

THE CO-OPERATIVE CREDIT SOCIETIES ACT, 1904

পৃষ্ঠপোষকতায়:

জনাব হরিদাস ঠাকুর

যুগ্ম-নিবন্ধক

ও

উপাধ্যক্ষ

বাংলাদেশ সমবায় একাডেমি

কোটবাড়ী, কুমিল্লা।

সংকলনে:

জেলা সমবায় কার্যালয়

কুমিল্লা।

Co-operative Credit
Society Act' 1904.

**THE CO-OPERATIVE CREDIT
SOCIETIES ACT, 1904.**
(25TH March, 1904)

সংস্করণ
১ম প্রকাশ
১৯০৪

THE CO-OPERATIVE CREDIT SOCIETIES ACT, 1904.

CONTENTS.

PRELIMINARY.

SECTION.

1. Short title and extent.
2. Definitions.

Constitution.

3. Constitution of societies.
4. Members of society.

Registration.

5. The Registrar.
6. Registration and incorporation of societies.

Management.

7. Liability of members.
8. Disposal of profits.
9. Restrictions on borrowing.
10. Restrictions on loans.
11. Deposit of society's funds.

Shares and Interests of Members.

12. Limit on capital held by member.
13. Votes of members.
14. Restrictions on transfer of share or interest.
15. Shares, etc., not liable to attachment.
16. Transfer of interest on death of member.
17. Liability of past member.
18. Liability of the estates of deceased member.

Priority of society's claim against a member.

19. Prior claim of society as against crops, agricultural produce, cattle, implements and raw material.
20. Charge and set-off in respect of shares or interest of member.

Audit, Inspection and Inquiry.

21. Audit, inspection and inquiry.
22. Mode of proof of entries in society's books.

Dissolution of a Society.

23. Dissolution.
24. Cancellation of registration of society.

Exemptions from Taxation.

SECTION.

25. Power to exempt from income-tax, stamp-duty and registration fees.

Debts due to Government.

26. Recovery of sums due to Government.

Rules.

27. Rules.

Miscellaneous.

28. Indian Companies Act, 1882, not to apply.

29. Special power to Local Government to register any association under Act.

ACT No. X of 1904.

[25th March, 1904.]

An Act to provide for the constitution and control of Co-operative Credit Societies.

WHEREAS it is expedient to encourage thrift, self-help and co-operation among agriculturists, artisans and persons of limited means, and for that purpose to provide for the constitution and control of co-operative credit societies; It is hereby enacted as follows:—

*Preliminary.*Short title
and extent.

1. (1) This Act may be called the Co-operative Credit Societies Act, 1904; and

Definitions.

(2) It extends to the whole of British India.

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

(a) "by-law" means a rule made by a society in the exercise of any power conferred by this Act, or by any rule made under this Act :

(b) "committee" means the governing body of a society to whom the management of its affairs is entrusted :

(c) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules made under this Act :

(d) "officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules applying to any society or the by-laws thereof to give directions in regard to the business of the society :

(e) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Credit Societies under this Act : and

(f) "society" means a co-operative credit society registered under this Act.

*Constitution.*Constitution
of societies.

3. (1) A society shall consist of ten or more persons above the age of eighteen years :—

(a) residing in the same town or village or in the same group of villages, or,

¹ For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 520; for Report of Select Committee, see *ibid*, 1904, Pt. V, p. 65 and for Proceedings in Council, see *ibid*, 1903, Pt. VI, pp. 170, 191; *ibid*, 1904, Pt. VI, pp. 16, 22 and 251.

The Act has been declared to be in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation 1872 (III of 1872), Ben. Code, see Calcutta Gazette, 1905, Pt. I, p. 278.

(Management.)

(3) Every society shall have an address, registered in accordance with the rules made under this Act, to which all notices and communications may be sent.

(4) The registered name of a society shall distinguish whether the society is rural or urban, and, if the liability of the members is limited, the word "limited" shall be added to such name.

(5) No charge shall be made for registration under this section.

Management.

liability of
members.

7. The liability of each member of a society for the debts of the society shall be as follows :—

(a) in the case of a rural society, such liability shall, save with the special sanction of the Local Government, be unlimited;

(b) in the case of an urban society, such liability shall be unlimited limited as may be provided by the by-laws or by any rules made under this Act.

local o
funds.

8. (1) No dividend, or payment on account of profits shall be paid to a member of a rural society, but all profits made by such a society shall be carried to a fund (to be called the reserve fund) :

Provided that, when such reserve fund has attained such proportion to the total of the liabilities of the society, and when the interest on loans to members has been reduced to such rates, as may be determined by the by-laws or rules made under this Act, any further profits of the society, not exceeding three-fourths of the total annual profits, may be distributed to members by way of bonus.

(2) Not less than one-fourth of the profits in each year of an urban society shall be carried to a fund (to be called the reserve fund) before any dividend or payment on account of profits is paid to the members or any of them.

restrictions
on borrowing.

9. A society may receive deposits from members without restriction, but it may borrow from persons who are not members only to such extent and under such conditions as may be provided by its by-laws or by rules made under this Act.

restrictions
on loans.

10. (1) A society shall make no loan to any person other than a member : Provided that, with the consent of the Registrar, a society may make loans to a rural society.

(2) Save with the permission of the Registrar to be given by general order in the case of each society, a rural society shall not lend money on the security of moveable property.

(3) The Local Government may, by general or special order, prohibit or

(Management. Shares and Interests of Members.)

restrict the lending of money on mortgage of immoveable property or any kind thereof by any society or class of societies.

11. A society may deposit its funds in the Government Savings Bank or with any banker or person acting as a banker approved for this purpose by the Registrar.

Deposit of society's funds.

Shares and Interests of Members.

12. Where the liability of the members of a society is limited by shares a member shall not hold more than such portion of the capital of the society, subject to a maximum of one-fifth, as may be prescribed by any rules made under this Act:

Limit on capital held by member.

Provided that no member of such a society shall hold more shares than represent a nominal value of one thousand rupees.

13. (1) Where the liability of the members of a society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, only have one vote as a member in the affairs of the society.

Votes of members.

(2) Where the liability of the members of a society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws of the society.

14. (1) A member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless he has held such share interest for one year at least.

Restrictions on transfer of share or interest.

(2) The share or interest of a member in the capital of a society shall not be transferred or charged, unless to the society or to a member of the society and subject to any conditions as to maximum holding prescribed by this Act or by the by-laws or by any rules made under this Act.

15. Subject to the provisions of section 20, the share or interest of a member in the capital of a society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the Code of Civil Procedure shall be entitled to or have any claim on such share or interest.

Shares or interest not liable to attachment.

16. On the death of a member, the society may pay to or transfer to the credit of the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, such person as may appear to the Committee to be entitled to receive the same as heir or legal representative of the deceased member, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws and all

Transfer of interest on death of member.

¹ See now the Provincial Insolvency Act, 1907 (III of 1907) section 16 (2) of that Act, *infra*.

(Shares and Interests of Members. Priority of Society's claim against a member. Audit, Inspection and Inquiry.)

moneys due to him from the society, and the society shall thereupon be absolved from all liability in respect of such share or interest or other moneys as aforesaid.

liability of
member.

17. The liability of a past member for the debts of the society as they existed at the time when he ceased to be a member shall continue for a period of one year from the date of his ceasing to be a member.

liability of
estates
deceased
member.

18. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of the society as they existed at the time of his decease.

Priority of Society's claim against a member.

claim
society as
inst crops,
cultural
duce,
le, im-
plements
raw
material.

19. Subject to any prior claim of the Government in respect of land-revenue or any money recoverable as land-revenue or of a landlord in respect of rent or any money recoverable as rent, a society shall be entitled in priority to other creditors to enforce its claim—

(a) upon the crops or other agricultural produce of a member or past member at any time within a year from the date when seed or manure was advanced or money for the purchase of seed or manure was lent to such member or past member, in respect of the unpaid portion of such advance or loan :

(b) upon any cattle, agricultural or industrial implements or raw material for manufactures, supplied by the society or purchased in whole or in part with money lent by the society, in respect of the outstanding liability on account of such supply or loan.

charge and
set-off in
respect of
shares or
interest of
member.

20. A society shall have a charge upon the shares or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set-off any sum credited or payable to a member or past member in or towards payment of any such debt.

Audit, Inspection and Inquiry.

audit, inspec-
tion and
inquiry.

21. (1) The Registrar shall audit the accounts of each society once at least in every year.

(2) No charge shall be made in respect of any audit made under sub-section (1)

(3) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(4) The Registrar, the Collector or any person authorized in this behalf by the Registrar or the Collector may at any time inspect the book accounts

(Audit, Inspection and Inquiry. Dissolution of a Society.)

papers and securities of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection shall require.

(5) The Registrar may of his own motion, and shall on the request of the Collector, or on the application of a majority of the Committee or not of less than one-third of the members, hold an inquiry into the constitution, working and financial condition of a society, and all officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar may require.

(6) Where an inquiry is held under sub-section (5), the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members demanding an inquiry and the officers or former officers of the society.

(7) Any sum awarded by way of costs under sub-section (6) may be recovered, on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable resides for the time being, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person.

22. A copy of any entry in a book of a society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by rules made under this Act, be received, in any suit to recover a debt due to the society, as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

Mode of
proof of
entries in
societies'
books.

Dissolution of a Society.

23. (1) If the Registrar, after holding an inquiry under section 21, sub-section (5), or on receipt of an application made by three-fourths of the members of a society, is of opinion that a society ought to be dissolved, he may cancel or may refuse to cancel the registration of the society. Dissolution.

(2) Any member of a society may, within two months from the date of an order made under sub-section (1), appeal from such order to the Local Government.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period. Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Local Government.

(Dissolution of a Society.)

(4) Where an order made under sub-section (1) cancelling the registration of a society takes effect, the society shall cease to exist as a corporate body.

tion
ra-

24. (1) Where the registration of a society is cancelled under section 23, the Registrar may appoint a competent person to be liquidator of the society.

(2) A liquidator appointed under sub-section (1) shall have power to institute and defend suits on behalf of the society by his name of office, and shall also have power—

- (a) to sue for and recover any sums of money due to the society at the date of such cancellation ;
- (b) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society ;
- (c) to investigate all claims against the society, and, subject to the provisions of this Act, to decide questions of priority arising between claimants ;
- (d) to determine by what persons and in what proportions the costs of the liquidation are to be borne ; and
- (e) 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.

(3) Subject to any rules of procedure made under this Act, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the ¹ Code of Civil Procedure.

(4) The rules may provide for an appeal to the Court of the District Judge from any order made by a liquidator under this section.

XIV of 1882.

(5) Orders made under this section may be enforced as follows :

- (a) When made by a liquidator, by any Civil Court having local jurisdiction in the same manner as the decree of such Court ;
- (b) when made by the Court of the District Judge in the matter of any such appeal as aforesaid, in the same manner as a decree of such Court made in any suit pending therein.

(6) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect to any matter connected with the dissolution of a society under this Act.

¹ See now the Code of Civil Procedure, 1908 (Act V of 1908), *infra*.

(Exemptions from Taxation. Debts due to Government.)

Exemptions from Taxation.

25. (1) The Governor General in Council, by notification¹ in the Gazette of India, may in the case of any society or class of society, remit—

Power to exempt from income-tax, stamp-duty and registration fees.

(a) the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits;

(b) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable;

(c) any fee payable under the law of registration for the time being in force.

(2) A notification exempting any society from the fees referred to in sub-section (1), clause (c), may provide for the withdrawal of such exemption.

Debts due to Government.

26. (1) All sums due from a society or from an officer or member or past member of a society as such to the Government, including any costs awarded to the Government under section 21, sub-section (6), may be recovered in the same manner as arrears of land-revenue.

Recovery of sums due to Government.

(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 of which the liability of the members is limited, from the members subject to the limit of their liability; and, thirdly, in the case of other societies, from the members.

Rules.

27. (1) The Local Government may, for the whole or any part of the Province and for any society or class of societies, make rules² to carry out the purposes of this Act.

Rules.

¹ For notification remitting the tax, duty and fees mentioned in clauses (a), (b) and (c) payable by members of societies registered under the Act, see Gazette of India, 1904, Pt. I, p. 739.

² For rules made by the Government of—

(1) Bengal, see Calcutta Gazette, 1905, Pt. I, p. 1451; 1909, Pt. I, p. 280;

(2) Bombay, see Bombay Govt. Gazette, 1905, Part I, p. 132;

(3) Burma, see Burma Gazette, 1907, Pt. I, p. 90;

(4) Central Provinces, see C. P. Gazette, 1908, Pt. I, p. 6;

(5) Coorg, see Coorg District Gazette, 1905, Pt. I, p. 83, *ibid*, 1906, Pt. I, p. 78, *ibid*, 1907, Pt. I, p. 4;

(6) Eastern Bengal and Assam, see Eastern Bengal and Assam Gazette, 1908, Part II, p. 1565;

(7) Madras, see Madras, R. and O. Fort St. George Gazette, 1907, Pt. I, p. 955, *ibid*, 1908, Pt. I, p. 394;

(8) North-West Frontier Province, see Gazette of India, 1906, Pt. II, p. 1152, *ibid*, 1907, Pt. II, p. 107;

(9) Punjab, see Punjab Gazette, 1906, Pt. I, 584;

(10) United Provinces, see United Provinces Gazette, 1905, Pt. I, pp. 775, 777, *ibid*, 1907, Pt. I, p. 377; U. P. R. and O.

(Rules.)

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

- (a) prescribe the forms to be used applying for the registration of a society and the procedure in the matter of such applications ;
- (b) prescribe the conditions to be complied with by persons applying for registration and by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time, and the amount of payment to be made and interests to be acquired before exercising rights of membership ;
- (c) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled and for the liabilities of past members ;
- (d) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred ;
- (e) subject to the provisions of section 12, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member ;
- (f) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member ;
- (g) prescribe the proportion to the total liabilities to be attained by the reserve fund and the rate to which interest on loans to members is to be reduced, before profits may be distributed to the members of a rural society ;
- (h) regulate the manner in which capital may be raised by means of shares or debentures or otherwise ;
- (i) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings ;
- (j) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;
- (k) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the sanction to be required to such making, alteration or abrogation ;

(Miscellaneous.)

- (7) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society;
 - (m) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;
 - n) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;
 - o) provide for the rate at which interest may be paid on deposits, for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;
 - p) provide that any dispute touching the business of a society between members or past members of the society or persons claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision, or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators;
 - q) prescribe the conditions to be complied with by a society applying for the financial assistance of Government; and
 - (r) determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals.
- The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.
-) All rules made under this section shall be published in the local official gazette and on such publication shall have effect as if enacted in this Act.
 -) A copy of the rules relating to a society and of the by-laws thereof when in force shall be kept open to inspection at all reasonable times free of charge at the registered address of the society.

Miscellaneous.

The provisions of the ¹ Indian Companies Act, 1882 shall not apply to societies registered under this Act.

Indian Companies Act, 1882, not to apply.

¹ General Acts, Vol. III.

(Miscellaneous.)

Local power
Local Gov-
ernment to
register any
association
under Act.

29. (1) Notwithstanding anything contained in this Act, the Local Government may, by special order in each case, and subject to such conditions as it may impose, permit any association of not less than ten persons above the age of eighteen years to be registered as a rural or an urban society under this Act.

(2) A society so registered shall be subject to the provisions of this Act to the same extent as any other society :

Provided that the Local Government may at any time by order¹ exempt such society from any of such provisions, or may direct that they shall apply to such society with such modifications as may be specified in the order.

¹ For instance of such an order, see Central Provinces Gazette, 1907, Pt. I, p. 315.

² For instance of such an exemption, see Central Provinces Gazette, 1907, Pt. I, p. 315.