

## CHAPTER X

## WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES.

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

(2) The Registrar may, of his own motion, make an order directing the winding up of a co-operative society,—

<sup>1</sup>[(a) where the number of members of the society has been reduced to less than the minimum number required for registration of the co-operative society; or]

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(b) where the co-operative society has not commenced working or has ceased to work; <sup>1</sup>[or]

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

<sup>1</sup>[(c) where the co-operative society has ceased to comply with the conditions imposed by or under this Act regarding registration and management.]

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

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

<sup>1</sup>[(4) Notwithstanding anything contained in this section, no co-operative bank shall be wound up <sup>2</sup>[or an order for winding up shall be cancelled]<sup>2</sup> except with the previous sanction in writing of the Reserve Bank.]

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

**<sup>1</sup>[72A. Winding up of a co-operative bank if so, required by the Reserve Bank.**— Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance Corporation Act, 1961 (Central Act 47 of 1961).

**72B. Reimbursement to the Deposit Insurance Corporation by the Liquidators.**— Where a co-operative bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961, is wound up or taken into liquidation and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance

Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of the Deposit Insurance Corporation Act, 1961.]<sup>1</sup>

1. Sections 72A and 72B inserted by Act 39 of 1975 w.e.f. 23.09.1975.

**73. Liquidator.-** (1) Where the Registrar has made an order under section 72 for the winding up of a co-operative society, he may appoint a Liquidator for the purpose and fix his remuneration.

(2) A Liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to such property, effects and claims.

(3) Where an appeal is preferred under section 106, an order of winding up of a co-operative society made under section 72 shall not operate thereafter until the order is confirmed in appeal:

Provided that the Liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a co-operative society is set-aside in appeal, the property, effects and actionable claims of the society shall revert in the society.

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

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

(a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office;

(b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any <sup>1</sup>[office bearers]<sup>1</sup> or former <sup>1</sup>[office bearers]<sup>1</sup>, to the assets of the society;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(c) to investigate all claims against the co-operative society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the

claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of a deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and

(j) to compromise all calls or liabilities to call and debts and liabilities capable of resulting in debts and all claims present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a co-operative society have been wound up, the Liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

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

## CHAPTER XI

### <sup>1</sup>[AGRICULTURE AND RURAL]<sup>2</sup> DEVELOPMENT BANKS<sup>1</sup>.

#### **76. Definitions.**- In this Chapter,—

(a) 'Board' means the Board of Directors of the <sup>2</sup>[State Agriculture and Rural Development Bank]<sup>2</sup>;

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[(b)XXX]<sup>1</sup>

<sup>1</sup>[(c)XXX]<sup>1</sup>

1. Omitted by Act 6 of 2010 w.e.f. 03.11.2009.

(d) 'Trustee' means the Trustee referred to in section 77,

<sup>1</sup>[76A. Application of Chapter to Agriculture and Rural Development Banks.- This Chapter shall apply to co-operative banks advancing loans, either on the security or mortgage of lands or by hypothecation of the agricultural machinery or other assets, created out of the loan for the purposes as may be notified by the Government in this behalf from time to time.]<sup>2</sup>

1. Sections 76A & 76B inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

**76B. State and other <sup>1</sup>[Agriculture and Rural Development Banks]<sup>1</sup>.**-(1) There shall be a <sup>1</sup>[State Agriculture and Rural Development Bank]<sup>1</sup> for the <sup>3</sup>[State of Karnataka]<sup>3</sup>, and as many <sup>2</sup>[Agriculture and Rural Development Banks]<sup>2</sup> as may be deemed necessary.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(2) A reference to Land Mortgage Bank in any law, or instrument, for the time being in force in the State, shall, with effect from the commencement of the <sup>1</sup>[Karnataka] Co-operative Societies (Amendment) Act, 1964, be construed as a reference to a Land Development Bank <sup>1</sup>[upto the date of commencement of the Karnataka Co-operative Societies (Amendment) Act, 1984 and thereafter as Agriculture and Rural Development Bank]<sup>1</sup> within the meaning of this Chapter.

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984. 1959:

(3) With effect from the commencement of the <sup>1</sup>[Karnataka] Co-operative Societies (Amendment) Act, 1964 and until such time as the names of the Land Mortgage Banks and societies functioning in the State at the commencement of the said Act are changed into Land Development Banks, all acts done by them or mortgages and other documents executed by them, or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Land Development Banks.]

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

<sup>1</sup>[(4) With effect from the date of commencement of the Kamataka Co-operative Societies (Amendment) Act, 1984 and until such time as the names of the Land Mortgage Banks and Land Development Banks functioning in the State at the commencement of the said Act are changed as Agriculture and Rural Development Banks, notwithstanding anything contained in sub-section (3), all acts done by them or mortgages and documents executed by them, or in their favour and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed as the case may be, by or against them as Agriculture and Rural Development Banks.]<sup>1</sup>

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

**77. Appointment of Trustee and his powers and functions.-** (1) The Registrar, or where the State Government appoints any other person in this behalf, such person, shall be the Trustee for the purpose of securing the fulfilment of the obligations of the <sup>1</sup>[State Agriculture and Rural Development Bank]<sup>1</sup> to the holders of debentures issued by the Board.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

**78. Trustee to be a corporation sole.-** The Trustee appointed under section 77 shall be a corporation sole by the name of the Trustee for the debentures and as such shall have perpetual succession and a common seal and in its corporate name shall sue and be sued.

<sup>1</sup>[**79. Issue of debentures.-** (1) With the previous sanction of the State Government and the Trustee, and subject to such terms and conditions as the State Government may impose, the <sup>2</sup>[State Agriculture and Rural Development Bank]<sup>2</sup> in 1 the discharge of its function as a <sup>3</sup>[Agriculture and Rural Development Bank]<sup>3</sup> may issue debentures of such denominations <sup>3</sup>[or take loans]<sup>3</sup>, for such period, and at such rates of interest, as it may deem expedient <sup>4</sup>[on the security of,—

1. Sections 79 inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

4. Substituted by Act 71 of 1976 w.e.f. 03.11.1976.

(a) mortgage or mortgages <sup>2</sup>[or the hypothecation of the agricultural machinery <sup>1</sup>[or on the basis of charges created on the lands of the borrowers under section 33]<sup>1</sup> or other assets created out of the loan]<sup>2</sup> already held; or

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[(aa) Charges already created under section 33 on the land owned by members or on the interest in the land held by such members as tenants;]<sup>1</sup>

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(b) mortgage or mortgages <sup>1</sup>[or the hypothecation of the agricultural machinery or other assets created out of the loan]<sup>1</sup> to be acquired; or

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[(bb) charges to be created under section 33 on the lands owned by members or on the interest in the land held by such members as tenants;]<sup>1</sup>

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(c) partly on mortgage <sup>1</sup>[or the hypothecation of the agricultural machinery or other assets created out of the loan]<sup>1</sup> held and partly to be acquired; or

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[(cc) partly on charges already created and partly on charges to be created under section 33 on the lands owned by members or on the interest in the land held by such members as tenants;]<sup>1</sup>

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(d) the guarantee of the State Government guaranteeing the full amount of principal and interest on debentures <sup>1</sup>[or loans]<sup>1</sup> until the date of complete discharge of the debentures; or

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

(e) partly on mortgages held or to be acquired and partly on the Government guarantee for the principal and interest till the complete discharge of the debentures <sup>1</sup>[or loans]<sup>1</sup>; and

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

(f) properties and other assets of the <sup>1</sup>[Agriculture and Rural Development Banks.]<sup>1</sup>

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Every debenture may contain a term fixing a period not exceeding thirty years from the date of issue during which it shall be redeemable, or reserving to the committee the right to redeem at any time in advance of the date fixed for debenture not less than three months' notice in writing.

(3) The total amount due on debentures issued <sup>1</sup>[or loans taken]<sup>1</sup> by the <sup>2</sup>[State Agriculture and Rural Development Bank]<sup>2</sup>, and outstanding at any time, shall not exceed—

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(a) where debentures are issued [or loans are taken against mortgages or charges on lands or hypothecations of agricultural machinery or other assets created out of loans] held, the aggregate of—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(i) the amounts due on the mortgages;

(ii) the value of the properties and other assets transferred or deemed to have been transferred under section 85 by the Primary [Agriculture and Rural Development Banks]<sup>1</sup> to the [State Agriculture and Rural Development Bank]<sup>1</sup> and subsisting at such time; and 1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(iii) the amounts paid under the mortgages aforesaid and the unsecured amounts remaining in the hands of the [State Agriculture and Rural Development Bank]<sup>1</sup> or the Trustee at the time;

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) where debentures are issued [or loans are taken]<sup>1</sup> otherwise than on mortgages held, the total amount as calculated under clause (a) increased by such portion of the amount obtained on the debentures as is not covered by a mortgage.]<sup>1</sup>

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

**80. Charge of debenture holders on certain properties.**— The holders of the debentures shall have a floating charge on,— (a) all such mortgages and assets as are referred to in clause (a) of sub-section (3) of section 79; (b) the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee; and (c) the other properties of the [State Agriculture and Rural Development Bank]<sup>1</sup>.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**81. Guarantee by State Government of principal of, and interest on, debentures.**— (1) The principal of, and interest on, the debentures issued under section 79 shall, in respect of such maximum amount as may be fixed by the State Government and subject to such conditions as it may think fit to impose, carry the guarantee of the State Government.

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

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

(a) by notification in the official Gazette; and

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

discontinue any guarantee given by it or restrict the maximum amount thereof or modify the conditions, subject to which it is given, with effect from a specified date, not being earlier than six months from the date of publication of the notification in the official Gazette: Provided that the withdrawal, restriction or modification of any guarantee under this sub-section, shall not in any way affect the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

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

**82. Other guarantees by State Government.**- (1) The State Government may by general or special order authorize the grant of loans to members by the <sup>1</sup>[State Agriculture and Rural Development Bank] or the <sup>1</sup>[Agriculture and Rural Development Banks] for the development of land in excess of the loans to which such members may be entitled on the basis of the value of the lands determined in accordance with the principles of valuation approved by the State Government such excess not exceeding such limits as may be specified in such order.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) In respect of loans granted in accordance with sub-section (1), the State Government may guarantee for a specified period the repayment of the loan to the extent of the excess granted to the members.

**<sup>1</sup>[82A. Powers of Land Development Banks to advance loans and to hold lands.**- Subject to the provisions of this Act and the rules made thereunder, it shall be competent for the <sup>2</sup>[Agriculture and Rural Development Banks]<sup>2</sup> to advance loans for the purposes referred to in section 76A, and to hold lands the possession of which is transferred to them under the provisions of this Chapter.

1. Sections 82A, 82B and 82C inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**82B. Mode of dealing with applications for loans.**- (1) When an application for a loan is made for any of the purposes mentioned in section 76A, a public notice shall be given of the application in such manner as may be prescribed calling upon all persons interested to present their objections to the loan, if any, in person, at a time and place fixed therein. The State Government may, from time to time, prescribe the persons by whom such public notice shall be given and the manner in which the objections shall be heard and disposed of.

(2) The prescribed officer shall consider every objection submitted under sub-section (1) and make an order in writing either upholding or overruling it:



Provided that, when the question raised by an objection is in the opinion of the officer one of such a nature that it cannot be satisfactorily decided except by a civil court, he shall postpone the proceedings on the application until the question has been so decided.

(3) A notice under sub-section (1), published in the manner prescribed, shall, for the purpose of this Act be deemed to be proper notice to all persons having or claiming interest in the land to be improved, or offered as security for the loan.

(4) Subject to such rules as may be prescribed, the '[Agriculture and Rural Development Banks]' shall consider such application after due enquiry for the purpose of making loans under this Chapter.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**82C. Order granting loan conclusive of certain matters.**- A written order by the '[Agriculture and Rural Development Bank]', or persons or committees authorized under the bye-laws of the Bank to make loans for all or any of the purposes specified in section 76A, granting, either before or after the commencement of the '[Karnataka]'<sup>2</sup> Co-operative Societies (Amendment) Act, 1964, a loan to or with the consent of a person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose specified therein, shall for the purposes of this Act be conclusive of the following matters, that is to say,—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 76A;

(b) that the person had at the date of the order a right to make such an improvement or incur expenditure for productive purpose, as the case may be; and

(c) that the improvement is one benefiting the land specified and productive purpose concerns the land offered in security, or any part thereof as may be relevant.]<sup>1</sup>

**83. Priority of mortgage over certain claims.**- '[ (1) ]<sup>1</sup> A mortgage executed in favour of a '[Agriculture and Rural Development Bank]'<sup>2</sup> shall have priority over any claim of the Government arising from a loan under 3[the Karnataka Land Improvement Loans Act, 1963 (Karnataka Act 16 of 1963) or the Karnataka Agriculturists Loan, Act, 1963 (Karnataka Act 17 of 1963)]<sup>3</sup> granted after the execution of the mortgage.

1. Renumbered by Act 39 of 1975 w.e.f. 23.09.1975.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

<sup>1</sup>[(2) Notwithstanding anything contained in the Karnataka Land Reforms Act, 1961, where a mortgage in favour of a <sup>2</sup>[Agriculture and Rural Development Bank]<sup>2</sup> is in respect of land in which a tenant purchaser or tenant has an interest, the mortgage may be against the security of such interest and the rights of the mortgagee shall not be affected by the failure of the tenant purchaser or tenant to comply with the requirements of the said Act and the sale of the land and his interest therein under the said Act shall be subject to the prior charge of the <sup>2</sup>[Agriculture and Rural Development Bank]<sup>2</sup>.]<sup>1</sup>

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**84. Right of '[Agriculture and Rural Development Bank]' or of the '[State Agriculture and Rural Development Bank]' to purchase mortgaged property.-**

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

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Nothing in any law fixing a maximum limit of agricultural holding shall apply to the acquisition of land by an <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup> or the <sup>1</sup>[State Agriculture and Rural Development Bank]<sup>1</sup> under sub-section (1).

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**85. Mortgages executed in favour of '[Agriculture and Rural Development Bank]' to stand vested in '[State Agriculture and Rural Development Bank]'.-**

The mortgages executed in favour of, and all other assets transferred to an <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup> by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup> to the <sup>1</sup>[State Agriculture and Rural Development Bank]<sup>1</sup> and shall vest in the Trustee.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>2</sup>[85A. Registration of mortgage or lease in favour of Land Development Banks.- Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary to register mortgages or leases executed in favour of the <sup>1</sup>[Agriculture and Rural Development Banks]<sup>1</sup>, provided that the <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup> concerned sends within such time and in such manner as may be prescribed, a copy of the instrument whereby immovable property is mortgaged or leased to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged or as the case may be, leased, is situate, and such

Registering Officer shall file a copy or copies as the case may be in his Book No. 1 prescribed under section 51 of the Indian Registration Act, 1908.]<sup>2</sup>

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

**86. Power of '[Agriculture and Rural Development Bank]'** to receive moneys and grant discharges.- Notwithstanding that a mortgage executed in favour of an '[Agriculture and Rural Development Bank]' has been transferred, or is deemed under the provisions of section 85 to have been transferred, to the '[State Agriculture and Rural Development Bank]',—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the '[Agriculture and Rural Development Bank]' and such payment shall be as valid as if the mortgage had not been so transferred; and

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) the '[Agriculture and Rural Development Bank]' shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the '[Agriculture and Rural Development Bank]', be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**[86A. Recovery of Loans by development banks.-** All loans granted by the '[Agriculture and Rural Development Bank]', all interests (if any) chargeable thereon, and costs (if any), incurred in making the same, shall when they become due, be recoverable by the '[Agriculture and Rural Development Bank]' concerned.]<sup>2</sup>

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

**87. Right of '[Agriculture and Rural Development Bank]'** to pay prior debts of mortgagor.- (1) Where a mortgage is executed in favour of an '[Agriculture and Rural Development Bank]' for payment of prior debts of the mortgagor, the Bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, (Central Act IV of 1882) by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

Provided that where there is a dispute as regards the amount of any such debt, the person to whom such debt is due shall be bound to receive payment of the amount offered by the <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup> towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(3) For purposes of determining the particulars of prior debts referred to in sub-section (1), any officer of the <sup>1</sup>[State Agriculture and Rural Development Bank]<sup>1</sup> or of the <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup>, authorised in this behalf by the State Government by notification in the official Gazette, may, subject to such restrictions, limitations and conditions as may be prescribed, by order in writing require any person to whom any such prior debt may be due, to furnish any information or any document relating to such debt, and thereupon such person shall furnish the information or document so required.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**<sup>1</sup>[87A. Mortgages executed by managers of joint Hindu families.-(1)** Mortgages, in respect of loans by an <sup>2</sup>[Agriculture and Rural Development Bank]<sup>2</sup> or the <sup>2</sup>[State Agriculture and Rural Development Bank]<sup>2</sup> either before or after the commencement of the <sup>3</sup>[Karnataka]<sup>3</sup> Co-operative Societies (Amendment) Act, 1964 by the manager of a joint Hindu family for the improvement of agricultural land or of the methods of cultivation, or for financing any other means to increase the productivity of the land, or for the purchase of land, shall be binding on every member of such joint Hindu family, notwithstanding any law to the contrary.

1. Sections 87A and 87B inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

(2) In other cases, where a mortgage executed in favour of an <sup>2</sup>[Agriculture and Rural Development Bank]<sup>2</sup> or <sup>2</sup>[State Agriculture and Rural Development Bank]<sup>2</sup> either before or after the commencement of the <sup>1</sup>[Karnataka]<sup>1</sup> Co-operative Societies (Amendment) Act, 1964, 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 (whether such members have attained majority or not) thereof, the burden of proving the same shall, notwithstanding any law to the contrary, lie on the party alleging it.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

3. Substituted by Act 5 of 1984 w.e.f. 09.01.1984

**87B. Restrictions on lease.-(1)** Notwithstanding anything contained in the Transfer of Property Act, 1882 or any other law for the time being in force, no mortgagor of property mortgaged to a <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup>,

shall except with the prior consent in writing of the Bank, and subject to such terms and conditions as the Bank may impose, lease or create any tenancy rights on any such property:

Provided that the rights of the '[Agriculture and Rural Development Bank]'<sup>1</sup> shall be enforceable against the tenant purchaser, the lessee or the tenant, as the case may be, as if he himself were a mortgagor.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Where land mortgaged with possession to an '[Agriculture and Rural Development Bank]'<sup>1</sup>, is in actual possession of a tenant, the mortgagor or the '[Agriculture and Rural Development Bank]'<sup>1</sup> shall give notice to the tenant to pay rent to the '[Agriculture and Rural Development Bank]'<sup>1</sup> during the currency of the lease and the mortgage, and on such notice being given, the tenant shall be deemed to have attorned to the '[Agriculture and Rural Development Bank]'<sup>1</sup>.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**88. Distraint - When to be made.-** (1) If any instalment payable under a mortgage executed in favour of an '[Agriculture and Rural Development Bank]'<sup>1</sup> or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the committee may, in addition to any other remedy available to the Bank, apply to the Registrar for the recovery of such instalment or part thereof by distraint and sale of the produce of the mortgaged land including the standing crops thereon.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

Provided that no distraint shall be made after the expiry of '[thirty six months]'<sup>1</sup> from the date on which the instalment fell due.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

**89. Power of sale when to be exercised.-** (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), where a power of sale without the intervention of the court is expressly conferred on the '[Agriculture and Rural Development Bank]'<sup>1</sup> by the mortgage deed, the committee of such Bank or any person authorized by such committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the Bank, to bring the mortgaged property to sale without the intervention of the court.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

(a) the Board has previously authorized the exercise of the power conferred by sub-section (1), after hearing the objections, if any, of the mortgagor;

(b) notice in writing requiring payment of such mortgage money or part has been served upon,—

(i) the mortgagor;

(ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same;

(iii) any surety for the payment of the mortgage debt or any part thereof; and

(iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property; and

(c) default has been made in payment of such mortgage money or part thereof for three months after such service.

<sup>1</sup>[(3) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for <sup>2</sup>[an] <sup>3</sup>[Agriculture and Rural Development Bank] <sup>3</sup> or the <sup>3</sup>[State Agriculture and Rural Development Bank] <sup>3</sup> to purchase any mortgaged property sold under this Chapter.]<sup>1</sup>

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[89A. Confirmation of sale. - (1) On effecting the sale by an <sup>2</sup>[Agriculture and Rural Development Bank] <sup>2</sup> under section 89, the bank shall, in the prescribed manner submit to the <sup>2</sup>[State Agriculture and Rural Development Bank] <sup>2</sup> and the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the <sup>2</sup>[State Agriculture and Rural Development Bank] <sup>2</sup> may, with the approval of the Registrar, confirm the sale or cancel it.

1. Sections 89A to 89H inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Where the sale is effected by the <sup>1</sup>[State Agriculture and Rural Development Bank] <sup>1</sup> or the Trustee under section 89, the <sup>1</sup>[State Agriculture and Rural Development Bank] <sup>1</sup> or the Trustee, as the case may be, shall in the prescribed manner submit to the Registrar a report setting forth the manner in which the sale has been effected and the result of the sale, and the Registrar may confirm or cancel the sale.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**89B. Disposal of sale-proceeds.**- The proceeds of every sale effected under section 89 and confirmed under section 89A, shall be applied first in payment of all

costs, charges and expenses incurred in connection with the sale or attempted sales, secondly in payment of any or all interest due on account of the mortgage in consequences whereof the mortgage property was sold, and thirdly in payment of the principal due on account of the mortgage including costs and charges incidental to the recovery.

If there remain any residue from the proceeds of sale, the same shall be paid to the person proving himself interested in the property sold, or if there are more such persons than one, then to such persons upon their joint receipt or according to their respective interest therein, as may be determined by the '[Agriculture and Rural Development Bank]':

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

Provided that before any such payments are made the unsecured dues owing, -

(a) from the mortgagor to the '[Agriculture and Rural Development Bank]' may be adjusted, and

(b) from any member or past member to whom the mortgagor is indebted may also be adjusted under the written authority given by such member and past member and after holding such inquiry as may be deemed necessary.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**89C. Certificate to purchase, delivery of property and title of purchaser.- (1)**

Where a sale of mortgaged property has become absolute under section 89A and the sale-proceeds, have been received in full by the '[Agriculture and Rural Development Bank]', the bank shall grant a certificate to the purchaser in the prescribed form certifying the property sold, the sale-price, the date of its sale, the name of the person who at the time of the sale is declared to be the purchaser, and the date on which the sale became absolute; and upon the production of such certificate the Sub-Registrar appointed under the Indian Registration Act, 1908, within the limits of whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to immovable property.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) (a) Where the mortgaged property sold is in the occupancy of the mortgagor, or of some person on his behalf, or some person claiming under a title created by the mortgagor, subsequent to the mortgage in favour of the '[State Agriculture and Rural Development Bank]' or an '[Agriculture and Rural Development Bank]' and a certificate in respect thereof has been granted under the foregoing sub-section, the Deputy Commissioner shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf, in possession of the property.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under the foregoing sub-section, the Deputy Commissioner shall, on the application of the purchaser and after notice to such tenants or other persons, order the delivery to be made by affixing copy of the certificate of sale in a conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place, that the right, title and interest of the mortgagor have been transferred to the purchaser.

(3) Where any property is sold in the exercise or purported exercise of a power of sale under <sup>1</sup>[section 89], the title of the purchaser shall not be questioned on the ground that the circumstances required for authorizing the sale had not arisen, or due notice of the sale was not given, or the power of sale was otherwise improperly or irregularly exercised:

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

Provided that any person who suffers damage on account of unauthorized, improper or irregular exercise of such power shall have a remedy in damages against the <sup>1</sup>[Agriculture and Rural Development Bank].

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**89D. Recovery of loans on certificate by Registrar.-** (1) Notwithstanding anything contained in sections 70 and 71, on an application made by an <sup>1</sup>[Agriculture and Rural Development Bank] for the recovery of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) A certificate by the Registrar under sub-section (1) shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall be recoverable according to the law for the time being in force for the recovery of arrears of land revenue.

(3) It shall be lawful to the Deputy Commissioner to take precautionary measures authorized by section 188 of the <sup>2</sup>[Karnataka]<sup>2</sup> Land Revenue Act, 1964 or any law or provision corresponding thereto for the time being in force until the arrears due to the <sup>1</sup>[Agriculture and Rural Development Bank] together with interest and any incidental charges incurred in the recovery of such arrears, are paid or security for payment of such arrears, is furnished to the satisfaction of the Registrar.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.



(4) It shall be competent for the Registrar or a person authorized by him to direct conditional attachment of the property of the mortgagor until the arrears due to the '[Agriculture and Rural Development Bank]¹' together with interest and incidental charges incurred in recovery of such arrears, are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar and the provisions of section 95 shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**89E. Deputy Commissioner to make recoveries during a certain period.-** (1) During such period as the State Government may by general or special order notify in the official Gazette, it shall be competent for the Deputy Commissioner on application being made to him in that behalf by an '[Agriculture and Rural Development Bank]¹', to recover all sums due to the '[Agriculture and Rural Development Bank]¹' (including the cost of such recovery).

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) Any amount due to an '[Agriculture and Rural Development Bank]¹' shall be recoverable by the Deputy Commissioner or any officer specially authorised by the Deputy Commissioner in this behalf, in all or any of the following modes, namely:—

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

- (a) from the borrower—as if they were arrears of land revenue due by him;
- (b) out of the land for the benefit of which the loan has been granted according to the procedure for the realization of land revenue by the sale of immovable property;
- (c) from a surety (if any) as if they were arrears of land revenue due by him;
- (d) out of the property comprised in the collateral security (if any) according to the procedure for the realization of land revenue by the sale of immovable property.

**89F. Officers of banks not to bid at sales.-** At any sale of movable or immovable property, held under the provisions of this Chapter, no officer or employee of an '[Agriculture and Rural Development Bank]¹' or the '[State Agriculture and Rural Development Bank]¹', except on behalf of the bank of which he is an officer or an employee, and no 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.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**89G. Section 40 of Bombay Act 28 of 1947 not to apply to alienation in favour of Land Development Banks.-** Nothing contained in section 40 of the Bombay Agricultural Debtors Relief Act, 1947, or any corresponding law for the time being in force in any part of the State shall apply to any alienation in favour of the '[Agriculture and Rural Development Bank]¹'.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**89H. Provision for Guarantee Funds to meet certain losses.-** (1) It shall be competent for the State Government to constitute one or more Guarantee Funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the '[Agriculture and Rural Development Bank]' on titles to immovable property subsequently found to be defective or for any other purpose under this Chapter, for which in the opinion of the State Government, it is necessary to provide for or create a separate Guarantee Fund.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(2) The '[State Agriculture and Rural Development Bank]' and the '[Agriculture and Rural Development Bank]' shall contribute to such funds at such rate as may be prescribed, and the constitution, maintenance and utilisation of such Funds shall be governed by such rules as may be made by the State Government in this behalf.]'

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**90. Powers of '[Agriculture and Rural Development Bank]' where mortgaged property is destroyed or security becomes insufficient.-** Where any property mortgaged to an '[Agriculture and Rural Development Bank]' is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the committee of the '[Agriculture and Rural Development Bank]', of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under section 88 or section 89 for the recovery thereof.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**Explanation.—**A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the bye-laws of the '[Agriculture and Rural Development Bank]'.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**91. Power of Board or of Trustee to distrain and sell property, etc.-** (1) The Board or the Trustee may direct the committee of an '[Agriculture and Rural Development Bank]' to take action against a defaulter under section 88, section 89 or section 90 and if the committee neglects or fails to do so, the Board or the Trustee may take such action.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**92. Title of purchaser not to be questioned on the ground of irregularity, etc.-**

Where any property is sold in the exercise or purported exercise of a power of sale under section 89, the title of the purchaser shall not be questioned on the ground that,—

(a) the circumstances required for authorizing the sale had not arisen, or

(b) the power of sale was otherwise improperly or irregularly exercised; but any person who has suffered any damage by an unauthorized, improper or irregular exercise of any such power shall have a remedy in damages against the '[Agriculture and Rural Development Bank]¹.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**93. Mortgage not to be questioned on insolvency of mortgagor.-**

Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of an '[Agriculture and Rural Development Bank]¹ 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 '[Agriculture and Rural Development Bank]¹ a preference over the other creditors of the mortgagor.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**94. Appointment of receiver and his powers.-** (1) The Board may, on the application of an '[Agriculture and Rural Development Bank]¹ and under circumstances in which the power of sale conferred by section 89 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882 (Central Act IV of 1882).

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

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

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

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

**95. Mortgagor's powers to lease.**- (1) Notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act IV of 1882), or any other law for the time being in force, a mortgagor shall not grant a lease of the mortgaged property for a period exceeding five years.

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

**96. Delegation of certain powers by Board.**- The Board may, if it thinks fit, delegate all or any of its powers under sections 89, 91 and 94 to an executive committee constituted by it and consisting of two or more of its members.

**97. Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to notices under this Chapter.**- The provisions of sections 102 and 103 of the Transfer of Property Act 1882 (Central Act IV of 1882), and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Chapter.

**1[97A. Constitution of a common cadre for the employees of primary agriculture and rural development banks.**- (1) Notwithstanding anything contained in this Act, rules or the bye-laws, where the Registrar, in the interest of a co-operative movement considers that the creation of a common cadre of employees for primary agriculture and rural development banks which are affiliated to State Agriculture and Rural Development Bank is necessary, he shall authorize the State Agriculture and Rural Development Bank to make regulation as may be necessary to exercise the power of appointment, transfer and disciplinary action in respect of such category of employees of Primary Co-operative Agricultural and Rural Development (PCARD) Bank as may be specified by him. Where the Karnataka State Co-operative Agricultural and Rural Development (KASCARD) Bank is so authorized by the Registrar, the affiliated Primary Co-operative Agricultural and Rural Development (PCARD) Bank shall not have powers to deal with such category of employees except to the extent such regulations may permit.

(2) The Registrar shall also have power to require the Primary Co-operative Agricultural and Rural Development (PCARD) Banks to make contribution of such sum every year towards expenditure, as the Karnataka State Co-operative

Agricultural and Rural Development (KASCARD) Bank is likely to incur for the purpose. If any Primary Co-operative Agricultural and Rural Development (PCARD) Bank fails to pay the said sum, the Registrar or such Officer as may be specified by him within the time specified by him, on the application of the Karnataka State Co-operative Agricultural and Rural Development Bank, and after such enquiry as he may consider necessary, make an order requiring the Primary Co-operative Agricultural and Rural Development (PCARD) Bank to pay the amount, and every such order shall be enforceable against such Primary Co-operative Agricultural and Rural Development (PCARD) Bank, as if it were an award under section 71.]<sup>1</sup>

1. Inserted by Act 4 of 2011 w.e.f. 10.02.2011 vide Notification No. CO 24 CLM 2011, dated: 10.02.2011. Please see the text of notification at the end of the act.

**<sup>1</sup>[98. Power to <sup>2</sup>[Board]<sup>2</sup> of <sup>3</sup>[State Agriculture and Rural Development Bank]<sup>2</sup> to supervise <sup>3</sup>[Agriculture and Rural Development Bank]<sup>3</sup> and make regulations.** - The <sup>2</sup>[Board]<sup>2</sup> of the <sup>3</sup>[State Agriculture and Rural Development Bank]<sup>3</sup> shall have a general power of supervision over <sup>3</sup>[Agriculture and Rural Development Bank]<sup>3</sup> and may, with the previous sanction of the State Government, by notification in the official Gazette make regulations, not inconsistent with this Act or the rules made thereunder, for all or any of the following matters, namely:—

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.
2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.
3. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(a) for the inspection of the account books and proceedings of <sup>1</sup>[Agriculture and Rural Development Bank]<sup>1</sup>;

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(b) for the submission of returns and reports by such banks in respect of their transactions;

(c) for the periodical settlement of accounts between such banks and the <sup>1</sup>[State Agriculture and Rural Development Bank]<sup>1</sup> being accounts relating to the payment of the amounts recovered by such banks on mortgages transferred to the <sup>1</sup>[State Agriculture and Rural Development Bank]<sup>1</sup>;

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(d) for the form in which applications to such banks for loans shall be made and for the valuation of properties offered as security for such loans;

(e) for the investment of moneys realised from the mortgagors;

(f) the conditions of service of employees of such banks;

(g) the programme and policy to be followed by such banks for making loans;

(h) the types and extent of security to be obtained by such banks for advancing loans;

(i) generally, for the purpose of safeguarding the interest of the parties, furtherance of activities of such banks, and carrying out the purposes of this Chapter.]<sup>1</sup>

## [CHAPTER XI-A

### SPECIAL PROVISIONS APPLICABLE TO SOCIETIES IN CO-OPERATIVE CREDIT STRUCTURE

**98A. Application of this Chapter.-** This chapter shall apply only to co-operative societies in co-operative credit structure.

**98B. Overriding effect of Chapter XIA.-** Notwithstanding anything contrary or inconsistent contained in any other chapter of this Act or rules framed there under or bye-laws of any co-operative society or orders issued there under, the provisions of this chapter shall have overriding effect in respect of societies in co-operative credit structure.

**98C. Approval of bye-laws.-** (1) The bye-laws or any amendment to the bye-laws of a co-operative credit structure society shall be registered by the Registrar within thirty days from the date of receipt of the application.

(2) If the Registrar is satisfied that the proposed bye-laws or the amendments to the bye-laws are contrary to the provisions of the Act and the rules made thereunder, he shall reject the same after recording reasons thereon within thirty days from the date of receipt of the application.

**[98D. Ensuring membership to Depositors.-** (1) Every person or group holding a minimum deposit of rupees five thousand for a continuous period of one year in a primary agricultural credit co-operative society shall become a member of the society by subscribing the minimum share capital specified in the bye-laws and shall have full membership with voting rights:

Provided that a person having deposit of less than rupees five thousand for a period of less than one year shall remain a nominal member.

(2) A borrower group shall become a member of a primary agricultural credit cooperative society under sub-section (1) of section 16 by subscribing the prescribed share capital specified in the bye-laws and shall have full voting rights.

(3) Every depositor group or borrower group admitted as a member under sub-section (1) of section 16 shall be entitled to vote through one delegate nominated by the group.]<sup>1</sup>

1. This section is inserted by Act 6 of 2010, but not yet brought in to force till 29.06.2010.

**98E. Freedom in all financial and internal administrative matters.**— A Co-operative society under Co-operative Credit Structure shall have freedom to decide its financial and internal administrative matters, which include:-

- (i) the interest rates on deposits and loans Provided that in the case of the State Co-operative Bank & a Central Co-operative bank, the interest rates shall be in conformity with the guidelines issued by the Reserve Bank;
- (ii) the borrowing, investment, depositing its surplus funds, loaning policies (including individual loans) and other business policies;
- (iii) the personnel policies including issues relating to recruitment, promotion, staffing, training, posting and compensation to staff as per business requirements of the society;
- (iv) the internal checks and control systems, appointment of auditors, compensation for the audit and other internal administrative issues; and
- (v) the borrowing from any financial institution regulated by the Reserve Bank of India, keeping in mind the interest of the society and its members."

**98F. Limit on State Government's subscription.**— The State Government's subscription in the share capital of any Society under the Co-operative Credit Structure shall not exceed twenty-five percent of the total paid up share capital of such society.

Provided that the State Government may further reduce its contribution or such society shall have option to further repay the subscription of the State Government and if the society intends to repay the subscription of the State Government, it shall not be prevented from doing so by the State Government.

**98G. Restriction on number of Government Nominees.**— (1) Where the Government has subscribed to share capital, there shall be only one nominee of the State Government in the Committee of the State Cooperative Bank or a Central Cooperative Bank or the State Agriculture and Rural Development Bank or a Agriculture and Rural Development Bank.

(2) There shall be no nominee of the State Government in the Committee of a primary agricultural credit cooperative society irrespective of whether the State Government has subscribed to the share capital of such society or not.

**98H. Freedom for affiliation or disaffiliation with a federal society.**— (1) A Co-operative Credit Structure society registered under Karnataka Co-operative Societies Act, 1959 shall be eligible to become a member of a Federal cooperative or a Secondary co-operative registered under the provisions of Karnataka Souharda Sahakari Act, 1997.

(2) A co-operative registered under Karnataka Souharda Sahakari Act, 1997 may become the member of a Federal society or a Secondary society registered under the Karnataka Cooperative Societies Act 1959.

(3) A co-operative society under the Co-operative Credit Structure shall be at liberty to affiliate or disaffiliate with any Federal society or a Secondary society of its choice keeping in view the financial position of the Federal society or the Secondary society.

Provided that a resolution approving such affiliation or disaffiliation with a Federal society or a Secondary society shall be passed in the annual general meeting held for the purpose with three fourths majority of the total members.

Provided further that before dis-affiliation, the society shall discharge its financial liability, if any, to the society from whom it is dis-affiliating.

**98I. Restriction regarding area of operation.**- A co-operative society under Co-operative Credit Structure shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for the conduct of its business operations.

**98J. Freedom of investment and deposit.**- A co-operative Society under the Co-operative Credit Structure may, subject to the guidelines of the Reserve Bank, if any, invest or deposit its funds in any Bank or financial institution regulated by the Reserve Bank and not necessarily in the federal society to which it is affiliated.

**98K. Freedom of borrowings.**- A co-operative society under Co-operative Credit Structure may obtain loans from any Bank or financial institution regulated by the Reserve Bank and refinance from National Bank or any other financial institution directly or through any Reserve Bank regulated financial institutions and not necessarily from the federal society to which it is affiliated.

**98L. Guidelines for payment of dividend.**- A primary agricultural credit cooperative society may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.

**98M. Contribution to any fund.**- The Registrar shall have no powers to direct any co-operative society in Co-operative Credit Structure to contribute to any funds other than those required for improving its net worth or own funds.

**98N. Disqualification of members of the committee of Co-operative Credit Structure.**- (1) No person shall be nominated or co-opted or allowed to continue as a member of the committee of a society in co-operative credit structure, if he.-

(i) is a person who represents a society other than a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank on the Committee of a Central Co-operative Bank or the State Co-operative Bank or the State Agriculture



and Rural Development Bank, if such society which he represents has committed a default towards the payments of such Bank on intimation of such defaults by the Chief Executive of the bank concerned;

(ii) is a person who is a defaulter to discharge the liabilities to a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank or represents a primary agricultural credit cooperative society or a Agriculture and Rural Development Bank on the committee of a Central Co-operative Bank or the State Cooperative Bank or the State Agriculture and Rural Development Bank, if such society which he represents has committed a default towards the payments of such Bank on intimation of such defaults by the Chief Executive of the bank concerned;

(iii) is a person,-

- (a) who represents a society whose committee is superseded, or
- (b) who is not a member of such society, or
- (c) who is in default to the society or any other co-operative society in respect of any loan taken by him or has any dues of the society on the date of filing of nomination, or
- (d) who has directly or indirectly, any interest in any subsisting contract made with the society or in any property sold or purchased by the society or in any other transaction of the society, except in any investment made in, or any loan taken from the society, or
- (e) against whom any proceeding for surcharge under section 69 relating to any cooperative society is pending, or
- (f) against whom a criminal proceeding relating to any transaction of a any co-operative society is pending in which cognizance has been taken.

**98O. Applicability of Section 20 and Section 29C to the election of a new committee.-** The provisions of section 20 and section 29C shall be applicable for election of a new committee of a society in co-operative credit structure.

**98P. Supersession of the Co-operative Credit Structure.-** (1) The supersession of the committee of the State Co-operative Bank or a central co-operative bank shall be done by the Registrar only after prior consultation with the Reserve Bank.

(2) The supersession of the committee of a Primary Agricultural Credit Co-operative Society shall be done by the Registrar only on the following grounds, namely: -

- (a) if a society incurs losses for three consecutive years, or
- (b) if serious financial irregularities or frauds have been committed, or
- (c) if there are judicial directives to this effect, or
- (d) if there is lack of quorum for three consecutive meetings, or

- (e) if there is a failure in getting the audit of accounts conducted for three consecutive years as per the Act, or
- (f) if there is willful disobedience or failure to comply with any lawful direction / guidelines issued by the Registrar.

**98Q. Elections.**- (1) The election to the committee of a co-operative society under the Co-operative Credit Structure shall be conducted 1[in accordance with the provisions of the sub-section (2) of section 39A]1 and in case of supersession of the committee of such co-operative society, the election shall be conducted within two months from the date of supersession:

1. Substituted by Act 4 of 2011 w.e.f. 10.02.2011 vide Notification No. CO 24 CLM 2011, dated: 10.02.2011. Please see the text of notification at the end of the act.

Provided that in circumstances beyond control, the State Government may allow holding of such elections within a period not exceeding six months from the date of supersession.

(2) A member of the committee of a Primary Agriculture Credit Cooperative Society which has been superseded under this Act shall not be eligible to be re-elected, re-appointed, re-nominated or re-co-opted as a member of the committee for a period of four consecutive years from the date of supersession.

**98R. The Prudential norms.**- The prudential norms including Capital to Risk Weighted Assets Ratio shall be prescribed by the Registrar for all the Primary Agricultural Credit Cooperative Societies in consultation with the National Bank.

**98S. Removal of Directors and Chief Executive Officers.**- (1) The members of the committee or chief executive officers of the State Co-operative Bank and Central Co-operative Banks shall fulfill the criteria stipulated by the Reserve Bank for the time being in force.

(2) A member of the committee of the State Cooperative Bank or a Central Co-operative Bank or a person holding the post of chief executive officer who does not fulfill the criteria stipulated by the Reserve Bank shall be treated as ineligible for such post and if such person is holding the post, he shall be removed by the Registrar or the appointing authority, as the case may be, within two months of being so advised by the Reserve Bank or the National Bank. However, the existing elected members of the committee holding their post as such members on the date of the commencement of Karnataka Cooperative Societies (Amendment) Act 2009 shall continue to hold their offices till the expiry of their remaining term.

**98T. Co-option of professionals in the committee.**- (1) The managing committee of the State Cooperative Bank or Central Co-operative Banks shall have at least such number of professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank from time to time and if such number

of professionals do not get elected, the committee of that society shall, to the extent of the shortfall, co-opt professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank. The co-opted members shall have all the rights of members inclusive of voting right and the term of such members shall be co-extensive with the term of other elected members.

(2) if any person who, in the opinion of the Reserve Bank or the National Bank, has been co-opted as a member of the committee without having the requisite special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the committee of such society shall ensure removal of that person within two months of being so advised by the Reserve Bank or the National Bank, after giving him an opportunity of being heard.

**98U. Audit of accounts.-** The State Co-operative Bank and a Central Co-operative Bank shall cause audit and certification of its accounts by a Chartered Accountant selected by it from the panel approved by the National Bank.

**98V. Special audit of Co-operative Credit Structure.-** The Director of Co-operative Audit shall arrange to conduct the special audit of the State Cooperative Bank or Central Co-operative Banks on the request of the Reserve Bank in the manner and form stipulated by the Reserve Bank and also arrange to furnish a copy of the report of such special audit to the Reserve Bank and National Bank within the time stipulated. The provisions relating to audit of accounts made under this Act shall also apply to such special audit.

**98W. Restriction for using the word 'Bank'. -** No primary agricultural credit society or its federation or association shall, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (Central Act 10 of 1949), be registered with the word 'Bank', 'Banker', 'Banking' or any other derivative of the word 'Bank' in its registered name or shall use the same as a part of its name:

Provided that where any primary agricultural credit society or its federation or association, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (Central Act 10 of 1949), has been registered with the word 'Bank' or any of its derivatives as a part of its name or has been using the same as a part of its name before the commencement of the Karnataka Co-operative Societies (Amendment) Act 2009, it shall within three months from the date of such commencement, change its name so as to remove the word 'Bank' or its derivative, if any, from its name:

Provided further that where any such society fails to comply with the above provisions within the period specified therein, the Registrar shall order the winding up of such society after giving a reasonable time and opportunity to the committee of such society for complying with the above provisions.

**'[KARNATAKA ACT]' No. 15 OF 1963**

(First published in the '[Karnataka Gazette]' on the Twentieth day of April, 1963.)

**THE '[KARNATAKA]' PARLIAMENTARY SECRETARIES ALLOWANCES ACT, 1963**

(Received the assent of the Governor on the Nineteenth day of April, 1963.)

(As amended by Act 7 of 1999 )

**An Act to provide for the '[Salary, allowances and miscellaneous provisions]'<sup>2</sup> of Parliamentary Secretaries.**

WHEREAS it is expedient to provide for the 2[Salary, Allowances and Miscellaneous Provisions]<sup>2</sup> of Parliamentary Secretaries of the '[State of Karnataka]'<sup>1</sup>

BE it enacted by the '[Karnataka State]'<sup>1</sup> Legislature in the Fourteenth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973
2. Substituted by Act 7 of 1999 w.e.f. 12.3.1999

**1. Short title and commencement.**—(1) This Act may be called the '[Karnataka]'<sup>1</sup> Parliamentary Secretaries '[Salary, Allowances and Miscellaneous Provisions]'<sup>2</sup> Act, 1963.

(2) It shall come into force at once.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973
2. Substituted by Act 7 of 1999 w.e.f. 12.3.1999

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

(a) "Parliamentary Secretary" means a member of the '[Karnataka]'<sup>1</sup> Legislative Assembly]<sup>2</sup> or the '[Karnataka Legislative Council]'<sup>1</sup> appointed as a Parliamentary Secretary<sup>2</sup>[by the Chief Minister]<sup>2</sup>;

(b) "prescribed" means prescribed by rules made under this Act; <sup>3</sup>[(c) x x x]<sup>3</sup>

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973
2. Inserted by Act 7 of 1999 w.e.f. 12.3.1999
3. Omitted by Act 7 of 1999 w.e.f. 12.3.1999

**[3. Salary and allowances of Parliamentary Secretary.**- A Parliamentary Secretary shall be entitled to such salaries and allowances as are admissible to a Minister, Minister of State or a Deputy Minister under the Karnataka Minister's Salaries and Allowances Act, 1956, as may be specified by the Government from time to time]<sup>1</sup>

1. Substituted by Act 7 of 1999 w.e.f. 12.3.1999

been served with a notice of the application and has failed to pay the debt or outstanding demand within seven days from the date of such service.

**100. Recovery of moneys due to Societies.-** (1) Notwithstanding anything contained in Chapter IX or any other law for the time being in force, on an application made by an approved society for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making an enquiry in such manner as may be prescribed, grant a certificate for the recovery of the amount stated therein to be due as arrears:

Provided that if the determination of the amount due from any person to the society depends upon decisions on complicated questions of fact or law, the Registrar shall dispose of the case in accordance with the provisions of section 71 as if it were a dispute referred to him for decision under section 70.

(2) A certificate granted by the Registrar under sub-section (1) shall be final and conclusive. The arrears stated to be due therein shall be recoverable as arrears of land revenue or according to the procedure provided in section 101:

Provided that any error in such certificate may be rectified by the Registrar suo motu or on the application of the society or the member affected by the certificate.

(3) It shall be lawful for the Deputy Commissioner to take precautionary measures authorised by '[section 188 of the Karnataka Land Revenue Act, 1964]', until the arrears due to the society together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

**Explanation.**—For the purpose of this section,—

(i) "approved society" shall mean a society of such class of societies declared to be approved societies for purposes of this section by rules;

(ii) "financing of crops" shall mean advancing of loans for the raising of crops during the ploughing season or later for ploughing, weeding, harvesting, purchase of seeds, manure or for such other purposes [XXX] such loans being repayable during the season when the crops for which the loans were advanced are harvested;

1. Omitted by Act 6 of 2010 w.e.f 30.03.2010.

'[(iii) "seasonal finance" shall mean the advancing of loans for the purposes enumerated in item (ii) above, such loans being repayable on or before the 31st March following or such other date as may be specified by the financing bank or the credit agency.]<sup>1</sup>

1. Substituted by Act 6 of 2010 w.e.f 30.03.2010.

**101. Execution of orders, etc.-** <sup>2</sup>[(1)]<sup>2</sup> Every order made by the Registrar under sub-section <sup>1</sup>[(1)]<sup>1</sup> of section 69 or under section 99, every decision or award made under section 71, every order made by the Liquidator under section 74 and every order made by the Tribunal under sections 105 and 107, and every order made under section 106 or 108 shall subject to any other provision of this Act be binding on the person or co-operative society against whom the order, decision or award has been obtained or passed and shall, if not carried out,—

1. Substituted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Renumbered by Act 39 of 1975 w.e.f. 23.09.1975.

(a) on a certificate signed by the Registrar, or any person authorized by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue:

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

(i) to the Deputy Commissioner and shall be accompanied by a certificate signed by the Registrar or by any person authorized by him in this behalf;

(ii) within twelve years from the date fixed, in the order, decision or award, and if no such date is fixed, from the date of the order, decision or award, as the case may be; or

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

<sup>1</sup>[(2) (a) Notwithstanding anything contained in this Act every question relating to the execution, discharge or satisfaction of an order, decision or award referred to in sub-section (1) or relating to the confirmation or setting aside of a sale held in an execution of such order, decision or award in pursuance of clause (c) of sub-section (1), or relating to any claim or objection to an attachment of any property made under section 103 or in execution in pursuance of the said clause (c), shall be determined, by an order of the Registrar or any other person subordinate to him, empowered by the Registrar under the said clause (c) (hereinafter in this section referred to as "authorized person") before whom such question arises.

(b) (i) Where any claim is preferred against, or any objection is made to, the attachment of any property made under section 103 or in execution in pursuance of clause (c) of sub-section (1), on the ground that the said property is not liable to such

attachment, the Registrar or the authorized person shall proceed to investigate the claim or objection:

Provided that where the Registrar or the authorized person considers that the claim or objection was designedly or unnecessarily delayed, he shall make an order refusing such investigation;

(ii) Where, upon the said investigation, the Registrar or the authorized person is satisfied that for the reason stated in the claim or objection, such property was not, at the date of the attachment, in the possession of the person or co-operative society against whom the order, decision or award has been obtained or passed (hereinafter in this section referred to as the "judgment-debtor") or of some person in trust for the judgement-debtor or in the occupancy of a tenant or other person paying rent to the judgement-debtor or that, being in the possession of the judgement-debtor at the said date, it was so in his possession, not in his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Registrar or the authorized person shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment.

(iii) Where the Registrar or the authorized person is satisfied that the property was, on the said date, in the possession of the judgement-debtor as his own property and not on account of any other person, or was in the occupancy of a tenant or other person paying rent to him, the Registrar or the authorized person shall disallow the claim;

(iv) Where a claim or an objection is preferred, the party against whom an order is made may within a period of one year from the date of such order, institute a suit in a civil court to establish the right which he claims to the property in dispute; but, subject to the result of such suit, if any, the order of the Registrar or the authorized person shall be conclusive.]<sup>1</sup>

1. Inserted by Act 39 of 1975 w.e.f. 01.06.1960.

**[101A. Transfer of property made after issue of certificate void against co-operative society.-** Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar or any person authorized by him in this behalf under section 101 shall be null and void as against the co-operative society on whose application the said certificate was issued.

1. Sections 101A & 101B Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

**101B. Transfer of property which cannot be sold.-** (1) When in any execution of an order sought to be executed under section 101, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter, or of some person on his behalf or of some person claiming under a title created by the defaulter after the issue of the certificate by the Registrar or any person authorized by him under section

101, the Court, or the Deputy Commissioner or the Registrar, as the case may be, may, notwithstanding anything contained in any law for the time being in force, direct that the said property or any portion thereof shall be transferred in the manner prescribed, to the co-operative society which has applied for the execution of the said order.

(2) Where property is transferred to the co-operative society under sub-section (1) or where the property is sold under section 101, the Court, the Deputy Commissioner or the Registrar, as the case may be, may in accordance with the rules place the society or the purchaser, as the case may be, in possession of the property transferred or sold.

(3) Subject to such rules as may be made in this behalf, and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any person, such property or portion thereof shall be held under sub-section (1) by the said society on such terms and conditions as may be agreed upon between the Court, the Deputy Commissioner or the Registrar, as the case may be, and the said society.

(4) Subject to the general or special orders of the State Government, the Deputy Commissioner or the Registrar may delegate to an officer not below the rank of an Assistant Commissioner or an Assistant Registrar, the powers exercisable by the Deputy Commissioner or the Registrar under this section.]<sup>1</sup>

**'[101C. xxx]'**

1. Inserted by Act 34 of 1985 w.e.f. 27.06.1985 and Omitted by Act 34 of 1991 w.e.f. 10.12.1991.

**102. Registrar or person empowered by him to be a civil court for certain purposes.-** The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be a civil court for the purposes of Article 182 of the First Schedule to the <sup>1</sup>[Limitation Act, 1963)]<sup>1</sup>.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

**103. Attachment of property before award or order.-** <sup>1</sup>[(1)] If the Registrar is satisfied on an application, report, enquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act,—

1. Renumbered by Act 40 of 1964 w.e.f. 26.06.1965.

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the Arbitrator or Liquidator, as the case may be, he may, unless



adequate security is furnished, direct the attachment of the said property; and such attachment shall have the same effect as if made by a competent civil court.

<sup>1</sup>[(2) Where the Registrar directs attachment of the property under sub-section (1), he shall issue a notice calling upon the person whose property is so attached to furnish security which he thinks adequate within a specified period; and if the person fails to provide the security so demanded, the Registrar may confirm the order and after the decision in the dispute or the completion of the proceedings referred to in the foregoing sub-section may direct the disposal of the property so attached towards the claim if awarded.]

(3) Attachment made under this section shall not affect the rights, subsisting prior to the attachment of the property, of persons not parties to the proceedings in connection with which the attachment is made, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.]<sup>1</sup>

1. Sub-sections (2) & (3) inserted by Act 40 of 1964 w.e.f. 26.06.1965.

**104. Recovery of sums due to Government.**- (1) All sums due from a co-operative society or from an <sup>2</sup>[office bearer]<sup>2</sup> or member or past member of a co-operative society as such to Government including any costs awarded to Government under any provision of this Act, may, on a certificate issued by the Registrar <sup>3</sup>[or the <sup>1</sup>[Director of Co-operative Audit]<sup>1</sup>]<sup>3</sup> in this behalf, be recovered in the same manner as arrears of land revenue.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

3. Inserted by Act 3 of 1980 w.e.f. 11.08.1977.

(2) Sums due from a society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies, from the members, past members or the estates of deceased members:

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

<sup>1</sup>[(3) Notwithstanding anything contained in the preceding sub-sections, the audit fee due from a co-operative society may also be recovered in such manner as may be prescribed.]<sup>1</sup>

1. Inserted by Act 3 of 1980 w.e.f. 11.08.1977.

**<sup>1</sup>[104A. Application of this Chapter to Co-operative Societies in other States.**- The provisions of this Chapter and all rules made under this Act relating to, or in any

manner connected with the recovery of the sum, specified in section 103 shall apply with such modifications if any, as may be directed by the State Government in regard to the recovery of like sums due to co-operative societies registered or deemed to be registered under any law for the time being in force in any State in India notified in this behalf by the State Government in the official Gazette as if such co-operative societies had been registered in the '[State of Karnataka]' under this Act.]<sup>2</sup>

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

### CHAPTER XIII APPEALS, REVISION AND REVIEW.

**105. Appeals to the Tribunal.**- 2[(1)]<sup>2</sup> Any person aggrieved by,—

(a) any decision of the Registrar made under clause (a) of sub-section (1) of section 71; or

(b) any decision of the person invested by the State Government with powers in that behalf under clause (b) of sub-section (1) of section 71; or

(c) any award of an Arbitrator under clause (c) of sub-section (1) of section 71; or

(d) any determination of a Liquidator under clauses (f) of subsection (2) of section 74; or

(e) any order made under section 103 with a view to preventing any delay or obstruction in 1[the execution of any order, decision or award that may be made under sections 69 and 71]<sup>1</sup>; or

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Renumbered as sub-section(1) by Act 6 of 2010 w.e.f.30.03.2010.

<sup>1</sup>[(f) any order passed under section 69;]<sup>1</sup>

1. Inserted by Act 19 of 1976 w.e.f. 20.01.1976.

may, within sixty days from the date of the decision, award or order, as the case may be, appeal to the Tribunal.

<sup>1</sup>[(2) No appeal against an order, decision or award for payment of money shall be considered by the Appellate Authority under sub-section(1) unless it is accompanied by satisfactory proof for having deposited with the concerned society twenty five percent of the amount due in terms of the order, decision or award. After the disposal of the appeal, the amount so deposited shall be adjusted towards the amount payable by the appellant and in case no amount is required to be paid by the Appellant, the amount so deposited shall be refunded to him by the Society.]<sup>1</sup>

1. Inserted by Act 6 of 2010 w.e.f.30.03.2010.

**<sup>1</sup>[105A. Appeals relating to admission of members to societies.**- (1) Any person who has made an application for admission as a member under sub-section (3) of section 16 may appeal to the Registrar against any refusal of the co-operative

society to admit him as a member or against any failure on its part within the period referred to in sub-section (4) of section 16 to admit him as a member or to send a notice of its refusal to admit.

1. Section 105A Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(2) Every appeal under sub-section (1) shall be made by a petition in writing within sixty days by the person seeking admission of the communication of refusal, or within sixty days on which the admission shall be deemed to have been refused under sub-section (4) of section 16 as the case may be. <sup>1</sup>[~~xxx~~]<sup>1</sup>

1. Omitted by Act 39 of 1975 w.e.f. 23.09.1975.

(3) The Registrar shall, after causing reasonable notice to be given to the co-operative society and also to the person seeking admission, and giving them a reasonable opportunity to make their representations, if any, in writing, by order, direct either that the person shall be admitted by the co-operative society or that he need not be admitted by the society, and in the former case the co-operative society shall give effect to the decision within ten days of the receipt of the order.

(4) Before making an order under sub-section (3) on an appeal against any refusal of the co-operative society to admit a person as a member, the Registrar may require the co-operative society to disclose to him the reasons for such refusal and on the failure or refusal of the co-operative society to disclose such reasons, the Registrar may presume that the disclosure if made would be unfavourable to the co-operative society. <sup>1</sup>[The Registrar shall dispose of every appeal as expeditiously as possible.]<sup>1</sup>

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

(5) All proceedings in appeals under this section or in relation thereto shall be confidential, and no suit, prosecution or other legal proceedings shall lie in respect of any allegation made in such proceedings, whether orally or otherwise.]<sup>1</sup>

**106. Appeals to other authorities.**- (1) <sup>1</sup>[Subject to the provisions of section 108A, an appeal shall lie under this section]<sup>1</sup> against,—

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

<sup>1</sup>[(a) an order of the Registrar under section 7;

(b) an order of the Registrar under section 12;]<sup>1</sup>

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

<sup>1</sup>[(c) an order of the Registrar under section 17]<sup>1</sup>

1. Omitted by Act 40 of 1964 w.e.f. 26.06.1965 and again Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(d) an order of the Registrar under sub-section (2) of section 27;

<sup>1</sup>[(d-1) an order of the Registrar made under section 28A(5)]<sup>1</sup>

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

<sup>1</sup>[(d-2)]<sup>2</sup> an order of the Registrar under section 29C;]<sup>1</sup>

1. Inserted by Act 70 of 1976 w.e.f. 19.07.1976.

2. Re-numbered as "(d-2)" by Act 6 of 2010 w.e.f.03.11.2009.

(e) an order of the Registrar <sup>1</sup>[XXX]<sup>1</sup> made under section 30;

1. Omitted by Act 6 of 2010 w.e.f.03.11.2009.

<sup>1</sup>[(e-1) an order of Registrar<sup>2</sup>[XXX]<sup>2</sup> under sub-section (1) of section 31]<sup>1</sup>

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

2. Omitted by Act 6 of 2010 w.e.f.03.11.2009.

(f) the seizure and impounding of books or property under section 66;

(g) an order made by the Registrar under section 67 apportioning the costs of an inquiry held under section 64 or an inspection made under section 65;

(h) an order of the Registrar under section 68;

<sup>1</sup>[(i) x x x]<sup>1</sup>

1. Omitted by Act 19 of 1976 w.e.f. 20.01.1976.

(j) an order made by the Registrar under section 72 <sup>1</sup>[XXX]<sup>1</sup>

1. Omitted by Act 6 of 2010 w.e.f.03.11.2009.

(k) any order made by the Liquidator of a co-operative society in exercise of the powers conferred on him by section 74, other than a determination under clause (f) of sub-section (2) of that section;

<sup>1</sup>[(k-1) an order made by the Registrar under section 99]<sup>1</sup>

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

(l) an order made by the under section 101; or

(m) an order for attachment of any property made by the Registrar under section 103 other than an order referred to in clause (e) of section 105.

<sup>1</sup>[(n) an order made by the Registrar under section 105A; (o) an order of the Registrar made under section 111]<sup>1</sup>

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

(2) An appeal against any act, decision or order under sub-section (1) shall be made within sixty days from the date of the act, decision or order,—

<sup>1</sup>[(a) If the act, decision or order was made by the Assistant Registrar, to the jurisdictional Deputy Registrar;

(b) If the act, decision or order was made by the Deputy Registrar, to the jurisdictional Joint Registrar;

(c) If the act, decision or order was made by the Joint Registrar, to the jurisdictional Additional Registrar or to the Registrar, as the case may be;

- (d) If the act, decision or order was made by the Additional Registrar, to the Registrar;
- (e) If the act, decision or order was made by the Registrar, to the State Government.]<sup>1</sup>

1. Substituted by Act 6 of 2010 w.e.f.03.11.2009.

<sup>1</sup>[Provided further that the appellate authority may admit an appeal preferred after the said period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period]<sup>1</sup>;

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

<sup>1</sup>[Explanation.- x x x]<sup>1</sup>

1. Omitted by Act 40 of 1964 w.e.f. 26.06.1965.

<sup>1</sup>[(3) Where an appeal is preferred, the appellate authority may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the final decision of appeal as it may deem fit;

(4) In disposing of an appeal under this section the appellate authority, may after giving the parties an opportunity of making their representations, pass such order thereon as it may deem fit]<sup>1</sup>

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

<sup>1</sup>[(5) The appeal shall be decided within a period of twelve months excluding the period of stay granted by a Court if any. However, the Registrar may for the reasons to be recorded in writing extend the period not exceeding eighteen months.

(6) No appeal against an order for execution of an order, decision or award for payment of money shall be entertained by the Appellate Authority under sub-section(1) unless it is accompanied by satisfactory proof for having deposited with the concerned society, twenty five percent of the amount in terms of the order, decision or award. After the disposal of the appeal, the amount so deposited shall be adjusted towards the amount payable by the appellant and in case no amount is required to be paid by the Appellant, the amount so deposited shall be refunded to him by the Society.]<sup>1</sup>

1. Inserted by Act 6 of 2010 w.e.f.03.11.2009.

**107. Revision by Tribunal.**- <sup>1</sup>[Subjects to the provisions of section 108A, the Tribunal may]<sup>1</sup> suo motu or on application of any person aggrieved call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit.

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

**108. Powers of revision of State Government.**- '[Subject to the provisions of section 108A, the State Government]' suo motu at any time, and, on application of any person aggrieved, within a period of six months from the date of any order, may call for and examine the record of any case or proceedings of any officer subordinate to it except those subject to appeal or revision by the Tribunal or those in respect of which an appeal has been made to the State Government under section 106, and the State Government after such enquiry as it deems fit is satisfied that the order of the officer is contrary to law and has resulted in a miscarriage of justice, pass such orders thereon as the State Government deems just:

1. Substituted by Act 39 of 1975 w.e.f. 23.09.1975.

Provided that no order shall be made to the prejudice of any person under this section unless he has been given a reasonable opportunity of being heard.

**[108A. No appeal or revision in certain cases.**- Notwithstanding anything contained in this Act, where with the previous sanction in writing or on the requisition of the Reserve Bank,—

(i) a co-operative bank has been ordered to be wound up; or

(ii) a scheme of amalgamation or reorganization of a co-operative bank is given effect to; or

(iii) an order for the removal of the committee and the appointment of an Administrator <sup>2</sup>[and Special Officer]<sup>2</sup> in respect of a co-operative bank, has been made,

there shall be no appeal or revision against such order or action and the sanction or requisition of the Reserve Bank shall not be liable to be called in question in any court of law.]<sup>1</sup>

1. Inserted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

#### CHAPTER XIV OFFENCES AND PENALTIES.

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

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[(1A) If default is made in giving effect to the order of the Registrar within the period specified in sub-section (3) of section 105A, the co-operative society and every <sup>2</sup>[office bearer]<sup>2</sup> of the society who is in default shall be punishable with fine which may

extend to one thousand rupees or with further fine which may extend to one hundred rupees for every day after the first during which the default continues.]<sup>1</sup>

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a co-operative society who contravenes the provisions of section 32 or 33 by disposing of any property in respect of which the society is entitled to have a first charge under that section or do any other act to the prejudice of such claim, shall be punishable with fine which may extend to '[five thousand]<sup>1</sup> rupees.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(3) A co-operative society or an 1[office bearer]<sup>1</sup> or member thereof willfully making a false return or furnishing false information, or any person willfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or willfully not furnishing any information or handing over any documents or property required from him by a person or body of persons authorized in this behalf under the provisions of this Act, shall be punishable 2[with imprisonment which may extend to two years but shall not be less than three months and with fine which may extend to three thousand rupees but shall not be less than five hundred rupees]<sup>2</sup>.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(4) Any employer, who without sufficient cause, fails to make the deduction under sub-section (2) of section 34, or fails to pay to a co-operative society the amount deducted by him under sub-section (2) of section 34 within a period of fourteen days from the date on which such deduction is made, shall, without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with '[imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees.]<sup>1</sup>

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

(5) If default is made in complying with provisions of 3[sub-section (4)]<sup>3</sup> of section 16, sub-clause (ii) of clause (b) of sub-section (1) of section 24, sub-section (1) of section 28, section 56, section 58, section 59, section 60, or section 62, the co-operative society, and every '[office bearer]<sup>1</sup> or member of committee of the society who is in default shall be punishable with fine which may extend to 2[three]<sup>2</sup> hundred rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

3. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(6) If any person,—

(i) not eligible to become a member under section 17 applies to a co-operative society for admission as a member, or becomes a member, or after ceasing to be a member <sup>1</sup>[under sub-section (2) of that section acts as or exercises any rights or privileges of a member of any such co-operative society]<sup>1</sup>;

1. Substituted by Act 71 of 1976 w.e.f. 03.11.1976.

(ii) exercises the rights of a member in contravention of the provisions of section 19;

(iii) willfully fails to furnish the information or document in contravention of the provisions of sub-section (3) of section 87;

(iv) grants a lease of the mortgaged property in contravention of sub-section (1) of section 95,

shall be punishable with <sup>1</sup>[imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees]<sup>1</sup>.

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[(7) if any person who is not eligible to vote under sub-section (2) of section 20 exercises such vote, he shall be punishable with a fine which may extend to <sup>2</sup>[three thousand]2 rupees.]<sup>1</sup>

1. Inserted by Act 71 of 1976 w.e.f. 03.11.1976.

2. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

<sup>1</sup>[(8) If any person collecting any money as share money for a co-operative society in formation does not within a period of seven days from the date of such collection deposit the same in a co-operative bank specified by the Registrar in this behalf in the name of the co-operative society to be formed, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees.

1. Sub-sections (8) to (16) Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

(9) Any <sup>1</sup>[office bearer]<sup>1</sup> or member of a co-operative society who is in possession of any information, books and records fails to furnish such information or produce such books or records or to give assistance to a person appointed or authorized by the State Government or the Registrar or the Director of Co-operative Audit under sections 30, <sup>1</sup>[31]<sup>1</sup>, 63, 64, 65, 65B or 73 and entitled to the possession thereof, shall be punishable with fine which may extend to three thousand rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(10) Any <sup>1</sup>[office bearer]<sup>1</sup> of a co-operative society or other person who fails to hand over the custody of books, records, cash, securities and other property belonging to



the co-operative society to a person appointed under sections 30, '[31]' or 73 or any other person or '[office bearer]' entitled to the possession thereof shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(11) Any '[office bearer]' or member of a co-operative society who willfully fails to comply with any decision, award or order passed by the Registrar or arbitrator or the tribunal shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to three thousand rupees.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(12) Any '[office bearer]' or a member of co-operative society who willfully recommends or sanctions for his own personal use or benefit or for the use or benefit of a person in whom he has interest, a loan in the name of any other person shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to three thousand rupees or with both.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

'[(12A) where any person conducting audit under section 63 or inquiry under section 64 or inspection under section 65 or section 65B,—

(i) willfully omits to mention in his report any defects or irregularity which he has noticed or might have noticed had he exercised due diligence during the course of audit, inquiry or inspection; or

(ii) willfully makes false observation in his report;

shall without prejudice to any other action that may be taken against him under any law for the time being in force be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both.

(12B) Where a Chief Executive fails to send periodical extracts of cash book and certified copies of the proceedings of the General Meetings and Committee Meetings to the Registrar and the financing bank or credit agency within the time limits specified under sub-section (6) of section 29G, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both.]'

1. Sub-sections (12A) & (12B) inserted by Act 25 of 1998 w.e.f. 15.08.1998.

(13) Any co-operative society or any '[office bearer]' or employee or paid servant thereof who fails to give effect to any decision or award under section 71 including order if any, passed by the appropriate appellate authority, such decision or award not being a money decree, shall if such failure is by,—

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(a) the Board, be punishable with fine which may extend to five thousand rupees, and

(b) an '[office bearer]'<sup>1</sup> or an employee or a paid servant of such co-operative society, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(14) A member of the committee of a co-operative society who uses or allows the use of properties or funds of any co-operative society otherwise than in accordance with the provisions of this Act, the rules or the bye-laws of the society, shall be punishable with fine which may extend to five thousand rupees.

(15) Where an '[office bearer]', an employee, a paid servant or a member of a co-operative society, receives or sanctions a benami loan, accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatsoever, other than legal remuneration as a motive or reward for doing or forbearing to do any official act or showing or forbearing to show in exercise of his official functions favour or disfavour to any person or for rendering or attempting to render any service or dis-service to any person or used or allows to use the properties or funds of any co-operative society otherwise than in accordance with the provisions of this Act, the rules or the bye-laws of the co-operative society; or where any '[office bearer]' of the co-operative society signs in the minutes of the board or other committee meetings without actually attending such meeting; he shall be deemed to be guilty of corrupt practice, and,-

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(i) every person found guilty of any corrupt practice shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both;

(ii) every person convicted of an offence under clause (i) shall be disqualified permanently to be an '[office bearer]' or an employee or a paid servant of any co-operative society.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(16) Any co-operative society or a member of its committee or any employee thereof guilty of any contravention of the provisions of this Act for which no penalty is provided elsewhere, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.]<sup>1</sup>

**110. Offences by Companies.-** (1) Where an offence under sub-section (1) or sub-section (4) of section 109 or under any rule has been committed by a company,

every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the aforesaid sub-section or in any rules, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under sub-section (1) or (4) of section 109 or any rule has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purposes of this section,—

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner of the firm.

**\*1[110A. Power to compound offences.-** (1) The Registrar may accept from any person against whom a reasonable suspicion exists that he has committed any offence punishable under sub-sections (1), (1A), (2), (5), (7), (9), (13) and (14) of section 109 2[except an offence in respect of contravention of section 63]2 sum of money not exceeding one thousand rupees by way of composition for the offence which such person is suspected to have committed.

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

<sup>1</sup>[(1A) The Director of Co-operative Audit may accept from any person against whom a reasonable suspicion exists that he has committed an offence in respect of contravention of section 63 punishable under sub-section (9) of section 109, a sum of money not exceeding one thousand rupees by way of composition for the offence which such person is suspected to have committed]<sup>1</sup>.

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

(2) On the payment of such money to the Registrar 1[or the Director of Co-operative Audit, as the case may be]1 the suspected person if in custody, shall be discharged, the property, if any, seized shall be released and no further proceeding shall be taken against such person or property.]<sup>1</sup>

1. Inserted by Act 13 of 2004 w.e.f. 22.03.2004.

**111. Cognizance of offences.**- (1) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

<sup>1</sup>[(2) No prosecution shall be instituted under this Act without the previous sanction of,-

- (a) the Director of Co-operative Audit in respect of matters arising out of audit other than matters relating to co-operative credit structure society;
- (b) the Registrar in respect of all other matters including matters relating to audit in respect of cooperative credit structure society.

Provided that no sanction of the Registrar or the Director of Cooperative Audit shall be necessary for filing criminal complaints against the delinquents for alleged misappropriation or embezzlement of funds of a cooperative society detected during the course of audit, inquiry or inspection or in the normal course of business of a cooperative society.]<sup>1</sup>

1. Substituted by Act 6 of 2010 w.e.f. 03.11.2009.

(3) The sanction under sub-section (2) shall not be given,—

- (i) without giving to the person concerned an opportunity to represent his case;
- (ii) if the <sup>1</sup>[Director of Co-operative Audit] or the Registrar, as the case may be is satisfied that the person concerned has acted in good faith.]<sup>1</sup>

1. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

## CHAPTER XV MISCELLANEOUS

<sup>1</sup>[2[111-A. xxx]<sup>2</sup>

1. Sections 111A & 111B inserted by Act 19 of 1976 w.e.f. 20.01.1976.

2. Omitted by Act 25 of 1998 w.e.f. 27.10.1998.

**111-B. Preservation of records.**- The books and every records of a co-operative society shall be preserved for such period as the Registrar may from time to time by general or special order direct. A list of records destroyed shall be prepared and kept by the <sup>1</sup>[Chief Executive].<sup>1</sup>

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

**112. Prohibition against the use of the word "Co-operative".**- 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 equivalent in any Indian language is part:

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

**113. Address of a co-operative society.**- <sup>2</sup>[(1)]<sup>2</sup> Every co-operative society shall have an '[office and address registered]' in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

2. Renumbered by Act 71 of 1976 w.e.f. 03.11.1976.

<sup>1</sup>[(2) All the meetings including the general body meetings of a co-operative society shall be held in its registered office:

Provided that any such meeting may, with the previous permission of the Registrar, be held at any other place within the same city, town or village where the registered office is situated if there is no sufficient accommodation to hold such meeting in the registered office.]<sup>1</sup>

1. Inserted by Act 71 of 1976 w.e.f. 03.11.1976.

**114. Copy of Act, rules and bye-laws to be open to inspection.**- Every co-operative society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the '[registered office]' of the society.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

<sup>1</sup>[115. xxx]

1. Omitted by Act 5 of 1984 w.e.f. 09.01.1984.

**116. Orders to be pronounced.**- Every order, decision or award made or given by the Registrar, or any officer or other person or a Liquidator, under this Act, shall be pronounced on the day on which the case is finally heard or on some future day of which due notice shall be given to the parties.

**<sup>1</sup>[117. Procedure for settlement of disputes and power of the Registrar or any other person to whom a dispute is referred for decision under section 70.**- (1) The Registrar or any other person to whom a dispute is referred for decision under section 70, hearing a dispute under section 71 shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(2) Except with the permission of the Registrar or any other person deciding a dispute, as the case may be, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3) (a) If the Registrar or any other person to whom a dispute is referred is satisfied that a person, whether he be a member of the co-operative society or not, has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may join as a party to the dispute; and any decision that may be passed on the reference by the Registrar or his nominee or any other person shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Registrar or any other person to whom a dispute is referred for decision under section 70 may, at any stage of the hearing of the dispute, if satisfied that the mistake was bona fide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as he thinks just.

(c) The Registrar or any other person to whom a dispute is referred for decision under section 70, may, at any stage of the proceedings, either upon or without the application of any party and on such terms as may appear to the Registrar, or any other person deciding a dispute, as the case may be to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Registrar, or any other person deciding a dispute under section 70, as the case may be, may be necessary in order to enable the Registrar or such person effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs; but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar or any other person to whom a dispute is referred for decision under section 70.]<sup>1</sup>

**118. Bar of jurisdiction of courts.-** (1) Save as provided in this Act, no <sup>1</sup>[civil, labour or revenue court or Industrial Tribunal]<sup>1</sup> shall have any jurisdiction in respect of,—

1. Substituted by Act 2 of 2000 w.e.f. 20.06.2000.

(a) the registration of a co-operative society or bye-laws or of an amendment of a bye-law;

(b) the removal of a committee <sup>1</sup>[or member thereof]<sup>1</sup>;

1. Inserted by Act 2 of 2000 w.e.f. 20.06.2000.

(c) any dispute required under section 70 to be referred to the Registrar or the recovery of moneys under section 100;

(d) any matter concerning the winding up and the dissolution of a co-operative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings 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 made under this Act shall be questioned in any court on any ground whatsoever.

**119. Application of Limitation Act.-** The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall be applicable to the filing of any appeal or application for revision under this Act.

**120. Power to exempt societies from conditions of registration.-** Notwithstanding anything contained in this Act, the State Government may, by special order published in the official Gazette in each case and subject to such conditions, if any, as it may impose, exempt any co-operative society from any of the requirements of this Act as to registration.

**[121. Power to exempt societies.-** The State Government may, by general or special order published in the Official Gazette, exempt any co-operative society or any class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order]<sup>1</sup>

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998 and again Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

**122. Register of Members.-** Any register or list of members or shares kept by any co-operative society shall be prima facie evidence of any of the following particulars entered therein:—

(a) the date on which the name of any person was entered in such register or list as a member;

(b) the date on which any such person ceased to be a member.

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

(2) A co-operative society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document; and any copy so

granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

(3) <sup>1</sup>[No office bearer] of a co-operative society and no office bearer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the Liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court, Tribunal or the Arbitrator made for special cause.

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

**124. Service of notice under the Act.-** Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place of residence or business of such person prepaying and posting by registered post a letter containing the notice or order and unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course

<sup>1</sup>[Provided that a notice relating to any meeting or election of a Co-operative society, other than the meeting convened for the purpose of election of office bearers, shall be issued by certificate of posting]<sup>1</sup>

1. Inserted by Act 24 of 2001 w.e.f. 05.09.2001.

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

**126. Acts of co-operative societies not to be invalidated by certain defects.-** No act of a co-operative society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the constitution of the society or the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

<sup>1</sup>[126A. x x x]<sup>1</sup>

1. Inserted by Act 70 of 1976 w.e.f. 19.07.1976 and Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

**127. Indemnity.-** No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority <sup>2</sup>[or the



<sup>3</sup>[Director of Co-operative Audit]<sup>3</sup> or any other person subordinate to him acting on his authority<sup>2</sup> <sup>1</sup>[or against the new committee of the co-operative society or the Administrator or the Special Officer appointed under section 30 or section 30A]<sup>1</sup> in respect of anything in good faith done or purporting to have been done under this Act.

1. Inserted by Act 70 of 1976 w.e.f. 19.07.1976.

2. Inserted by Act 3 of 1980 w.e.f. 11.08.1977.

3. Substituted by Act 5 of 1984 w.e.f. 09.01.1984.

**<sup>1</sup>[127A. <sup>2</sup>[Office bearers, members and employees]<sup>2</sup> of co-operative societies to be public servants.-** <sup>2</sup>[Every office bearer of a co-operative society, every member of a committee and every employee]<sup>2</sup> of a co-operative society including sale and recovery officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.]<sup>1</sup>

1. Inserted by Act 5 of 1984 w.e.f. 09.01.1984.

2. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

**128. Companies Act, 1956, not to apply.-** The provisions of the Companies Act, 1956 (Central Act 1 of 1956), shall not apply to co-operative societies.

<sup>1</sup>[128A. XXX]<sup>1</sup>

1. Inserted and Omitted by Act 6 of 2010 w.e.f. 01.07.2010.

**<sup>1</sup>[128B. Duties of police officer.-** It shall be the duty of every police officer to assist the Registrar or any person subordinate to the Registrar reasonably demanding his aid for the lawful exercise of any power vesting in the Registrar or such person under this Act or any rule or bye-law made thereunder.]<sup>1</sup>

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

**129. Powers to make rules.-** (1) The State Government may, for the whole or any part of the State and for any class of co-operative societies, after previous publication, by notification in the official Gazette, make rules to carry out the purpose 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:—

(a) the applicant to whom the order refusing the registration of a co-operative society may be sent by the Registrar;

(b) the procedure and conditions for change in the form and extent of the liability of a co-operative society;

(c) the matters in respect of which a co-operative society shall or may make bye-laws;

(d) the procedure to be followed for amendment of bye-laws by a co-operative society;

(e) the qualifications of individuals who may be admitted as members of co-operative societies

(f) the provision for a second or casting vote by the chairman of a meeting of a co-operative society;

(g) the appointment by a co-operative society of one of its members to represent and vote on its behalf at a meeting of another co-operative society of which it is a member;

<sup>1</sup>[(h) x x x]<sup>1</sup>

1. Omitted by Act 25 of 1998 w.e.f. 15.08.1998.

(i) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;

(j) the mode in which the value of a deceased member's share shall be ascertained;

<sup>1</sup>[(k) conduct of election of members of the committee and office bearers of the co-operative society including appointment of returning officers, polling officers and such other officers, and their powers and functions;]<sup>1</sup>

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(l) the requisitioning of a general meeting of a co-operative society;

<sup>1</sup>[(m) remuneration payable to the members of the committee and the administrator or the Special Officer appointed in place of a committee removed by the Registrar;]<sup>1</sup>

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(n) the qualifications <sup>1</sup>[x x x]<sup>1</sup> for membership of committee of a co-operative society <sup>2</sup>[the authority competent to decide questions of disqualification and appeals from such decisions;]<sup>2</sup>

1. Omitted by Act 39 of 1975 w.e.f. 23.09.1975.

2. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

<sup>1</sup>[(o) the recruitment including qualification for recruitment and conditions of service of employees of co-operative societies;]<sup>1</sup>

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(p) the prohibition against officers of a co-operative society being interested in contracts with the society;

(q) the matters connected with direct and indirect partnership of the State Government in co-operative societies;

(r) the rate at which dividend may be paid by co-operative societies;

(s) the objects of the reserve fund of a co-operative society and mode of its investment;

(t) the mode of disposal of reserve fund of a co-operative society on its winding up;

(u) the extent and conditions subject to which a co-operative society may receive deposits and loans;

(v) the restrictions on transactions by a co-operative society with non-members;

(w) the restrictions on grant of loans by a co-operative society against its shares;

(x) the form and standards of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits;

(y) the levy of audit fees on co-operative societies;

(z) the procedure to be followed in proceedings before the Registrar, Arbitrator or other person deciding disputes <sup>1</sup>[and the fees payable to arbitrators];

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(aa) the conditions subject to which assets of a co-operative society shall vest in a liquidator and the procedure to be adopted in winding up of a co-operative society;

<sup>1</sup>[(bb) the procedure for recovery of amounts due or payable to a co-operative society and for the transfer of property under section 101-B;]

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(cc) the mode of making attachment before judgment;

<sup>1</sup>[(dd) the procedure and conditions for the issue, redemption, re-issue, transfer, replacement or conversion of debentures issued by a society to which Chapter XI is applicable;

1. Substituted by Act 40 of 1964 w.e.f. 26.06.1965.

(dd-1) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures issued by a society to which Chapter XI is applicable;

(dd-2) the qualifications and methods of appointment of an officer to effect sale under section 89 and the powers and function which such an officer may exercise;

(dd-3) for the appointment of a receiver of the produce and income of the mortgaged property for sale under section 89, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and the expenses of management and remuneration which he may receive;

(dd-4) the circumstances in which action may be taken by a <sup>1</sup>[Agriculture and Rural Development Bank] against a mortgagor under section 91;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(dd-5) in case of sale of immovable property under Chapter XI,—

(i) the procedure for proclamation and conduct of the sale and the conditions on which the proposed sale may be abandoned;

(ii) the method of calculating the expenses incidental to the sale or proposed sale;

(iii) the procedure for the receipt of deposit and disposal of the proceeds of sale;

(iv) the procedure for a resale if a proposed sale is abandoned or the purchase money is not deposited within the prescribed time and the penalty to be levied against the purchaser who fails so to deposit the purchase money;

(v) the form and method of disposal of money by a '[Agriculture and Rural Development Bank]<sup>1</sup>' under section 89B;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(vi) the form of sale certificate under section 89C;

(vii) the procedure for the delivery by the Court to the purchaser of the property purchased under section 89C;

(viii) the form of the notice referred to in section 97; and

(ix) the fee payable for the service of such notices and the manner of serving such notices, on the land lord named in such notices;

(dd-6) the time within which and the procedure according to which property purchased by a '[Agriculture and Rural Development Bank]<sup>1</sup>' at a sale of immovable property under Chapter XI shall be disposed of by the Bank;<sup>1</sup>

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(ee) the manner of registering the address of a co-operative society;

(ff) the '[account books and records]<sup>1</sup>' and registers to be kept by a co-operative society and power of Registrar to direct the accounts and books to be written up;

1. Substituted by Act 25 of 1998 w.e.f. 15.08.1998.

(gg) the manner of certification of entries in the books of a co-operative society and of copies of documents kept by it in the course of its business;

(hh) the statements and returns to be furnished by co-operative societies to the Registrar;

(ii) the restrictions on persons appearing as legal practitioners;

(jj) the inspection of documents and the levy of fees for granting certified copies thereof; and

(kk) the matters expressly required or allowed by this Act to be prescribed.

<sup>1</sup>[(ll) any other matter necessary for giving effect to the purposes of this Act.]<sup>1</sup>

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

(3) In making a rule under this section, the State Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to two hundred rupees.

<sup>1</sup>[(4) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under section 130, every rule made under this Act shall have effect as if enacted in this Act.]<sup>1</sup>

1. Inserted by Act 40 of 1964 w.e.f. 26.06.1965.

**<sup>1</sup>[129A. Model bye-laws.-** (1) In respect of any of the matters specified in the rules made in accordance with clause (c) of sub-section (2) of section 129, the Registrar may by notification, make model bye-laws and different model bye-laws may be made for different classes of societies.

(2) The Registrar may by order direct any co-operative society or class or classes of co-operative societies to adopt the model bye-laws in respect of any matter within such period not being less than three months from the date of receipt of the direction by the society.

(3) If a co-operative society fails to take any action for adopting the model bye-laws with or without modifications, the Registrar may by order declare that the said model bye-laws shall be deemed to have been adopted by such society from such date as may be specified in such order and such bye-laws come into force accordingly.]<sup>1</sup>

1. Inserted by Act 25 of 1998 w.e.f. 15.08.1998.

**130. Rules and orders to be laid before State Legislature.-** Every notification issued under sections 37, 54 and 132, every order made under sections 120 and 121, and every rule made under section 129 shall, as soon as may be, after it is issued or made be laid before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more sessions and if before the expiry of the said period, either House of the State Legislature makes any modification in the notification, order or rule or directs that the notification, order or rule shall not have effect and if the modification or direction is agreed to by the other House, the notification, order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

**131. Repeal and savings.-** The Bombay Co-operative Societies Act, 1925 (Bombay Act VII of 1925) as in force in the '[Belgaum Area]', the Madras Co-operative Societies Act, 1932 (Madras Act IV of 1932) and the Madras Co-operative Land Mortgage Banks Act, 1934 (Madras Act X of 1934) as in force in the '[Mangalore and Kollegal Area]', the Coorg Co-operative Societies Act, 1936 (Coorg Act II of 1936) as in force in Coorg District, the Mysore Co-operative Societies Act, 1948 (Mysore Act LII of 1948), as in force in the Mysore Area the Hyderabad Co-operative Societies Act, 1952

(Hyderabad Act XVI of 1952), and the Hyderabad Co-operative Land Mortgage Banks Act, 1349 F (Hyderabad Act II of 1349 Fasli) as in force in the '[Gulbarga Area]', are hereby repealed:

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

Provided that any co-operative society existing on the date of commencement of this Act which has been registered or deemed to be registered under any of the aforesaid repealed enactments shall be deemed to be registered under this Act; and the bye-laws of such society shall so far as they are not inconsistent with the provisions of this Act or the rules made thereunder, continue in force until altered or rescinded in accordance with the provisions of this Act and the rules made thereunder:

Provided further that subject to the preceding proviso section 6 of the 1[Karnataka]1 General Clauses Act, 1899 ('[Karnataka Act]1 III of 1899) shall be applicable in respect of the repeal of the said enactments and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by a '[Karnataka Act]1'.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f.01.11.1973.

**132. Power to remove difficulties.**- (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government, may, by notification in the official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may by notification make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

### **KARNATAKA ACT NO. 06 OF 2010**

*(First Published in the Karnataka Gazette Extra-ordinary on the Thirtieth day of March, 2010)*

#### **THE KARNATAKA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2010**

*(Received the assent of the Governor on the Twenty ninth day of March, 2010)*

An Act further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas it is expedient to amend the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty first year of the republic of India as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Co-operative Societies (Amendment) Act, 2010.

(2) Sections 2, 3, 4, 6, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 28, 29, 30 excluding section 98D sought to be inserted therein 33, 34 and 35 shall be deemed to have come into force with effect from the third day of November, 2009. Sections 1, 5, 7, 10, 11, 20, 22, 23, 24, 25, 26, 27, 31, 32 and 37 shall come into force at once. Section 98D sought to be inserted by section 30 shall come into force on such date as the State Government may by notification in the Official Gazette, appoint."

(Section 2 to 35 incorporated in the principal Act)

**36. Power to remove difficulty.-** (1) If any difficulty arises in giving effect to the provisions of the Principal Act as amended by this Act, the State Government may, by notification in the Official Gazette, make such provisions as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued under this section after the expiry of two years from the date of commencement of the relevant provision under the Karnataka Co-operative Societies (Amendment) Act, 2010.

(2) Every notification issued under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

**37. Repeal and Savings.-** (1) The Karnataka Co-operative Societies (Amendment) Ordinance, 2009 (Karnataka Ordinance No. 8 of 2009) is hereby repealed.

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

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## NOTIFICATION

I

**Bangalore, dated the 25th May, 1960. [No. A & F 21 CAD 59 (II)]**

In exercise of powers conferred by sub-section (3) of Section 1 of the Mysore Co-operative Societies Act, 1959 (Mysore Act 11 of 1959), the Government of Mysore hereby appoint the 1st day of June 1960, as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(B. BEERAPPA)

*Secretary to Government, Agriculture and Forest Department.*

## II

**Bangalore, dated 22nd–23rd June, 1965. [No. DPC 88 CBA 64.]**

**S.O. 2640.**—In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore Co-operative Societies (Amendment) Act, 1964 (Mysore Act 40 of 1964), the Government of Mysore hereby appoints the Twenty-sixth day of June 1965, as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(L. S. GAI)

*Under Secretary.*

## III

**Bangalore, dated 11th April 1968 [No. DPC 257 CMD 65]**

**S.O. 526.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Agricultural Produce Marketing (Regulation) Act, 1966 (Mysore Act 27 of 1966), the Government of Mysore hereby appoints the first day of May 1968, as the date on which the said Act, shall come into force.

(Published in Karnataka Gazette, Extraordinary, PART IV—2C(ii) No. 314, dated 11th April, 1968.)

## IV

**Bangalore, dated the 30th December 1967 [No. FD 421 CSL 67.]**

**S.O. 2511.**—In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore Sales Tax (Amendment) Act, 1967 (Act No. 16 of 1967), the Government of Mysore hereby appoints the 1st day of January 1968, as the date on which all the provisions of the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(N. S. BHARATH)

*Deputy Secretary to Government,*

*Finance Department.*

## V

**Bangalore, dated 17th July 1975. [No. PD 87 PCM 71]**

**S.O. 2050.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 (Karnataka Act 2 of 1975), the Government of Karnataka hereby appoints the Seventeenth day of July 1975 as the date on which the said Act shall come into force in



the whole of the State of Karnataka.

By Order and in the name of the Governor of Karnataka,  
(DHIRENDRA SINGH)  
*Deputy Secretary to Government, Planning Department.*

**VI**

**Bangalore, dated the 23rd September 1975 [ No. RDC 322 CEA 75]**

**S.O. 3077.**—In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Amendment) Act, 1975 (Karnataka Act No. 39 of 1975), the Government of Karnataka hereby appoints the twenty-third day of September 1975 as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,  
(C. S. HUBLI)

*Deputy Secretary to Government,  
Rural Development and Co-operation Department.*

(Published as S.O. 3077 in Part-IV 23 (ii) of Gazette Extraordinary dated 23.09.75 as No. 3471.)

**VII**

**Bangalore, dated 12th August 1998. [No. CMW 131 CLM 98]**

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Amendment) Act, 1997 (Karnataka Act 25 of 1998), the Government of Karnataka hereby appoints the fifteenth day of August 1998 to be the day from which all the provisions of the said Act, except provisions of Section 6(2)(iv) inserted by Section 5, Section 29G inserted by Section 29, Section 39A (3) inserted by Section 36, Section 69(3) inserted by Section 46 and Section 111A omitted by Section 61 of the said Act, shall come into force.

By Order and in the name of the Governor of Karnataka,  
*Officer on Special Duty, Co-operation Department.*

**VIII**

**Bangalore, dated 27th October 1998. [No. CMW 131 CLM 98]**

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Amendment) Act, 1997 (Karnataka Act 25 of 1998), the Government of Karnataka hereby appoints the twenty seventh day of October 1998 to be the day from which the provisions of section 6(2) (iv) inserted by section 5; section 29G inserted by section 29, section 39A (3) inserted by section 36,

section 69 (3) inserted by section 46 and section 111A omitted by section 61 of the said Act, shall come into force.

By Order and in the name of the Governor of Karnataka,  
(M.R. RANGANATH)  
*Officer on Special Duty, Co-operation Department.*

### IX

#### **Bangalore, dated 20th June 2000. [No. CMW 60 CLM 99]**

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Second Amendment) Act, 1997 (Karnataka Act 2 of 2000), the Government of Karnataka hereby appoints the twentieth day of June 2000 to be the day from which all the provisions of the said Act, except the provisions of section 26A and section 26B inserted by section 2 of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,  
(LIZZIE PHILIPS)  
*Officer on Special Duty, Co-operation Department.*

### X

#### **Bangalore dated 2nd June, 2003 [No. CMW 90 CLM 2003]**

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Co-operative Societies (Second Amendment) Act, 1997 (Karnataka Act No.2 of 2000), the Government of Karnataka hereby appoints the 31st of May, 2003 to be the date from which the provisions of Section 26A and Section 26B inserted by Section 2 of the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,  
R.S. Huchachary  
*Officer on Special Duty, Co-operation Department.*

### XI

#### **Bangalore dated 5th September, 2001 [No. CMW 48 CLM 2001]**

(Published in Karnataka Gazette Part-IV-A Extraordinary No.1648 dated: 07.09.2001)

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Second Amendment) Act, 2000 (Karnataka Act 24 of 2001), the Government of Karnataka hereby appoints the fifth day of September 2001 to be

the day from which all the provisions of the said Act, shall come into force.

By Order and in the name of the Governor of Karnataka,

(LIZZIE PHILIPS)

*Officer on Special Duty, Co-operation Department.*

**XII**

**ಬೆಂಗಳೂರು ದಿನಾಂಕ: 22.03.2004 (ಸಂಖ್ಯೆ:ಸಿಎಂಡಬ್ಲ್ಯೂ.83ಸಿಎಲ್‌ಎಂ 2003)**

ಕರ್ನಾಟಕ ಸಹಕಾರ ಸಂಘಗಳ (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2004 (2004ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ:13)ರ ಪ್ರಕರಣ 1ರ ಉಪ ಪ್ರಕರಣ (2)ರಡಿ ದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ, ಕರ್ನಾಟಕ ಸರ್ಕಾರವು ಸದರಿ ಅಧಿನಿಯಮದ ಎಲ್ಲಾ ಉಪಬಂಧಗಳು 23ನೇ ಮಾರ್ಚ್ 2004ರಿಂದ ಜಾರಿಯಲ್ಲಿ ಬರುತ್ತವೆ ಎಚ್ಚಿದು ನಿಗದಿಪಡಿಸುತ್ತದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಎಸ್. ಹುಬ್ಬಾಚಾರಿ

ಎಶೇಷ ಕರ್ತವ್ಯಾಧಿಕಾರಿ, ಸಹಕಾರ ಇಲಾಖೆ.

**XIII**

**Bangalore dated 10th February 2011 [No. CO 24 CLM 2011]**

(Published in Karnataka Gazette Part-IV-A Extraordinary No.215 dated: 11.02.2011)

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Co-operative Societies (Amendment) Act, 2011 (Karnataka Act No. 4 of 2011), the Government of Karnataka, hereby appoints the 10th day of February 2011 to be the date on which all the provisions of this Act shall come into force.

By Order and in the name of the Governor of Karnataka,

(R.S. NULI)

*Officer on Special Duty & Ex-officio*

*Joint Secretary to Government*

*Co-operation Department.*

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**THE KARNATAKA ELECTRICITY (TAXATION ON CONSUMPTION) ACT, 1959.****ARRANGEMENT OF SECTIONS.**

Sections :

1. Short title, extent and commencement.
2. Definitions.
3. Levy of tax on electricity charges etc.
4. Payment of electricity tax.
5. Books of account, etc.
6. Inspecting Officers.
7. Recoveries.
8. Power of State Government to notify exemptions and reductions of tax.
- 8A. Dispensing with the performance of certain contracts.
9. Penalties.
10. Power to make rules.
11. Rules and Notifications to be laid before State Legislature.
12. Repeal and savings.
13. Repeal of Karnataka Ordinance No. 2 of 1959 and savings.
14. Power to remove difficulties.

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**STATEMENT OF OBJECTS AND REASONS.**

**Act 14 of 1959.**— Different rates of taxation on consumption of electricity have been in force since the Reorganization of States in the several areas of the State and it has been considered necessary to have a uniform tax structure all over the State. This uniform structure could not however be introduced until the tariff structure was made uniform. The State Electricity Board has introduced a uniform tariff structure all over the State with effect from 1st July 1959. As it was necessary to introduce the uniform tax structure simultaneously with the introduction of uniform rates, an Ordinance was promulgated on 23rd June 1959. This Ordinance is generally on the lines of the Mysore Electricity (Taxation on Consumption) Act, 1950 as amended by the Mysore Electricity (Taxation on Consumption) Amendment Act, 1957.

The present Bill is intended to replace the Ordinance.

( Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 4th August 1959, as No. 65 at page. 8.)

II

**Amending Act 10 of 1970.**— Section 3 of the Mysore Electricity (Taxation on Consumption) Act, 1959 provides for the levy of a tax on units of electrical energy consumed every month calculated at a rate not exceeding three paise per unit of energy as may, by notification be specified by Government in respect of different classes of consumers. It is now proposed to enhance the tax on consumption of electricity leviable by Government. The total rate including tax charged to the different classes of consumers at present is lower than the rates in other States and it is also necessary to raise resources to meet the Government's share of expenditure for the Fourth Plan. In order to give effect to this proposal, it is necessary to amend section 3 of the Act.

Hence this Bill.

( Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 28th March 1970 as No. 110 at page 3.)

III

**Amending Act 10 of 1979.**—The rate of interest on belated payment of electricity tax was not exceeding 12% per annum.

The rate of interest on belated payment of electricity charges due to Karnataka Electricity Board was raised from 12% to 15% in 1972. The difference in the two rates of interest has given rise to some confusion in raising the demand and maintaining accounts by the Karnataka Electricity Board. In order to overcome this difficulty, pointed out by Karnataka Electricity Board, it was proposed to enhance the rate of interest on belated payment of electricity tax also from 12% to 15%.

As the Karnataka Legislative Assembly was not in session, an Ordinance was promulgated for the said purpose.

This Bill seeks to replace the said Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A, dated 24th January 1978, as No. 81, at page. 3.)

IV

**Amending Act 5 of 1982.**— Liability to collect and pay the tax under the Karnataka Electricity (Taxation on Consumption) Act, 1959 is on the licensee who is now required to keep separate entries relating to each consumer. In order to simplify the accounting procedure the licensee may show in his accounts only the total units of energy consumed and supplied by him to the consumers and the tax payable thereon. It is also proposed to increase the maximum rate of interest chargeable on arrears of tax from 15% to 24%.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 3rd February 1982 as No. 73 at page 4.)

#### V

**Amending Act 25 of 1984.**— The total rate including tax charged to the different classes of consumers in this State is lower than those in some neighbouring States and it is necessary to raise additional resources to meet the Government share of expenditure for the sixth plan.

It is therefore proposed to amend section 3 of the Karnataka Electricity (Taxation on Consumption) Act, 1959 to enhance the upper limit of tax on consumption of electricity leviable by Government from six paise to eight paise per unit of energy.

Hence the Bill.

(Obtained from L.A. Bill No. 6 of 1984.)

#### VI

**Amending Act 15 of 1985.**—The Government of India have abolished the Central Excise Duty on electricity with effect from 1st October 1984. The proceeds of the excise duty were being transferred entirely to the State Government by the Government of India. In order to compensate the loss to the State Government on account of abolition of Excise Duty on electricity, the electricity tax has been enhanced with effect from 1st October 1984 to commensurate with the loss caused thereof.

As the matter was urgent and since the Legislative Assembly was not in session an Ordinance was promulgated providing for enhancement of electricity tax from 8 paise to 12 paise.

This Bill seeks to replace the said Ordinance.

(Published in Karnataka Gazette (Extraordinary) dated 25th March 1985, as No. 164 at page 3.)

#### VII

**Amending Act 13 of 1990.**— For attracting industries to our State by rendering the products competitive, special agreements were entered into. They provided for very low concessional tariff rates and occasionally for reimbursement of the part of the tax collected from the consumer.

For quite sometime past our State has experienced acute shortage of power, necessitating import of energy from other States at very high rates. The cost of generation, transmission and also overhead charges have steeply increased.

It has been noticed that instead of ploughing the concessions availed of for the purpose of rendering the products competitive the industries have desisted from passing on the benefits to the consumers of the products. This has contributed to their

unjust enrichment at the cost of the consumer of the products and in a manner detrimental to public interest.

In Order to remedy the situation the Electricity Supply (Karnataka Amendment) Bill, 1981 was enacted for the purpose of amending section 49 of the Electricity Supply Act, 1948.

It was understood that this enactment, apart from granting power to impose an uniform tariff rate would also absolve the State Government from the burden imposed by the contract to reimburse the tax collected above at certain rates.

The validity of the Act was unsuccessfully challenged by the Indian Aluminium Company Ltd., before the High Court and the appeal preferred by it is pending before the Supreme Court. However, in Writ Petition Nos. 27361 and 27362 of 1981, the High Court held that the above amendment touched only the tariff under the Taxation Act and did not govern the contractual terms for reimbursement or indemnification towards the hike in the rate of tax on consumption. It has also held that the reimbursement or indemnification cannot be refused on the grounds other than statutory.

The proposed law is intended to provide a statutory ground to absolve the State Government from the liability to make reimbursement and indemnification, with a view to prevent the unjust enrichment of the industry at the expense of the consumer of the goods and with a view to conserve the resources of the State for promoting the interests of the public at large.

Hence the Bill.

( Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 29th March 1990 as No. 157 at page 66 and 67.)

## VIII

**Amending Act 7 of 1998.**— Section 4 of the Karnataka Electricity (Taxation on Consumption) Act, 1959 requires every Licensee to collect and pay to the State Government the Electricity tax payable under the Act. But, this requirement is not applicable to consumption of energy generated by means of generators not exceeding 5 kilowatts in capacity.

Rule 47A was inserted in the Indian Electricity Rules, 1956 in the year 1995 which requires that every consumer or occupier shall obtain approval in writing of the Inspector before commissioning a generating plant of a capacity exceeding 10 kilowatts.

In view of the aforesaid amendment to the Indian Electricity Rules, it was considered necessary to enhance the existing limit of 5 Kw to 10 Kw by amending Section 4 of the Karnataka Electricity (Taxation on Consumption) Act, 1959.

As the matter was urgent and the Karnataka Legislative Council was not in session, the Karnataka Electricity (Taxation on Consumption) (Amendment) Ordinance, 1997 was promulgated to achieve the above object.

This Bill seeks to replace the said ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 25th August 1998 as No. 339 at page 2.)

### IX

**Amending Act 27 of 2001.-** It is considered necessary to amend the Karnataka Electricity Board (Recovery of Dues) Act, 1976 and the Karnataka (Taxation on Consumption) Act, 1959 to incorporate the consequential changes necessitated on account of the enactment of the Karnataka Electricity Reform Act, 1999.

Hence the Bill.

(Vide L.A. Bill No. 16 of 2001 File No. SAMVYASHAE 19 SHASANA 2001)

### X

**Amending Act 7 of 2003.-** To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Agricultural Income Tax Act, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976, the Karnataka Tax on Luxuries Act, 1979, the Karnataka Tax on Entry of Goods Act, 1979 and the Karnataka Electricity (Taxation on Consumption) Act, 1959.

Hence the Bill.

(L.A. Bill No. 9 of 2003)

### XI

**Amending Act 5 of 2004.-** During the review of power sector by the Chief Minister on 4th September, 2003, it was decided to increase the hours of 3 phase power supply in rural areas to 6 hours a day along with 10 hours of single phase supply. This would require additional purchase of power and would impose additional financial burden on KPTCL and the State Government. Hence, it was decided to levy electricity tax on energy consumed through captive power generation at the rate of 25 paise per unit of energy.

As the matter was urgent and both the Houses of the Karnataka State Legislature were not in Session the Karnataka Electricity (Taxation on Consumption) (Amendment) Ordinance, 2003 was promulgated.

This Bill seeks to replace the above Ordinance.

Hence the Bill.

(LA Bill No. 5 of 2004)

(Entry 53 of List II of the Seventh Schedule to the Constitution of India)



**'[KARNATAKA]' ACT No. 14 OF 1959.**

*(First published in the '[Karnataka Gazette]' on the Tenth day of September, 1959.)*

**THE '[KARNATAKA]' ELECTRICITY (TAXATION ON CONSUMPTION) ACT, 1959.**

*(Received the assent of the Governor on the Twenty-fifth day of August, 1959.)*

*(As Amended by Karnataka Acts 10 of 1970, 10 of 1979, 5 of 1982, 25 of 1984, 15 of 1985, 13 of 1990, 7 of 1998, 7 of 2003 and 5 of 2004)*

**An Act to provide for the levy of tax on the consumption of electrical energy in the '[State of Karnataka]'<sup>1</sup>.**

WHEREAS it is expedient to provide for the levy of tax on consumption of electrical energy in the '[State of Karnataka]';

BE it enacted by the '[Karnataka]' State Legislature in the Tenth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973, w.e.f.01.11.1973.

**1. Short title, extent and commencement.-** (1) This Act may be called the '[Karnataka]' Electricity (Taxation on Consumption) Act, 1959.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973, w.e.f.01.11.1973.

(2) It extends to the whole of the '[State of Karnataka]'<sup>1</sup>.

(3) The provisions of this Act, except section 13, shall be deemed to have come into force on the first day of July, 1959.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973, w.e.f.01.11.1973.

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

(1) "consumer" includes a local authority, company or other person to whom energy is supplied by a licensee on payment of charges or otherwise, and a licensee or other person who consumes energy generated by himself, but does not include a licensee to whom energy is supplied by the '[Karnataka Power Transmission Corporation]'<sup>1</sup> for supply to others; and the word "consume" with its grammatical variations shall be construed accordingly;

**Explanation.—**Where a licensee to whom energy is supplied by the '[Karnataka Power Transmission Corporation]'<sup>1</sup> for supply to others, himself consumes any part of the energy, he shall be deemed to be a consumer in respect of energy so consumed.

1. Substituted by Act 27 of 2001 w.e.f. 10.1.2002 by notification. Text of the notification is at the end of the Act.

(2) "energy" means electrical energy;

(3) "licensee" means,-

'[(a) [the Karnataka Power Transmission Corporation incorporated as a transmission company under the Companies Act, 1956 which expression shall be deemed to include the Karnataka Electricity Board in respect of energy supplied prior to the date of effective date of transfer of property, any interest in property and any rights and liabilities of the Karnataka Electricity Board to Karnataka Power Transmission Corporation in accordance with section 14 of the Karnataka Electricity Reform Act, 1999.]'

1. Substituted by Act 27 of 2001 w.e.f. 10.1.2002 by notification. Text of the notification is at the end of the Act.

(b) any person licensed under Part II of the Indian Electricity Act, 1910 (Central Act IX of 1910), to supply energy and includes any person who has obtained the sanction of the State Government under section 28 of the said Act; and

(c) the State Government when it is engaged in the business of supplying energy;

(4) "notification" means a notification published in the Official Gazette;

(5) "prescribed" means prescribed by rules made under this Act.

'[3. Levy of tax on <sup>2</sup>electricity charges etc.]<sup>2</sup> - <sup>3</sup>[(1)]<sup>3</sup> Subject to the provisions of this Act, there shall be levied and paid to the State Government, ad valorem tax (hereinafter referred to as "electricity tax") at five percent on the electricity charges payable (excluding arrears) by all the consumers except consumers under agricultural (irrigation pump sets upto and inclusive of Ten Horse Power), Bhagya jyothis and Kutira jyothis categories]'

1. Substituted by Act 7 of 2003 w.e.f. 1.4.2003.

2. Substituted by Act 5 of 2004 w.e.f. 16.10.2003.

3. Renumbered by Act 5 of 2004 w.e.f. 16.10.2003.

'[(2) Subject to the provision of this Act, there shall be levied and paid to the State Government, with effect from the date of commencement of Karnataka Electricity (Taxation on Consumption) (Amendment) Act, 2004 and till the first day of July, 2004, an electricity tax at the rate of twenty five paise per unit on all the units of energy consumed by any person,-

(i) not being a licensee who has generated such energy; or

(ii) to whom it is supplied free of charge by a person not being a licensee who has generated such energy.]'

1. Inserted by Act 5 of 2004 w.e.f. 16.10.2003.

**4. Payment of electricity tax.**- (1) Every licensee shall collect and pay to the State Government at the time and in the manner prescribed, the electricity tax payable

under this Act 1[on the electricity charges included in the bill issued by him to the consumer]<sup>1</sup>. The tax so payable shall be a first charge on the amounts recoverable by the supplier for the energy supplied by him and shall be a debt due by him to the State Government:

Provided that where the licensee has been unable to recover the amounts due to him for the energy supplied by him he shall not be liable to pay the tax in respect of the energy so supplied.

(2) A licensee may be granted a rebate of such amount, as may from time to time be determined by the State Government regard being had to the cost of collection of the electricity tax incurred by such licensee:

Provided that the amount of rebate shall not exceed two per cent of the electricity tax collected by the licensee.

(3) Every person, who consumes energy generated by himself, or who supplies energy to any other person free of charge, shall pay, or collect and pay, as the case may be, to the State Government, at the time and in the manner prescribed, the electricity tax payable under section 3. <sup>2</sup>[xxx]<sup>2</sup>

1. Substituted by Act 7 of 2003 w.e.f. 1.4.2003.

2. Omitted by Act 7 of 2003 w.e.f. 1.4.2003.

(4) When any consumer fails or neglects to pay at the time and in the manner prescribed, the amount of electricity tax due from him, the licensee or, as the case may be, the person supplying energy free of charge, may without prejudice to the right of the State Government to recover the amount under section 7, after giving not less than seven clear days' notice in writing to such person, cut off supply of energy to such person; and he may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910, for the recovery of any charge or sum due in respect of energy supplied by him.

(5) Nothing in this section shall apply,-

(i) to any person who generates energy for the purpose of supplying it for the use of vehicles or vessels;

(ii) to the consumption of energy generated by means of generators not exceeding <sup>1</sup>[ten kilowatts]<sup>1</sup> in capacity.

1. Substituted by Act 7 of 1998 w.e.f. 24.10.1997.

**5. Books of account, etc.-** Every licensee and every person not being a licensee referred to in sub-section (3) of section 4 shall keep books of account, in the prescribed form and submit to the State Government or to the prescribed officer, returns in such form and at such times as may be prescribed, 1[showing the units of energy consumed by him and the total units of energy supplied by him to consumers,

and the <sup>2</sup>[amount of tax payable thereon under section 3]<sup>2</sup> and such other particulars as may be prescribed]<sup>1</sup>.

1. Substituted by Act 5 of 1982 w.e.f. 29.12.1981.

2. Substituted by Act 7 of 2003 w.e.f. 1.4.2003.

**6. Inspecting Officers.**- (1) The State Government may, by notification, appoint Inspecting Officers to inspect the prescribed books of account kept under section 5.

(2) The Inspecting Officers shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.

(3) Every Inspecting Officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860), and the Prevention of Corruption Act, 1947 (Central Act II of 1947).

**7. Recoveries.**- Any sum due on account of electricity tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears, and thereupon such interest not exceeding <sup>1</sup>[twenty-four per cent]<sup>1</sup> per annum which the State Government may by general or special order fix shall be payable on such sum; and the sum, together with any interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue,—

(i) if the sum was payable under sub-section (1) of section 4 either from the consumer or, subject to the proviso to the said sub-section from the licensee, at the option of the State Government;

(ii) if the sum was payable under sub-section (3) of section 4, either from the consumer or from the person supplying energy free of charge, at the option of the State Government, or from the person who generates energy for his own consumption.

1. Substituted by Act 5 of 1982 w.e.f. 29.12.1981.

**8. Power of State Government to notify exemptions and reductions of tax.**- The State Government may, by notification, make an exemption or reduction in rate in respect of the tax payable under this Act,-

(i) on energy supplied or consumed for any specified purpose; or

(ii) by any class of consumers.

<sup>1</sup>[**8A. Dispensing with the performance of certain contracts.**- Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any Court or in any contract or instrument having force by virtue of any such law, but subject to section 8,-

(a) the performance of any contract by the State Government or the licensee in so far as it provides for reimbursement or indemnification in favour of the consumer, of or for any amount levied on or collected from him as tax under this Act shall be and shall be deemed always to have been dispensed with and any amount due or payable by the State Government or the licensee to a consumer by way of such reimbursement or indemnification under the contract, including the amount of interest, if any, shall be deemed to be wholly discharged;

(b) no Civil Court shall entertain any suit or proceeding against the State Government or the licensee for the recovery of any amount by way of such reimbursement or indemnification including interest, if any;

(c) all suits and proceedings (including appeals, revisions, attachments or execution proceedings) pending on the said date against the State Government or the licensee for the recovery of any such amount shall abate;

Provided that nothing in this section shall entitle the State Government or the licensee for refund of any amount already paid by way of reimbursement or indemnification before the commencement of the Karnataka Electricity (Taxation on Consumption) (Amendment) Act, 1990.]<sup>1</sup>

1. Inserted by Act 13 of 1990 w.e.f. 21.11.1980.

**9. Penalties.** - (1) If any person liable under section 5 to keep books of account or submit returns fails to keep or submit the same in the manner prescribed or obstructs an Inspector in the exercise of his powers and duties under this Act, or contravenes any rule made under section 10, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2) (a) Where an offence under sub-section (1) has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this clause shall render any such person liable to any punishment provided in the aforesaid sub-section if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(b) Notwithstanding anything contained in clause (a) where an offence under sub-section (1) has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purposes of this sub-section,—

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner of the firm.

**10. Power to make rules.**— (1) The State Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules,—

(a) prescribing the time and manner of payment of the electricity tax under sections 3 and 4;

(b) prescribing the form of the books of account to be kept and the times at which, the form in which and officers to whom the returns required by section 5 shall be submitted;

(c) prescribing the powers and duties of Inspecting Officers; and

(d) providing for any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act.

**11. Rules and Notifications to be laid before State Legislature.**— Every rule made under section 10 and every notification issued under section 8 or 14 shall be laid as soon as may be after it is made or issued before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more sessions and if, before the expiry of the said period, either House of the State Legislature directs any modification in such rule or notification or directs that such rule or notification shall not have effect, and if the modification or direction is agreed to by the other House, the said rule or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be.

**12. Repeal and savings.**— The Mysore Electricity (Taxation on Consumption) Act, 1950 (Mysore Act XX of 1950), as in force in the Mysore Area, Part II of the Bombay Finance Act, 1932 (Bombay Act II of 1932) as in force in the 1[Belgaum Area]1 and the Madras Electricity Duty Act, 1939 (Madras Act V of 1939), as in force in the 1[Mangalore and Kollegal Area.]1 shall stand repealed:

Provided that such repeal shall not affect,—

(a) the previous operation of the said enactments or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability, acquired, accrued or incurred under the said enactments; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or

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

1. Adapted by the Karnataka Adaptations of Laws Order, 1973, w.e.f. 01.11.1973.

**13. Repeal of '[Karnataka]' Ordinance No. 2 of 1959 and savings.-**

The '[Karnataka]' Electricity (Taxation on Consumption) Ordinance, 1959, is hereby repealed;

Notwithstanding such repeal,-

(i) any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance;

(ii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Ordinance; and

(iii) any appointment, notification, order, rule or form, made or issued or anything done or any action whatsoever taken under the said Ordinance;

shall be deemed to have been acquired, accrued or incurred, or made, issued, done or taken under this Act at the relevant time.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973, w.e.f.01.11.1973.

**14. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the enactments repealed by section 12 the State Government may, by notification, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the enactments repealed by section 12), the State Government may, by notification, make such provisions, not inconsistent with the purposes of this Act as appear to it to be necessary or expedient for removing the difficulty.

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**NOTIFICATION**

**No. DE 61 PSR 2001, Bangalore**

**Dated 10th January, 2002.**

(Published in The Karnataka Gazette, Part IV-A Extraordinary No. 494 dated 4.4.2002.)

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Electricity Board (Recovery of Dues) and other Law (Amendment) Act, 2001 (Karnataka Act No. 27 of 2001) the Government of Karnataka hereby appoints the 10th day of January 2002 to be the date on which all the provisions of the said Act shall come into force.

By order and in the name of Governor of Karnataka

B.K. Srinivasa Rao

*Under Secretary to Government*

*Energy Department*

सत्यमेव जयते



**THE KARNATAKA PUBLIC SERVICE COMMISSION (CONDUCT OF  
BUSINESS AND ADDITIONAL FUNCTIONS) ACT, 1959.**

**ARRANGEMENT OF SECTIONS.**

Statement of Object and Reasons

Sections:

**CHAPTER I  
PRELIMINARY**

1. Short title and commencement.
2. Definitions.

**CHAPTER II  
CONDUCT OF BUSINESS BY THE COMMISSION.**

3. Procedure for performance of functions of the Commission.
4. Decision of questions.
5. Agenda for meetings.
6. Decision by majority of votes.
7. Procedure during absence of Chairman.
8. Vacancy, etc., not to invalidate proceedings.
9. Quorum.
10. Recording of decisions.
11. Communications to be signed by the Secretary or the Assistant Secretary.
12. Deputation of Members.
13. Interviews.
14. Action in urgent cases.
15. Procedure in other cases.

**CHAPTER III  
ADDITIONAL FUNCTIONS.**

16. Conduct of Service Examinations.
17. Functions in respect of services of local authorities.
- 17A. Commission to furnish returns, etc., to Government.
18. Rules.

## STATEMENT OF OBJECTS AND REASONS

### I

**Act 20 of 1959.**—Article 320 of the Constitution of India, specifies the functions of the Public Service Commission and Article 321 empowers the State Legislature by an enactment to provide for exercise of additional functions by the Public Service Commission as respects the services of the State and also as respects the services of any local authority or other body corporate constituted by law or of any public institution. In order to ensure that proper persons are appointed to the services of local authorities it is considered necessary to entrust the Public Service Commission with the same functions as it exercises as respects the services of the State.

It is also considered necessary to entrust the Commission with the function of conducting the departmental examinations which Government servants are required to pass either to secure confirmation or promotion. The procedure to be followed by the Commission in the performance of its functions has also to be regulated by an enactment.

Hence the Bill.

(Obtained from Notification No. 1014 LC, dated 30.10.1958.)

### II

**Amending Act 25 of 1966.**—According to section 11 of the Mysore Public Service Commission (Conduct of Business and Additional Functions) Act, 1959, the communications from the Commission have to be signed by the Secretary. In view of the increase of work of the Commission it is considered necessary to empower the Assistant Secretary also to sign communications. It is also considered necessary to have a specific provision for obtaining returns, records and information from the Commission. Hence the Bill.

(Published in Kamataka Gazette (Extraordinary) Part IV-2A dated 11th July 1966 as No. 118 at page 4.)

### III

**Amending Act 23 of 1973.**—Under section 9 of the Act the quorum for a meeting of Public Service Commission is two. This was fixed when there were only three members in the Commission. The number of members has since been raised to seven. In view of this quorum requires to be re-fixed at four.

Under section 16 of the Act, the Public Service Commission is required to hold service examinations only for Government servants. Some of the local authorities and statutory bodies have prescribed the same examinations as those prescribed for Government servants for their employees and they have requested that their

employees may also be made eligible to appear for the service examinations conducted by the Public Service Commission. It is, therefore, proposed to amend section 16.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 30th August 1973 as No. 689 at page 3.)

#### IV

**Amending Act 21 of 1978.**—The name of the State was changed from Mysore to Karnataka with effect from 1-11-1973. By the Karnataka Adaptation of Laws Order, 1973, the word "Mysore" occurring in various enactments, rules and notifications, then in force was substituted wherever necessary by the word "Karnataka". In the Acts specified in Schedule I introduced in the Legislature earlier to 1st November, 1973 but published thereafter the word "Mysore" continue to exist. Therefore it is proposed to make the necessary consequential amendments to the said Acts also.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 14th July 1978 as No. 1050 at page 5.)

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**'[KARNATAKA]' ACT No. 20 OF 1959.**

(First published in the '[Karnataka Gazette]' on the Thirty-first Day of December, 1959.)

**THE '[KARNATAKA]' PUBLIC SERVICE COMMISSION (CONDUCT OF BUSINESS AND ADDITIONAL FUNCTIONS) ACT, 1959.**

(Received the assent of the Governor on the Thirty-first Day of December, 1959.)

(As Amended by Karnataka Acts 25 of 1966, 23 of 1973 & 21 of 1978)

**An Act to prescribe the procedure to be followed by the '[Karnataka]' Public Service Commission for the performance of its functions and to provide for the exercise of certain additional functions by the Commission.**

WHEREAS it is expedient to prescribe the procedure to be followed by the '[Karnataka]' Public Service Commission for the performance of its functions and to provide for the exercise of certain additional functions by the Commission;

BE it enacted by the '[Karnataka]' State Legislature in the Tenth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

**CHAPTER I  
PRELIMINARY**

**1. Short title and commencement.**- (1) This Act may be called the '[Karnataka]' Public Service Commission (Conduct of Business and Additional Functions) Act, 1959.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) Section 2 and Chapter II of this Act shall come into force at once; and the remaining provisions shall come into force on such 1[date]1 as the State Government may, by notification in the official Gazette, appoint.

1. Chapter III of the Act came into force on 1.10.1960 Vide notification No. GAD 15 OSR 60 dt. 30.8.1960

**2. Definition.**- In this Act, unless the context otherwise requires,-

'[(a) 'Assistant Secretary' means the Assistant Secretary to the Commission, or in his absence such other person discharging the duties of the Assistant Secretary for the time being;]'

1. Clause (a) Inserted by Act 25 of 1966 w.e.f. 1.9.1966

'[(aa)]' "Commission" means the <sup>2</sup>[Karnataka]<sup>2</sup> Public Service Commission;

1. Clause (aa) re-lettered by Act 25 of 1966 w.e.f. 1.9.1966

2. Adapted by the Karnataka Adaptations of Laws order 1973 w.e.f. 1.11.1073

- (b) "Government" means the State Government;
- (c) "Member" means a Member of the Commission and includes the Chairman thereof;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "Secretary" means the Secretary to the Commission; or in his absence, such other person discharging the duties of the Secretary for the time being.

## CHAPTER II

### CONDUCT OF BUSINESS BY THE COMMISSION

**3. Procedure for performance of functions of the Commission.-** The provisions of this Chapter shall be applicable for the performance of the functions of the Commission under the Constitution or under any law for the time being in force.

**4. Decision of questions.-** All questions arising for decision by the Commission shall be decided either at a meeting of the Members of the Commission or by circulation among the Members of the Commission:

Provided that if any Member desires that any question should be decided at a meeting, such question shall be considered and decided at a meeting of the Commission:

Provided further that it shall not be necessary to circulate the papers relating to any question to a Member who is on leave other than casual leave.

**5. Agenda for meetings.-** The Secretary shall prepare the agenda and convene the meetings of the Commission after giving notice to all the Members.

**6. Decision by majority of votes.-** Every question at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting on the question, and in the case of an equal division of votes, the Chairman shall have a second or casting vote.

**7. Procedure during absence of Chairman.-** If the Chairman is unable to be present at a meeting of the Commission, the senior most Member present shall act on his behalf:

Provided that the Chairman shall be informed of such decisions arrived at in such a meeting in respect of any case which he may specify; and if on being so informed he is of the opinion that any such decision should be reconsidered at a meeting of the Commission at which he is present, such decision shall be reconsidered accordingly, and until such reconsideration no action shall be taken on such decision.

**8. Vacancy, etc., not to invalidate proceedings.-** The proceedings of the Commission shall not be invalidated by any vacancy or by the absence of a Member.

**9. Quorum.-** The quorum for a meeting of the Commission shall be '[four]<sup>1</sup> but the Presiding Officer may adjourn any business at a meeting if he is of opinion that it cannot conveniently be transacted owing to the non-attendance of any Member.

1. Substituted by Act 23 of 1973 w.e.f. 16.11.1973

**10. Recording of decisions.-** All decisions of the Commission shall be recorded by the Secretary in such manner as the Commission may direct. It shall be open to any Member who dissents from a decision, to record his dissent and if he thinks fit, also his reasons for such dissent.

**11. Communications to be signed '[by the Secretary or the Assistant Secretary]<sup>1</sup>.-** Whenever the Commission is required to be consulted by or to give advice or forward proposals to, or to be consulted by, any authority, the opinion or the decision of the Commission shall be communicated in a letter signed by the Secretary, <sup>2</sup>[or by the Assistant Secretary]<sup>2</sup> and, in a case where the opinion or the decision is not unanimous, neither the fact of, nor the grounds for, dissent shall be communicated unless the commission so directs.

1. Substituted by Act 25 of 1966 w.e.f. 1.9.1966

2. Inserted by Act 25 of 1966 w.e.f. 1.9.1966

**12. Deputation of Members.-** The Commission may depute one or more of its Members to be associated with any Committee or Board which may be set up to deal with problems relating to recruitment or promotion:

Provided that where consultation with the Commission is required on any point, the recommendations of the Committee or Board shall be forwarded to the Commission for advice.

**13. Interviews.-** When candidates for appointments have to be interviewed by the Commission, the interview may be conducted by two or more Members authorised by the Commission, and the results of such interview shall be placed before the Commission for decision.

**14. Action in urgent cases.-** The Chairman, or in his absence the next Senior Member, may deal with any urgent matter appearing to him to require immediate action. Such action shall be reported to the Commission as early as possible.

**15. Procedure in other cases.-** In matters for which no provision is made in this Chapter, Government may make rules in consultation with the Commission; and subject to the provisions of such rules, the Commission may regulate its proceedings in such manner as it thinks fit.

### CHAPTER III ADDITIONAL FUNCTIONS

**16. Conduct of Service Examinations.-** <sup>1</sup>[(1)]<sup>1</sup> Such examinations which persons serving in connection with the affairs of the State are required to pass under the conditions of recruitment or service applicable to them and which may be notified by Government under this section, and such other examinations as may be notified by Government from time to time shall, with effect from such date as the Government may appoint, be conducted by the Commission in accordance with such rules as may be prescribed.

1. Sub-section re-numbered by Act 23 of 1973 w.e.f. 16.11.1973

<sup>1</sup>[(2) Where persons in the services of any local authority or other body corporate constituted by law, are required to pass under the conditions of recruitment or service applicable to them any of the service examinations notified by the Government under sub-section (1), the Government may, in consultation with the Commission by general order declare that the said persons shall be eligible to appear for the said service examinations and thereupon the said persons may appear for the said service examinations, subject to such conditions as may be prescribed.

**Explanation.—**For purposes of this sub-section, the expression 'local authority' shall have the meaning assigned to it in sub-section (3) of section 17.]<sup>1</sup>

1. Sub-section (2) inserted by Act 23 of 1973 we.f. 16.11.1973

**17. Functions in respect of services of local authorities.-** (1) Notwithstanding anything contained in any law relating to the appointment and conditions of service of employees of local authorities,-

(a) the Commission shall be the authority competent to conduct examinations for appointments to the services of local authorities and it shall be the duty of the Commission to conduct such examinations;

(b) the Commission shall be consulted,-

(i) on all matters relating to methods of recruitment to services and posts under a local authority;

(ii) on the principles to be followed in making appointments to services and posts under a local authority and in making promotions from one service to another and on the suitability of candidates for such appointments or promotions;

(iii) on all disciplinary matters affecting a person serving under a local authority including memorials and petitions relating to such matters;

(iv) on any claim by or in respect of a person who is serving or has served under a local authority that any cost incurred by him in defending legal proceedings instituted

against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the funds of the local authority concerned;

(v) on any claim for the award of a pension in respect of injuries sustained by a person while serving under a local authority and any question as to the amount of such award;

and it shall be the duty of the Commission to advise on any matter so referred to them and on any other matter relating to employees of local authorities which the Government may refer to them:

Provided that the Government may make orders specifying the matters in which either generally or in any particular class of cases or in any particular circumstances, it shall not be necessary for the Commission to be consulted.

(2) In the case of any difference of opinion between the Commission and a local authority on any matter, the local authority concerned shall refer the matter to the Government and the decision of the Government thereon shall be final.

(3) For purposes of this section, 'local authority' means a municipal council, municipal committee, municipal corporation, town committee, notified area committee, town board, sanitary board, taluk board, village panchayat or other authority by whatever name called, constituted under any law for the time being in force for the purpose of local self-government or village administration and includes the Board constituted under the City of Mysore Improvement Act, 1903 (Mysore Act III of 1903), and the City of Bangalore Improvement Act, 1945 (Mysore Act V of 1945).

**[17A. Commission to furnish returns, etc., to Government.-** The Commission shall furnish such returns, records and information as may be required by the Government.]

1. Section 17A Inserted by Act 25 of 1966 w.e.f. 1.9.1966

**18. Rules.-** (1) The Government may, in consultation with the Commission by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for the following matters namely:—

(i) the procedure to be followed by the Commission in advertising posts, inviting applications, scrutinising the same, conducting examinations and selecting candidates to carry out the purposes of section 17;

(ii) the procedure to be followed by the local authority or any other competent authority for consultation with the Commission;

(iii) any matter which is incidental to, or necessary for, the purpose of consultation with the Commission;



(iv) any matter for which rules have to be made under this Act.

(3) All rules made under this Act shall be laid as soon as they are made before each House of the State Legislature while it is in session, for a total period of thirty days which may be comprised in one session or in two or more sessions and if before the expiry of that period, either House of the State Legislature makes any modification in any rule or directs that any rule shall not have effect, and if the modification or direction is agreed to by the other House, the said rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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### NOTIFICATION

**Bangalore, dated 30th August 1960. [No. GAD 15 OSR 60]**

In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore Public Service Commission (Conduct of Business and Additional Functions) Act, 1959 (Mysore Act 20 of 1959), the Government of Mysore hereby appoints the 1st day of October 1960, to be the date on which Chapter III of the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(B. R. VERMA)

*Under Secretary to Government, General  
Administration Department (O & M).*

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**THE KARNATAKA PREVENTION OF ANIMAL SACRIFICES ACT, 1959**  
**ARRANGEMENT OF SECTIONS.**

Statement of Object and Reasons

**Sections :**

1. Short title, extent and commencement.
2. Definitions.
3. Sacrifice in or in precincts of any place of public religious worship or adoration or in a congregation or procession connected with religious worship, prohibited.
4. Officiating at sacrifices prohibited.
5. Place of public religious worship or adoration or its precincts not to be allowed to be used for sacrifice.
6. Penalties.
7. General power to arrest without warrant.
8. Power to make rules.
9. Repeal.

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**STATEMENT OF OBJECTS AND REASONS**

**I**

**Act 3 of 1960.**-The Mysore Prevention of Animal Sacrifices Act, 1948 and the Madras Animals and Birds Sacrifices Prohibition Act, 1950 are in force in the Mysore and Madras Areas respectively. These Acts prohibit animal sacrifices in or within the precincts of Hindu Temples. There are no similar Acts in other areas of the State. It is desirable to make the law on the subject uniform. Hence this Bill.

(Published in Karnataka Gazette Part IV-2A dated 23rd July 1959, at page 170.)

**II**

**Amending Act 21 of 1975.**-The Mysore Prevention of Animal Sacrifices Act, 1959 provides for the prohibition of sacrifices of animals or birds only in Hindu Temples or in the precincts thereof. The Government consider it necessary to extend the scope of the Act to any place of public religious worship or adoration and its precincts and to any congregation or procession connected with the religious worship in a public street by amending the Act suitably. Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 17th May 1973 as No. 475 )

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**'[KARNATAKA]' ACT No. 3 OF 1960**

*(First published in the '[Karnataka Gazette]' on the 4th February, 1960.)*

**THE '[KARNATAKA]' PREVENTION OF ANIMAL SACRIFICES ACT, 1959**

*(Received the assent of the President on the 27th January, 1960.)*

*(As Amended by Karnataka Act 21 of 1975.)*

An Act to prevent animal sacrifices in or within the precincts of<sup>2</sup>[any place of public religious worship or adoration and in any congregation or procession connected with religious worship]<sup>2</sup> in the 1[State of Karnataka]<sup>1</sup>.

WHEREAS it is expedient to provide for the prevention of animal sacrifices taking place in or within the precincts of 2[any place of public religious worship or adoration and in any congregation or procession connected with religious worship]2 in the 1[State of Karnataka]<sup>1</sup>;

BE it enacted by the '[Karnataka]' State Legislature in the Tenth Year of the Republic of India as follows:—

**1. Short title, extent and commencement.**- (1) This Act may be called the 1[Karnataka]1 Prevention of Animal Sacrifices Act, 1959.

(2) It extends to the whole of the '[State of Karnataka]'.

(3) It shall come into force at once.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

2. Substituted by Act 21 of 1975 w.e.f. 15.5.1975

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

(a) "animal" includes birds;

'[(b) "precincts" in relation to a place of public religious worship or adoration 1 includes all lands and buildings near such place which are ordinarily used for purposes connected with religious worship or adoration;]'

(c) "sacrifice" means the killing or maiming of any animal for the purpose <sup>2</sup>[of any religious worship or adoration]<sup>3</sup>;

<sup>1</sup>[(d) "place of public religious worship or adoration" means any place intended for use by, or accessible to, the public or a section thereof for the purposes of religious worship or adoration.]'

1. Substituted by Act 21 of 1975 w.e.f. 15.5.1975

**[3. Sacrifice in or in precincts of any place of public religious worship or adoration or in a congregation or procession connected with religious worship, prohibited.**- No person shall sacrifice any animal in any place of public religious

worship or adoration or its precincts or in any congregation or procession connected with any religious worship in a public street.

**Explanation.**—For the purposes of this section and section 4 "public street" means a road, street, way or other place, whether a thoroughfare or not, to which the public are granted access or over which they have a right to pass.]<sup>1</sup>

1. Substituted by Act 21 of 1975 w.e.f. 15.5.1975

4. Officiating at sacrifices prohibited.- No person shall,-

(a) officiate or offer to officiate at, or

(b) perform or offer to perform, or

(c) serve, assist or participate, or offer to serve, assist or participate in,

- any sacrifice in any <sup>1</sup>[place of public religious worship or adoration or its precincts or in any congregation or procession connected with any religious worship in a public street]<sup>1</sup>.

1. Substituted by Act 21 of 1975 w.e.f. 15.5.1975

**5. '[Place of public religious worship or adoration]' or its precincts not to be allowed to be used for sacrifice.**- No person shall knowingly allow any sacrifice to be performed at any place, which,-

(a) is situated within any <sup>1</sup>[place of public religious worship or adoration]<sup>1</sup> or its precincts, and

(b) is in his possession or under his control.

1. Substituted by Act 21 of 1975 w.e.f. 15.5.1975

**6. Penalties.**- (1) Whoever contravenes the provisions of section 3 shall be punished with imprisonment, which may extend to six months or with fine which may extend to five hundred rupees or with both.

(2) Whoever contravenes the provisions of section 4 shall be punished with fine which may extend to five hundred rupees:

Provided that if the offender is an officer, servant, authority, trustee or priest of the <sup>1</sup>[institution related to the place of public religious worship or adoration]<sup>1</sup>, or the holder of an office and in receipt of emoluments or perquisites for the performance of any service in the <sup>1</sup>[institution related to the place of public religious worship or adoration]<sup>1</sup>, he shall be punished with imprisonment, which may extend to six months or with fine, which may extend to five hundred rupees, or with both.

(3) Whoever contravenes the provisions of section 5 shall be punished with imprisonment for a term which may extend to three months, or with fine, which may extend to three hundred rupees, or with both.

**Explanation.**—Any person who attempts to contravene or abets or attempts to abet a contravention of section 3, section 4 or section 5, shall be deemed to have contravened the said section.

1. Substituted by Act 21 of 1975 w.e.f. 15.5.1975

**7. General power to arrest without warrant.**— Any Police Officer, not below the rank of a Sub-Inspector, may arrest without warrant any person who contravenes the provisions of this Act.

**8. Power to make Rules.**— (1) The State Government may, subject to the condition of previous publication, make rules by notification in the Official Gazette, generally for the purpose of carrying into effect the provisions of this Act.

(2) The rules made under this Act shall be laid, as soon as may be after they are made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session, or in two or more sessions, and if before the expiry of the said period, either House of the State Legislature makes any modifications in the rules or directs that the rules shall not have effect and the modifications or directions are agreed to by the other House, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be.

**9. Repeal.**— The Mysore Prevention of Animal Sacrifices Act 1948 (Mysore Act LI of 1948), as in force in the Mysore Area and the Madras Animals and Birds Sacrifices Prohibition Act, 1950 (Madras Act No. XXXII of 1950) as in force in the '[Mangalore and Kollegal Area]', are hereby repealed:

Provided that section 6 of the '[Karnataka]' General Clauses Act, 1899 '[Karnataka]' Act III of 1899), shall be applicable in respect of the said repeal and section 8 and section 24 of the said Act shall be applicable as if the said Acts were repealed and re-enacted by a '[Karnataka Act]'

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

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