



The Goa, Daman and Diu Chit Funds Act, 1973

Act 16 of 1973

Keyword(s):

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The Goa, Daman & Diu Chit Funds Act, 1973

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The Goa, Daman and Diu Chit Funds Act, 1973

(Act 16 of 1973) [5th December, 1973]

AN

ACT

to provide for the regulation of chit funds in the Union Territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement.— (1) This Act may be called the Goa, Daman and Diu Chit Funds Act, 1973.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

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

2. Definitions.— In this Act, unless the context otherwise requires,— (1) “approved bank” means a nationalised bank or a scheduled bank or a bank approved by the Government;

(2) “chit” means a transaction whether called chit fund, chit kuri or by any other name, by which its foreman enters in an agreement with a number of subscribers that every one of them shall subscribe a certain sum by instalments for a definite period and that each subscriber in his turn as determined by lot or by auction or by tender or in such other manner as may be provided for in the agreement, shall be entitled to a prize amount.

Explanation.— A transaction is not a chit within the meaning of this clause, if in such transaction,—

(a) some alone, but not all, of the subscribers get the prize amount without liability to pay future subscriptions; or

(b) all the subscribers get the whole of the chit amount by turns with a liability to pay future subscriptions.

Illustration.— There are 100 subscribers to a chit and the subscription by each of them is ten rupees. All the subscribers get by turn one thousand rupees being the whole of the chit amount and are liable to pay future subscriptions. The transaction falls within clause (b) of the above explanation and is not a chit;

(3) “chit agreement” means a document containing the articles of agreement between the foreman and the subscribers relating to the chit.

(4) “chit amount” means the sum total of the subscriptions payable by all the subscribers for any instalment of a chit without any deduction for discount or otherwise;

(5) “Chit Book” means a book in which a record of all the subscribers to a chit is maintained by the foreman in respect of subscription paid by each subscriber to the chit, the prize-amount received by any subscriber and which shall contain such other particulars relating to the chit in such form as may be prescribed;

(6) "defaulting subscriber" means a subscriber who has defaulted in the payment of two consecutive subscriptions due according to the terms of the chit agreement;

(7) "discount" means the sum which a prized subscriber has under the terms of the chit agreement to forego and which is set apart under the said agreement to meet the expenses of running the chit or for distribution among the subscribers or for both;

(8) "dividend" means the share of a subscriber in the discount available under the chit agreement for rateable distribution among the subscribers at each instalment of the chit;

(9) "drawing" means ascertaining of the person or persons entitled to the prize amount at any instalment of a chit;

(10) "firm" means a firm registered under the Indian Partnership Act, 1932, (Central Act 9 of 1932) as applied to the Union territory;

(11) "foreman" means the person who under the chit agreement is responsible for the conduct of the chit and includes any other person discharging the functions of the foreman under section 31:

Provided that no firm shall be foreman unless such firm is registered under the Indian Partnership Act. 1932 (Central Act 9 of 1932) ;

(12) "Government" means the Administrator appointed by the President under article 239 of the Constitution;

(13) "non-prized subscriber" does not include a defaulting subscriber;

(14) "prize amount" means the difference between the chit amount and the discount;

(15) "prized subscriber" means a subscriber who has either received or is entitled to the prize amount;

(16) "Registrar" means a Registrar appointed under sub-section (1) of section 52;

(17) "subscriber" includes a transferee of a ticket by assignment in writing or by operation of law:

(18) "ticket" means the share of a subscriber in a chit;

(19) "Union territory" means the Union territory of Goa, Daman and Diu.

CHAPTER II

Constitution and Registration

3. Registration of bye-laws.— (1) Save as otherwise provided in this Act, no person shall start or conduct any chit unless he has registered with the Registrar the proposed bye-laws of the chit.

(2) Save with the permission of the Government, no chit shall extend in duration for a period of more than five years.

(3) For the purpose of registration, there shall be filed with the Registrar the bye-laws of the chit in duplicate signed by the foreman and attested by at least two witnesses.

(4) The Registrar, on being satisfied that the bye-laws are not contrary to this Act or to the rules made thereunder, shall issue to the foreman a certificate of registration and such certificate shall be conclusive evidence that the bye-laws of the chit therein mentioned are registered.

(5) The Registrar shall retain the bye-laws of the chit and return the duplicate of the bye-laws to the foreman with an endorsement that the bye-laws have been registered.

4. Prohibition of invitation for subscription to chit of which bye-laws have not been registered.—No person shall issue or publish any notice, circular, prospectus or other document containing the terms and conditions of any chit or inviting the public to subscribe for tickets in any chit unless such notice, circular, prospectus or other document relates to a chit, the bye-laws of which have been registered.

5. Form of chit agreement. — Every chit agreement shall be in duplicate and shall be signed by each subscriber or by a person authorized in that behalf in writing by the subscriber and the foreman and attested by at least two witnesses, and it shall contain the following particulars namely:-

(1) the full name and the permanent residential address of every subscriber;

(2) the tickets held by each subscriber;

(3) the number of instalments and the amount payable in respect of each ticket for each instalment;

- (4) the dates of commencement and termination of the chit;
- (5) the mode of ascertaining the prized subscriber;
- (6) the amount of discount which the prized subscriber at any instalment has to forego;
- (7) the mode and proportion in which the discount is distributable by way of dividend, foreman's commission and other expenses, if any;
- (8) the date, time and place at which the chit is to be drawn;
- (9) if under the chit agreement the foreman is entitled to the chit amount, the instalment at which the foreman is to get the chit amount;
- (10) the approved bank or banks in which chit moneys shall be deposited by the foreman under the provisions of this Act;
- (11) the manner in which a chit shall be continued where a foreman who is an individual dies or becomes of unsound mind; and
- (12) any other particulars which may be prescribed.

Explanation. — It is sufficient to get the signature of each subscriber on separate copies of the agreement.

6. Filing of chit agreement.— (1) Every chit fund agreement with its duplicate shall be filed with the Registrar.

(2) The Registrar shall retain the chit agreement and return the duplicate chit agreement to the foreman with an endorsement that the chit agreement is filed.

7. Commencement of chit business.— (1) No person shall commence any auction or drawing of any chit unless he has obtained a certificate of commencement from the Registrar.

(2) The Registrar shall, on being satisfied that the bye-laws of the chit have been registered and the chit agreement has been filed and the security required under section 12 has been furnished by the foreman.

8. Copies of bye-laws and chit agreement to be given to subscribers.— (1) The foreman shall, as soon as may be after he has obtained the certificate of commencement referred to in section 7, but not later than the date of the first drawing of the chit, furnish to every subscriber a copy of the bye-laws of the chit and the chit agreement certified by him to be a true copy.

(2) The foreman shall, within the fifteenth day of the month succeeding the month in which the first instalment of the chit is drawn, file with the Registrar a certificate to the effect that he has complied with the provisions of sub-section (1).

9. Alteration of chit agreement.— (1) The chit agreement shall not be altered, added to or cancelled except with the consent in writing of the foreman and all the subscribers to the chit:

Provided that such alterations, additions or cancellation shall be subject to the provisions of this Act and the Rules made thereunder.

(2) Every chit agreement as altered or added to or an agreement to cancel chit agreement as provided for in sub-section (1) shall be filed by the foreman with the Registrar with its duplicate and thereafter provisions of sub-section (2) of section 6 shall apply as in the case of original agreement filed in accordance with sub-section (1) of the said section.

10. Minutes of proceedings.— (1) The minutes of the proceedings of every drawing shall be drawn up and entered in a book to be kept for that purpose and shall be signed by the foreman and all the subscribers present and shall also be signed by the prized subscriber or his authorised agent.

(2) Such minutes shall state clearly –

(i) the date and hour when the proceedings began and ended and the place where the drawing was held;

(ii) the number of the particular instalment of the chit of which proceedings, are recorded;

(iii) the names of the subscribers present;

(iv) the person or persons who become entitled to the prize amount in the particular instalment;

(v) the amount of discount;

(vi) full particulars regarding the disposal of the prize amount in respect of the preceding instalment and disposal of unpaid prize amount, if any, in respect of any previous instalment; and

(vii) any other particulars which may be prescribed.

11. Copy of minutes to be filed with Registrar— Every foreman shall within the fifteenth day of the month succeeding the month in which one or more instalments of the same chit or one or more instalments of any other chit are drawn, file with the Registrar a copy of the minutes referred to in section 10 in respect of the drawings at all such instalments and certified by the foreman to be a true copy.

CHAPTER - III

Foreman

12. Security to be given by foreman.— (1) For the proper conduct of the chit, every foreman shall, before applying for the certificate of commencement under section 7,-

(a) execute an indenture of mortgage and trust in favour of the Registrar as trustee charging by way of security property sufficient for the realisation of the chit amount;
or

(b) (i) deposit in any approved bank an amount of cash not less than half of the chit amount, or

(ii) invest in Government securities of the face value or market value whichever is, less, of not less than half of the chit amount and transfer the amount so deposited or the Government securities in favour of the Registrar to be held in trust by him as security:

Provided that, where movable property is charged by way of security, only such kind of movable property as may be prescribed shall be so charged and such movable property shall be deposited in such manner and with such person or officer as may be prescribed.

Explanation:— For the purpose of clause (a), security for realisation of the chit amount is said to be sufficient if the market value of the property assessed in the manner prescribed is equal to the chit amount.

(2) Where a foreman conducts more than one chit, he shall furnish security in accordance with the provisions of sub-section (1) in respect of each such chit.

(3) Subject to the provisions of section 520 of the Companies Act, 1956 (Central Act 1 of 1956) the security given by the foreman under sub-section (1) shall not be liable to be attached in execution of a decree or otherwise—

(i) until the chit is terminated and the claims of all the subscribers are fully satisfied;

(ii) until all dues payable by the foreman under this Act to the Registrar or any other officers have been paid;

(iii) where owing to the default of the prized subscriber the prize amount due remains unpaid even after the termination of a chit until the foreman deposits such amount in an approved bank mentioned in the chit agreement and intimates in writing the fact of such deposit to the prized subscriber.

(4) No foreman shall be entitled to conduct at a time chits the aggregate amount of which exceeds fifty percent of the total assets of the foreman or twenty five thousand rupees whichever is lower:

Provided that the maximum limit of the chit amount specified in this sub-section shall be rupees one lakh in the case of chits of which the foreman is a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949).

Explanation.— In determining the total assets of a foreman for the purposes of this sub-section, the amount of the security furnished by him under sub-section (1) shall be excluded if such amount is the amount of subscription received in advance from the subscribers.

(5) In calculating the aggregate amount of chits conducted at a time by a foreman, the chits conducted by all the members of the family of the foreman shall be taken into account.

Explanation.— For the purpose of this sub-section, the expression "members of the family of the foreman" means father, mother, husband, wife and children of the foreman,

wholly dependent, on him and who have no independent assets sufficient to entitle for them to conduct any chit.

(6) The Registrar shall, after the termination of a chit and after satisfying himself that the requirements under clauses (i) to (iii) of sub-section (3) have been complied with, release the property charged by way of security or order the release of the cash security or the Government securities referred to in sub-section (1) and in so doing, he shall follow such procedure as may be prescribed.

(7) (a) The Registrar may, on an application made in this behalf by any foreman, instead of releasing the security under sub-section (6), accept the same as security in respect of any other chit or chits conducted by the same foreman;

(b) The Registrar shall,—

(i) where the value or amount of the security accepted is less than the value or amount specified in sub-section (1), require the foreman to furnish additional security to make up the deficit;

(ii) where the value or amount of the security is in excess of the amount of value required, release the excess thereof.

(8) Notwithstanding anything to the contrary contained in any other law the security furnished under this section shall not be dealt with by the foreman during the currency of the chit and any dealing by the foreman with respect thereto by way of transfer, charge, mortgage or other encumbrances shall be void.

13. Rights of foreman.— (1) The foreman shall be entitled—

(a) in the absence of any provision in the chit agreement to the contrary to obtain the chit amount at the instalment specified in the chit agreement:

Provided that a foreman shall not be eligible to obtain more than one chit amount in a chit;

(b) to such commission or remuneration, not exceeding five per cent, of the chit amount, as may be fixed in the chit agreement;

(c) to receive and realise all contributions from the subscriber; and to distribute the prize amounts to prized subscribers and the dividend among the subscribers;

(d) to demand sufficient security from any prized subscribers for the due payment of future subscriptions;

Explanation.— A security is said to be sufficient for the purposes of this clause, if its value exceeds by one third, or if it consists of immovable property, the value exceeds by one half, the amount due from the prized subscriber;

(e) to substitute subscribers in the place of defaulters; and;

(f) to do all other acts that may be necessary for the due and proper conduct of the chit.

(2) (a) In case of any dispute in regard to the value of the property offered as security under clause (d) of sub-section (1), the matter shall be referred by the subscriber to the

Registrar, who shall, after giving the parties an opportunity of being heard, pass such order as he thinks fit.

(b) Any person aggrieved by the decision of the Registrar may, within seven days of the communication to him of such order, appeal to the Director of Chits, whose decision thereon shall be final.

14. Duties of foreman.— (1) The foreman shall, on prized subscriber furnishing sufficient security for the due payment of future subscription be bound to pay him the prize amount:

Provided that the prized subscriber shall be entitled to demand immediate payment of the prize amount after, deducting all future subscriptions without any security whatsoever, and in such case the foreman shall, before the date of the next succeeding instalment, deposit in an approved bank mentioned in the chit agreement the amount of future subscriptions deducted as aforesaid and he shall not withdraw the amount so deposited except for payment of future subscriptions.

(2) If, owing to the default of the prized subscriber, the prize amount due in respect of any drawing remains unpaid before the date of the next succeeding drawing, the foreman, shall deposit the same forthwith in an approved bank mentioned in the chit agreement and intimate in writing the fact of such deposit to the prized subscriber.

(3) Every payment of the prize amount, the deposit of the amount of future subscriptions under sub-section (1) and the deposit of the prize amount under sub-section (2) shall be intimated to the subscribers at the next succeeding drawing, and particulars of such payment or deposit entered in the minutes of the proceedings of that drawing.

(4) The foreman shall not appropriate himself any amount in excess of what he is entitled to under clauses (a) and (b) of sub-section (1) of section 13:

Provided that the foreman may appropriate for himself the interest accruing on the amount deposited under the proviso to sub-section (1).

15. Registers and books of account.— The foreman shall keep such registers and books of account, and in such form, as may be prescribed.

16. Balance sheet.— (1) Every foreman, shall prepare and file with the Registrar in such manner and within such time as, may be prescribed; a balance sheet relating to the period of account duly audited either by auditors duly qualified to act as auditors of companies under the Companies Act, 1956 (Central Act 1 of 1956) or by a Chit Auditor appointed under sub-section (2) of section 52.

(2) The balance sheet referred to in sub-section (1) shall —

- (a) contain a summary of the assets and liabilities of the chit; and
- (b) give such particulars as will disclose the nature of the assets and liabilities and how the value of the assets has been arrived at.

17. Liability of foreman to the Subscribers. — (1) Every foreman shall be liable to account to the subscribers for the amounts due to them.

(2) Where there are more than one foreman, each one of them jointly and severally or if the foreman is a firm, each one of the partners thereof jointly and severally and if the foreman is a Statutory Corporation or a Company registered under the Companies Act, 1956 (Central Act 1 of 1956), the Corporation or the Company as such shall be liable to the subscribers in respect of the obligations arising out of the chit.

18. Withdrawal of foreman.— Where there are more than one person as foreman in a chit, none of them shall withdraw from it until the termination of the chit unless such withdrawal is assented to by all the non-prized subscribers and unpaid prized subscribers and a copy of such assent has been filed as required by section 33. Such withdrawal shall not, however, affect the security given under section 12.

CHAPTER IV

Non-prized Subscribers

19. Non-prized subscribers to pay subscription and get receipt.— (1) Every non-prized subscriber shall pay his subscription at the time and place mentioned in the chit agreement and shall on such payment be entitled to get a receipt from the foreman.

(2) A non-prized subscriber who defaults in paying his subscription in accordance with the terms of the chit agreement shall in no way be entitled for the benefit of dividend, in respect of the instalment for which he defaults.

20. Removal of defaulting subscribers.— (1) A non-prized defaulting subscriber shall be liable to have his name removed from the list of subscribers.

(2) Every removal under sub-section (1) shall, with the date thereof, be entered in the relevant book maintained by the foreman and a written notice of such removal shall be given by the foreman to the defaulting subscriber within fourteen days of such removal.

(3) A true copy of the entry referred to in sub-section (1) shall be filed by the foreman with the Registrar within fourteen days from the date of such removal.

(4) Any defaulting subscriber aggrieved by the removal of his name from the list of subscribers may, within seven days of the communication to him of the notice of removal, appeal to the Registrar.

(5) The Registrar shall, after giving the parties an opportunity of being heard, pass such orders on the appeal as he thinks fit and the decision of the Registrar shall be final.

(6) When an appeal has been preferred under sub-section (4) subscription payable by the defaulting subscriber during the pendency of the appeal shall be advanced by the foreman.

21. Substitution.— (1) The foreman may substitute in the list of subscribers any person in place of a defaulting subscriber whose name have been removed from such list under sub-section (1) of section 20:

Provided that no such substitution shall be made until the expiry of the period allowed for appeal under sub-section (4) of section 20, or where any such appeal has been preferred, until the same has been disposed of:

Provided further that until any person has been substituted in place of a defaulting subscriber, the subscription payable by a defaulting subscriber shall be advanced by the foreman.

(2) Every substitution referred to in sub-section (1) shall, with the date thereof, be entered in the relevant book maintained by the foreman. A true copy of every such entry shall be filed by the foreman with the Registrar within fourteen days from the date of substitution.

(3) All arrears of subscriptions realised from the substituted subscriber, less amount advanced by the foreman, foreman's commission, dividend allowed, shall before the date of the next succeeding instalment, be deposited by the foreman in an approved bank mentioned in the chit agreement. The foreman shall not withdraw the amount so deposited except for payment to the defaulting subscriber.

Explanation.— For the purposes of sub-section (3), 'arrears of subscriptions' shall mean all the previous instalments realised from the substituted subscriber.

22. Amount due to defaulting subscriber how dealt with.— (1) When a substituted subscriber draws the prize amount, the defaulting subscriber shall be entitled to recover from the foreman his contributions, subject to such deductions as may be provided for in the chit agreement.

(2) The foreman shall on demand made by the defaulting subscriber and on his executing an acknowledgement duly signed, be bound to pay to the defaulting subscriber the amount due to him before the date of the next succeeding instalment.

(3) Where the defaulting subscriber fails to furnish the acknowledgement as aforesaid, the foreman shall, before the date of next succeeding instalment, deposit in an approved bank the amount due to the defaulting subscriber and the amount so deposited shall not be withdrawn by the foreman for any purpose other than for payment to the defaulting subscriber.

23. How meetings to be held.— (1) The foreman may, on his own initiative convene a special meeting of the general body of subscribers for considering proposal to pass a special resolution.

(2) The foreman shall convene such a meeting on the requisition in writing of not less than twenty five percent of the number of non-prized and unpaid prized subscribers, and the meeting so convened shall be held within thirty days of the date of the receipt of the requisition and if the foreman refuses or fails to call the meeting within fourteen days of the receipt of such requisition, the meeting may be convened by not less than twenty five per cent, of the number of the non-prized and unpaid prized subscribers.

(3) If the foreman refuses or fails to convene a meeting as required by sub-section (2), he shall be punishable with fine which may extend to one hundred rupees.

(4) Notice of not less than fourteen days shall be given to all subscribers of a meeting under this section specifying the object, date, hour and place of the meeting and a copy of the proposed special resolution shall also be sent along with the notice.

(5) The meeting shall elect its own chairman.

CHAPTER V

Prized Subscribers

24. Prized subscribers to give security.— Before receiving the prize amount without deducting all future subscriptions, every prized subscriber shall furnish and the foreman shall take sufficient security, as provided in the explanation to clause (d) of sub-section (1) of section 13, for the due payment of future subscriptions and if the foreman is the prized subscriber, he shall give security for the due payment of future subscriptions to the satisfaction of the Registrar.

25. Prized subscriber to pay the subscriptions regularly.— (1) Every prized subscriber shall pay his subscriptions regularly at the time and place and on the date mentioned in the chit agreement and shall on such payment be entitled to get a receipt from the foreman.

(2) For every belated payment of subscription, a prized subscriber is liable to pay such penalty as specified in the chit agreement.

(3) Every prized subscriber, who fails to pay two consecutive subscriptions in accordance with the terms of the chit agreement shall be liable to make a consolidated payment of all future subscriptions at once.

26. Foreman to demand future subscriptions by written notice.— (1) A foreman shall not be entitled to claim consolidated payment of all the future subscriptions from a defaulting prized subscriber unless he shall have demanded the same in writing.

(2) If in a suit by a foreman for consolidated payment of future subscriptions from a defaulting prized subscriber the defendant pays into court on or before the date to which the suit is posted for hearing, the arrears of subscriptions till that date together with interest thereon at the rate provided for in the chit agreement or at twelve per cent per annum simple interest whichever is lower, and the costs of the suit for payment to the plaintiff, then notwithstanding any contract to the contrary court shall pass a decree directing that the defendant shall deposit in court for payment to the plaintiff, the future subscriptions on or before the dates on which they fall due and that in default of payment by the defendant of any future subscription on or before the due date the plaintiff shall be at liberty to realise in execution all the future subscriptions and interest thereon, less the amount, if any, already deposited by the defendant:

Provided that if any such suit is upon a promissory note no decree shall be passed under this sub-section unless such promissory note expressly states that the amount due under the promissory note is towards payment of subscriptions to the chit.

(3) Any person who holds an interest in the property furnished as security or any part thereof shall be entitled to make payment under sub-section (2).

(4) All consolidated payments of future subscriptions realised by a foreman shall be deposited in an approved bank before the date of the next succeeding instalment and the amount so deposited may be withdrawn only for payment of future subscriptions. When any property is acquired in lieu of the consolidated payment, it shall remain as security for the due payment of future subscriptions.

CHAPTER VI

Transfer

27. Restrictions on transfer of right of foreman.— (1) No transfer of the right of a foreman to receive subscriptions from prized subscribers shall be made unless such transfer is assented to by all the non-prized subscribers and unpaid prized subscribers and a copy of such assent has been filed by the foreman with the Registrar who shall sanction such transfer provided he is satisfied that such transfer is not in contravention to any of the provisions of this Act and the rules made thereunder.

(2) When a transfer under sub-section (1) is objected to by a subscriber, the burden of proving that the foreman who intends to transfer his right was in solvent circumstances at the time of the transfer and that the transfer is not likely to affect prejudicially the interest of any such subscriber is upon such foreman.

28. Transfer of non-prized subscriber's rights to be in writing.—Every transfer by a non-prized subscriber of his rights in the chit shall be in writing duly attested by at least two witnesses and shall be filed with the foreman.

29. Recognition of transfer by the foreman.— Every transfer under section 28 shall be recognised by the foreman, unless the transferee is not solvent or the transfer was effected with a view to defeat the provisions of any law.

30. Entry of transferee's name in the book.— Every transfer made under section 27 or section 28 shall be entered by the foreman in the books of the chit forthwith and a true copy of such entry shall be filed by the foreman with the Registrar within fourteen days from the date of such entry.

CHAPTER VII

Termination of Chits

31. Provisions for continuation of chit in certain cases.— Where the foreman who is an individual dies or becomes of unsound mind, the chit may be continued in accordance with the provisions of the chit agreement.

32. Termination of chit.—A chit shall be deemed to have terminated—

(a) When the period fixed in the chit agreement has expired, provided payment of dues to all the subscribers has been completed; or

(b) When all the non-prized and unpaid prized subscribers consent in writing to the termination of the chit and a copy of such consent is filed as required by section 33; or

(c) When a foreman, who is an individual, dies or becomes of unsound mind and the chit is not continued in accordance with the provisions of the chit agreement:

Provided that in the case of a foreman which is a firm, if a partner dies or becomes of unsound mind, the chit shall not be deemed to have terminated and the surviving partner or partners shall conduct the chit in the absence of any provision to the contrary in the chit agreement.

33. Copy of assent or consent to be filed with the Registrar.— A true copy of every assent mentioned in section 18 and of every consent mentioned in section 32, with the date of such assent or consent shall be filed by the foreman or by the remaining foreman or foremen, as the case may be, with the Registrar within fourteen days from the date of such assent or consent.

34. Refund of non-prized subscribers contributions.— Except in the cases referred to in clauses (a) and (b) of section 32 —

(a) every non-prized subscriber shall, unless otherwise provided for in the chit agreement, be entitled to get back his contribution at the termination of the chit without deduction for dividend, if any, received by him:

Provided that any person to whom the rights of a non-prized subscriber are transferred under sections 28, 29 and 30 shall, in addition to his own contributions, be entitled to get back the contribution, made by such non-prized subscriber, subject to the conditions specified in this clause;

(b) if the chit terminates on a date earlier than the date originally fixed in the chit agreement, the non-prized subscriber's claim shall be deemed to have arisen on the date on which he has notice thereof.

35. Subscriber's dues to be first charge on chit assets.— Where there are debts due from the foreman of a chit in relation thereto and also other debts due from such foreman, the chit debts due to the subscribers shall be a first charge on the chit assets.

CHAPTER VIII

Inspection of Documents

36. Foreman to allow subscriber to examine chit records.— Every foreman shall, on payment of such fee not exceeding five rupees as may be specified in the chit agreement, allow non-prized and unpaid prized subscribers all reasonable facilities on all days of drawing of chits or on such days and within such hours as may be provided for in the chit agreement for the inspection of security bonds and documents, receipts and other records taken from the prized subscriber or furnished by the foreman himself in his

capacity as a subscriber and all chit records including books of account and pass books, the balance sheets and profit and loss accounts and such other records as may show the actual financial position of the chit scheme.

37. Preservation of chit records by foreman.— All the records pertaining to a chit including the Chit Book shall be preserved intact by the foreman and kept for a period of six years from the date of the termination of the chit.

38. Inspection of Chit Book and other records.— (1) The Registrar or any Officer authorized by the Director of Chits in this behalf may inspect the Chit Books and all other records after giving seven days notice in writing to the foreman.

(2) Every foreman shall be bound to produce the Chit Books and other records before the Registrar or the officer authorized under sub-section (1) at the time and place mentioned in the notice and shall furnish such information to him as he may require:

Provided that such inspection may be made at the premises of the foreman if he pays in advance such fees as may be prescribed for the inspections:

Provided further that if the foreman is a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949) or a corporation established by or under any statute and carrying on the business of banking, such inspection shall be made only at the premises of the company or the corporation, as the case may be, and only on a working day and such foreman shall pay such fees as may be prescribed for the inspection.

CHAPTER IX

Winding up of Chits

39. When Chit may be wound up.— A chit may be wound up by the District Court:—

- (a) if the chit has terminated under clause (c) of section 32, or
- (b) if the foreman fails to give the security specified in section 12 or if he commits any such act in respect thereto as is calculated to impair materially the nature of the security or the value thereof, or
- (c) if the foreman fails to deposit the chit moneys in accordance with the provision of this Act, or
- (d) if it is proved to the satisfaction of the court that the foreman is unable to pay the amounts due to the subscribers, or
- (e) if execution or other process issued on a decree or order of any court in favour of any subscriber in respect of amount due to him from the chit is returned unsatisfied in whole or in part, or
- (f) if it is proved that there has been fraud or collusion on the part of the foreman in the matter of taking securities from prized subscribers, or

(g) if the foreman has appropriated the prize amount in his capacity as a subscriber without furnishing sufficient security for future subscriptions, or

(h) if it is just and equitable that the chit should be wound up.

Explanation.— For the purposes of clause (d) , in determining whether the foreman is unable to pay the amount, due to the subscribers, the court shall take into account his contingent and prospective liabilities in respect of the chit:

Provided that a chit conducted by a company within the meaning of the Companies Act, 1956 (Central Act 1 of 1956) shall be wound up only by the court having jurisdiction under that Act.

40. Winding up application. —The application to the court for the winding up of a chit shall be by a petition presented by any non-prized subscriber or unpaid prized subscriber or by the Registrar, signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and shall contain such particulars as may be prescribed:

Provided that no application for the winding up of a chit under clauses (d) and (h) of section 39 shall lie unless such petition is presented—

(a) by those non-prized subscribers and those unpaid prized subscribers whose subscriptions to the chit amount in the aggregate is atleast twenty-five per cent of the amounts contributed by all the non-prized subscribers and unpaid prized subscribers, or

(b) with the previous sanction of the Government.

41. Insolvency or liquidation a bar to winding up proceedings.— Notwithstanding anything contained in sections 39 and 40 no petition for the winding up of a chit shall be entertained by a court if proceedings under the law relating to insolvency for the time being in force are pending against the foreman for adjudicating him an insolvent or when, the foreman is a company if proceedings for winding up the company are pending against such company in a court.

42. Commencement and effect of winding up order.— An order for the winding up of a chit shall operate in favour of all the subscribers to whom amounts are due from the chit and it shall be deemed to have commenced from the time of the presentation of the application for the winding up.

43. Injunction order.— The court may, upon the application of the foreman or of any subscriber to whom amounts are due in respect of the chit at any time after the presentation of the application for the winding up of a chit under this Act and before making of an order for the appointment of an interim Receiver or for winding up the chit, restrain further proceeding in any suit or proceeding instituted against the foreman for the realisation of amounts due from the chit upon such terms as the court thinks fit.

44. Powers of court on hearing application.— On hearing the application, the court may dismiss it with or without cost or adjourn the hearing conditionally or unconditionally or make an interim order or any other order that it deems fit.

45. Chit assets to vest in court for distribution.— On the making of an order for the winding up of a chit, the entire chit assets shall vest in the court for distribution amongst the subscribers to whom amounts are due in respect of the chit and the court shall pass such orders in the matter, including the appointment of a Receiver, as it deems fit.

46. Suits stayed in winding up orders.— When a winding up order has been made by a court, no suit or other legal proceedings shall be continued or commenced against the foreman by a subscriber for the realization of amounts due to him in respect of the chit except with the leave of the court and on such terms as the court may impose.

47. Copy of winding up order to be filed with Registrar.— (1) On the making of a winding up order, it shall be the duty of the petitioner in the winding up proceedings and of the Receiver to file with the Registrar a copy of the order, within one month from the date of the making of the order:

Provided that the Registrar, may, upon application in writing by the petitioner or Receiver, allow, in his discretion, further time not exceeding fifteen days for the filing of any such copy.

(2) On the filing of a copy of the winding up order, the Registrar, shall make an entry thereof in his books relating to the chit and shall notify in the Official Gazette that such an order has been made.

48. Stay of winding up proceedings on insolvency of foreman.—When during the pendency of the proceedings for the winding up of a chit, the foreman is adjudicated as insolvent or when the foreman is a company, the company has been ordered to be wound up by the court, the winding up proceedings under this Act shall cease and the distribution of the chit assets shall, subject to the provisions contained in sections 35 and 43, be made by the insolvency court or the court winding up the company, as the case may be.

49. Compensation for frivolous or vexatious application.— (1) When an application presented for winding up a chit is dismissed and the court is satisfied that the application is frivolous or vexatious, the court may award against the applicant such amount not exceeding five hundred rupees, as it deems reasonable as compensation to the foreman for the expense or injury occasioned to him by the application and the proceedings thereon and such amount may be realised as if the award were a decree.

(2) The award of any amount under sub-section (1) shall bar any suit for compensation.

50. Right of appeal.— The foreman, any subscriber, the Receiver or any other person aggrieved by a decision or order of the court in proceeding for winding up a chit may, within two months from the date of such decision or order appeal to the Judicial Commissioner's Court.

51. Limitation.— (1) Where an order refusing to wound up a chit has been made under the Act, the chit shall be deemed to have been under suspension from the date of the presentation of the application to the date of such order in respect of non-priced

subscriber, and notwithstanding anything contained in the chit agreement, no non-prized subscriber who was not a defaulter on the date of the presentation of the application for winding up shall be deemed to be defaulter on the date of its dismissal.

(2) Where an order refusing to wind up a chit has been made under this Act, in computing the period of limitation prescribed for any suit or other legal proceedings (other than a suit or an application in respect of which the leave of the court has been obtained) which might have been brought or instituted, the period from the date of the presentation of the application to the date of the order refusing to wind up the chit shall be excluded.

(3) Nothing contained in this Act shall affect the right of the subscriber to proceed by suit or application against the foreman personally for the balance, if any, of the amount due to him after the declaration of the final dividend in the proceedings for winding up the chit and in computing the period of limitation prescribed for any such suit or application, the period from the date of the presentation of the application for winding up the chit to the date of declaration of the final dividend shall be excluded.

CHAPTER X

Officer, Inspection and Fees

52. Appointment of Director of Chits, Inspecting Officers, Registrars and Chit Auditors.— (1) The Government may, by notification, appoint a Director of Chits and as many Inspecting Officers and Registrars as may be necessary for the purpose of discharging the duties imposed upon such Officers, by or under this Act or the rules made thereunder.

(2) The Director of Chits may appoint as many Chit Auditors as may be necessary for the purpose of discharging the duties imposed upon the Chit Auditors by or under this Act or the rules made thereunder.

(3) All Inspecting Officers, Registrars and Chit Auditors shall discharge the duties imposed upon them by or under this Act or the rules made thereunder, under the general superintendence and control of the Director of Chits.

(4) If the Registrar is of the opinion that the accounts of any chit are not properly maintained and that such accounts should be audited, it shall be lawful for him to have such accounts audited by a Chit Auditor and thereupon it shall be the duty of the foreman of the chit concerned to produce before the Chit Auditor all accounts books and other records relating to the chit, to furnish him with such information as may be required and to afford him all such assistance and facilities as may be necessary or reasonable and as may be required in regard to the audit of the accounts of the chit.

(5) The foreman shall pay to the Chit Auditor such fees as may be prescribed for the audit of the accounts of a chit under sub-section (4).

53. Inspection of document in the Registrar's Office.— Any person may on payment of such fees as may be prescribed—

- (i) inspect the documents kept by the Registrar and
- (ii) obtain a copy or extract of any document certified before the Registrar.

54. Levy of fees.— (1) There shall be paid to the Registrar such fees as the Government may, from time to time, prescribe for—

- (a) the registration of the bye-laws of a chit under section 3;
- (b) the grant of a certificate of commencement under section 7;
- (c) filing with the Registrar of the chit agreement and copies of document under sections 11, 20, 21, 30 and 33;
- (d) the inspection of documents under section 53;
- (e) a certified copy or extract of documents under section 53;
- (f) the audit of the accounts of the foreman and the issue of an audit certificate;
- (g) such other matters as may appear necessary to give effect to the purposes of this Act.

(2) (a) A table of fees payable under sub-section (1) shall be published in the Official Gazette.

(b) The Registrar shall deliver the certified copy or extract, of document, within seven days from the date of application.

CHAPTER XI

Miscellaneous

55. Appeal.—(1) Any foreman aggrieved by an order of the Registrar —

- (a) refusing to register the bye-laws of a chit under sub-section (1) of section 3;
- (b) refusing to grant a certificate of commencement under sub-section (2) of section 7;
- (c) refusing to accept the security under clause (a) of sub-section (1) of section 12 or under section 24: or
- (d) refusing to release the property charged by way of security or to order, the release of the cash security or the Government securities under sub-section (6) or sub-section (7) of section 12;

may within thirty days of the communication to him of such decision appeal to the Director of Chits.

(2) The Director of Chits may, after giving the appellant an opportunity of being heard, pass such orders on the appeal under sub-section (1) as he thinks fit.

56. Power of Registrar to condone delay in certain cases.— The Registrar may, in his discretion and upon an application in writing by any foreman made within the period of fourteen days specified in any of the provision of sub-section (3) of section 20, sub-section (2) of section 21, section 30 and section 33, allow to the foreman further time not exceeding fifteen days to file a copy of any document under any of the provisions referred to above.

57. Penalties.— (1) Whoever contravenes or abets the contravention of any of the provisions of sections 3, 4 and 7 shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Any foreman—

(a) who does not file the chit agreement under section 6 or a copy of any document under section 11, sub-section (2) of section 20, sub-section (2) of section 21, section 30 or section 33 within the period specified for such filing or within the further time allowed under section 56 for such filing; or

(b) who contravenes any of the provisions of section 8, sub--section (1) and sub-section (2) of section 12, section 14, section 15, section 16, section 18, section 20, section 21, section 22, section 24, sub-section (4) of section 26, section 30, section 36, section 37, section 38 and sub-section (4) of section 52, or

(c) who fails to comply with the requirements of the chit agreement regarding the date, time and place at which the chit is to be drawn;

shall be punishable with fine which may extend to two hundred rupees.

(3) whoever in any document required by, or for purposes of any of the provisions of this Act wilfully makes a statement false in any material particular knowing to be false, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

58. Cognizance of offences.— No court inferior to that of Judicial Magistrate of the first class shall try any offence under this Act:

Provided that no such court shall take cognizance of offence except on a complaint filed by the Registrar or the Inspecting Officer.

59. Application of fines.— The court imposing any fine under this Act may direct that the whole or any part thereof be applied towards payment of the costs of the proceedings.

60. Power to enter and search any place and to seize documents etc.—(1) A Judicial Magistrate of the first class may, on receiving a report from the Registrar or the Inspecting Officer appointed under sub-section (1) of section 52 that any person conducts or is responsible for the conduct of a chit in any place in contravention of the provisions of this Act, issue a warrant empowering the Registrar or the Inspecting Officer to enter such place with such assistance as he considers necessary and inspect the books, registers, accounts or documents in such place.

(2) On receiving the warrant issued under sub-section (1) the Registrar or the Inspecting Officer may enter the place with such assistance as he considers necessary and inspect the books, registers, accounts or documents in such place and may take to his office for further investigation such books, registers, accounts and documents as he considers necessary:

Provided that if the Registrar or the Inspecting Officer removes from the place any book, register, account or document he shall give to the person in charge of the place a receipt describing the book, register, account or document so removed by him:

Provided further that within twenty four hours of the removal of the books, registers, accounts and documents, from the place the Registrar or the Inspecting Officer shall either return them to the person from whose custody they were removed or produce them in the court of the Magistrate who issued the warrant and such Magistrate may return the books, registers, accounts and documents or any of them to the person from whose custody they were removed by the Registrar or the Inspecting Officer, after taking from such person, such a security as the Magistrate considers necessary for the production of the books, registers, accounts and documents, when required whether by the Registrar or by the Inspecting Officer or by the court, or may pass such other orders as to their disposal as appear just and convenient to the Magistrate.

(3) The Registrar or the Inspecting Officer shall have authority to require any person whose testimony he may require regarding any chit agreement to attend before him or to produce or cause to be produced, any document and to examine such person on oaths.

(4) The Registrar or the Inspecting Officer may apply for assistance to an officer-in-charge of a police station and take police officers to accompany and assist the Registrar or the Inspecting Officer in performing his duties under this Act.

(5) The provisions of section 102 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) shall, so far as may be, apply to a search under this section.

61. Payment to be evidenced by document.— All payments in respect of chit whether by the foreman or by the subscriber shall be evidenced by documents in writing.

62. Interest at more than twelve per cent not to be allowed. — No court shall award interest on claims arising under this Act at more than twelve per cent per annum simple interest.

63. Power of court to grant relief in certain cases.— Nothing contained in the foregoing provisions of this Act shall affect the powers vested in a court for granting relief against any of the provisions contained in the chit agreement, if the same be unconscionable or opposed to the provisions of any law.

64. Power to make rules. — (1) The Government may make rules for carrying out all or any of the purposes of this Act.

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

- (a) all matters expressly required or allowed by this Act to be prescribed;
 - (b) the matter in respect of which provisions shall be made in the bye-laws of a chit and the procedure to be followed in making, registering, altering and abrogating bye-laws, and the conditions to be satisfied prior to such making, registration, alteration or abrogation;
 - (c) the particulars which every chit agreement shall contain;
 - (d) the restrictions and conditions subject to which and the manner in which, any security given by a foreman under section 12 may be changed or substituted;
 - (e) the procedure to be followed by the Registrar for the release of security given by the foreman under section 12;
 - (f) the maintenance of registers and books of accounts by the foreman, the safe custody of the books, papers and documents in the Registrar's office and also for the destruction of such books, papers and documents as need no longer be kept;
 - (g) the procedure to be followed for the winding up of a chit under Chapter IX; and
 - (h) the auditing of the balance sheets and profit and loss accounts and the issue of audit certificates.
- (3) (a) All rules made under this Act shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are published.
- (b) All notifications issued under this Act shall, unless are expressed to come into force on a particular day, come into force on the day on which they are published.
- (4) All rules made and all notifications issued under this Act shall, as soon as may be after they are made or issued be laid before the Legislative Assembly, Goa, Daman and Diu while it is, in session for a total period of fourteen days which may be comprised in one session or in two, successive sessions, and if, before the expiry of the session in which they are so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

65. Recovery of amounts due from a foreman.— All amounts due from a foreman to the Registrar or any other officer under this Act by way of any fee shall be recoverable as arrears of land revenue.

66. Act not to apply to certain chits.—The provisions of this Act shall not apply in respect of—

(1) any chit started before the commencement of this Act, or

(2) any chit amount of which or where two or more chits are started or conducted simultaneously by the same foreman, the aggregate chit amount of which does not exceed one hundred rupees.

67. Power to exempt.— The Government may, by notification in the Official Gazette, exempt any institution rendering service of any charitable nature from all or any of the provisions of this Act other than section 12, subject to such conditions as it deems fit and may cancel or modify any such notification.

68. Stamp duty.— Notwithstanding anything contained in the Indian Stamp Act, 1899 (Central Act 2 of 1899) as applied to this Union territory, a chit agreement, shall bear a stamp duty of rupees one and fifty paise, if either such agreement is executed or if the chit is conducted in the Union territory in accordance with the provisions of this Act.

69. Repeal and saving.— (1) Any law corresponding to this Act in force in the Union territory immediately before the commencement, of this Act, shall stand repealed on such commencement of this Act;

Provided that repeal shall not affect—

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

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

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

(iv) any investigations, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed; or

(b) the operation of the corresponding law in respect of chit started before the commencement of this Act.

(2) Subject to the provisions of sub-section (1) anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, or any rule, regulation or form framed, certificate granted or registration effected under the corresponding law shall be deemed to have been done or taken under this Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under this Act.

Secretariat,

Panaji, 18th December, 1973.

B. N. MASURKAR,
Law Secretary.