall be deemed to have come into force on the 19th day of February, 1998.

Amendment
of Section
28.

2. In the Orissa Co-operative Societies Act, 1962, in sub-clause (iv) of clause (g) of sub-section (2) of Section 28, for the words "nineteen months", the words "thirty months" shall be substituted. Orissa Act 2 of 1963.

Repeal and
savings.

3. (1) The Orissa Co-operative Societies (Amendment) Ordinance, 1998 is hereby repealed.

Orissa Ordinance No. 1 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

* For the Bill, see Orissa Gazette Extraordinary, dated the 17th March, 1998 (No. 293)

ORISSA ACT 10 OF 2001

* THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT)
ACT, 2001

[Received the assent of the Governor on the 27th August 2001, first published
an extraordinary issue of the Orissa Gazette, dated the 30th August, 2001
No. 1581]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE
SOCIETIES ACT, 1962.

Be it enacted by the Legislature of the State of Orissa in the Fifty-second Year of the Republic of India as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 2001.

(2) It shall be deemed to have come into force on the third day of July, 2001.

Amendment
of
section 6.

2. In section 6 of the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the principal Act), in clause (b) of sub-section (2),—

Orissa Act
2 of 1963.

(a) for sub-clause (i) excluding the provisos and the Explanation thereto, the following sub-clause shall be substituted, namely:—

“(j) a Primary Society’ the number of individuals joining in the application shall not be less than fifty-one, except in the case of a Society the object of which is housing where such minimum number shall be fifteen, so however that, in either case, such minimum number of individuals shall include three members from the Scheduled Castes including one woman, three from Scheduled Tribes including one woman, four from Other Backward Classes including one woman and five from other categories of members including two women.”; and

(b) for the third proviso to sub-clause (i), the following proviso shall be substituted, namely:—

“Provided also that in the event of non-availability of the minimum number of individuals from the Scheduled Castes, the Scheduled Tribes, Other Backward Classes or women so required for registration, the Registrar may exempt the proposed Society from the requirement of such category of individuals.”

Amendment
of section
28.

3. In section 28 of the principal Act, in sub-section (2),—

(i) in clause (b), the following proviso shall be inserted before the Explanation thereto, namely:—

“Provided that the offices of the President and Vice-President shall be reserved for the Scheduled Tribes.”;

(ii) for clauses (c) and (d), the following clause shall be substituted, namely:—

“(c) In the case of a Primary Society other than Large-sized Adivasi Multipurpose Co-operative Society, three members each shall be from the Scheduled Castes and the Scheduled Tribes, four from Other Backward Classes and five from other categories of members, so however that, among each of the said Scheduled Castes, Scheduled Tribes and Other Backward Classes of members, there shall be one woman and among the other categories, there shall be two women.”;

* For the Bill, see Orissa Gazette, Extraordinary dated the 1st August, 2001 (No. 1430)

(iii) clause (c) shall be omitted;

(iv) in clause (f),—

(a) for sub-clause (i), the following sub-clause shall be substituted namely:—

“(i) in the event of the seats in the Committee reserved for women, Scheduled Castes, Scheduled Tribes and Other Backward Classes remaining unfilled in any election of a Primary, Central or Apex Society, the Committee of the Society shall co-opt the required number of such categories of members from among the members of the Society or, where the required number of such categories of members is not available for such co-option, the Committee shall co-opt the required number of members from amongst the members of the Society belonging to any category to fill up such seats, and for the purpose of making such co-option, the vacancies in the unfilled seats reserved for the said categories shall not invalidate the constitution or functioning of the Committee, if otherwise it would be having a quorum;” and

(b) sub-clause (iii) shall be omitted; and

(v) for clause (g), the following clause shall be substituted, namely:—

“(g) (i) Notwithstanding anything to the contrary contained in this Act, rules and bye-laws, the Committee (which shall include a preliminary Committee) of every Primary Society, Central Society and Apex Society existing immediately before the date of commencement of the Orissa Co-operative Societies (Amendment) Act, 2001 shall stand dissolved with effect from the said date and the members including the President and the Vice-President of every such Committee shall be deemed to have vacated their offices on that date, and where, on the date of such commencement, the management of any such Society continues to vest in the Registrar, the proceedings or actions taken, if any, for constitution of the Committee thereof shall stand cancelled;

(ii) the management of every Society, the Committee of which is so dissolved or which so continues to vest in the Registrar, shall vest or, as the case may be, shall so continue to vest in the Registrar, and the Registrar or a Committee nominated by him from amongst the members of the Society, as far as practicable representing the Scheduled Castes, Scheduled Tribes, Other Backward Classes and women, shall manage the affairs of the Society till the Committee is constituted in accordance with the provisions of this Act as amended by the Orissa Co-operative Societies (Amendment) Act, 2001;

- (iii) every Society referred to in sub-clause (ii) shall amend its bye-laws, as may be necessary, so as to bring them in conformity with the provisions of this Act as amended by the Orissa Co-operative Societies (Amendment) Act, 2001 and reconstitute the Committee within six months from the date of commencement of the said Act and
- (iv) in the event of any Society falling to so amend its bye-laws and reconstitute the Committee within the period specified in sub-clause (iii), the Registrar shall make such amendment and reconstitute the Committee within six months following the date of expiry of the period so specified."

Repeal and
savings-

4. (1) The Orissa Co-operative Societies (Amendment) Ordinance, 2001 is hereby repealed.

§ 7A

Orissa
Ordinance
No. 1 of
2001.

(2) Notwithstanding such repeals anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

ORISSA ACT 11 OF 2002

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT)
ACT, 2002

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2. Amendment of section 28
3. Amendment of section 29
4. Amendment of section 32
5. Amendment of section 116
6. Repeal and Savings]

ORISSA ACT 11 OF 2002

***THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2002**

[Received the assent of the Governor on the 26th October 2002, first published in an extraordinary issue of the *Orissa Gazette*, dated the 28th October, 2002 (No. 1928)

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

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

Short title
and commence-
ment.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 2002.

(2) It shall be deemed to have come into force on the 29th June, 2002.

Amendment
of section
28.

2. In the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the principal Act), in section 28,—

Orissa Ac 12
of 1963.

(i) in clause (ii) of sub-section (1-b), after the words and comma "affairs of the society," and before the words "and constitute", the words and comma "and if necessary, take all or any policy decision including admission of members in relation to the society" shall be inserted ;

(ii) in sub-section (1-c), after the words and comma "affairs of the society", and before the words "for a period", wherever they occur, the commas and words "and if necessary, take all or any policy decision including admission of members in relation to the society," shall be inserted ; and

(iii) in clause (g) of sub-section, (2),—

(a) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) the management of every society, the Committee of which is so dissolved or which so continues to vest in the Registrar, shall vest or, as the case may be, shall so continue to vest in the Registrar, and the Registrar or a Committee nominated by him from amongst the members of the society, or a member society affiliated to it or a society affiliated to such member society, as far as practicable representing the Scheduled Castes, Scheduled Tribes, Other Backward Classes and Women, shall manage the affairs of the society and take all or any policy decision including admission of members in relation to the society till the Committee is constituted in accordance with the provisions of this Act;" ; and

(b) in sub-clause (iv), for the words "six months" the words "eighteen months" shall be substituted.

Amendment
of section
29.

3. In section 29 of the principal Act, in sub-section (2), after clause (q), the following clause shall be inserted, namely:—

"(q-1) admission of members to the society when the Committee of the society is suspended under sub-section (7) of Section 32; and".

Amendment
of section
32.

4. In sub-section (1) of section 32 of the principal Act, after the words "affairs of the society" and before the words "for a period" the commas and words "and if necessary, take all or any policy decision including admission of members in relation to the society," shall be inserted.

*For the Bill, see *Orissa Gazette*, Extraordinary dated the 27th September, 2002 (No. 1670).

Amendment
of section
116.

5. In sub-section (3) of section 116 of the principal Act, a proviso shall be inserted, namely:—

“Provided that where any member of the concerned society intends to institute prosecution against,—

(i) the Registrar, he shall obtain prior approval of the State Government, and

(ii) any officer subordinate to the Registrar, he shall obtain prior approval of the Registrar.”

Repeal and
savings.

6. (1) The Orissa Co-operative Societies (Amendment) Ordinance, 2002 is hereby repealed.

Orissa Ordinance No. 1
of 2002.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

ORISSA ACT 17 OF 2003

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2003

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PREAMBLE :

SECTIONS :

1. Short title and commencement
2. Amendment of section 28
3. Repeal and savings

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2003*(ORISSA ACT 17 OF 2003)**

[Received the assent of the Governor on the 5th December 2003, first published in an extraordinary issue of the *Orissa Gazette*, dated the 6th December 2003 (No. 1858)]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

Be it enacted by the Legislature of the State of Orissa in the Fifty-fourth Year of the Republic of India as follows :-

Short title and commencement.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 2003.

(2) It shall be deemed to have come into force on the 2nd July, 2003.

Amendment of section 28.

2. In the Orissa Co-operative Societies Act, 1962, in sub-clause (iv) of clause (g) of sub-section (2), for the words "eighteen months", the words "thirty-six months" shall be substituted.

Orissa Act 2 of 1963.

Repeal and savings.

3. (1) The Orissa Co-operative Societies (Amendment) Ordinance, 2003 is hereby repealed.

Orissa Ordinance No.2 of 2003.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

ORISSA ACT 11 OF 2004

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2004

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2. Amendment of Section 16.
3. Amendment of Section 28.
4. Amendment of Section 28-B.
5. Amendment of Section 29.
6. Amendment of Section 31.
7. Amendment of Section 62.
8. Amendment of Section 68.
9. Amendment of Section 102.
10. Amendment of Section 103.
11. Amendment of Section 106.
12. Amendment of Section 108.
13. Amendment of Section 109.
14. Insertion of new Section 112-A.
15. Amendment of Section 115.
16. Amendment of Section 116.
17. Amendment of Section 117.
18. Amendment of Schedule-I.
19. Amendment of Section 19 of the Orissa Act 28 of 1991.
20. Amendment of Section 27 of the Amendment Act.
21. Amendment of Sections 28, 45 and 49 of the Amendment Act.

ORISSA ACT 11 OF 2004

***THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2004**

[Received the assent of the Governor on the 20th December, 2004, first published in an Extraordinary issue of the *Orissa Gazette* dated the 27th December, 2004 (No. 1832)]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

Be it enacted by the Legislature of the State of Orissa in the Fifty-fifth Year of the Republic of India as follows :-

Short title. 1. This Act may be called the Orissa Co-operative Societies (Amendment) Act, 2004.

Amendment of Section 16. 2. In the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the principal Act), after the second proviso to clause (a) of sub-section (1) of Section 16, the following proviso shall be inserted, namely :-

Orissa Act
2 of 1963.

"Provided also that nothing in this clause shall debar the Co-operative Societies to admit the Self-Help Groups as nominal member with such conditions, which the State Government may, by order, specify from time to time."

Amendment of Section 28. 3. In Section 28 of the principal Act, in sub-section (2),-

(i) For clauses (c), (e-1) and (e-2), the following clauses shall be substituted, respectively, namely :-

"(c) In the case of a primary Society other than Large-sized Adivasi Multipurpose Co-operative Societies, two members each shall be from the Scheduled Castes and the Scheduled Tribes, three from Other Backward Classes including Socially and Educationally Backward Classes and two from Women members, so that among each of the said Scheduled Castes, Scheduled Tribes and Other Backward Classes including Socially and Educationally Backward Classes of members there shall be one woman.

(d) In the case of a Central Society, two members each shall be from the Scheduled Castes and the Scheduled Tribes, three from Other Backward Classes including Socially and Educationally Backward Classes and two from Women members, so that among each of the said Scheduled Castes, Scheduled Tribes and Other Backward Classes including Socially and Educationally Backward Classes of members, there shall be one woman.

(e) In the case of an Apex Society, three members each shall be from the Scheduled Castes and the Scheduled Tribes, four from Other Backward Classes including Socially and Educationally Backward Classes and three from Women members, so that among each of the said Scheduled Castes and Scheduled Tribes members, there shall be one woman and among the Other Backward Classes including Socially and Educationally Backward Classes members, there shall be two women :

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

(ii) in sub-clause (iv) of clause (g), for the words "thirty-six months", the words "forty-two months" shall be substituted.

Amendment of
Section 28-B.

4. In Section 28-B of the principal Act, the following proviso shall be added, namely :-

"Provided that the Government shall have power to withhold the election process of any Co-operative Society at any stage with reasons to be recorded in writing."

Amendment of
Section 29.

5. In the principal Act, for sub-section (1) of Section 29, the following sub-section shall be substituted, namely :-

"(1) The meeting of the General Body of members of a Society shall be held at least once in every Co-operative year."

Amendment of
Section 31.

6. In the principal Act, for the proviso to sub-section (1) of Section 31, the following proviso shall be substituted, along with the explanation thereto :-

"Provided that the number of members so nominated shall, in no case exceed four, of whom, one shall be a representative of any of the Financing Banks of the Society, if any, and two shall be professionals.

Explanation—The term "professional" shall include the profession of Accountancy, Banking, Agriculture, Co-operation, Law and Economics."

Amendment of
Section 62.

7. In the principal Act, in Section 62, in sub-section (1), the following proviso shall be inserted to clause (i), namely :-

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

Amendment of
Section 68.

8. In the principal Act, in sub-section (1) of Section 68, after the figure, "194" and before the words, "shall be referred," the words and figures, "and a dispute relating to non-payment of contribution to the Co-operative Education Fund referred to in sub-section (3) of Section 56" shall be inserted.

Amendment of
Section 102.

9. In the principal Act, sub-section (1) of Section 102 shall be renumbered as Section 102 and for the words "Auditor-General" wherever they occur, the word "Registrar" shall be substituted; and sub-section (2) thereof shall be omitted.

Amendment of
Section 103.

10. In the principal Act, in Section 103,—

(i) for the words "Auditor-General" wherever they occur, the word "Registrar" shall be substituted; and

(ii) sub-section (5), shall be omitted.

Amendment of
Section 106.

11. In the principal Act, in clause (b) of Section 106, for the words "Auditor General", the word "Registrar" shall be substituted.

Amendment of
Section 108.

12. In the principal Act, for sub-section (1) of Section 108, the following sub-section shall be substituted, namely :-

"(1) (i) All sums due from a Society to the Government other than audit fees, or from a Society to the Orissa Khadi and Village Industries

Board established under the Orissa Khadi and Village Industries Board Act, 1955, including any cost awarded under any provision of the Act and the contribution to the Co-operative Education Fund referred to in sub-section (3) of Section 56 due from a Society to the Orissa State Co-operative Union Limited, Bhubaneswar, may be recovered on an order issued by the Registrar, and

Orissa Act
3 of 1955.

- (ii) the audit fees due from a Society to the Government may, on an order issued by the Auditor-General be recovered."

"In the same manner as provided under sub-section (1) of Section 103."

Amendment of
Section 109.

13. In the principal Act, in Section 109,—

- (i) after clause (n) of sub-section (1), the following clause shall be inserted, namely:—

"(n-1) a reference of the Auditor-General of Co-operative Societies, Orissa made under Section 112-A", and

- (ii) in clause (a) of sub-section (2), for the words, letter, brackets and semi colon " and (n); " the coma, brackets, letters, words, figure and semi colon .", (n) and (n-1); and" shall be substituted.

Insertion of
new Section
112-A.

14. In the principal Act, after Section 112, the following Section shall be inserted, namely:—

Reference by
Auditor-
General.

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

Amendment of
Section 115.

15. In the principal Act, in Section 115, —

- (i) in sub-section (1), for the words "two hundred rupees", the words "ten thousand rupees", shall be substituted;
- (ii) in sub-section (2), for the words "two hundred rupees", the words "ten thousand rupees", shall be substituted;
- (iii) in sub-section (3), for the words "two hundred rupees", the words "ten thousand rupees", shall be substituted;
- (iv) in sub-section (4), for the words "five thousand rupees", the words "twenty thousand rupees", shall be substituted;
- (v) in sub-section (5), for the words "two hundred rupees", the words "ten thousand rupees", shall be substituted;
- (vi) in sub-section (6), for the words "one thousand rupees", the words "fifteen thousand rupees", shall be substituted;
- (vii) in sub-section (7), for the words "one thousand rupees", the words "fifteen thousand rupees", shall be substituted;

- (viii) in sub-section (8), for the words "two hundred rupees", the words "ten thousand rupees", shall be substituted;
- (ix) in sub-section (9), for the words "two thousand rupees", the words "eighteen thousand rupees", shall be substituted;
- (x) in sub-section (10), for the words "two thousand rupees", the words "eighteen thousand rupees", shall be substituted;
- (xi) in sub-section (11), for the words "one thousand rupees", the words "fifteen thousand rupees", shall be substituted;
- (xii) in sub-sections (12), (13), (14) and (15), for the words "two thousand rupees", the words "eighteen thousand rupees", shall be substituted;
and
- (xiii) after sub-section (15), the following sub-section shall be inserted, namely :—

"(16) any office bearer, member, officer, employees of the Co-operative Society, causing wilful negligence, in maintenance and preservation of book; and accounts of the Society and in submission of the records to the Registrar, Auditor-General and other authorities requiring the same under this Act, and the rules, shall be punishable with fine which may extend to five thousand rupees or with imprisonment which may extend to one year or with both."

Amendment of Section 116.

16. In the principal Act, in Section 116, in sub-section (3), after the word "Registrar" and before the words "or any member", the words "Auditor-General" shall be inserted.

Amendment of Section 117.

17. In the principal Act, in Section 117, after the words "Indian Language is part" the words "without the sanction of the Government" shall be inserted.

Amendment of Schedule-1.

18. In the principal Act, in Schedule-I, for the words "Auditor-General" wherever they occur, the word "Registrar" shall be substituted.

Amendment of Section 19 of the Orissa Act 28 of 1991.

19. In the Orissa Co-operative Societies (Amendment) Act, 1991, (hereinafter referred to as the Amendment Act), in Section 19,—

Orissa Act 28 of 1991.

(i) for sub-clause (viii) of clause (a), the following sub-clause shall be substituted, namely :—

"(viii) to create posts, make service conditions, leave concessions, fixation and revision of pay and allowances of the employees of Co-operative Societies with the previous approval of the Registrar and shall have power to appoint officers and other staffs to conduct the business of the Society and determine *inter alia* their duties, disciplinary matters, subject to provisions in this regard, in the Act, Rules and the Bye-laws:"

(ii) clause (k) shall be omitted.

Amendment
of Section 27
of the
Amendment
Act.

20. In the Amendment Act, the amendment made in Section 27, shall be modified in the following manner, namely :-

"33-A. the Registrar shall—

- (a) fix the number and designation of the employees to be employed by the Co-operative Societies ; and
- (b) make rules, regulating the qualification, remuneration, allowances and other conditions of service of such employees."

Amendment
of Sections
28, 45 and 49
of the
Amendment
Act.

21. In the Amendment Act, Sections 28, 45 and sub-clause (iii) of clause (a) of Section 49 shall be omitted.

ORISSA ACT 9 OF 2005
THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2005

TABLE OF CONTENTS

PREAMBLE :

SECTIONS :

1. Short title and commencement
2. Amendment of section 28
3. Repeal and savings

ORISSA ACT 9 OF 2005
THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT)
ACT, 2005

[Received the assent of the Governor on the 6th September, 2005, first published in an Extraordinary issue of the *Orissa Gazette*, dated the 9th September, 2005 (No. 1465)]

AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE SOCIETIES ACT, 1962.

Be it enacted by the Legislature of the State of Orissa in the fifty-sixth Year of the Republic of India as follows:—

- | | | |
|-------------------------------|---|---------------------------------|
| Short title and commencement. | 1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 2005.

(2) It shall be deemed to have come into force on the 2nd July, 2005. | |
| Amendment of section 28. | 2. In the Orissa Co-operative Societies Act, 1962, in section 28, in sub-clause (iv) of clause (g) of sub-section (2), for the words "forty-two months", the words "forty-eight months" shall be substituted. | Orissa Act 2 of 1963. |
| Repeal and savings. | 3. (1) The Orissa Co-operative Societies (Amendment) Ordinance, 2005 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act. | Orissa Ordinance No. 3 of 2005. |

*For the Bill, see *Orissa Gazette*, Extraordinary, dated the 1st August, 2005 (No. 1230)