

Bengal Act XXI of 1940.

THE BENGAL CO-OPERATIVE SOCIETIES ACT, 1940.¹

[1st May, 1941.]

An Act to amend the law relating to co-operative societies in ²[East Pakistan].

Whereas it is expedient to make further provision for the formation and working of co-operative societies, and for the promotion of thrift, self-help and mutual aid among persons of moderate means with needs and interests in common, to the end that better conditions of living and better methods of production and business may thereby result, and for that purpose to amend the law relating to co-operative societies in ²[East Pakistan];

It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Bengal Co-operative Societies Act, 1940. Short title, extent and commencement.
- ³[(2) It extends to the whole of East Pakistan].

¹For Statement of Objects and Reasons, see the *Calcutta Gazette*, dated the 7th July, 1938; the Report of the Select Committee was presented to the Assembly on the 19th December, 1939; for the Proceedings of the Assembly, see the Proceedings of the meetings of the Bengal Legislative Assembly, held on the 3rd August, 1938, 19th December, 1939, and 17th, 18th, 22nd, 23rd, 24th, 25th, 29th, 30th and 31st July, 1st August and 4th December, 1940; for Proceedings of the Council, see the Proceedings of the meetings of the Bengal Legislative Council, held on the 12th, 14th, 19th, 27th, 28th, and 29th August, 2nd, 3rd, 4th, 5th, 9th, 10th, 11th, 12th, 18th and 19th September, 1940.

The Act was extended to the Chittagong Hill-tracts by notification No. 252 C.S., dated the 10th December, 1942, *vide* the *Calcutta Gazette* of 1942, Part I, page 2789. It came into force in the said district with effect from the 15th February, 1943.

The Act was extended to those areas of Mymensingh district which were called "partially excluded areas" immediately before the coming into force of the constitution which was abrogated by the Presidential Proclamation of the 7th October, 1958, *vide* notification No. 146 C. S., dated the 24th August, 1943, published in the *Calcutta Gazette* of 1943, Part I, page 1384. It came into force in the said areas of the Mymensingh district with effect from the 1st September, 1943.

²The words within square brackets were substituted for the word "Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

³Sub-section (2) was substituted for the former sub-section (2), *ibid.*

(Chapter I.—Preliminary.—Section 2.)

(3) It shall come into force on such date¹ as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

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

- (a) "arbitrator" means a person appointed under clause (c) of sub-section (1) of section 87 to decide any dispute referred to him;
- (b) "audit officer" means a person authorised under section 76 by general or special order to audit the accounts of a co-operative society;
- (c) "by-laws" means the by-laws registered or deemed to have been registered under this Act, and includes a registered amendment of the by-laws;
- (d) "central co-operative land mortgage bank" means a co-operative society, the objects of which include the creation of funds to be lent to co-operative land mortgage banks;
- (e) "co-operative land mortgage bank" means a co-operative society, the objects of which include the creation of funds to be lent to members on long terms upon mortgage of their immovable property;
- (f) "co-operative society" means a society registered or deemed to be registered under this Act;
- (g) "co-operative society with limited liability" means a co-operative society having the liability of its members limited by its by-laws to the amount, if any, unpaid on the shares respectively held by them or to such amount as they may respectively thereby undertake to contribute to the assets of the society in the event of its being wound up;
- (h) "co-operative society with unlimited liability" means a co-operative society having, subject to its by-laws, an unlimited liability of its members to contribute jointly and severally any deficiency in the assets of the society;
- (i) "co-operative year" means such period of twelve months as may be prescribed for keeping the accounts of a co-operative society;
- (j) "dispute" means any matter capable of being the subject of civil litigation, and includes a claim

¹The Act came into force on the 2nd July, 1942, *vide* Notification No. 1041-C.S., dated the 29th June, 1942, published in the *Calcutta Gazette*, dated the 2nd July, 1942, Part 1, page 1636.

of 1940.]

(Chapter I.—Preliminary.—Section 2.)

in respect of any sum payable to or by a co-operative society ¹[whether such claim be admitted or not];

- (k) "financing bank" means a co-operative society, the objects of which include the creation of funds to be lent to other co-operative societies;
- (l) "liquidator" means a person appointed under section 90 to wind up the affairs of a co-operative society;
- (m) "managing committee" means the committee of management of a co-operative society constituted under section 23 ²[or under section 26];
- (n) "member" includes a person joining in an application for registration of a society and a person admitted to membership after registration in accordance with the rules and by-laws;
- (o) "net profits" means profits after deduction of establishment charges, contingent charges, interest payable on loans and deposit, audit fees and such other sums as may be prescribed;
- (p) "officer" includes a president, vice-president, chairman, vice-chairman, secretary, assistant secretary, manager, treasurer, member of a managing committee, auditor elected from among the members and any other person empowered under the rules or by-laws to give directions in regard to the business of a co-operative society;
- (q) "prescribed" means prescribed by rules made under this Act;
- (r) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ¹[and includes any person appointed to assist the Registrar on whom all or any of the powers or duties of the Registrar referred to in section 10 have been or has been conferred or imposed under clause (a) of that section.];
- (s) "rules" means rules for the time being in force made under this Act.
- (t) "Trustee" means the person appointed to be a Trustee under sub-section (1) of section 34.

¹The words within square brackets were added by the East Bengal Laws (Amendment and Repeal) Act, 1949 (E. B. Act V of 1950), section 2 and the First Schedule.

²The words within square brackets were inserted by the Bengal Co-operative Societies (East Pakistan Third Amendment) Ordinance, 1958 (E. P. Ord. L of 1958), section 3.

3. [Repealed by the Bengal Repealing and Amending Act, 1946 (Ben. Act XVI of 1946)].

Saving of existing societies, etc.

4. (1) Every society existing at the commencement of this Act which has been registered or deemed to have been registered under the Co-operative Societies Act, 1912, shall be deemed to be registered under this Act; and its by-laws shall, in so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded and shall to such extent be deemed to be registered under this Act.

(2) All appointments, rules and orders made, all notifications and notices issued, all transactions entered into and all suits and other proceedings instituted under the Co-operative Societies Act, 1912, shall be deemed, so far as may be, to have been respectively made, issued, entered into or instituted under this Act.

Construction of references to Act II of 1912.

5. All references to the Co-operative Societies Act, 1912 occurring in any enactment ¹ * * * for the time being in force in ²[East Pakistan] shall, in the application of any such enactment thereto, be construed as references to this Act; and anything done or any proceeding commenced in pursuance of any such enactment on or after the commencement of this Act shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act, 1912, had been a reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.

Act VII of 1913 not to apply.

6. The provisions of the ³[Companies Act], 1913 ^{VI} shall not apply to co-operative societies.

Prohibition of the use of the word 'co-operative'.

7. No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent 'Sama-vaya' is part:

Provided that nothing in this section shall apply to the use by any person or by his successor-in-interest of any name or title under which he lawfully traded or carried on business at the commencement of this Act.

¹The words "made by any authority in British India and" were omitted by E. P. Ord. XXVIII of 1960, First Schedule.

²These words were substituted for the word "Bengali", *ibid*.

³These words were substituted for the words "Indian Companies Act", *ibid*.

of 1940.]

(Chapter I.—Preliminary.—Chapter II.—Registration, Sections 8—11.)

8. (1) The Provincial Government may, by rules—
- (a) exempt any co-operative society or class of such societies from the application of any of the provisions of this Act or of any rules made thereunder, or
 - (b) direct that any of such provisions shall apply to such society or class of societies to such extent as may be specified in the rules.

Power to exempt co-operative societies from the provisions of the Act.

(2) The power to make rules conferred by sub-section (1) shall be subject to the condition that no rule be made to the prejudice of a co-operative society without giving such society an opportunity to represent its case.

CHAPTER II.

Registration.

9. The Provincial Government may appoint a person to be Registrar of Co-operative Societies for ¹[East Pakistan] and may appoint persons to assist him.

Appointment of Registrar and of persons to assist him.

10. Subject to the rules, the Provincial Government may, by general or special order in this behalf, confer all or any of the powers ²[or impose all or any of the duties], entrusted to the Registrar by or under this Act, other than those specified in the Second Schedule,—

Conferment of powers of Registrar.

(a) upon any person appointed under section 9 to assist the Registrar; and

(b) upon any co-operative society in respect of any other co-operative society which is a member of the co-operative society first mentioned.

11. (1) Subject to the provisions of this Act and of any rules, a society which has as its object the promotion of the common interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operation of such a society, including a society formed by the division of an existing co-operative society or amalgamation of existing co-operative societies, may be registered under this Act with or without limited liability.

Societies which may be registered.

¹The words within square brackets were substituted for the word "Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

²These words were inserted by the East Bengal Laws (Amendment and Repeal) Act, 1949 (E. B. Act V of 1950), section 2 and the First Schedule.

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

Conditions of registration. 12. Unless the Provincial Government by general or special order otherwise directs, a society shall not be registered under this Act—

(a) with limited liability, if its objects include the creation of funds to be lent to its members, and if—

(i) it has any withdrawable share capital; or

(ii) the majority of the members are agriculturists and no member is a co-operative society; or

(b) with unlimited liability, if any member is a co-operative society.

Applications for registration. 13. An application for registration of a society shall be made to the Registrar in the prescribed manner and shall be accompanied by a copy of the proposed bye-laws; and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registrar to decide certain questions. 14. The Registrar shall decide all questions as to whether the application complies with the provisions of this Act and the rules and whether the objects of the society are in accordance with section 11.

Registration. 15. If the Registrar is satisfied that the application complies with the provisions of this Act and the rules and that the proposed bye-laws are not contrary thereto, he shall, unless for reasons to be recorded in writing he thinks fit to refuse, register the society and its bye-laws.

Evidence of Registration. 16. A certificate of registration signed by the Registrar shall be issued to the society and shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered under this Act and that its bye-laws are as attached to the certificate, unless it is proved that the registration of the society has been cancelled or that the bye-laws have been amended in accordance with section 17 or section 18.

Amendment of bye-laws of a co-operative society. 17. (1) No amendment of any bye-law of a co-operative society, whether by way of addition, cancellation or alteration, shall be valid until such amendment has been registered under this Act.

of 1940.]

(Chapter II.—Registration.—Chapter III.—Status and Management of Co-operative Societies.—Sections 18—20.)

(2) Every proposal for such amendment, framed in accordance with the rules, shall be forwarded to the Registrar; and if the Registrar is satisfied that the proposed amendment is not contrary to the provisions of the Act or the rules, he shall, unless for reasons to be recorded in writing he sees fit to refuse, register the amendment.

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

18. (1) Subject to the rules, if it appears to a financing bank that an amendment of the bye-laws of a co-operative society which is a member and a debtor of such bank is necessary or desirable in the interests of such society it may, in the prescribed manner, call upon the society to make the amendment within such time as it may specify.

Power of financing bank to direct amendment of by-laws.

(2) If the society fails to make the amendment within the time specified, the financing bank may, after affording the society an opportunity of being heard, forward to the Registrar the amendment which it considers necessary or desirable, and the Registrar, if satisfied that the amendment is not contrary to the provisions of the Act or the rules, may thereupon register the amendment and forward to the society in the prescribed manner a copy thereof, together with a certificate signed by him which shall be conclusive evidence that the amendment has been registered; and such amendment shall thereupon be binding upon the society and its members.

CHAPTER III.

Status and Management of Co-operative Societies.

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

Co-operative societies to be bodies corporate.

20. (1) The final authority of every co-operative society shall vest in the general body of members in general meeting:

Final authority of a co-operative society.

Provided that, in such circumstances as may be prescribed, the final authority may vest in the delegates of such members, elected in the prescribed manner and assembled in general meeting.

(Chapter III.—*Status and Management of Co-operative Societies.—Sections 21—22.*).

(2) The general meeting shall be summoned and shall exercise its authority in such manner as may be prescribed.

Annual
general
meeting.

21. (1) A general meeting of every co-operative society shall be held once at least in every co-operative year for the purpose of—

- (a) electing members of the managing committee and such other officers as may be provided in the by-laws,
- (b) considering the audit report referred to in section 79, and
- (c) considering any other matter which may be brought forward in accordance with the by-laws.

(2) Such meeting shall be held not more than fifteen months after the date of the last preceding meeting held under sub-section (1) and, unless the Registrar on special grounds extends the period, within three months of the date prescribed for the receipt by the co-operative society of the audit report referred to in section 79:

Provided that the Registrar may, if he thinks fit, permit such meeting to be held not more than eighteen months after the date of the last preceding meeting held under sub-section (1).

Special general meeting.

22. (1) A special general meeting may be called at any time by a majority of the members of the managing committee and shall be called—

- (a) on the requisition in writing of one-third of the members of any co-operative society having not more than five hundred members or of one-fifth of the members of any other society; or
- (b) at the instance of the Registrar:

Provided that, in the case of any society having more than two thousand five hundred members, a requisition under clause (a) may be presented by delegates elected in the prescribed manner.

(2) The Registrar, or any person authorised by him in this behalf by special order in writing, may call a general meeting of a co-operative society at any time, and shall call such a meeting upon failure of the society to call a meeting on a requisition by the members or at the instance of the Registrar under sub-section (1).

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(Chapter III.—Status and Management of Co-operative Societies.—Sections 23—26.)

(3) Notwithstanding any rule or by-law prescribing the period of notice for, and the method of summoning, a general meeting, the Registrar, in the case of a meeting called at his instance under sub-section (1), or the person calling the meeting in the case of a meeting called under sub-section (2), may specify the time and place for the meeting, the manner in which it shall be summoned and the matter which shall be discussed thereat.

23. The management of every co-operative society shall vest in a managing committee constituted in accordance with the rules and by-laws, which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the by-laws. Managing committee.

24. The Provincial Government may, on the application of a co-operative society and on such conditions as may be prescribed, depute a servant of the Crown to the service of the society for the purpose of managing its affairs, and a servant of the Crown so deputed shall exercise such powers and perform such duties as may be prescribed. Power to depute servant of the Crown to manage affairs of a co-operative society.

25. (1) If the Registrar, as a result of an audit under section 76 or inspection under section 82 or 83 or an enquiry under section 84, is satisfied for reasons to be recorded by him in writing that a co-operative society is suffering from insolvency or that the managing committee of a co-operative society is mismanaging its affairs, he may, by an order in writing, dissolve such managing committee. Dissolution of managing committee and disqualification of its members.

(2) The Registrar, when dissolving a managing committee under sub-section (1), may, for reasons to be recorded by him in writing, order that all or any of the members of the outgoing committee shall, for such period not exceeding 3 years from the date of the order as he may determine, be disqualified for election or appointment as an officer of any co-operative society :

Provided that no person shall be so disqualified unless opportunity has been given to state his objection.

26. (1) When the managing committee is dissolved under sub-section (1) of section 25, the members of the outgoing committee shall forthwith vacate their office and the Registrar shall appoint a person or a managing committee consisting of persons not exceeding five in number and shall appoint a Chairman and, if necessary, such other officer from amongst them to manage the Appointment of a managing committee to manage affairs of co-operative society.

¹This section was substituted for the former section 25 by the Bengal Co-operative Societies (East Pakistan Third Amendment) Ordinance, 1958 (E. P. Ordinance No. L of 1958), section 4.

²This section was substituted for the former section 26 by section 5, *ibid.*

(Chapter III—Status and Management of Co-operative Societies.—Section 26.)

affairs of such co-operative society for such period not exceeding one year and the managing committee so appointed shall forthwith take over charge of such co-operative society through its Chairman or any other officer :

Provided that the Provincial Government may extend the period of one year for such further period not exceeding two years as it may think fit.

(1A) Where more than 50 per centum of the paid up share capital or where more than 50 per centum of the borrowed capital of a co-operative society, the managing committee whereof has been dissolved under sub-section (1) of section 25, represent shares purchased by the Provincial Government or represent loans and advances given or guaranteed respectively by the Provincial Government, the Provincial Government may extend the period of one year specified in sub-section (1) for such further period as it may think fit and may also, at any time, increase the number of members of such appointed managing committee to any number not exceeding nine and the Registrar shall appoint all or the remaining members of the managing committee of such society.

(2) The managing committee appointed under sub-section (1) or under sub-section (1A) shall, on the direction of the Registrar, before the termination of the term of their office, take necessary action under the bye-laws of the co-operative society to form a managing committee to succeed it.

(3) Where a managing committee has been appointed under sub-section (1) or under sub-section (1A), the Registrar may, at any time, for reasons to be recorded in writing, reconstitute the managing committee or require any or all the members of such managing committee to vacate their offices before the expiry of the period of their appointments after giving them reasonable opportunity to show cause and may make appointments in their places.

(4) At the time of every extension of the period of one year under the proviso to sub-section (1) or under sub-section (1A), the Registrar may reconstitute the managing committee appointed under sub-section (1) or under sub-section (1A).

(5) Notwithstanding anything contained elsewhere in this Act or in the rules made thereunder or in the bye-laws of a co-operative society, the managing committee appointed under sub-section (1) or sub-section (1A) shall, in exercise of its powers and in performance of its duties, observe such directions, if any, as the Provincial Government may, from time to time, issue.

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(Chapter III.—Status and Management of Co-operative Societies.—Chapter IV.—Duties and Obligations of Co-operative Societies.—Sections 27—32.)

27. A person appointed under section 26 shall hold office until the managing committee is reconstituted or his appointment is cancelled by the Registrar.

Tenure of office of person appointed under section 26.

28. During the tenure of office of a person appointed under section 26—

Management of co-operative society on dissolution of its committee.

(a) all properties of the co-operative society shall vest in the Registrar; and

(b) subject to the control of the Registrar, and notwithstanding the preferring of any appeal under section 134, such person shall exercise all the powers and perform all the duties which may under this Act, the rules and the by-laws, be exercised or performed by the managing committee or any officer of the society.

CHAPTER IV.

Duties and Obligations of Co-operative Societies.

29. Every co-operative society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send notice in writing of every change thereof, within thirty days of such change, to the Registrar and to the financing bank, if any, of which it is a member.

Address of co-operative society.

30. Every co-operative society shall keep open to inspection free of charge at all reasonable times at the address of the society—

Copy of Act, etc., to be open to inspection.

- (a) a copy of this Act ;
- (b) a copy of the rules ;
- (c) a copy of the by-laws of the society ;
- (d) a register of members; and
- (e) such other documents as may be prescribed.

31. The balance sheet authenticated by the audit officer shall be annually published by every co-operative society in the prescribed manner.

Publication of annual balance sheet.

32. A co-operative society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws; and shall in respect of such deposits or loans make such provision for the maintenance of fluid resource as may be prescribed.

Restrictions on borrowing.

(Chapter IV.—Duties and Obligations of Co-operative Societies.—Sections 33, 34.)

Power of
Provincial
Government
to guarantee
principal and
interest of
debentures.

33. (1) In the case of any debentures or of any class or series or issue of debentures issued under this Act, the Provincial Government shall—

- (a) guarantee the principal thereof and the interest thereon, subject to such maximum amount of principal or such rate of interest and to such other conditions as may be prescribed; and
- (b) notwithstanding anything contained in ¹[the Trusts Act], 1882, declare that such debentures shall be deemed to be included among the securities enumerated in section 20 of the said Act.

(2) Such debentures shall not be issued save with the express authority of the Provincial Government.

Issue of
guaranteed
debentures.

34. (1) When a co-operative society is authorised under the provisions of sub-section (2) of section 33 to receive loans by the issue of debentures, the principal of and interest on which is so guaranteed, the Provincial Government shall appoint the Registrar or some other person to be the Trustee for the purpose of securing the fulfilment of the obligations of the society to the holders of the debentures.

(2) With the previous sanction of the Trustee and subject to such conditions as he may impose, a co-operative society may issue debentures of one or more denominations for such period as it may deem expedient on the security of the assets of the society, including any mortgages which it holds by acceptance, assignment or transfer.

(3) Such debentures may be issued subject to either or both of the following conditions, namely:—

- (a) fixing a period, not exceeding thirty years from the date of issue, during which they shall be irredeemable,
- (b) reserving to the society the right to call in at any time any previously issued debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice in writing,

and may be subject also to any other conditions imposed by the Trustee.

¹These words were substituted for the words "the Indian Trusts Act" by E. P. Ord. XXVIII of 1960, First Schedule.

of 1940.]

(Chapter IV.—Duties and Obligations of Co-operative Societies—Sections 35—38.)

(4) The total amount payable in respect of debenture issued by a society (including any debentures issued before the commencement of this Act) and outstanding at any time shall not exceed the total amount due on the mortgages, the amounts paid thereunder and remaining in the hands of the society or of the Trustee at such time and the value of all other assets of the society held by transfer or assignment subsisting at that time.

(5) Where a co-operative society has called in any debenture in advance of the date fixed for redemption, the society shall, subject to the previous permission of the Trustee, have the power to cancel the debenture and issue any new debenture in place of the debenture paid of or otherwise satisfied or extinguished, or to re-issue the debenture either by reissuing the same debenture or by issuing another debenture in its place; and by virtue of such re-issue the person entitled to such debenture shall have, and shall be deemed to have always had, the same rights and priorities, if any, as if the debenture had not been previously issued.

35. The Trustee appointed under section 34 shall be a corporation sole by the name of the Trustee for the debentures in respect of which he is appointed, and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

Trustee to be a corporation sole.

36. (1) The powers and functions of the Trustee shall be governed by the provisions of this Act and the instrument of trust executed between the co-operative society and the Trustee.

Powers and functions of Trustee.

(2) The form of such instrument, and any modification which the parties thereto may mutually agree to make in any of its terms after its execution, shall be subject to the previous approval of the Provincial Government.

37. Upon the issue of debentures under the provisions of sub-section (2) of section 34, the assets of the co-operative society, including any mortgages which it holds by acceptance, assignment or transfer, shall vest in the Trustee and the holders of debentures shall have a floating charge on all such assets, including the amounts paid under such mortgages and remaining in the hands of the Trustee or the society, and on the properties of the society.

Debenture-holders' charge on assets.

38. Notwithstanding anything contained in any other law for the time being in force, the Provincial Government may, subject to the rules grant loans to, take shares in, or give financial assistance in any other form to any co-operative society.

Power of Provincial Government to give financial assistance.

(Chapter IV.—Duties and Obligations of Co-operative Societies.
Chapter V.—Privileges of Co-operative Societies.—Sections
39—43.)

Restrictions
on lending.

39. (1) A co-operative society shall not make loans—
(a) to any person other than a member; or
(b) to a member in excess either of the maximum or of the normal credit determined by the society or of that member in accordance with the rules, whichever may be prescribed; or
(c) save with the special sanction of the Registrar given in accordance with the rules, on the security of movable property.

(2) The Provincial Government may, by general or special order, after giving any society likely to be affected thereby an opportunity of being heard in such manner as may be prescribed, prohibit or restrict the lending of money on mortgage of immovable property by any society or class of societies other than a co-operative land mortgage bank.

Restrictions
on other
transactions
with non-
members.

40. Save as provided in sections 32 to 39 inclusive, 48 and 49, the transactions of a co-operative society with persons other than members shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

Liability to
furnish in-
formation.

41. Every officer and every member of a co-operative society shall furnish such information in regard to the transactions or working of the society as may be required of him by the Registrar or an audit officer, arbitrator, liquidator or any person conducting an inspection or inquiry under Chapter VIII.

CHAPTER V.

Privileges of Co-operative Societies.

Change of
name and
its effect.

42. (1) With the previous approval of the Registrar, a co-operative society may, by a resolution passed at a general meeting, change its name.

(2) Such change of name shall not affect any right or obligation of the society or of any of its members, or past members, or of the estate of any of its deceased members; and any legal proceedings pending on the date of such change in which such society is a party may be continued by or against the society under its new name.

Change of
liability.

43. (1) Subject to the provisions of this Act and of the rules, a co-operative society, with the previous approval of the Registrar, may, by a resolution passed at a general meeting, change its form of liability.

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(Chapter V.—Privileges of Co-operative Societies.—Sections 44—46.)

(2) When such a resolution has been passed, the society shall give notice thereof in writing in the prescribed manner to all its members and creditors and, notwithstanding any by-law or contract to the contrary, any member or creditor shall, within six months of the service of the notice upon him, have the option of withdrawing his shares, deposits or loans. Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have assented to the change.

(3) The change shall not take effect until either—

- (a) the assent thereto of all members and creditors has been secured; or
- (b) all claims of members and creditors who exercise the option referred to in sub-section (2) have been met in full.

44. (1) When a member of a co-operative society which includes among its objects the advance of loans to its members applies for a loan or when a person applies for membership of such a society, the society may in the prescribed manner serve a notice on any creditor named in the application or ascertained after subsequent inquiry, and may also publish a general notice on all creditors, requiring him or them, in the prescribed form and within the time specified in the notice, to furnish a written statement of his or their claim.

Co-operative society's power to call for statement of claims.

(2) When a member of a co-operative society which includes among its objects the advance of loans to its members intends to apply for a loan from any person other than the society, such member shall send to the society a notice in writing stating—

- (a) his intention to apply for such loan,
- (b) the amount of the loan for which he intends to apply, and
- (c) the object of taking the loan.

45. A co-operative society which includes amongst its objects the advance of loans to its members, and the financing bank, if any, of which such society is a member, may by a notice served in the prescribed manner upon the landlord of any member of such society require the landlord to furnish to such society or the financing bank or both notice of any rent suit instituted by him against such member.

Co-operative society's power to call for notice of rent suit.

46. Notwithstanding any of the provisions of ¹[the Limitation Act], 1908, the period of limitation for the institution of a suit to recover any sum, including interest

Limitation.

¹The words within the square brackets were substituted for the words "the Indian Limitation Act" by E. P. Ord. XXVIII of 1960, First Schedule.

(Chapter V.—Privileges of Co-operative Societies.—
Section 47.)

thereon, due to a co-operative society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of the society.

Debts due to co-operative societies to be a first charge.

47. (1) Notwithstanding anything contained in sections 60 and 61 of the Code of Civil Procedure, 1908, or in the Bengal Tenancy Act, 1885, but subject to any claim of the Provincial Government in respect of land revenue, or any sum recoverable as land revenue or as a public demand, or of a landlord in respect of rent or any sum recoverable as rent, any debt or outstanding demand due to a co-operative society by any member, past member or the estate of any deceased member shall be a first charge—

- (a) if such debt or demand is due in respect of the supply of, or any loan to provide the means of paying for seed, manure, labour, subsistence, fodder for cattle or any other thing incidental to the conduct of agricultural operations,—upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable;
- (b) if such debt or demand is due in respect of the supply of, or of any loan to provide the means of paying for, irrigation facilities,—upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable, or upon the crops or agricultural produce of the land so provided with irrigation facilities;
- (c) if such debt or demand is due in respect of the supply of, or any loan for the purchase of cattle, agricultural implements or warehouses for the storage of agricultural produce—in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouses thus supplied or purchased wholly or in part from any such loan;
- (d) if such debt or demand is due in respect of the supply of, or any loan for the purchase of raw materials, industrial implements, machinery,

of 1940.]

(Chapter V.—Privileges of Co-operative Societies.—
Section 48.)

workshops, warehouses or business premises,—upon the raw material or other things supplied or purchased by such member, past member or deceased member wholly or in part from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased wholly or in part from any such loan;

(e) if such debt or demand is due in respect of any loan for the purchase or redemption of land, upon the land purchased or redeemed by such member, past member or deceased member from any such loan; and

(f) if such debt or demand is due in respect of any loan for the purchase or construction of any house or building or any portion thereof or in respect of the supply of materials for such construction,—upon the house or building so purchased or constructed by such member, past member or deceased member from any such loan or material.

(2) Nothing in clauses (a), (c), (d), (e) or (f) of subsection (1) shall affect the claims of any *bona fide* purchaser or transferee for value without notice of any such crops or other agricultural produce, fodder, cattle, agricultural or industrial implements, machinery, raw materials, workshops, warehouses, premises, manufactured articles, houses, buildings or land.

48. (1) A co-operative society, an object of which is the provision of irrigational facilities to the cultivable land of its members, may in the prescribed form apply to the Collector for demarcation of the area irrigable from any source of irrigation other than a tank which has, under section 4 of the Bengal Tanks Improvement Act, 1939, been declared to be a derelict tank.

Levy of
water rate
on non-
members.

Ben. Act
XV of
1939.

(2) Such area shall be termed the "irrigable area".

(3) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared, in the prescribed form, by an officer subordinate to him, a map of the irrigable area and a statement of the cultivable lands included therein; and such map and statement shall be published in the prescribed manner.

(4) If the lands possessed by the members of such society comprise not less than sixty *per centum* of the cultivable lands included in the irrigable area, such society

*Chapter V.—Privileges of Co-operative Societies.—
Sections 49—50.)*

may, subject to rules made in this behalf, levy a water rate upon any non-member of the society possessing within such area cultivable land which is benefited by the irrigational facilities referred to in sub-section (1).

(5) Such water rate shall be recoverable in the manner provided in this Act for the recovery of sums due to the society by the members, past members and deceased members thereof.

Levy of
embankment
protection
rate on non-
members.

49. (1) A co-operative society, an object of which is the provision of embankment protection facilities to the lands of its members, may in the prescribed form apply to the Collector for demarcation of the area protected by any embankment.

(2) Such area shall be termed the "protected area".

(3) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared in the prescribed form, by an officer subordinate to him, a map of the protected area and a statement of the lands included therein; and a copy of such map and statement shall be published in the prescribed manner.

(4) If the lands possessed by the members of such society comprise not less than sixty per centum of the lands included in the protected area, such society may, subject to rules made in this behalf, levy an embankment protection rate upon any non-member of the society possessing land within such area.

(5) Such embankment protection rate shall be recoverable in the manner provided in this Act for the recovery of sums due to the society by the members, past members and deceased members thereof.

Charge and
set off in
respect of
share or
interest of
members.

50. A co-operative society shall have a charge upon the share or interest in the capital and the deposits of a member or a past or deceased member and upon any amount payable out of profits to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society and may, subject to the provisions of sections 69 to 73 inclusive and of the rules and by-laws, set off any sum credited or payable to a member, past member or the estate of a deceased member in or towards the payment of any such debt.

(Chapter V.—Privileges of Co-operative Societies.—
Sections 51—53.)

51. If a member of a co-operative society, who is in the employment of the Crown in India or of any local authority or of any other person, takes a loan from a co-operative society in terms of a written contract to repay such loan by instalments, and authorises the society in writing to recover such instalments by deduction from his salary, the person who disburses any amount payable to such member as salary in respect of such employment shall, on demand from the society, deduct the amount of such instalment from the amount disbursed to such member as salary and shall forthwith remit to the society the amount so deducted:

Deduction of dues to co-operative societies from salaries of members.

¹[Provided that nothing in this section shall apply to persons, employed upon Federal Railways (within the meaning of the Government of India Act, 1935), or in mines or oilfields.]

52. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the ²[Registration Act], 1908, shall apply to—

Exemption from compulsory registration of instruments relating to shares and debentures of co-operative society.

(a) any instrument relating to shares in a co-operative society, notwithstanding that the assets of such society consist wholly or in part of immovable property; or

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

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

53. (1) The Provincial Government may by general or special order in the case of any co-operative society or class of co-operative societies remit any tax, cess or fee payable under any law for the time being in force or the rules framed

Power to remit certain duties, fees, etc.

¹This proviso was added by the East Bengal Laws (Amendment and Repeal) Act, 1949 (E.B. Act V of 1950), section 2 and the First Schedule

²These words were substituted for the words "Indian Registration Act" by E.P. Ord. XXVIII of 1960, First Schedule.

(Chapter V.—Privileges of Co-operative Societies.—
Section 54.)

thereunder in respect of which the Provincial Government is competent to remit such tax, cess or fee.

(2) In respect of any co-operative society or class of co-operative societies the Provincial Government may, by notification in the *Official Gazette*, remit—

- (a) the stamp duty¹ * * * * *
in respect of any instrument executed by, or on behalf of, or in favour of, a co-operative society or by an officer or on behalf of a member thereof and relating to the business of such society, in cases where, but for such remission, the co-operative society, officer or member thereof, as the case may be, would be liable to pay the stamp duty chargeable under any law for the time being in force in respect of such instrument, and
- (b) any fee payable by a co-operative society under any law for the time being in force for the registration of documents.

Power of Registrar to sanction a compromise between a co-operative society and its creditors.

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

(2) If a majority in number of the creditors or the class of creditors, as the case may be, representing claims to three-fourths of the debts due by the society to the creditors or the class of creditors, present either in person or by proxy at the meeting agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Registrar, upon publication in the prescribed manner, be binding on all the creditors or the class of creditors, as the case may be, and also on the society or, in the case of a society in respect of which an order has been passed for the winding up thereof, on the liquidator and on all persons who have been or may be required by the liquidator under section 91 to contribute to the assets of the society.

¹The words, brackets and comma within square brackets "(Other than Stamp duties falling within item 57 or item 59 in List I in the Seventh Schedule to the Government of India Act, 1935)" were omitted by E. P. Ord. XXVIII of 1960, First Schedule.

of 1940.]

(Chapter VI.—Property and Funds of Co-operative Societies.—
Sections 55—57.)

CHAPTER VI.

Property and Funds of Co-operative Societies.

55. A co-operative society may invest or deposit its funds— Investment of funds.

- (a) in a Government Savings Bank; or
- (b) in any of the securities specified in section 20 of ¹[the Trusts Act], 1882; or
- (c) with the sanction of the Registrar, in the shares or debentures or on the security of any other co-operative society with limited liability; or
- (d) in any other manner prescribed.

56. (1) Every co-operative society shall maintain a reserve fund in respect of the profits, if any, derivable from its transactions. Reserve fund.

(2) Of the net profits of a co-operative society in each year there shall be carried to the reserve fund not less than twenty-five *per centum* or such higher proportion as may be prescribed for such society or class of societies.

(3) Save to the extent that, and in such manner as, may be prescribed no part of its reserve fund shall be used in the business of a co-operative society.

(4) Subject to the rules, any portion of the reserve fund not used in the business of the society shall be invested or deposited—

- (a) in the Government Savings Bank; or
- (b) in any of the securities specified in section ²[20] of ¹[the Trusts Act], 1882, other than those specified in clause (e) of that section; or
- (c) in any other bank approved by the Registrar.

57. (1) Save as may be prescribed, no distribution of profits shall be made in the case of a co-operative society with unlimited liability; and save as provided in this section, no part of the funds of a co-operative society shall be divided by way of dividend or bonus or otherwise among its members. Distribution of profits.

(2) No dividend or bonus shall be paid—

- (a) otherwise than out of profits certified by the audit officer to have been actually realised; or

¹The words within square brackets were substituted for the words "the Indian Trusts Act" by E.P. Ord. XXVIII of 1960, First Schedule.

²This was substituted for the figure "29" by the East Bengal Laws (Amendment and Repeal) Act, 1949 (E. B. Act V of 1950), section 2 and the First Schedule.

II of 1882.

II of 1882.

(Chapter VI.—Property and Funds of Co-operative Societies—
Sections 58, 59.)

- (b) without the previous sanction of the Registrar, if the audit officer reports that any asset is bad or doubtful and also recommends that such sanction is necessary:

Provided that the audit officer shall not so recommend if such asset is adequately covered.

(3) Subject to the provisions of sub-section (2), after the proportion required by sub-section (2) of section 56 has been carried to the reserve fund from the net profits of any year, the balance of such profits, together with undistributed profits of past years if any, may, to such extent and under such conditions as may be prescribed, be distributed as dividend among the members or paid as bonus or remuneration to a member or employee for any specific service rendered to the society.

(4) No contribution under section 58 shall be paid otherwise than out of profit actually realised.

Contribution
to chari-
table pur-
poses.

58. After there has been carried to the reserve fund the proportion of the net profits of any year required by sub-section (2) of section 56, a co-operative society—

(a) shall, in the manner prescribed, contribute an amount not exceeding five *per centum* of the balance of the year's remaining net profits for co-operative education or for such other co-operative purpose as may be prescribed, and

(b) may in accordance with the rules contribute not more than ten *per centum* of such balance for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

VI of
1890.

Provident
fund.

59. (1) A co-operative society may establish a provident fund for its members, officers or servants from the contributions of such members, officers or servants, as the case may be, and, after there has been carried to the reserve fund the proportion of net profits in any year required by sub-section (2) of section 56 and after there has been paid the contribution required by clause (a) of section 58, may make such contributions to the provident fund as may be provided for in the rules or by-laws.

(2) Such provident fund shall not be used in the business of the society, but shall be invested or deposited in one or more of the ways specified in sub-section (4) of section 56.

of 1940.]

(Chapter VII.—Privileges, Liabilities and Obligations of Members of Co-operative Societies—Sections 60—63.)

CHAPTER VII.

Privileges, Liabilities and Obligations of Members of Co-operative Societies.

60. (1) Subject to the rules relating to voting by delegates, no member of a co-operative society shall have more than one vote in its affairs; Votes of members.

Provided that in the case of an equality of votes the chairman shall have a second or casting vote.

(2) A co-operative society which is a member of another co-operative society may appoint one of its members not disqualified for such appointment under any rule or by-law to vote in the affairs of such other society.

61. No member of a co-operative society shall exercise the rights of a member until he has made such payment to the society in respect of membership or acquired such interest in the society as may be provided for in the rules or by-laws. Members not to exercise rights till due payment made.

62. (1) A full, true and accurate statement of his assets and liabilities shall be furnished— Members to furnish information as to their financial position and alienation of their immovable property.

(a) by an applicant for membership of a co-operative society with unlimited liability, together with his application;

(b) by a member of a co-operative society with unlimited liability when required to do so by the Registrar or any person authorised by him by a general or special order or by the financing bank; and

(c) by a member of any other society, together with any application for a loan or for acceptance as a surety.

(2) A member of a co-operative society shall, before the completion of each such transaction, furnish to the society of which he is a member full, true and accurate information regarding any sale, mortgage or transfer in any form whatsoever of his immovable property or any portion or share thereof and regarding any debt proposed to be incurred on the security of such property.

63. A loan advanced by a co-operative society to a member thereof shall be utilised by him for the purpose for which it was advanced and, if not so utilised, shall be refunded by him immediately on its recall, in the prescribed manner, by the society. Loans to be used for the object for which advanced.

(Chapter VII.—Privileges, Liabilities and Obligations of Members of Co-operative Societies.—Sections 64—68.)

Share or
interest not
liable to
attachment.

64. Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of section 50, the share or interest of a member in the capital of a co-operative society or in any provident fund established under section 59 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 neither the Official Assignee under ^{III} [the Insolvency (Capital of the Federation and Dacca) Act], nor a receiver under the Provincial Insolvency Act, 1920, shall be entitled to or have ¹⁵⁶⁶ any claim on such share or interest.

Liability of
members.

65. The members of a co-operative society shall upon the winding up of the society, be jointly and severally liable to contribute towards any deficiency in the assets of the society—

(a) in the case of a society with unlimited liability, without limit ; and

(b) in the case of a society with limited liability, subject to such limitation of amount as may be provided in the by-laws.

Liability of
past member
and of estate
of deceased
member.

66. The liability of a past member and of the estate of a deceased member for the debts of a co-operative society as they existed at the date of his ceasing to be a member or of his death, as the case may be, shall continue for a period of two years from the said date.

Restriction
on interest of
members of
society with
limited
liability and
share capital.

67. Where the liability of a member of a co-operative society is limited by shares, no member other than another co-operative society shall—

(a) hold more than such portion of the share capital of the society as, subject to a maximum of one-fifth, may be prescribed ; or

(b) have or claim any interest in the shares of the society exceeding one thousand rupees.

Restrictions
on transfer
of share
or interest.

68. (1) The transfer or charge of the share or interest of a member in the capital of a co-operative society shall be subject to the provisions of this Act and to such conditions as to maximum holding as may be prescribed and, in the case of a member of a society with limited liability, shall require the approval of the society.

¹These words were substituted for the words "the Presidency towns Insolvency Act, 1909" by E.P. Ord. XXVIII of 1960, First Schedule.

of 1940.]

(Chapter VII.—Privileges, Liabilities and Obligations of Members of Co-operative Societies.—Sections 69, 70.)

(2) No transfer or charge of his share or interest by a member of a society registered with unlimited liability shall be valid unless—

(a) he has held such share or interest (save in the case of transfers under any of the provisions of sections 69, 70, 71, 73 or 74) for not less than one year; and

(b) the transferee or mortgagee is either a member of such society or a person whose application for membership has been accepted or another co-operative society.

69. If the by-laws of a co-operative society so permit, any member of the society may, in accordance with the rules, nominate a person in whose favour the society shall dispose of the share or interest of such member on his death. Nomination of transferee.

70. (1) When any member of a co-operative society dies, his share and interest in the society shall, subject to the provisions of sections 50 and 68 and to the further provisions of this section, be transferred— Disposal of deceased member's share or interest.

(a) to the person, if any, nominated in accordance with the provisions of section 69; or

(b) if there be no such nominee or, if the existence and residence of such nominee cannot be ascertained by the managing committee, or if for any other cause such transfer cannot be made without unreasonable delay, to the person who (subject to the production by him of probate, letters of administration or succession certificate) appears to the managing committee to be entitled in accordance with the rules to possession of such share or interest as part of the estate of the deceased member; or

(c) on the application of the person referred to in clause (b) within three months of the death of the deceased member, to any person specified in the application.

(2) If the share or interest of the deceased cannot be legally transferred in accordance with the provisions of sub-section (1), or if the person to whom the share or interest is payable under that sub-section within one year of the death of the deceased member claims payment of the value of such share or interest, or if the society in

(Chapter VII.—Privileges, Liabilities and Obligations of Members of Co-operative Societies.—Sections 71, 72.)

accordance with the rules and by-laws decides to proceed according to this sub-section—

- (a) the share shall be transferred to some other person qualified in accordance with the provisions of section 68 to be the transferee of the share, on receipt from such person of the value thereof; and
- (b) the value of the share or interest of the deceased member determined in accordance with the rules shall be paid to the person nominated in accordance with the provisions of section 69 or to the person appearing to be entitled to possession of such share or interest as aforesaid, after deducting the amount of any sum payable under this Act to the society from the estate of the deceased member.

Disposal of share or interest of expelled, resigned or insane member.

71. When a member of a co-operative society is expelled or resigns in accordance with the rules or the by-laws, or when a member becomes insane—

- (a) his share or interest shall be transferred to another person qualified to be the transferee in accordance with the provisions of section 68, and the value thereof determined in accordance with the rules shall be paid to such member or, if he is insane, to any person appointed to manage his properties under ¹[the Lunacy Act], 1912; or
- (b) in the case of a society, with unlimited liability, if the by-laws so provide, the value of his share or interest determined in accordance with the rules shall be paid to him or, if he is insane, to any person appointed to manage his properties under ¹[the Lunacy Act], 1912.

IV
1912

IV
1912

Restriction on transfer of possession of and interest in land held under a co-operative society.

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

- (1) a member of a co-operative society, the object of which is the reclamation and colonization of land or the acquisition of land and the leasing thereof to its members, shall not be entitled to transfer his possession of or interest in any land held by him under the society, except to the society or, with the previous approval of the society given in accordance with its bye-laws, to a member thereof;

¹These words were substituted for the words "the Indian Lunacy Act" by E.P. Ord. XXVIII of 1960, First Schedule.

(Chapter VII.—Privileges, Liabilities and Obligations of Members of Co-operative Societies.—Sections 73, 74.)

- (2) when the membership of a member of a co-operative society specified in clause (1) terminates by reason of his death, expulsion, resignation or insanity or any other cause, his possession of and interest in any land held by him under the society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 69, if such heir, executor, administrator or person is willing to become a member of the society and is eligible for membership in accordance with the bye-laws of the society ;
- (3) if the heir, executor, administrator or person referred to in clause (2) does not become a member of the co-operative society, the possession of an interest in the land of the deceased, expelled, resigned or insane member shall vest in the society, which shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to the value of the land as determined in accordance with the rules ; and
- (4) no land held under a co-operative society specified in clause (1) by a member thereof, or vested under clause (2) in the heir, executor or administrator of such member or in any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof.

73. When an order is passed for the winding up of a co-operative society which is a member of a co-operative society with limited liability, the share or interest of the society being wound up shall, subject to the provisions of section 68, be transferred to another person or co-operative society upon receipt from such person or society of the value, determined in accordance with the rules, of such share or interest ; and upon the application of the liquidator the value thereof thus received shall be paid to him.

Disposal of share or interest of a member of a wound up co-operative society.

74. All sums calculated in accordance with the rules to be due from a co-operative society to a member, other than payments in respect of the share or interest of such member to the society, shall, subject to the provisions of section 50, be paid—

Disposal of moneys due to a deceased, expelled, resigned or insane member.

- (a) in the case of a deceased member, to the person to whom the share and interest are transferred or their value is paid in accordance with the provisions of section 70 ;

(Chapter VII—Privileges, Liabilities and Obligations of Members of Co-operative Societies, Chapter VIII.—Audit, Inspection and Inquiry,—Sections 75—78.)

(b) in the case of a member who has been expelled or has resigned from a society, to him ; and

(c) in the case of a member who has become insane, to any person appointed to manage his properties under ^{iv of} [the Lunacy Act], 1912.

Bar to certain claims.

75. All payments and transfers made by a co-operative society in accordance with the provisions of sections 70 to 74 inclusive shall be valid and effectual against any demand made upon the society by any other person.

CHAPTER VIII.

Audit, Inspection and Inquiry.

Registrar to be responsible for audit.

76. (1) The accounts of every co-operative society shall, at least once in each year and by such date as may be prescribed, be audited by the Registrar or by an audit officer authorised by him in this behalf by general or special order in writing.

(2) In respect of every audit of its accounts of a co-operative society shall, in the manner prescribed, pay such audit fee as may be prescribed.

Power to the Registrar to have the accounts written up.

77. If at the time of audit the accounts of a co-operative society are not complete, the Registrar or, with his approval, the audit officer may cause the accounts to be written up at the expense of the society.

Nature of audit.

78. (1) The audit under section 76 shall include—

- (a) a verification of the cash balances and securities ;
- (b) a verification of the balance at the credit of the depositors and creditors and of the amounts due from the debtors of the society ;
- (c) an examination of overdue debts, if any ;
- (d) a valuation of the assets and liabilities of the society ;
- (e) an examination of the transactions, including the monetary transactions of the society within such limits as may be prescribed ;
- (f) an examination of the statement of accounts to be prepared by the managing committee in such form as may be prescribed ;

¹These words were substituted for the words "the Indian Lunacy Act" by E.P. Ord. XXIII of 1960, First Schedule.

- (g) a certification of the realised profits ; and
- (h) any other matter that may be prescribed.

(2) The statement of accounts thus audited, together with the modifications, if any, made therein by the Registrar, shall be final and binding on the co-operative society.

79. The audit officer shall, by such date as may be prescribed, submit to the co-operative society and to the Registrar, together with the statement of accounts audited, an audit report including a statement of—

Audit officer's report.

- (a) every transaction which appears to him to be contrary to law or to the rules or by-laws ;
- (b) every sum which ought to have been but has not been brought into account ;
- (c) the amount of any deficiency or loss which appears to have resulted from any negligence or misconduct or to require further investigation ;
- (d) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person ;
- (e) any of the assets which appears to him to be bad or doubtful ; and
- (f) any other matter prescribed.

80. A co-operative society shall be afforded by the Registrar an opportunity of explaining any defects or irregularities pointed out by the audit officer, and thereafter the society shall, within such time and in such manner as the Registrar may direct, remedy such defects and irregularities and report to the Registrar the action taken by it thereon.

Rectification of defects.

81. (1) The Provincial Government may constitute an authority to appoint and control in such manner as may be prescribed, the staff required for the supervision of co-operative societies, other than such staff as may be appointed by the Provincial Government for the purposes of such supervision, and such authority shall be composed of such number of persons and shall perform such other functions as may be prescribed :

Constitution of an authority to supervise working of co-operative societies.

Provided that, of the persons composing such authority, three-fourths shall be elected by co-operative societies in such manner as may be prescribed, and one-fourth shall be nominated by the Registrar in such manner as may be prescribed.

(Chapter VIII—Audit, Inspection and Inquiry.—
Sections 82—84.)

(2) A co-operative society shall be liable to pay, to an authority constituted under sub-section (1), such fee, in such manner, as may be prescribed.

Inspection by Registrar or financing bank. 82. (1) Every co-operative society shall be liable at any time to inspection—

- (a) by the Registrar or any person authorised by him in this behalf by general or special order; and
- (b) by the financing bank, if any, of which it is a member.

(2) An inspection under this section by a financing bank shall be made by an officer of the bank or by a member of its paid staff certified by the Registrar in accordance with the rules as competent to conduct such an inspection.

(3) The result of an inspection under this section shall be communicated to the society and to the financing bank, if any, of which it is a member and, when the inspection is made by a financing bank, to the Registrar if so required by him.

Inspection of books of an indebted co-operative society. 83. (1) Subject to the provisions of sub-section (2), on the application of a creditor of a co-operative society, an inspection shall be made of the books of the society by the Registrar or by a person authorised by him in this behalf by general or special order in writing.

(2) No such inspection shall be made unless—

- (a) the Registrar, after giving the society an opportunity of being heard, is satisfied that the alleged debt is a sum then due, and that the creditor has demanded payment thereof and has not received satisfaction within a reasonable time; and
- (b) the creditor deposits with the Registrar such sum as security for the costs of the inspection as the Registrar may direct.

(3) The Registrar shall communicate the result of any inspection under this section to the creditor, to the society and to the financing bank, if any, of which the society is a member.

Inquiry by Registrar.

84. (1) The Registrar may, at any time, of his own motion or at the request of the District Magistrate, hold, by himself or by a person authorised by him by order in writing, an inquiry into the constitution, working and financial condition of a co-operative society.

(2) Such an inquiry shall be held on the application of—

- (a) the financing bank, if any, of which the society is a member;

of 1940.]

(Chapter VIII.—Audit, Inspection and Inquiry.—Chapter IX.—Settlement of Disputes.—Sections 85, 86.)

- (b) a majority of the members of the managing committee of the society ;
- (c) one-third of the members of the society, each of whom has been a member of the society for not less than twelve months immediately preceding the date of the application and shall have deposited such security for costs, if any, as the Registrar may direct;
- (d) creditors representing not less than one-half of the borrowed capital of the society, who shall have deposited such security for costs, if any, as the Registrar may direct;

Provided that, in the case of any society having more than two thousand five hundred members, an application under clause (c) may be presented by delegates elected in the prescribed manner.

(3) The Registrar shall communicate the result of any inquiry under this section to the society, to the financing bank, if any, of which the society is a member, and to the District Magistrate or the creditors, as the case may be, who applied for the inquiry.

85. (1) The Registrar may, after giving the parties an opportunity of being heard and by an order in writing stating the reasons therefor, apportion the costs of an inspection made under section 83 or of an inquiry held under section 84 or such portion of the costs as he thinks fit, between the co-operative society, the members thereof or the financing bank or the creditor or creditors applying for such inspection or inquiry, as the case may be, and the officers, former officers, members and past members of the society.

Costs of inspection or inquiry.

(2) No expenditure from the funds of any co-operative society shall be incurred for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order under sub-section (1).

CHAPTER IX.

Settlement of Disputes.

86. Any dispute touching the business of a co-operative society (other than a dispute regarding disciplinary action taken by a society or its managing committee against a paid servant of the society) or of the liquidator of a society shall be referred to the Registrar if the parties thereto are among the following, namely :—

Disputes to be referred to Registrar.

- (a) the society, its managing committee, any past or present officer, agent or servant or the liquidator of the society; or

(Chapter IX.—Settlement of Disputes.—Chapter X.—Winding up and Dissolution of Co-operative Societies.—Sections 87—89.)

- (b) a member, past member or person claiming through a member, past member or deceased member of the society; or
- (c) a surety of a member, past member or deceased member of the society, whether such surety is or is not a member of the society; or
- (d) any other co-operative society or the liquidator of such society.

Settlement
of disputes.

87. (1) On receipt of a reference under section 86 the Registrar shall, subject to the rules—

- (a) decide the dispute himself; or
- (b) transfer it for disposal to any person authorised by the Provincial Government to exercise the powers of the Registrar in this behalf; or
- (c) refer it for disposal to one or more arbitrators to be appointed by the Registrar.

(2) Subject to the rules, the Registrar may withdraw any reference transferred or referred under sub-section (1) and may deal with it himself in the manner provided in such rules.

Force and
effect of
certain
awards.

88. Where a dispute involves property pledged as collateral security, the person deciding the dispute may issue an award, which shall have the same force and effect as a final mortgage decree of a Civil Court having jurisdiction to make such a decree.

CHAPTER X.

Winding up and Dissolution of Co-operative Societies.

Order for
the wind-
ing up of
a co-ope-
rative
society.

89. (1) The Registrar may, and if the rules in any case so prescribe shall, by an order in writing, direct that a co-operative society shall be wound up if—

- (a) after an inspection has been made under section 82 or section 83 or an enquiry has been held under section 84; or
- (b) on an application made upon a resolution carried by three-fourths of the members of the society present at a special general meeting called for the purpose; or
- (c) on his own motion in the case of a society which—
 - (i) has not commenced working; or
 - (ii) has ceased working; or

of 1940.

(Chapter X.—Winding up and Dissolution of Co-operative Societies.—Sections 90, 91.)

(iii) has share capital or members' deposits not exceeding five hundred rupees; or

(iv) has ceased to comply with any condition as to registration in this Act or in the rules or by-laws,

he is of the opinion that the society ought to be wound up.

(2) A copy of such order shall be communicated, in the prescribed manner, to the society and to the financing bank, if any, of which the society is a member.

(3) The order shall take effect—

(a) where no appeal is preferred under section 134, on the expiry of the time allowed for preferring an appeal; or

(b) where an appeal is preferred, upon rejection of the appeal by the appellate authority.

90. When an order is passed under section 89 for the winding up of a co-operative society, the Registrar may, in accordance with the rules, appoint a person to be liquidator of the society and may remove such person and appoint another in his place.

Appointment of a liquidator.

91. (1) Notwithstanding anything contained in section 89 relating to the date on which an order for winding up a co-operative society shall take effect, a liquidator appointed under section 90 shall have power from the date of his appointment to take immediate possession of all assets, properties, effects and actionable claims of the society or to which the society is entitled and of all books, records and other documents pertaining to the business of the society.

Powers of a liquidator.

(2) From the date on which the order directing the winding up of the society takes effect the liquidator shall, subject to the rules and under the general direction and control of the Registrar, have power, so far as is necessary for the winding up of the society, on behalf of the society to carry on the business thereof and to do all acts and execute all documents necessary to such winding up, and in particular shall exercise such of the following powers as the Registrar may from time to time direct, namely,—

(a) to institute and defend suits and other legal proceedings;

(b) to make any compromise or arrangement with any person between whom and the society there exists any dispute and to refer any such dispute to arbitration;

(Chapter X.—*Winding up and Dissolution of Co-operative Societies.—Sections 92, 93.*)

- (c) to determine the debts due to the society by a member, past member or the estate, nominees, heirs or legal representatives of a deceased member;
- (d) to calculate the costs of liquidation and to determine by what persons and in what proportions they are to be borne;
- (e) to determine from time to time the contributions, including the items mentioned in clauses (c) and (d), to be made to the assets of the society by the members, past members or estates, nominees, heirs and legal representatives of deceased members or by the past or present officers of the society;
- (f) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;
- (g) to pay claims against the society (including interest up to the date of the order for the winding up thereof) according to their priority, in full or rateably as the assets of the society permit;
- (h) to give such directions as appear to him to be necessary in regard to the realisation, collection and distribution of the assets of the society; and
- (i) after consulting the members of the society, to dispose of the surplus, if any, remaining after paying the claims against the society.

Priority of contributions assessed by liquidator.

92. Notwithstanding anything contained in [the Insolvency (Capital of the Federation and Dacca) Act], and the Provincial Insolvency Act, 1920, the contribution assessed by a liquidator shall rank next to debts due to the Crown or to any local authority in order of priority in insolvency proceeding.

Liquidator to deposit the books and submit a final report.

93. When the affairs of a co-operative society have been wound up, the liquidator shall deposit the records of the society in the prescribed manner and shall make a report to the Registrar.

¹These words were substituted for the words "the Presidency towns Insolvency Act, 1909" by E. P. Ord. XXVIII of 1960, First Schedule.

of 1940.]

(Chapter X.—Winding up and Dissolution of Co-operative Societies.—Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Sections 94—95.)

94. (1) The Registrar may cancel an order for the winding up of a co-operative society in any case where, in his opinion, the society should continue to exist.

Power of Registrar to cancel order of winding up or of registration of a co-operative society.

(2) In any other case the Registrar shall, after considering the report of the liquidator, if any, order the registration of the society to be cancelled.

CHAPTER XI.

Special Provisions for Co-operative Land Mortgage Banks.

95. (1) When a mortgage is executed in favour of a co-operative land mortgage bank for payment of a prior debt or part thereof of the mortgagor, the bank shall, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by issuing notice in writing in the prescribed manner require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank within such period as may be specified in the notice.

Right of co-operative land mortgage bank to pay prior debts of mortgagor.

(2) The person on whom such notice is served shall be bound to receive payment of the amount offered by the bank; but where there is a disagreement between the mortgagor and such person as regards the amount of the debt, or where the bank tenders less than the agreed amount of the debt, the receipt of the sum offered by the bank shall not prejudice the right, if any, of such person to recover the balance claimed by him.

(3) If any person fails to accept such notice or to receive such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiry of the period specified in the notice.

96. Notwithstanding anything contained in any other law for the time being in force—

(1) the mortgagor of property mortgaged to a co-operative land mortgage bank shall not be entitled, after the execution of the mortgage and without the concurrence of the bank,—

Restriction on mortgagor's transfer of or charge on equity of redemption.

(a) to transfer or mortgage his equity of redemption, or

(b) to create a charge upon such property for a period exceeding five years;

the co-operative land mortgage bank shall not be entitled to give its concurrence under clause (1) without the previous sanction of the central co-operative land mortgage bank or the financing bank to which any sum is payable by it; and

[Ben. Act XXI
Land

(Chapter XI.—Special Provisions for Co-operative
Mortgage Banks.—Sections 97—100.)

- (3) the central co-operative land mortgage bank or the financing bank shall, if it accords its sanction under clause (2), send an intimation thereof to the Trustee, if any, appointed under section 34.

Mortgage not to be questioned on insolvency of mortgagor.

97. Notwithstanding anything contained in ¹[the Insolvency (Capital of the Federation and Dacca) Act], or ²[the Provincial Insolvency Act, 1920], a mortgage executed in favour of a co-operative land mortgage bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the bank a preference over the other creditors of the mortgagor.

Priority of mortgage over claims arising under Act XIX of 1883.

98. A mortgage executed in favour of a co-operative land mortgage bank after the commencement of this Act shall have priority over any claim of the Provincial Government arising from a loan under the Land Improvement Loans Act, 1883, granted after the execution of the mortgage. ^{XIX of 1883}

Power to distrain.

99. (1) If any sum due as an instalment or part of an instalment payable under a mortgage in favour of a co-operative land mortgage bank has remained unpaid for more than one month from the date on which it fell due, the bank may, in addition to any other remedy available to it, apply to the Registrar for the recovery of such sum by distraint and sale of not more than half the produce of the mortgage land, including the standing crops thereon.

(2) Upon receipt of such application, and notwithstanding anything contained in the Transfer of Property Act, 1882, the Registrar may, subject to the provisions of this Act and the rules, take such action as is necessary to distrain and sell such produce. ^{IV of 1882}

(3) No distraint shall be made under this section after the expiry of twelve months from the date on which the instalment fell due.

Distribution of proceeds of sale or distraint.

100. The proceeds of any distraint and sale under section 99 shall be applied as follows :—

First, there shall be paid to the co-operative land mortgage bank at the prescribed rate—

- (a) the costs of the sale; and
- (b) the other expenses incurred on account of the distraint;

¹These words were substituted for the words "the Presidency towns Insolvency Act, 1909" by E. P. Ord. XXVIII of 1960, First Schedule.

(Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Sections 101—104.)

Secondly, there shall be paid to the bank the amount for which the distraint was made and there shall be given to the person whose property has been sold a receipt for the amount so paid; and

Thirdly, the residue, if any, thereafter remaining shall be delivered to the person whose property has been sold.

101. Notwithstanding anything contained in any other law for the time being in force, where a power of sale without the intervention of the Court is expressly conferred on a co-operative land mortgage bank by a mortgage deed in favour of the bank, if any instalment under such mortgage is not paid in full on the date on which it falls due, the managing committee of the bank shall, in addition to any other remedy available to it, have the power, subject to the provisions of this Act and the rules, to bring the mortgaged property to sale without the intervention of the Court.

Power to bring mortgaged property to sale without the intervention of the Court.

102. The Registrar may, subject to the rules, appoint a Sale Officer for the purpose of conducting any sale under the provisions of this Chapter.

Appointment of Sale Officer.

103. A co-operative land mortgage bank in the exercise of the powers conferred by section 101 shall, in the prescribed manner and in the form of a written demand for the payment of the amount due to the bank, issue a notice upon—

Notice requiring payment from persons interested.

- (a) the mortgagor;
- (b) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the said property and who has previously notified the bank in writing of such interest or charge;
- (c) any surety for the payment of the mortgage debt or any part thereof; and
- (d) 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.

104. Upon the expiry of three months from the date of service of a notice under section 103, if the sum due under the mortgage has not been paid, the bank may, after considering any objection made within that period by any person entitled to such notice, apply to the Sale Officer appointed under section 102 to sell the mortgaged property or any part thereof and such officer shall, in the prescribed manner, proceed to sell such property by public auction and report the result thereof to the bank.

Application for sale and method of sale.

(Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Sections 105—107.)

Application to set aside a sale on deposit.

105. When property mortgaged to a co-operative land mortgage bank has been sold under the provisions of this Chapter, the mortgagor or any person entitled to a notice under section 103 may within the prescribed period apply to the managing committee of the bank to have the sale set aside upon his depositing with the bank—

- (a) for payment to the bank, the amount specified in the proclamation of sale together with the subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale; and
- (b) for payment to the purchaser as compensation, a sum equal to five *per centum* of the purchase money.

Setting aside and confirmation of sales.

106. (1) After the expiry of the period prescribed for making an application to have the sale set aside, the bank shall, in the prescribed manner, submit to the Registrar a report setting forth the proceedings of the Sale Officer, the result of the sale and details of any application made under section 105.

(2) Upon receipt of such report the Registrar shall—

- (a) if an application has been made under section 105 and if the amounts specified in that section have been deposited by the applicant, make an order setting aside the sale and requiring the bank to pay to the purchaser the sum deposited under clause (b) of section 105; and
- (b) if no application has been made under section 105 or an application has been made but the amount specified in that section has not been deposited by the applicant, or an application has been disallowed by the bank, make an order confirming the sale.

(3) Where an order confirming a sale is made under subsection (2), the sale shall thereupon become absolute.

Distribution of sale-proceeds and bar to certain claims.

107. (1) The Registrar shall, in making a sale absolute by an order under section 106, direct that the sale-proceeds shall be applied as follows :—

First, there shall be paid to the co-operative land mortgage bank, at the prescribed rate, all costs, charges and expenses properly incurred by the bank or the Sale Officer incidental to the sale or any attempted sale;

Secondly, there shall be paid to the bank all interest due on account of the mortgage in consequence whereof the mortgaged property was sold;

of 1940].

(Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Sections 108, 109.)

Thirdly, there shall be paid to the bank all sums due as principal on account of the mortgage; and

Fourthly, the residue, if any, thereafter remaining shall be paid to the mortgagor.

(2) All payments of such residue made in accordance with sub-section (1) shall be valid and effectual against any demand relating thereto made upon the bank by the mortgagor or by any other person.

108. (1) Where a sale of mortgaged property under this Chapter has become absolute, the Registrar shall grant to the purchaser a certificate in the prescribed form specifying the property sold and the name of the person who, at the time of the sale, is declared to be the purchaser, and such certificate shall bear the date of the day on which the sale becomes absolute.

Certificate to be issued to purchaser and to be entered by the registering officer.

XVI of 1908.

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

VIII of 1885.

(3) The purchaser of any mortgaged property sold under this Chapter shall supply to the Registrar notices in the prescribed form for service on the landlord of such property together with such fee as may be prescribed for the service of such notices and the landlord's fee, if any, required under the Bengal Tenancy Act, 1885; and the Registrar shall thereupon, in the prescribed manner, cause such notices to be served on, and such landlord's fee to be transmitted to, the landlord named in such notices.

109. Where a certificate has been issued under section 108, the Court shall, on the application of the purchaser, order delivery of possession to be made to him in the prescribed manner.

Delivery of property to purchaser.

Explanation.—In this section "Court" means the Civil Court which would have jurisdiction to entertain a suit to enforce the mortgage and within the limits of whose jurisdiction the property sold is situated.

¹These words were substituted for the words "the Indian Registration Act" by E. P. Ord. XXVIII of 1960, First Schedule.

(Chapter XI.—Special Provisions for Co-operative Mortgage Banks.—Sections 110—114.) Land

Right of co-operative land mortgage bank or central co-operative land mortgage bank to purchase at a sale under this Chapter.

Title of purchaser not to be questioned.

Power to appoint a receiver.

Expenses, remuneration and duties of a receiver.

Powers of co-operative land mortgage bank if the mortgaged property is destroyed or the security is rendered insufficient.

110. It shall be competent to a co-operative land mortgage bank or central co-operative land mortgage bank to purchase the mortgaged property sold under this Chapter, but the property so purchased shall be disposed of by such bank by sale within the period prescribed or, where a Trustee has been appointed, within such period as he may specify in accordance with the rules.

111. When a sale has been made in exercise of a power to sell under section 101 and has been confirmed under clause (b) of sub-section (2) of section 106, the title of the purchaser shall not be questioned in any Court by the mortgagor or his successor-in-interest.

112. (1) In circumstances in which the power of sale under section 101 might be exercised, the Registrar may, subject to the provisions of sub-section (2), and in accordance with the rules—

- (a) on the application of a co-operative land mortgage bank, appoint a receiver of the produce and income of the mortgaged property;
- (b) on the application of the mortgagor for due cause shown, remove a receiver so appointed; and
- (c) fill up a vacancy in the office of receiver.

(2) The Registrar shall not appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a Court.

113. (1) A receiver appointed under section 112 shall be entitled, in accordance with the rules, to receive such expenses of management and remuneration, if any, as may be determined by the Registrar in consultation with the co-operative land mortgage bank.

(2) The provisions of sub-section (8) of section 69A of the Transfer of Property Act, 1882, shall apply to a receiver appointed under section 112. IV of 1882

114. Where any property mortgaged to a co-operative land mortgage bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, after reasonable opportunity given by the bank to provide such further security as will render the whole security sufficient to repay such portion of the loan as may be determined by the bank, has failed so to do, the whole of the loan shall be deemed to fall due at once and the bank shall, subject to the rules, be entitled to take action against the mortgagor for the recovery thereof under this Chapter.

of 1940.]

(Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Sections 115—118.)

Explanation.—A security shall be deemed to be insufficient within the meaning of this section if the value of the mortgaged property does not exceed the amount for the time being due on the mortgage by such proportion as may be specified in the rules or by-laws.

115. (1) A Trustee and, in the case of a member society, a central co-operative land mortgage bank may, in accordance with the rules, direct a co-operative land mortgage bank to take action against a defaulter under section 99, section 101 or section 114 and, if the bank neglects or fails to do so, may take such action.

Power of the Trustee and a central co-operative land mortgage bank to direct or take certain action.

(2) Where such action is taken by a Trustee or a central co-operative land mortgage bank, the provisions of this Act and of any rules or by-laws shall apply in respect thereto as if all references to the co-operative land mortgage bank were references to the Trustee or the central co-operative land mortgage bank, as the case may be.

116. At any sale of movable or immovable property held under the provisions of this Chapter no officer of a co-operative land mortgage bank or central co-operative land mortgage bank (except on behalf of the bank of which he is an officer), and no Sale Officer or other person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

Officers of co-operative land mortgage and central co-operative land mortgage banks and Sale Officers not to bid at sales.

117. Notwithstanding anything contained in Chapter XIV of the Bengal Tenancy Act, 1885, relating to the sale of tenures and holdings in execution of decrees for arrears of rent, no such sale held under the provisions of that Chapter shall affect the title or interest of any co-operative land mortgage bank which has, in respect of such tenure or holding, a registered and notified encumbrance within the meaning of clause (b) of section 161 of the said Act, unless a concise statement of the order of attachment and proclamation of sale has, in the prescribed manner and at the time of the issue of such proclamation, been sent by the Court by registered post to such co-operative land mortgage bank.

Notice of sale under Chapter XIV of Act VIII of 1885.

118. Notwithstanding anything contained in the Bengal Patni Taluks Regulation, 1819 (hereafter in this section referred to as the said Regulation)—

(1) when a mortgage is executed in favour of a co-operative land mortgage bank in respect of any *patni taluk* to which the said Regulation applies or any tenure or holding comprised within such

Notice of sale, and deposit for protection from sale, under Bengal Regulation VIII of 1819.

VIII of 1885.

Ben. Reg. VIII of 1819.

(Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Section 119.)

patni taluk, the co-operative land mortgage bank shall—

- (a) in such manner as may be prescribed, notify the Zemindar of the execution of such mortgage,
 - (b) for the purpose of receiving notice of the sale of such *patni taluk* or tenure as the case may be, pay to the Zemindar such fee in such manner as may be prescribed, and
 - (c) on compliance with the provisions of sub-clauses (a) and (b), be deemed to be a notified mortgagee in respect of such *patni taluk* or tenure;
- (2) before the sale is held of any such *patni taluk* or tenure under the said Regulation, the Zemindar shall, by registered post, send a notice thereof to every co-operative land mortgage bank which is, in respect of such *patni taluk* or tenure, a notified mortgagee within the meaning of sub-clause (c) of clause (1); and
- (3) any co-operative land mortgage bank which is a notified mortgagee within the meaning of sub-clause (c) of clause (1) shall be entitled to stay such sale by depositing with the Collector the balance of the arrears of rent due in respect of such *patni taluk* or tenure.

Notice of sale, and deposit for protection from sale under Act XI of 1859 or Act VII of 1868.

119. Notwithstanding anything contained in the Bengal Land-revenue Sales Act, 1859, or the Bengal Land-revenue Sales Act, 1868 (hereafter in this section referred to respectively as the said Act of 1859 and the said Act of 1868)—

XI of 1859, VII of 1868.

- (1) when a mortgage is executed in favour of a co-operative land mortgage bank in respect of any revenue-paying estate to which the said Act of 1859 applies or any tenure or holding comprised within such estate, or any revenue-paying tenure to which the said Act of 1868 applies or any tenure or holding comprised within such tenure, the co-operative land mortgage bank shall—
 - (a) in such manner as may be prescribed, notify the Collector of the execution of such mortgage,
 - (b) for the purpose of receiving notice of the sale of such estate or tenure as the case may be, pay to the Collector such fee in such manner as may be prescribed, and
 - (c) on compliance with the provisions of sub-clauses (a) and (b), be deemed to be a notified mortgagee in respect of such estate or tenure as the case may be;

of 1940.]

(Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Sections 120, 121.)

- (2) before the sale is held of any such estate under the said Act of 1859, or of any such tenure under the said Act of 1868, the Collector shall, by registered post, send a notice thereof to every co-operative land mortgage bank which is, in respect of such estate or tenure as the case may be, a notified mortgagee within the meaning of sub-clause (c) of clause (1); and
- (3) any co-operative land mortgage bank which is a notified mortgagee within the meaning of sub-clause (c) of clause (1) shall be entitled to stay such sale by depositing with the Collector the balance of the arrears of land-revenue due in respect of such estate or tenure as the case may be.

120. (1) Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary for a Trustee or for any officer of a co-operative land mortgage bank or central co-operative land mortgage bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

Exemption from personal attendance for registration of certain instruments.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to the Trustee or to such officer for any information respecting the same and on being satisfied of the execution thereof shall register the instrument.

121. Notwithstanding any assignment or transfer of any mortgage by a co-operative land mortgage bank to a central co-operative land mortgage bank—

- (a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Registrar or a Trustee in accordance with the rules and communicated to the mortgagor, be payable to the co-operative land mortgage bank and such payment shall be as valid as if the mortgage had not been so assigned or transferred; and
- (b) the co-operative land mortgage bank shall, in the absence of any such direction communicated to it, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

Power of co-operative land mortgage bank to receive moneys, etc., notwithstanding assignment or transfer of mortgage deeds to a central co-operative land mortgage bank.

¹These words were substituted for the words "the Indian Registration Act" by E. P. Ord. XXVIII of 1960, First Schedule.

(Chapter XI.—Special Provisions for Co-operative Land Mortgage Banks.—Chapter XII.—Enforcement of Obligations and Recovery of Sums due.—Sections 122—125.)

Mortgages executed by members of Hindu joint families.

122. (1) Where a mortgage executed in favour of a co-operative land mortgage bank, whether before or after the commencement of this Act, is called in question on the ground that it was 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 mortgage in question.

(2) For the purpose of this section the following shall be regarded as purposes binding on the members of a joint Hindu family—

- (a) the improvement of agricultural land or of the methods of cultivation, and
- (b) the purchase of land.

CHAPTER XII

Enforcement of Obligations and Recovery of Sums due.

Access to documents, etc.

123. The Registrar and, subject to any restrictions prescribed, an audit officer, arbitrator or any person conducting an inspection or inquiry under Chapter VIII, shall at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of a co-operative society.

Power to enforce attendance of witnesses and production of documents.

124. The Registrar and, subject to any restrictions prescribed, an audit officer, arbitrator or liquidator, or any person conducting an inspection or inquiry under Chapter VIII, 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 witnesses and parties concerned and to examine them upon oath and to compel the production of any books, accounts, documents, securities, cash and other properties by the same means and, so far as may be, in the same manner as provided in the Code of Civil Procedure, 1908.

Power to direct conditional attachment.

125. (1) Subject to the rules, the Registrar, if it appears to him that any person or co-operative society with intent to defeat or delay the execution of any order that may be passed under Chapters IX, X, XI or XII—

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

(Chapter XII.—Enforcement of Obligations and Recovery
of Sums due.—Sections 126, 127.)

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

may, unless such security is furnished as he may require, direct the conditional attachment of the said property or such part thereof as he thinks fit.

(2) Such attachment shall have the same force and effect as if it had been made by a Civil Court and shall continue in force until withdrawn or cancelled by the Registrar.

126. Notwithstanding anything contained in Chapter IX, the Registrar or such other person as may be prescribed may, on his own motion or on the written requisition of a co-operative society or financing bank for the recovery of any loan due by a defaulting member, after due inquiry, make an award directing payment by such member of the amount found to be due.

Power to direct payment of dues.

127. (1) Where, as the result of an audit under section 76 or an inspection under section 82 or section 83, or an inquiry under section 84 or a report made in the course of the winding up of a co-operative society, it appears to the Registrar that any past or present officer, has at any time after the commencement of this Act and within a period of four years prior to the date of such audit, inspection, inquiry or report, as the case may be—

Charge and surcharge.

- (a) intentionally made or authorised any payment which is contrary to the provisions of this Act or to the rules or by-laws; or
- (b) by reason of his culpable negligence in respect of any prescribed matter involved the society in any loss or deficiency; or
- (c) failed to bring into account any sum which ought to have been brought into account; or
- (d) misappropriated or fraudulently retained any property of the society;

the Registrar may inquire into the conduct of such officer.

(2) Upon such inquiry, after giving such officer an opportunity to be heard and, in the case of a payment made contrary to the provisions of this Act or the rules or by-laws, after affording such officer an opportunity to recover the amount of such payment from the payee and credit it to the funds of the society, the Registrar may, subject to the rules, by an order in writing require such officer to pay such sum to the assets of the society by way of compensation in respect of such payment or loss or sum, or to restore such

(Chapter XII.—Enforcement of Obligations and Recovery of Sums due.—Sections 128, 129.)

property as the Registrar thinks fit, and to pay such sum as the Registrar may fix to meet the cost of the proceedings under this section.

(3) This section shall apply notwithstanding that such officer may by his act or omission have incurred criminal liability under this Act or any other law for the time being in force.

Penalty for
certain mis-
demeanours.

128. Where it appears to the Registrar, that any person has contravened the provisions of this Act, the rules or by-laws—

- (a) by sitting or voting as a member of a managing committee, or voting in the affairs of a co-operative society as a representative of another society which is a member of such society, or exercising the rights of a member of a co-operative society, when such person was not entitled so to sit or vote or exercise such rights, as the case may be, or
- (b) by employing a loan for a purpose different from that for which it was granted,

the Registrar may, subject to the rules and after affording such person an opportunity to be heard, by an order in writing direct him to pay to the assets of the society by way of penalty such sum as the Registrar thinks fit in respect of every such contravention.

Registrar's
power to en-
force perfor-
mance of
obligations.

129. Notwithstanding anything contained in this Act, where any co-operative society is required to take any action under this Act, the rules or the by-laws and such action is not taken—

- (a) within the time provided in this Act, the rules or the by-laws; or
- (b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by a notice in writing,

the Registrar may call upon any officer of the society whom, in accordance with such principles as may be prescribed, he considers to be responsible for the carrying out of his directions and, after giving such officer an opportunity to be heard, may require him to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out.

of 1940.]

(Chapter XII.—Enforcement of Obligations and Recovery of Sums due.—Chapter XIII.—Jurisdiction, Appeal and Revision.—Sections 130—132.)

130. Any sum payable to the Provincial Government or to a co-operative society or the authority constituted under section 81 in accordance with any order, decision or award under this Act shall be recoverable in the manner provided in the Third Schedule: Recovery of sums due.

Provided that, notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, any sum payable in accordance with an award made under section 126 in respect of default in the payment of a loan taken under section 51 or of any instalment of such loan, shall be recoverable—

- (a) if the salary of the member exceeds thirty rupees *per mensem*, by the attachment of such salary to the extent of the instalment in respect of which default has been made or of half the difference between such salary and thirty rupees, whichever is less, and
- (b) if the salary of the member does not exceed thirty rupees *per mensem*, by the attachment of such salary to the extent of the instalment in respect of which default has been made or of one anna in every rupee of such salary, whichever is less.

131. (1) No act of a co-operative society or managing committee or of any officer 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 constitution of the managing 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. 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 decide whether any act was done in good faith in pursuance of the business of a society.

CHAPTER XIII.

Jurisdiction, Appeal and Revision.

132. No suit, prosecution or legal proceedings whatever shall lie against the Registrar or any person subordinate to him or acting on his authority or against a Trustee in respect of anything in good faith done or purporting to be done under this Act. Indemnity.

(Chapter XIII.—Jurisdiction, Appeal and Revision.—
Sections 133—135.)Bar to juris-
diction of
Courts.

133. (1) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of—

- (a) the registration of a co-operative society or its by-laws or of an amendment of its by-laws; or
- (b) the dissolution of a managing committee and the management of the society on dissolution thereof; or
- (c) any dispute required under section 86 to be referred to the Registrar; or
- (d) any matter concerned with the winding up and dissolution of a co-operative society.

(2) While a co-operative society is being wound up no suit or other legal proceeding relating to the 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.

(3) Save as provided in this Act, no order, decision or award under this Act shall be liable to be challenged, set aside, modified, revised or declared void in any Court on any ground whatsoever except want of jurisdiction.

Appeal.

134. (1) An appeal shall lie from an order shown in column 2 of the Fourth Schedule to the authority shown in column 3 and within the period shown in column 4 thereof.

(2) Save as provided in this Act, no appeal shall lie against any order, decision or award passed in accordance with this Act, and every such order, decision or award shall be final.

Review and
revision.

135. (1) The Provincial Government may call for and examine the record of any enquiry or inspection held or made under this Act or the proceedings of the Registrar or any person subordinate to him or acting on his authority, and may pass thereon such orders as it thinks fit.

(2) The Registrar may at any time—

- (a) revise any order passed by himself; or
- (b) call for and examine the record of any enquiry or inspection held or made under this Act or the proceedings of any person subordinate to him or acting on his authority, and if it appears to him that any decision, order or award or any proceedings so called for should for any reason be modified, annulled or reversed, may pass such orders thereon as he thinks fit:

Provided that, before any order is made under clause

(a) or clause (b), the Registrar shall afford to any person, likely to be affected adversely by such order, an opportunity of being heard.

(Chapter XIV.—Offences, Penalties and Procedure.—
Sections 136—139.)

CHAPTER XIV

Offences, Penalties and Procedure.

136. Any person mentioned in column 3 of the Fifth Schedule who is guilty of an offence shown in column 2 thereof shall, notwithstanding anything contained in this Act or any other law for the time being in force, be liable on conviction to the penalty shown in column 4 thereof.

Offences and penalties.

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

Cognisance of offences.

Act V of
1898.

(2) For the purposes of the Code of Criminal Procedure, 1898, every offence under this Act shall be deemed to be non-cognisable.

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

138. Any register of members or shares kept by a co-operative society in the prescribed manner shall be *prima facie* evidence of any of the following particulars entered therein—

Presumption raised by entry in register of members, etc.

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

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

Proofs of entries in societies' books.

(2) No officer or liquidator of a co-operative society and no officer in whose office the books of a co-operative society are deposited after the society has been wound up 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 the contents of which can be proved under sub-section (1), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless specially so directed by an order of the Court or the arbitrator.

*The words "a Presidency Magistrate or" were omitted by the E. P. Ord. XXVIII of 1960, First Schedule.

CHAPTER XV

Rules.

Power to
make rules.

140. (1) The Provincial Government may, for the whole or any part of ¹[East Pakistan], and for any co-operative society or class of co-operative societies, after previous publication, make rules to carry out the purposes of this Act.

(2) 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:—

- (i) the sums which, in addition to those referred to in clause (o) of section 2, shall be deducted from profits;
- (ii) the period which shall be a co-operative year;
- (iii) the exemption of any society or class of societies from, and the extent of application to, any society or class of societies of, any of the provisions of this Act;
- (iv) the extent and manner of delegation of powers ²[and duties] entrusted to the Registrar;
- (v) the conditions for registration of any co-operative society or class of societies;
- (vi) the forms to be used and the conditions to be complied with in the making of an application for the registration of a co-operative society and the procedure in the matter of such application;
- (vii) the procedure and conditions for the division of a co-operative society and amalgamation of co-operative societies;
- (viii) the extent to which a co-operative society may limit the number of its members;
- (ix) the matters in respect of which a co-operative society shall or may make by-laws, and the procedure and conditions for amending the by-laws;
- (x) the procedure and conditions for the exercise by the financing bank of the powers conferred by section 18;
- (xi) the procedure for calling and holding general meetings, and the powers to be exercised by such meetings;
- (xii) the circumstances in which delegates may be elected for the purposes of section 20, the manner of electing delegates for any of the purposes of this Act and the manner in which delegates so elected, shall vote;

¹These words were substituted for the word "Bengal" by E. P. Ord. XXVIII of 1960, First Schedule.

²These words were inserted by the East Bengal Laws (Amendment and Repeal) Act, 1949 (E.B. Act V of 1950), Section 2 and the First Schedule.

of 1940.]

(Chapter XV.—Rules.—Section 140.)

- (viii) the date for the closing of the annual accounts of a co-operative society;
- (iv) the method of constituting the managing committee of a co-operative society (including the appointment of persons to represent appropriate interests);
- (v) the qualifications, disqualification, term of office, suspension and removal of members of managing committees and officers of different classes of co-operative societies;
- (vi) the procedure at meetings of the managing committee and the powers to be exercised and the duties to be performed by the managing committee and officers of a society;
- (vii) the conditions of deputation of, and the powers to be exercised and duties to be performed by, a servant of the Crown deputed under section 24;
- (viii) the procedure and conditions for the suspension or supersession of the managing committee of a co-operative society and the method of appointment and qualifications of a person appointed under section 26;
- (ix) the procedure for registering the address of a co-operative society and any change of its address;
- (x) the minimum number of paid staff to be employed by different classes of co-operative societies and the qualifications thereof;
- (xi) the accounts, books and registers to be kept and the returns to be submitted by a co-operative society, the form in which and the persons by whom such accounts, books and registers shall be kept and such returns submitted, the method in which such accounts, books and registers shall be kept in custody and destroyed and the charges which may be assessed and levied for the preparation of any return not submitted in accordance with the rules;
- (xii) the documents to be kept open to inspection by a co-operative society under section 30;
- (xiii) the manner in which the balance sheet shall be published under section 31;
- (xiv) the conditions and terms under which, the manner in which and the extent to which funds may be raised by a co-operative society by means of shares, deposits, debentures or otherwise, and the manner in which provision shall be made for the maintenance of fluid resource;

(Chapter XV.—Rules.—Section 140.)

- (xxv) the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures, issued by a co-operative society;
- (xxvi) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures under section 33;
- (xxvii) the procedure and conditions for varying an instrument of trust between the Trustee and a co-operative society;
- (xxviii) the procedure whereby, and the conditions under which, guarantees or financial assistance may be given under section 33 or section 38;
- (xxix) the payments to be made and the conditions to be complied with by members applying for loans from a co-operative society, the period for which loans may be made and the amount which may be lent to an individual member;
- (xxx) the conditions in which and the extent to which loans may be made in relaxation of the provisions of sub-section (1) of section 39 and the determination by a society of the maxima and normal credits of its members;
- (xxxi) the manner in which co-operative societies may be given an opportunity of being heard under sub-section (2) of section 39;
- (xxxii) the prohibitions and restrictions subject to which co-operative societies may transact business with persons who are not members;
- (xxxiii) the procedure and conditions for change of the form of liability of a co-operative society under section 43;
- (xxxiv) in any case in which a notice or process is issued under this Act or the rules—
 - (a) the form of the notice or process;
 - (b) the period of notice to be given;
 - (c) the persons on or against whom the notice or process shall be issued; and
 - (d) the conditions to be fulfilled in order to establish proof of the service of such notice or process;
- (xxxv) the form of the written statement of claim required by section 44;
- (xxxvi) the form of application under, the form of map and statement and the manner of their publication required by, and the manner of levying water rate and embankment protection rate provided in, sections 48 and 49;

of 1940].

(Chapter XV.—Rules.—Section 140.)

- (xxxvii) the conditions in which any charge in favour of a co-operative society shall be satisfied and the extent to which and the order in which the property subject to the charge shall be used in its satisfaction;
- (xxxviii) the form of and procedure for an application under section 54 and the procedure for calling, holding and conducting a meeting under that section;
- (xxxix) the manner in which a co-operative society may invest or deposit its funds under section 55;
- (xl) the proportion which shall be annually carried under section 56 to the reserve fund from the net profits of a co-operative society, the extent to which a society may use its reserve fund in its business and the method in which the reserve fund shall be invested;
- (xli) the conditions in which, and the extent to which, the profits of a co-operative society may be distributed among its members under section 57;
- (xlii) the co-operative purposes for which a co-operative society shall under section 58 contribute a percentage of its net profits, the extent of the contribution which may be made under clause (b) of that section and the manner of making such contributions;
- (xlili) the amount or proportion of contribution which a co-operative society may make to a provident fund under section 59;
- (xliv) the conditions in which a member of a co-operative society shall be disqualified from voting under sub-section (2) of section 60;
- (xlv) the conditions to be complied with by a person applying for admission or admitted as a member of a co-operative society, the procedure for the admission, expulsion and resignation of members and the conditions for the exercise by members of the rights of membership;
- (xlvi) the manner of recalling a loan under section 63;
- (xlvii) the maximum portion of the share capital of a co-operative society which may be held by a member under section 67;
- (xlviii) the conditions for the maximum holding of a member under section 68;
- (xlix) the procedure and conditions for, and the method of, nomination by a member of a transferee under section 69;

- (i) the procedure and conditions for the substitution by a society under sub-section (1) of section 70 of another person for the nominee of a deceased member and for the decision by the society to proceed under sub-section (2) of that section, and the procedure for calculating the value of the share or interest of a member or the sums due to him for the purposes of sections 70 to 74 inclusive;
- (ii) the manner of determining the value of land for the purposes of clause (3) of section 72;
- (iii) the circumstances and manner in which a member may resign or be expelled from a co-operative society;
- (iii) the procedure by which a co-operative society shall calculate and write off bad debts;
- (liv) the date by which the annual audit shall be made and an audit report submitted, the procedure of an audit officer conducting an audit, the matters on which he shall submit a report, the form in which a statement of accounts shall be prepared for his audit, the limits within which he may examine the monetary transactions of the society, the form of his audit report and statement of accounts audited and the charges, if any, to be paid by a co-operative society for audit;
- (lv) the manner in which appointments shall be made and control exercised by, and the number of persons comprising, and the other functions to be performed by the authority constituted under section 81, the manner of election and nomination of such persons, the fee to be paid to such authority and the manner of such payment;
- (lvi) the conditions to be fulfilled and the qualifications to be possessed by a member of the paid staff of a financing bank certified by the Registrar under sub-section (2) of section 82;
- (lvii) the qualifications of and method of appointing an arbitrator, the procedure to be followed in proceedings under Chapter IX and the method of calculating charges incidental to such proceedings and of enforcing decisions therein;
- (lviii) the cases in which and the conditions under which it shall be obligatory upon the Registrar to order the winding up of a co-operative society;

of 1940.]

(Chapter XV.—Rules.—Section 140.)

- (lix) the procedure for the appointment and removal of, and for the payment of a remuneration to, a liquidator, the condition of such appointment, the conditions in which the Registrar shall exercise control of a liquidator and direct him to exercise his powers under section 91, and the procedure to be followed in proceedings under Chapter X;
- (lx) the manner in which the surplus assets of a society which has been wound up shall be disposed of and its records shall be deposited;
- (lxi) the manner of effecting distraint and the procedure for the custody, preservation and sale of the property distrained (including such as is perishable), the investigation of claims of persons other than the defaulter to any right or interest in the distrained property and the postponement of sale pending such investigation;
- (lxii) the qualifications and method of appointment of a Sale Officer under section 102 and the powers and functions which such a Sale Officer may exercise;
- (lxiii) in the case of a sale of immovable property under Chapter XI—
 - (a) the procedure for proclamation and conduct of the sale and the conditions in which an attempted sale may be abandoned;
 - (b) the method of calculating the expenses incidental to the sale or attempted sale;
 - (c) the procedure for the receipt, deposit and disposal of the proceeds of sale;
 - (d) the procedure for a resale if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time, and the penalty to be levied against a purchaser who fails so to deposit the purchase money;
 - (e) the period within which an application to set aside a sale under section 105 shall be made;
 - (f) the procedure for the payment to the purchaser of the purchase money and compensation deposited under section 105;
 - (g) the form and method of submission of a report by a co-operative land mortgage bank under sub-section (1) of section 106;

(Chapter XV.—Rules.—Section 140.)

- (h) the form of sale certificate under section 108, the form of the notices to be supplied under sub-section (3) of that section, the fee payable for the service of such notices, and the manner of serving such notices on, and of transmitting landlord's fee to, the landlord named in such notices; and
- (i) the procedure for the delivery by the Court of the property purchased to the purchaser under section 109;
- (lxiv) the time within which and the procedure according to which property purchased by a co-operative land mortgage bank at a sale of immovable property under Chapter XI shall be disposed of by the bank;
- (lxv) in respect of a receiver appointed under section 112, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and his procedure in the exercise thereof and the expenses of management and the remuneration which he may receive;
- (lxvi) the circumstances in which action may be taken by the bank against the mortgagor under section 114 and the proportion referred to in the explanation to that section;
- (lxvii) the procedure and conditions for the exercise of the powers conferred by section 115, and for the imposition of restrictions by the Trustee or the Registrar upon a co-operative land mortgage bank under section 121;
- (lxviii) the fee payable under sections 118 and 119;
- (lxix) the procedure and conditions for the exercise of the powers conferred by sections 123 and 124;
- (lxx) the procedure for the conditional attachment of property under section 125;
- (lxxi) the persons who may make awards under section 126;
- (lxxii) the procedure and principles for the conduct of an inquiry under section 127 and the matters referred to in clause (b) of sub-section (1) thereof;
- (lxxiii) the exercise of the powers conferred by section 128;
- (lxxiv) the procedure and principles for the exercise of the powers conferred by section 129;

(Chapter XV.—Rules.—First Schedule.—Enactments Repealed.
—Section 140.)

(lxxv) in the case of appeals lying to the Provincial Government, the authority to which the power of hearing appeals may be delegated;

(lxxvi) the method of certification of any document under section 139, the procedure and conditions for obtaining copies of documents and the charges to be levied for the supply of certified or uncertified copies;

(lxxvii) the procedure and conditions for inspecting documents in the office of the Registrar and the charges, if any, to be levied for such inspection;

(lxxviii) the procedure for and method of calculating any costs, charges or expenses required to be levied under this Act or the rules;

(lxxix) the procedure for and method of recovery of any sums due under this Act or the rules;

(lxxx) the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules.

(3) In making any rule under this Act the Provincial Government may direct that any person committing a breach thereof shall on conviction by a Court be punishable with fine which may extend to fifty rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues subsequent to such conviction.

FIRST SCHEDULE.

Enactments Repealed.

[Repealed by the Bengal Repealing and Amending Act, 1946
(Ben. Act XVI of 1946)]

SECOND SCHEDULE.

Powers exclusively exercisable by the Registrar.

(See section 10.)

Serial	Section.	Powers.
1	2	3
1	18 ..	To register an amendment of a by-law of a co-operative society which is a member of a financing bank, if the financing bank considers such amendment to be necessary or desirable and if the society has failed to make the amendment when called upon by the bank to do so.
2	43(1) ..	To approve a change in the form of liability of a co-operative society.
3	56(4)(c)	To approve the bank, other than a Government Savings Bank, in which the reserve fund of a co-operative society may be invested or deposited.
4	127(2) ..	To require of any person who has taken part in the organization or management of a co-operative society or any past or present officer of such society, to contribute to the assets of the society any sum by way of compensation for any payment made, loss incurred or sum not accounted for in consequence of the action of such person or officer, or to restore any property misappropriated or fraudulently retained by such person or officer, and to require such person or officer to pay any sum to meet the costs of proceedings under this section.
5	128 ..	To impose penalties for certain contraventions of the provisions of this Act, the rules or by-laws.
6	129 ..	To enforce performance of certain obligations by a co-operative society, and to require the officer of the society whom the Registrar considers to be responsible for the default to pay a certain sum to the assets of the society.
7	133(2) ..	To give leave and impose terms for the institution of a suit or other legal proceeding against a liquidator, a co-operative society or any member thereof while such society is being wound up.
8	137(3) ..	To sanction the institution of any prosecution under this Act.

of 1940.]

THIRD SCHEDULE.

Recovery of sums due.

(See Section 130.)

Serial 1	Nature of sum due. 2	Method of recovery. 3
1	Expenses incurred in writing up the accounts of a society under section 77; and sums awarded under section 129.	By the ¹ [Certificate Officer] as a public demand ² [under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913)] upon requisition by the Registrar or, in the case of section 77, with his approval, by the audit officer.
2	Costs of an inquiry or inspection apportioned under section 85; recovery of dues awarded under section 126; contributions by way of compensation awarded under section 127; and sums awarded under section 128.	By the ¹ [Certificate Officer] as a public demand ² [under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913)] upon requisition by the Registrar.
3	Sums awarded to a co-operative society by any order made under section 87 or by an award having the effect of a final mortgage decree under section 88.	By the ¹ [Certificate Officer] as a public demand ² [under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913)] upon requisition by the society; or: By any Civil Court having local jurisdiction, in the same manner as a decree of such court, upon application by the society.
4	Sums assessed by a liquidator as contributions under section 91.	By the ¹ [Certificate Officer] as a public demand ² [under the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913)] upon requisition by the Registrar or by the liquidator.
5	Sums due under any rule made under this Act.	In the manner prescribed.

¹These words were substituted for the word "Collector" by section 2(1) of the Bengal Co-operative Societies (East Bengal Amendment) Act, 1949 (East Bengal Act III of 1949).

²These words were inserted by section 2(2), *ibid*.

FOURTH SCHEDULE.

Appeals.

(See Section 134.)

Serial	Order appealable.	By whom the appeal may be preferred; and authority to which appeal lies.	Period of limitation.
1	2	3	4
1	An order refusing to register a co-operative society under section 15 or an amendment of a by-law under section 17.	By any member of the society; (a) if passed by the Registrar; to the Provincial Government; or (b) if passed by any other person; to the Registrar.	Two months from the date on which the order is communicated to the society.
2	An order refusing to register an amendment under section 18.	By the financing bank; to the Provincial Government.	Two months from the date on which the order is communicated to the financing bank.
3	[An order dissolving a managing committee or an order of disqualification under section 25.]	By any member of the managing committee; (a) if passed by the Registrar; to the Provincial Government; or (b) if passed by any other person; to the Registrar.	Two months from the date on which the order is communicated to the society.
4	An entry in or omission from the map or the statement of irrigable area prepared under section 48 or of protected area prepared under section 49.	By any person aggrieved; to the Collector.	One month from the date of publication of the statement.
5	Assessment of water rate under section 48 or of embankment protection rate under section 49.	By any person aggrieved; to the Registrar.	One month from the date of assessment.

¹The words and figures within square brackets were substituted for the words and figures "An order of disqualification under section 25 or an order under section 25 dissolving a managing Committee and appointing a person to manage the affairs of the Societies" by the Bengal Co-operative Societies (East Pakistan Amendment) Ordinance 1958 (E. P. Ord. L of 1958), section 6.

of 1940.]

FOURTH SCHEDULE.—Contd.
Appeals—Contd.
(See Section 134.)

Serial	Order appealable.	By whom the appeal may be preferred and authority to which appeal lies.	Period of limitation.
1	2	3	4
6	An order under section 85 apportioning costs.	By any person aggrieved; to the District Judge.	One month from the date on which the order was communicated to the person aggrieved.
7	Any order, decision or award of the Registrar or an arbitrator under section 87 or 88.	By any person aggrieved; (a) if passed by the Registrar; to the Provincial Government; or (b) if passed by any other person; to the Registrar.	One month from the date on which the order, decision or award was communicated to the person aggrieved.
8	An order passed under section 89 for the winding up of a society.	By any member of the society; (a) if passed by Registrar; to the Provincial Government; or (b) if passed by any other person; to the Registrar.	Two months from the date on which the order was communicated to the society.
9	Any order, decision or award of a liquidator under section 91.	By any person aggrieved; to the Registrar.	Two months from the date on which the order, decision or award was communicated to the person aggrieved.
10	An order passed under section 127 or section 129.	By any person aggrieved; to the District Judge.	Three months from the date on which the order was communicated to the person aggrieved.
11	Any order or decision declared by rules under this Act to be appealable.	By the person declared by the rules to be competent to appeal to the prescribed authority.	The period prescribed.

[Ben. Act XXI of 1940.]

FIFTH SCHEDULE.

Offences and Penalties.

(See Section 136.)

Serial 1	Offences. 2	Person liable. 3	Penalty. 4
1	Unauthorised use of the word "co-operative" in any name or title under which business is carried on in contravention of section 7.	The company, society or person carrying on business under a name or title in which the word is thus used.	Fine which may extend to fifty rupees; and in the case of a continuing offence a further fine of five rupees for each day on which the offence is continued after conviction therefor.
2	Wilful neglect or refusal by any person to do any act, make any return or furnish any information required to be done, made or furnished under this Act or the rules.	The person neglecting or refusing to do the act, make the return or furnish the information.	Fine which may extend to fifty rupees; and in the case of a continuing offence a further fine of five rupees for each day on which the offence is continued after conviction therefor.
3	Wilfully making a false return or furnishing false information required to be made or furnished under this Act or the rules.	The person wilfully making the false return or furnishing the false information.	Fine which may extend to one hundred rupees.
4	Removing or otherwise disposing of or suffering to be removed or otherwise disposed of any property on which a co-operative society holds a first charge under section 47 with intent to defraud the society or with such intent doing any other act to the prejudice of the society's first charge.	The person by whom or on whose behalf the property is removed or disposed of or the act done.	Fine which may extend to two hundred rupees.
5	Any act or omission declared by the rules to be an offence.	The person rendered liable by the rules.	The penalty provided in the rules.