Central Regulation

2021

NIL

2022

1. The Lakshadweep Value Added Tax Regulation, 2022
2. The Lakshadweep (Right to Public Services) Regulation, 2022
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18. The Factories (Lakshadweep) Amendment Regulation, 2025
19. The Industrial Disputes (Lakshadweep) Amendment Regulation, 2025

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th September,* 2022/*Bhadra* 28, 1944 (*Saka*)

THE LAKSHADWEEP VALUE ADDED TAX REGULATION, 2022

No. 1 of 2022

Promulgated by the President in the Seventy-third Year of the Republic of India.

A Regulation to provide for a tax system on the goods excluded from the Union Territory Goods and Services Tax Act, 2017 *and to widen the tax base by levying tax on sale of the said goods at every point of sale, making the levy of tax transparent and for matters connected therewith or incidental thereto.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Lakshadweep Value Added Tax Regulation, 2022.

(2) It extends to the whole of the Union territory of Lakshadweep.

(3) The provisions of this Regulation shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Regulation, unless the context otherwise requires,—

(a) "accountant" means—

(i) a chartered accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountant's Act, 1949; 38 of 1949.

(ii) a cost accountant as defined in the Cost and Works Accountants Act, 1959; 23 of 1959.

(iii) an auditor appointed under section 139 of the Companies Act, 2013; 18 of 2013.

(b) "adequate proof" means such documents, testimony or other evidence as may be prescribed;

(c) "Appellate Tribunal" means the Appellate Tribunal constituted under section 73;

(d) "business" includes—

(i) the provision of any services, but excluding the services provided by an employee;

(ii) any trade, commerce or manufacture;

(iii) any adventure or concern in the nature of trade, commerce or manufacture;

(iv) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern; and

(v) any occasional transaction in the nature of such service, trade, commerce, manufacture, adventure or concern,

whether or not—

(A) there is volume, frequency, continuity or regularity of such transaction;

(B) service, trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit; and

(C) any gain or profit accrues from such service, trade, commerce, manufacture, adventure or concern;

(e) "business premises" includes—

(i) the address of a dealer, registered with the Commissioner;

(ii) any building or place used by a person for the conduct of his business, except for those parts of the building or place used principally as a residence;

(iii) any place from where a dealer carries on business through an agent (by whatever name called), the place of business of such agent and a warehouse, godown or such other place where a dealer stores his goods;

(f) "capital goods" means plant, machinery and equipment used, directly or indirectly, in the process of trade or manufacturing or for execution of works contract in Lakshadweep;

(g) "casual trader" means a person who, whether as principal, agent or in any other capacity undertakes occasional transactions in the nature of business involving buying, selling, supply or distribution of goods or conducting any exhibition-cum-sale in Lakshadweep whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(h) "Commissioner" means the Commissioner of Value Added Tax appointed under sub-section (*1*) of section 66;

(i) "dealer" means any person who, for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of his business, buys or sells goods in Lakshadweep directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration and includes,—

(i) a factor, commission agent, broker, *del credere* agent or any other mercantile agent by whatever name called, who for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of the business, buys or sells or supplies or distributes any goods on behalf of any principal or principals whether disclosed or not;

(ii) a non-resident dealer or as the case may be, an agent, residing in the State of a non-resident dealer, who buys or sells goods in Lakshadweep for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of the business;

(iii) a local branch of a firm or company or an association of persons, outside Lakshadweep where such firm, company, association of persons is a dealer under any other sub-clause of this definition;

(iv) a club, association, society, trust, or co-operative society, whether incorporated or unincorporated, which buys goods from or sells goods to its members for price, fee or subscription, whether or not in the course of business;

(v) an auctioneer, who sells or auctions goods whether acting as an agent or otherwise or, who organises the sale of goods or conducts the auction of goods whether or not he has the authority to sell the goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(vi) a casual trader;

(vii) any person who, for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of his business disposes of any goods as unclaimed or confiscated, or as unserviceable or scrap, surplus, old, obsolete or as discarded material or waste products by way of sale;

52 of 1962.

(viii) Customs Department of the Government of India administering Customs Act, 1962;

(ix) Departments of the Central Government, the State Governments and the Union territory Administrations;

(x) local authorities, Panchayats, Municipalities, Development Authorities and Cantonment Boards;

(xi) Public Charitable Trusts;

(xii) incorporated or unincorporated societies, clubs or other associations of persons;

(xiii) each autonomous or statutory body or corporation or company or society or any industrial, commercial, banking, insurance or trading undertaking, corporation, institution or company whether or not of the Union Government or any of the State Governments or of a local authority;

(xiv) shipping and construction companies, air transport companies, airlines and advertising agencies;

(j) "fair market value" means the value at which goods of like kind and quality are sold or would be sold in the same quantities between unrelated parties in the open market in Lakshadweep;

(k) "goods" means goods specified in the First Schedule, as amended from time to time;

(l) "goods vehicle" means a motor vehicle, vessel, boat, animal and any other form of conveyance used for carrying goods;

(m) "Government" means the Administration of Union territory of Lakshadweep headed by the Administrator appointed by the President under article 239 of the Constitution;

(n) "import" means sale or purchase in the course of the import of goods into the territory of India if the sale or purchase either occasions such import or is effected by transfer of document of title to the goods before the goods have crossed the customs frontiers of India and includes procurement of goods from outside the Lakshadweep either as a result of purchase or otherwise.

Explanation.—In the case of goods arriving in Lakshadweep from a foreign country through customs, the "import of the goods in Lakshadweep" shall occur at the place where the goods are cleared by Customs for home consumption;

(o) "importer" shall include—

(i) a person who brings his own goods into Lakshadweep;

(ii) a person on whose behalf another person brings goods into Lakshadweep;

(iii) in the case of a sale occurring in the circumstances referred to in sub-section (*2*) of section 6 of the Central Sales Tax Act, 1956, the person in Lakshadweep to whom the goods are delivered; 74 of 1956.

(p) "input tax", in relation to the purchase of goods, means the proportion of the price paid by the buyer for the goods which represents tax for which the selling dealer is liable under this Regulation;

(q) "Lakshadweep" means the Union territory of Lakshadweep;

(r) "manufacture" with its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed;

(s) "net tax" means the amount calculated for a tax period under section 11;

(t) "non-resident" means a person who has no fixed place of business or residence in Lakshadweep;

(u) "notification" means the notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;

(v) "Official Gazette" means the Lakshadweep Gazette;

(w) "prescribed" means prescribed by rules made by the Government under this Regulation;

(x) "registered dealer" means a dealer registered under this Regulation;

(y) "related person" means a person who is related to another person (referred to in this definition as a "dealer") if the person—

(i) is a relative of the dealer;

(ii) is a partnership of which the dealer is a partner;

(iii) is a company in which the dealer [either alone or in conjunction with another person who is, or persons who are, related to the dealer under sub-clauses (*i*), (*ii*), (*iv*), (*v*) and (*vi*)].—directly or indirectly holds forty per cent. or more of outstanding voting stock or shares;

(iv) is a person who [either alone or in conjunction with another person who is, or other persons who are, related to the person under sub-clauses (*i*), (*ii*), (*iii*), (*v*) and (*vi*)].—directly or indirectly owns forty per cent. or more of outstanding voting stock or shares of the dealer;

(v) is a company in which forty per cent. or more of outstanding voting stock is held directly or indirectly by a person [either alone or in conjunction with another person who is, or other persons who are, related to the person under sub-clauses (*i*), (*ii*), (*iii*), (*iv*) and (*vi*)] who also holds forty per cent. or more of the outstanding voting stock or shares of the dealer; or

(vi) is controlled by the dealer or a person whom the dealer controls, or is a person who is controlled by the same person who controls the dealer;

(z) "relative" means a relative as defined in clause (*77*) of section 2 of the Companies Act, 2013; 18 of 2013.

(*za*) "sale" with its grammatical variations and cognate expression, means any transfer of property in goods by one person to another for cash or for deferred payment or for other valuable consideration (not including a grant or subvention payment made by one Government agency or department, whether of the Central Government or of any State Government, to another) and includes—

(i) a transfer of goods on hire purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on goods;

(ii) supply of goods by a society (including a co-operative society), club, firm, or any association to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration, whether or not in the course of business;

(iii) transfer of property in goods by an auctioneer referred to in sub-clause (*v*) of clause (*i*), or sale of goods in the course of any other activity inthe nature of banking, insurance who in the course of their main activity also sell goods repossessed or re-claimed;

(iv) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(v) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(vi) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

(vii) every disposal of goods referred to in sub-clause (*vii*) of clause (*i*) of this sub-section and the words "sell", "buy" and "purchase" wherever appearing with all their grammatical variations and cognate expressions, shall be construed accordingly;

(*zb*) "sale price" means the amount paid or payable as valuable consideration for any sale, including—

(i) the amount of tax, if any, for which the dealer is liable under section 3;

(ii) in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery including hire charges, interest and other charges incidental to such transaction;

(iii) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period), the valuable consideration or hiring charges received or receivable for such transfer;

(iv) any sum charged for anything done by the dealer in respect of goods at the time of, or before, the delivery thereof;

(v) amount of duties levied or leviable on the goods under the Central Excise Act, 1944 or the Customs Act, 1962, or the Lakshadweep excise regulation whether such duties are payable by the seller or any other person; 1 of 1944. 52 of 1962.

(vi) amount received or receivable by the seller by way of deposit (whether refundable or not) which has been received or is receivable whether by way of separate agreement or not, in connection with, or incidental to or ancillary to the sale of goods; and

(vii) in relation to works contract means, the amount of valuable consideration paid or payable to a dealer for the execution of the works contract, less—

(a) any sum allowed as discount which goes to reduce the sale price according to the practice, normally, prevailing in trade;

(b) the cost of freight or delivery or the cost of installation in cases where such cost is separately charged and the words "purchase price" with all their grammatical variations and cognate expressions, shall be construed accordingly:

Provided that where the dealer makes sale of goods imported into the territory of India, the sale price shall be higher of the following—

(a) the valuable consideration received or receivable by the dealer;

(b) value determined by the Custom authorities for payment of custom duty at the time of the import of such goods;

(*zc*) "Schedule" means the Schedules appended to this Regulation;

(*zd*) "tax" means tax payable under this Regulation;

(*ze*) "taxable quantum" means the quantum of amount referred to in sub-section (*2*) of section 18;

(*zf*) "tax invoice" means the invoice referred to in section 50;

(*zg*) "tax period" means the period prescribed in the rules made under this Regulation;

(*zh*) "tax fraction" means the fraction calculated in accordance with formula, r / (r+100) where 'r' is the percentage rate of tax applicable to the sale under this Regulation;

(*zi*) the expression, "in the course of " includes activities done for the purposes in connection with or incidental to, and activities done as part of the preparation for the activity and the termination of the activity;

(*zj*) "transporter" means any person who, for the purposes of or in connection with or incidental to or in the course of his business transports or causes to transport goods, and includes any person whose business consists of or includes operating a

railway, shipping company, air cargo terminal, inland container depot, container freight station, courier service or airline;

(*zk*) "turnover" means the aggregate of the amounts of sale price received or receivable by the person in any tax period, reduced by any tax for which the person is liable under section 3;

(*zl*) "turnover of purchases" means the aggregate of the amounts of purchase price paid or payable by a person in any tax period, excluding any input tax;

(*zm*) "value of goods" means the fair market value of the goods at that time including insurance charges, excise duties, countervailing duties, tax paid or payable under the Central Sales Tax Act, 1956 in respect of the sale, transport charges, freight charges and all other charges incidental to the transaction of the goods;

74 of 1956.

(*zn*) "works contract" includes any agreement for carrying out for cash or for deferred payment or for valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property;

(*zo*) "year" means the financial year from the first day of April to the last day of March.

(2) Unless otherwise specified in this Regulation—

(a) expressions referring to "writing" shall include printing, typing, lithography, photography and other methods of representing or reproducing words in a visible form; and

(b) with reference to a person who is unable to sign his name, the word "signature" shall include his thumb impression or other mark duly attested to signify his signature.

(3) The words and expressions not defined in this Regulation but defined in the Indian Contract Act, 1872 shall have the meanings respectively assigned to them in that Act.

9 of 1972.

CHAPER II

LEVY OF TAX

Levy of tax.

3. (*1*) Subject to the other provisions of this Regulation, every dealer who is—

(a) registered under this Regulation; or

(b) required to be registered under this Regulation,

shall be liable to pay tax calculated in accordance with this Regulation, at the time and in the manner provided in this Regulation.

(2) Every dealer who has become liable to pay tax under this Regulation on the sale of goods shall continue to be so liable unless his taxable turnover during the preceding twelve months, or such further period as may be prescribed, has remained below the taxable quantum and on the expiry of the twelve months or such further period his liability to pay tax shall cease:

Provided that any dealer whose liability to pay tax under this Regulation ceases for any other reason may apply earlier for the cancellation of his registration, and on such cancellation, his liability to pay tax shall cease:

Provided further that a dealer shall remain liable to pay tax until the date on which his registration is cancelled.

(3) Every dealer whose liability to pay tax under this Regulation has ceased or whose registration has been cancelled, shall, if his turnover calculated from the commencement of any year, including the year in which the registration has been cancelled, again exceeds the taxable quantum on any day within such year be liable to pay such tax on and from the date

on which his turnover again exceeds the taxable quantum, on all sales effected by him on and after that day.

(4) Where it is found that any person registered as a dealer ought not to have been so registered, then notwithstanding anything contained in this Regulation, such person shall be liable to pay tax for the period during which he was registered.

(5) If any person who transports goods or holds goods in custody for delivery to or on behalf of any person, on being required by the Commissioner so to do, fails—

(a) to furnish any information in his possession in respect of the goods; or

(b) to permit inspection thereof,

then without prejudice to any other action which may be taken against such person, a presumption may be raised that the goods in respect of which he has failed to furnish information or permit inspection, are owned by him and are held by him for sale in Lakshadweep and the provisions of this Regulation shall apply.

(6) If any person who, whether as principal, agent or in any other capacity organises any exhibition-cum-sale in Lakshadweep and fails—

(a) to furnish any information in respect of the goods brought or kept in stock or sold by any participant before or during or after the exhibition-cum-sale; or

(b) to ensure that all the participants in the exhibition-cum-sale have obtained registration under this Regulation and paid due tax; or

(c) to permit inspection of the business premises or goods or account and records of the participants; or

(d) to permit inspection of the accounts and records of the organiser in respect of the exhibition-cum-sale,

then, without prejudice to any other action which may be taken against such participant, a presumption may be raised that the goods of the participant who fails to obtain registration under this Regulation or the goods in respect of which the participant has failed to furnish information or failed to permit inspection, are owned by the organiser and are held by him for sale in Lakshadweep and the provisions of this Regulation shall apply.

Rates of tax.

4. (*1*) The rates of tax as specified in the First Schedule shall be payable on the taxable turnover of a dealer in respect of goods description of which have been given in that Schedule.

(*2*) The Government may, by notification, if it deems necessary, amend the rates of tax as specified in the First Schedule.

Taxable turnover.

5. For the purposes of this Regulation, "taxable turnover" means the turnover of a dealer during the tax period which remains after deducting therefrom—

(a) the turnover of sales not subject to tax under section 7; and

(b) the turnover of sales of goods declared exempt under section 6.

Sale exempt from tax.

6. The goods to be listed in the Second Schedule shall be exempted from tax subject to the conditions and exceptions set out in the said Schedule.

Certain sales not liable to tax.

7. Nothing contained in this Regulation or the rules made thereunder shall be deemed to impose or authorise the imposition of tax on any sale of goods when such sale takes place—

(a) in the course of inter-State trade or commerce; or

(b) outside Lakshadweep; or

(c) in the course of import of the goods into or export of the goods out of, the territory of India; or

(d) in accordance with the notification issued by the Central Government in exercise of its powers under section 3 of the Foreign Aircraft (Exemption from Taxes and Duties on Fuel) Act, 2002, no tax shall be levied on sales of the fuel and lubricants which are filled into receptacles forming part of any aircraft registered in a country other than India, if— 36 of 2002.

(i) the said country is a party to the Convention on International and Civil Aviation, 1944;

(ii) the said country has entered into an Air Services agreement with India; and

(iii) the aircraft is operating on a scheduled or non-scheduled service to or from India.

8. (*1*) Subject to such conditions as may be prescribed, this section shall apply where, in relation to the sale of goods by any dealer,— Adjustments of tax.

(a) that sale has been cancelled;

(b) the nature of that sale has been fundamentally varied or altered;

(c) the previously agreed consideration for that sale has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason;

(d) the goods or part of the goods sold have been returned to the dealer within six months of the date of sale; or

(e) the whole or part of the price owed by the buyer for the purchase of the goods has been written-off by the dealer as a bad debt,

and the dealer has—

(i) provided a tax invoice in relation to that sale and the amount shown therein as tax charged on that sale is not the tax properly chargeable on that sale; or

(ii) furnished a return in relation to a tax period in respect of which tax on that sale is attributable, and has accounted for an amount of tax on that sale that is not the amount properly chargeable on that sale.

(2) Where a dealer has accounted for an incorrect amount of tax as contemplated in sub-section (*1*), that dealer shall make an adjustment in calculating the tax payable by that dealer in the return for the tax period during which it has become apparent that the tax is incorrect, and if—

(a) the tax payable in relation to that sale exceeds the tax actually accounted for by the dealer, the amount of that excess shall be deemed to arise in the tax period in which the adjustment is made, and shall not be attributable to any prior tax period; or

(b) the tax actually accounted for exceeds the tax payable in relation to the sale, the amount of that deficiency shall be subtracted from the tax payable by the dealer in the tax period in which the adjustment is made, and shall not be attributable to any prior tax period.

(3) Where a dealer sells goods that have been used in part for making—

(a) sales that are subject to tax under this Regulation or sales that are not liable to tax under section 7; and

(b) partly for other purposes, the amount of tax on the sale of the goods shall be the greater of—

(i) A— (A x B / C); or

(ii) A— B;

where—

A = the tax for which the dealer would be liable in respect of the sale apart from this section;

B = the amount by which the tax credit of the dealer in respect of the goods was reduced under sub-section (*4*) of section 9;

C = the amount of the tax credit before reduction under sub-section (*4*) of section 9.

Tax credit.

9. (*1*) No tax credit shall be allowed—

(a) in the case of the purchase of goods for goods purchased from a person who is not a registered dealer;

(b) for the purchase of non-creditable goods as listed in the Third Schedule;

(c) for the purchase of goods which are to be incorporated into the structure of a building owned or occupied by the person;

(d) for goods purchased from a dealer who has elected to pay tax under section 16;

(e) for goods purchased from a casual trader;

(f) to the dealers or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period.

(2) The amount of the tax credit to which a dealer is entitled in respect of the purchase of goods shall be the amount of input tax arising in the tax period reduced in the manner described in sub-sections (*3*), (*5*) and (*7*).

(3) Where a dealer has purchased goods and the goods are to be used partly for the purpose of making the sales referred to in sub-section (*1*) and partly for other purposes, the amount of the tax credit shall be reduced proportionately.

(4) The method used by a dealer to determine the extent to which the goods are used in the manner specified in sub-section (*4*) of section 10, shall be fair and reasonable in the circumstances:

Provided that the Commissioner may—

(a) after giving reasons in writing, reject the method adopted by the dealer and calculate the amount of tax credit; and

(b) prescribe methods for calculating the amount of tax credit or the amount of any adjustment or reduction of a tax credit in certain instances.

(5) Notwithstanding anything to the contrary contained in sub-section (*1*), where—

(a) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (*1*);

(b) the goods or goods manufactured out of such goods are to be exported from Lakshadweep by way of transfer to a—

(i) non-resident consignment agent; or

(ii) non-resident branch of the dealer; and

(c) the transfer shall not be by way of a sale made in Lakshadweep; the amount of the tax credit shall be reduced by the prescribed percentage.

Explanation.—For the removal of doubts, it is hereby clarified that no tax credit shall be allowed for the purchase of goods from an unregistered dealer.

(6) The tax credit may be claimed by a dealer only if he holds a tax invoice at the time the prescribed return for the tax period is furnished.

(7) Notwithstanding anything to the contrary contained in sub-section (*1*), where—

(a) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (*1*); and

(b) the goods or goods manufactured out of such goods are to be exported from Lakshadweep by way of sale made under sub-section (*1*) of section 8 of the Central Sales Tax Act, 1956, the amount of the tax credit shall be reduced by the prescribed percentage.

74 of 1956.

(8) Subject to the provisions of sub-sections (*1*) and (*2*), the tax credit of goods to be used for sale, as defined in sub-clause (*v*) of clause (*zb*) of sub-section (*1*) of section 2, shall be allowed as follows:—

(a) 1/4th of the input tax on such goods arising in the tax period, in the same tax period;

(b) balance 3/4th of such input tax, in equal proportions, in corresponding tax periods, in three immediately successive financial years.

Adjustment of tax credit.

10. (*1*) Where any purchaser has been issued with a credit note or debit note in terms of section 51 or if he returns or rejects goods purchased, as a consequence of which the tax credit claimed by him in any tax period in respect of which the purchase of goods relates, becomes short or excess, he shall compensate such short or excess by adjusting the amount of the tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned.

(2) If goods which have been purchased were—

(a) intended to be used for the purposes specified under sub-section (*1*) of section 9 and are subsequently used, fully or partly, for purposes other than those specified under the said sub-section; or

(b) intended for purposes other than those specified under sub-section (*1*) of said section 9, and are subsequently used, fully or partly, for the purposes specified in the said sub-section,

the tax credit claimed in respect of such purchase shall be reduced or increased (as the case may be) for the tax period during which the said utilisation otherwise has taken place.

(3) Where—

(a) goods were purchased by a dealer;

(b) the dealer claimed a tax credit in respect of the goods, and did not reduce the tax credit by the prescribed percentage; and

(c) the goods are exported from Lakshadweep,—

(i) by way of a sale made as per the provisions of sub-section (*1*) of section 8 of the Central Sales Tax Act, 1956; or

74 of 1956.

(ii) other than by way of a sale, to a branch of the registered dealer or to a consignment agent,

the dealer shall reduce the amount of tax credit originally claimed by the prescribed proportion.

(4) If goods which have been purchased by a dealer were—

(a) intended to be used for the purposes specified under sub-section (*1*) of section 9; and

(b) are subsequently incorporated into the structure of a building owned or occupied by the person,

the tax credit claimed in respect of such purchase shall be reduced in the tax period during which such incorporation takes place.

(5) Where the goods which have been purchased by a dealer are sold at a price lower than the price at which it was purchased by the dealer, the tax credit on such purchases shall be reduced proportionately in the tax period during which the goods are sold.

Net tax.

11. (*1*) The net tax payable by a dealer for a tax period shall be determined by the formula: Net tax = O — I — C

Where—

O = the amount of tax payable by the person at the rates stipulated in section 4 in respect of the taxable turnover arising in the tax period, adjusted to take into account any adjustments to the tax payable required by section 8.

I = the amount of the tax credit arising in the tax period to which the person is entitled under section 9, adjusted to take into account any adjustments to the tax credit required by section 10.

C = the amount, if any, brought forward from the previous tax period under sub-section (*2*).

(2) Where the net tax of a dealer calculated under sub-section (*1*) amounts to a negative value, the dealer shall—

(a) adjust the said amount in the same tax period against the tax payable by him under the Central Sales Tax Act, 1956 if any; and 74 of 1956.

(b) be entitled to carry forward the amount remaining after application under clause (*a*) of sub-section (*2*) to next calendar month or tax period, as the case may be, of the same year, or claim a refund of the amount remaining after application under clause (*a*) of sub-section (*2*) at the end of a tax period of the same year and the Commissioner shall deal with the refund claim in the manner described in section 38 and section 39.

(3) No tax shall be payable under this Regulation by a contractor on the amount representing the value of the goods supplied by the contractee to the contractor in the execution of works contract in which the ownership of such goods remains with the contractee under the terms of the contract and the amount representing the value of the goods supplied by the contractee to the contractor does not form part of the contract and is not deductible from the amount payable to the contractor by the contractee for the execution of the works contract.

Time at which amount of turnover, turnover of purchases and adjustments arise.

12. (*1*) Subject to the provisions of sub-sections (*2*), (*3*) and (*4*), the amount of the turnover and the turnover of purchases of a dealer which arises during any tax period shall be the amount recorded in the accounts of the dealer where those accounts are regularly and systematically prepared and maintained, give a true and fair view of his dealings, and are employed by the dealer in determining the turnover of the dealer's business for commercial or income-tax purposes.

(2) The Commissioner may by notification—

(a) permit certain classes of dealer to record turnover based on amounts paid or received; and

(b) require certain classes of dealer to record turnover based on amounts payable or receivable.

(3) Where a dealer wishes to change the method of determining the turnover and turnover of purchases, he may only make the change with the consent of the Commissioner and on such terms and conditions as the Commissioner may impose.

(4) The Government may prescribe the time at which a dealer shall treat the—

(a) turnover;

(b) turnover of purchases; and

(c) adjustment of tax or adjustment to a tax credit,

as arising for a class of transactions.

CHAPTER III

SPECIAL REGIMES

Priority.

13. Where a provision in this Chapter is inconsistent with a provision in Chapter II, the provision in this Chapter shall, to the extent of the inconsistency, prevails.

Treatment of stock brought forward during transition.

14. (*1*) Within a period of four months of the commencement of this Regulation, all registered dealers wishing to claim the credit referred to in sub-section (*2*), shall furnish to the Commissioner a statement of their trading stock, raw materials and packaging materials for trading stock (in this section referred to as "opening stock").

(2) For the avoidance of doubt, no tax credit under sub-section (*2*) can be claimed—

(a) for finished goods manufactured out of tax paid on raw material or capital goods;

(b) in a statement furnished more than four months after the commencement; or

(c) for opening stock which is held outside Lakshadweep.

(3) Every dealer wishing to claim a tax credit in excess of one lakh rupees on opening stock shall furnish with the statement a certificate signed by an accountant in the prescribed form certifying that the net credit claim made is true and correct.

Second hand goods.

15. (*1*) The provisions of this section shall apply where—

(a) a registered dealer sells second hand goods;

(b) the registered dealer has purchased goods from a resident seller who was not registered under this Regulation;

(c) the goods were purchased either as trading stock for re-sale in an unmodified form or otherwise or as raw material for incorporation or division into trading stock;

(d) the registered dealer shall be liable to pay tax under section 3 on the sale of the goods or the goods into which they were incorporated, as the case may be; and

(e) the registered dealer has adequate proof of the amount paid for the goods.

(2) In the circumstances mentioned in sub-section (*1*), the registered dealer shall be entitled to a tax credit for the purposes of section 9 of the least of—

(a) the input tax borne by the resident seller when he purchased the goods;

(b) the tax fraction of the original cost of the goods to the resident seller;

(c) the tax fraction of the fair market value of the goods at the time of their purchase by the registered dealer; or

(d) the tax fraction of the consideration paid by the registered dealer for the goods.

(3) Where the amount paid by the registered dealer for the goods exceeds two thousand rupees, the tax credit shall be allowed in the tax period when the goods are sold by the registered dealer or the goods into which they have been incorporated are sold by the registered dealer.

Composition of scheme for specified dealers.

16. (*1*) Notwithstanding anything contrary to this Regulation, every dealer whose—

(a) turnover in the year preceding the commencement; or

(b) turnover in the current year, does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette,

shall have an option to pay tax under this section:

Provided that this sub-section shall not apply to dealers procuring goods from any place outside Lakshadweep or selling or supplying goods to any place outside Lakshadweep at any time during the year in which he opts to pay tax under this sub-section or if he is a registered dealer in the Lakshadweep under the Central Sales Tax Act, 1956: 74 of 1956.

Provided further that in case the Government has notified a composition scheme for a class of dealers under sub-section (*12*), such dealers shall not have an option to pay tax under this sub-section.

(2) At the time of making application for registration under section 19 of this Act, the dealer covered under sub-section (*1*) shall be required to specify if he intends to pay tax under this section:

Provided that once the dealer chooses to pay tax under this section, the option may be reversed only after the end of the year for which the option is made, by application to the Commissioner within such time and in such manner as may be prescribed:

Provided further that where a dealer chooses to reverse his option to pay tax under this section, he shall be eligible to claim credit of the tax paid under this Regulation on the trading stock, raw material and packaging material held by him in Lakshadweep on the date when such reversal takes effect subject to the conditions contained in section 20 in so far as they are applicable.

(3) In case a person who elects to pay tax under this section whose turnover in the year preceding the commencement of this Regulation does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, he shall be required to specify the election to pay tax under this section within such time and in such manner as may be prescribed.

(4) Where a dealer elects to pay tax under this section, the dealer's net tax shall be the amount determined at the rate of one paisa in the rupee of the turnover of the dealer.

(5) A dealer who elects to pay tax under this section shall—

(a) not purchase goods from a person who is not registered under this Regulation;

(b) not compute his net tax under section 11;

(c) not be allowed to claim credit under section 9, section 14 and section 15;

(d) not be entitled to issue tax invoice;

(e) not be allowed to collect any amount by way of tax under this Regulation; and

(f) continue to retain tax invoices and retail invoices for all of his purchases as required under section 48.

(6) In case a person—

(a) whose turnover in the year preceding the commencement of this Regulation does not exceed five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette; and

(b) who has opted to pay tax under this section in terms of sub-section (*3*) of this section,

he shall be required to pay tax on the goods held on the date of the commencement of this Regulation at the rates specified in section 4 on the fair market value of goods where such goods have not borne any tax under the Lakshadweep.

(7) The tax due under sub-section (*6*) shall be paid at any time before the person specifies his intention to pay tax under this section.

(8) The proof of payment of tax referred to in sub-section (*6*) along with a statement of opening stock and finished goods in such form as may be prescribed shall be furnished to the Commissioner at the time the person specifies his intention to pay tax under this section.

(9) Subject to the other provisions, where a registered dealer pays tax at the rates specified in section 4, he may choose to pay tax under this section only from the beginning of the following year:

Provided that such registered dealer shall be required to pay tax at the rates specified in section 4 on the goods held by him on the first day of the said following year.

(10) If the turnover of a dealer who elects to pay tax under this section exceeds five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette, he shall be liable to pay tax under section 3 on and from the day his taxable turnover exceeds five lakh rupees or such other amount as may be specified by the Government by notification in the Official Gazette and shall be entitled to claim credit of the input tax paid under this Regulation on goods held by him in Lakshadweep on such day:

Provided that such dealer has intimated the Commissioner within seven days of his becoming liable to pay tax under section 3 in the prescribed form and has furnished such other information to the Commissioner as may be prescribed.

(11) The Commissioner may notify a dealer or a class of dealers who shall not be entitled to opt for payment of tax under this section.

(12) Notwithstanding anything to the contrary contained in this Regulation, the Government may—

(a) by notification in the Official Gazette, notify schemes of composition, subject to such conditions and restrictions as may be specified therein, of tax payable by a class of dealers or classes of dealers and different types of schemes may be notified for different classes of dealers;

(b) specify, in any scheme of composition of tax payable by the class of dealers or classes of dealers, different rates of taxes for different class or classes of dealers but, in such scheme, the net tax liability of the dealer opting to pay tax thereunder shall not exceed eight paise in the rupee of the turnover of the dealer.

(13) (*a*) Notwithstanding anything to the contrary contained in this Regulation, a casual trader shall—

(i) at least three days before commencing business in Lakshadweep, inform the Commissioner of such particulars of his business in such form and manner as may be prescribed;

(ii) deposit security in cash or in the form of bank draft as may be fixed by the Commissioner which shall not exceed estimated liability to pay tax for seven days or such lesser period for which the casual trader is conducting the business in Lakshadweep;

(iii) pay tax daily on the sales made during the previous day;

(iv) furnish to the Commissioner, immediately after conclusion of his business in Lakshadweep, a return in the prescribed form and manner; and

(v) not issue any tax invoice.

(b) The Commissioner shall, after verification of information furnished to him under clause (*a*) of sub-section (*1*) and after getting security under clause (*b*) of that sub-section, shall register the casual trader.

(c) Upon registration of casual trader, the Commissioner may issue the required forms to him for use as the declaration referred to in sub-section (*4*) of section 61 for bringing goods for sale in Lakshadweep and for taking the unsold goods out of Lakshadweep and the casual trader shall render complete account of the used forms and surrender the unused forms along with the return referred to in section 26.

(d) The Commissioner shall, after examination of the return furnished by the casual trader, the forms and the accounts maintained by him including the retail invoices issued, assess him to tax within five days and shall serve upon him a notice of assessment and after adjusting any tax and any other dues payable under this Regulation, refund the balance amount of security to him in case security is deposited in the form of cash deposit.

(e) The casual trader shall pay immediately the amount mentioned in the notice of assessment.

(f) On being satisfied that the amount due has been paid, the Commissioner shall release the security or balance security, as the case may be.

(g) Notwithstanding anything contained in this Regulation, the taxable quantum in respect of a casual trader shall be *nil.*

Transactions between related parties.

17. If—

(a) a registered dealer sells or gives goods to a related person;

(b) the terms or conditions of the transaction have been influenced by the relationship; and

(c) the related person had purchased the goods, the related person would not be entitled to a tax credit for the purchase, or the amount of the tax credit would be reduced under sub-section (*3*) of section 9,

the transaction shall be deemed to be a sale made by the registered dealer and the sale price of the goods shall be deemed to be their fair market value.

CHAPTER IV

REGISTRATION AND SECURITY

Mandatory and voluntary registration.

18. (*1*) Every dealer is required to apply for registration under this Regulation if—

(a) the dealer's turnover in the year preceding the commencement exceeded the taxable quantum; or

(b) the dealer's turnover in the current year exceeds the taxable quantum; or

(c) the dealer is liable to pay tax, or is registered or required to be registered under the Central Sales Tax Act, 1956: 74 of 1956.

Provided that a dealer dealing exclusively in goods mentioned in the First Schedule shall not be required to register.

(2) For the purposes of this Regulation, "taxable quantum" of a dealer shall be two lakh rupees, or such other amount as may be notified by the Government by notification in the Official Gazette:

Provided that a dealer who imports for sale any goods into Lakshadweep, the taxable quantum shall be *"Nil"* or such other amount as may be notified by the Government.

(3) The taxable quantum of a dealer shall not include turnover from—

(a) the sales of capital assets;

(b) the sales made in the course of winding up the dealer's activities; and

(c) sales made as part of the permanent diminution of the dealer's activities.

(4) Any person who is not required by sub-section (*1*) to be registered but who—

(a) is a dealer; or

(b) intends from a particular date to undertake activities which would make him a dealer,

may apply for registration.

Registration.

19. (*1*) An application for registration shall be made in such form, within such time, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed.

(2) Where—

(a) an applicant furnishes a security in the prescribed form and for the prescribed amount; and

(b) all other forms and evidence required by and prescribed under this Regulation are complete and in order,

the Commissioner shall register the applicant.

(3) Where the Commissioner has not registered the person within fifteen days from the date on which the application is made, the Commissioner shall, after conducting such inquiries as he deems fit, either—

(a) register the person forthwith as a registered dealer; or

(b) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and permitting him to show cause in writing, within fifteen further days, why his application should not be rejected:

Provided that where the Commissioner has not registered the person or issued a notice by the required date, the applicant shall be deemed to be registered for the purposes, and the Commissioner shall issue a certificate of registration to such person.

(4) Where, pursuant to clause (*b*) of sub-section (*3*), the applicant furnishes a reply to the notice, the Commissioner may, either accept the application and register the person, or reject the application for reasons to be recorded in writing.

(5) If the applicant fails to respond to the notice issued under clause (*b*) of sub-section (*3*) within the stipulated time, the application for registration shall stand rejected.

(6) Where a registered dealer has furnished a security as a condition of registration, such security shall be required for the continuance in effect of registration, unless otherwise provided by the Commissioner.

Effect of registration.

20. (*1*) If at the time at which an unregistered dealer's registration takes effect after the commencement and—

(a) the dealer holds trading stock for the purpose of sale, or for use as raw materials for the production of finished goods;

(b) the dealer has borne input tax on the purchase of the trading stock or raw materials;

(c) the dealer furnishes a statement of its trading stock and raw materials in the prescribed form to the Commissioner; and

(d) the dealer holds adequate proof of the amount of input tax in respect of the purchases,

the dealer shall be entitled to a tax credit for the trading stock or raw materials held by the dealer on the date that the dealer's registration takes effect:

Provided that the dealer must claim the entire amount of tax credit to which he is entitled in a single claim, which accompanies the first return furnished by the dealer under this Regulation.

(2) For the purposes of sub-section (*3*) of section 9, the amount of the tax credit shall be the least of—

(a) the amount of input tax disclosed in the proof referred to in clause (*d*) of sub-section (*1*);

(b) the tax fraction of the cost of the goods; or

(c) the tax fraction of the fair market value of the goods at the time of registration; or

(d) such amount as may be prescribed.

(3) Where the registered dealer accounts for turnover on the basis of amounts received and amounts paid, he shall exclude from his turnover—

(a) any amount received after he is registered in respect of sales made while he was unregistered; and

(b) any amount paid after he is registered in respect of purchases made while he was unregistered.

Amendment of registration.

21. (*1*) A registered dealer shall inform the Commissioner in the prescribed manner within one month, if he—

(a) sells or otherwise disposes of his business or any part of his business or any place of business, or effects or comes to know of any other change in the ownership of the business; or

(b) discontinues his business or changes his place of business or warehouse, or opens a new place of business, or closes the business for a period of more than one month; or

(c) changes the name, style, constitution or nature of his business; or

(d) enters into partnership or other association in regard to his business or adds, deletes or changes the particulars of the persons having interest in business; and if any such registered dealer dies, his legal representative shall, in like manner, inform the said authority.

(2) The Commissioner may, after considering any information furnished under this Regulation or otherwise received and after making such inquiry as he may deem fit, amend from time to time any registration.

(3) An amendment of the registration made under sub-section (*2*) shall take effect from the date of contingency which necessitates the amendment whether or not information in that behalf is furnished within the time prescribed under sub-section (*1*).

(4) Any amendment of a registration under this section shall be without prejudice to any liability for tax or penalty imposable or for any prosecution for an offence under this Regulation.

(5) For the removal of doubts, it is hereby clarified that where a registered dealer—

(a) effects a change to the nature of the goods ordinarily sold;

(b) is a firm and there is a change in the constitution of the firm without dissolution thereof; or

(c) is a trustee of a trust and there is a change in the trustees thereof; or

(d) is a firm or a company or a trust or other organisation, and a change occurs in the management of the organisation,

then, merely by reason of the circumstances aforesaid, it shall not be necessary for the registered dealer to apply for a fresh certificate of registration and on information being furnished the registration shall be amended.

Cancellation of registration.

22. (*1*) Where—

(a) a registered dealer who is required to furnish security under the provisions has failed to furnish or maintain such security;

(b) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under the provisions of this Regulation;

(c) an incorporated body is closed down or otherwise ceases to exist;

(d) the owner of a proprietorship business dies leaving no successor to carry on the business;

(e) in the case of a firm or association of persons, it is dissolved;

(f) a registered dealer has ceased to be liable to pay tax under this Regulation;

(g) a registered dealer knowingly furnishes a return which is misleading or deceptive in a material particular; or

(h) a registered dealer has committed one or more offences or contravened the provisions of this Regulation and the offence or contravention is, in the opinion of the Commissioner, of such magnitude that it is necessary to do so,

the Commissioner may, after conducting proper inquiries and after service of a notice in the prescribed form and after providing the dealer an opportunity of being heard, cancel the registration of the dealer with effect from the date specified by him in the notice.

(2) Where—

(a) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Regulation;

(b) an incorporated body is closed down or otherwise ceases to exist;

(c) the owner of a proprietorship business dies leaving no successor to carry on business;

(d) in the case of a firm or association of persons, it is dissolved; or

(e) a registered dealer has ceased to be liable to pay tax under this Regulation,

the registered dealer or the dealer's legal representative in case of clause (*c*), shall apply for cancellation of his registration to the Commissioner in the manner and within the time prescribed.

(3) On receipt of such application, if the Commissioner is satisfied that the dealer has ceased to be entitled to be registered, he may cancel the registration with effect from a specified date.

(4) If a dealer's registration which has been cancelled under this section is reinstated as a result of an appeal or other proceeding under this Regulation, the registration of the dealer shall be restored and he shall be liable to pay tax as if his registration had never been cancelled.

(5) If any registered dealer whose registration has been restored under sub-section (*4*) satisfies the Commissioner that excess tax has been paid by him during the period his registration was inoperative which but for the cancellation of his registration he would not have paid, then the amount of such tax shall be adjusted or refunded to the dealer in such manner as may be prescribed.

(6) Every registered dealer who applies for cancellation of his registration shall surrender with his application the certificate of registration granted to him and every registered dealer whose registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days of the date of communication to him of the cancellation.

(7) The Commissioner shall, at intervals not exceeding three months, host on the departmental website, such particulars as may be prescribed, of registered dealers whose registration has been cancelled.

(8) The cancellation of registration shall not affect the liability of any person to pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Regulation.

Effect of de-registration.

23. (*1*) Every registered dealer whose registration is cancelled shall pay in respect of all goods held on the date of cancellation an amount equal to the higher of—

(a) the tax that would be payable in respect of those goods if the goods were sold at their fair market value on that date; or

(b) the tax credit previously claimed in respect of those goods.

(2) Where the dealer has accounted for turnover on the basis of amounts received and amounts paid, he shall include in the turnover of his final return—

(a) any amount not yet received in respect of sales made while he was registered; and

(b) any amount not yet paid in respect of purchases made while he was registered.

Regisatration during transition.

24. Every dealer who is dealing in goods listed in the First Schedule shall register under the provisions of the Central Sales Tax Act, 1975 and the rate of tax with respect to such goods shall be such as mentioned in the third column of the First Schedule. 43 of 1975.

Security from certain classes of dealers and other persons.

25. (*1*) The Commissioner may, if it appears to him to be necessary so to do, for the continuance of the certificate of registration, or for the proper realisation of tax, composition money or other dues payable under this Regulation or as a condition of registering a person as a dealer or as a condition of making a refund under section 38, or as a condition of de-sealing or release under sub-section (*4*) of section 60, require a person or such class of persons as may be prescribed to furnish security for the proper performance of their responsibilities under this Regulation or under the Central Sales Tax Act, 1956 on payment of such amount in such manner and in such time as may be prescribed. 74 of 1956.

(2) Notwithstanding anything contained in sub-section (*1*), the Commissioner may increase, vary, reduce or waive the amount of the security, having regard to—

(a) the nature and size of the business activities of the person;

(b) the amount of any tax, interest or penalty for which the person may be or is likely to become liable at any time under this Regulation;

(c) the credit worthiness of the person;

(d) the nature of the security; and

(e) any other matter which the Commissioner considers relevant.

(3) Where the security furnished by a person is in the form of a surety bond and the surety dies or becomes insolvent, the person shall within one month of the occurrence of such event, inform the Commissioner and shall within three months of such occurrence, execute a fresh surety bond.

(4) Where the surety bond has been executed by another registered dealer and the dealer's registration is either cancelled or he has closed down his business, the person shall furnish a fresh security as may be prescribed and in the manner as stated in sub-section (*3*).

(5) The Commissioner may, for good and sufficient cause, order the forfeiture of the whole or any part of the security furnished by a person.

(6) Where the security furnished by any person is forfeited in whole or is rendered insufficient, he shall furnish a fresh security of the requisite amount or, as the case may be, shall make up the deficiency in such manner and within such period as may be specified.

CHAPTER V

RETURNS

26. Every registered dealer who is liable to pay tax under this Regulation shall furnish to the Commissioner such returns for each tax period and by such dates and in such form and manner as may be prescribed.

Periodical payment of tax and furnishing of returns.

27. In addition to the returns specified in section 26, the Commissioner may require any person, whether a registered dealer or not, to furnish (whether on that person's own behalf or as an agent or trustee) him with such other returns in such form as may be prescribed.

Power to require other returns.

28. If a person discovers a discrepancy in a return furnished by him for a tax period under this Regulation, he shall remove such discrepancy and furnish a revised return within the year following the year of such tax period:

Correction of deficiencies.

Provided that if, as a result of the discrepancy, the person has paid less tax than was due under this Regulation, he shall, pay the tax owed and interest thereon.

29. Every return under this Chapter shall be signed and verified—

Signing returns.

(a) in the case of an individual, by the individual himself, and where the individual is absent from India, by some person duly authorised by him in this behalf and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a company or local authority, by the principal officer thereof;

(c) in the case of a firm, by any partner thereof, not being a minor;

(d) in the case of any other association, by any member of the association or persons;

(e) in the case of a trust, by the trustee or any trustee; and

(f) in the case of any other person, by some person competent to act on his behalf.

CHAPTER VI

ASSESSMENT AND PAYMENT OF TAX, INTEREST AND PENALTIES AND MAKING REFUNDS

30. No payment may be made by the Commissioner for the claim by a person of an amount of tax, interest or penalty or other amount in the nature of tax, interest or penalty due under this Regulation except by making an assessment for the amount.

Assessment of tax, interest or penalty.

31. (*1*) Where a return is furnished by a person as required under section 26 or section 27 and contains such information as may be prescribed and complies with the requirements of this Regulation and the rules—

Self assessment.

(a) the Commissioner is taken to have made, on the day on which the return is furnished, an assessment of the tax payable of the amount specified in the return;

(b) the return is deemed to be a notice of the assessment and to be under the hand of the Commissioner; and

(c) the notice referred to in clause (*b*) is deemed to have been served on the person on the day on which the Commissioner is deemed to have made the assessment.

(*2*) No assessment shall arise under sub-section (*1*), if the Commissioner has already made an assessment of tax in respect of the same tax period under any other provision of this Regulation.

Default assessment of tax payable.

32. (*1*) If any person—

(a) has not furnished returns by the date required under section 26 of this Regulation;

(b) has furnished incomplete or incorrect returns;

(c) has furnished a return which does not comply with the requirements of this Regulation; or

(d) for any other reason the Commissioner is not satisfied with the return furnished by a person,

the Commissioner may, for reasons to be recorded in writing, assess or re-assess the amount of net tax due for a tax period or more than one tax period by a single order so long as all such tax periods are comprised in one year.

(2) If the Commissioner, upon the information which has come into his possession, is satisfied that any person who has been liable to pay tax under this Regulation in respect of any period, has failed to get himself registered, the Commissioner may, for reasons to be recorded in writing, assess the amount of net tax due for such period and all subsequent periods and serve on that person a notice of assessment of the amount of any additional tax due for that tax period.

(3) Where the Commissioner has made an assessment under this section and further tax is assessed as owed, the amount of further tax assessed is due and payable on the same date as the date on which the net tax for the tax period was due.

Assessment of penalty.

33. (*1*) Where the Commissioner has reason to believe that a person is liable to pay a penalty under this Regulation, he, after recording the reason in writing, shall make and serve on such person a notice of assessment of the penalty that is due under this Regulation.

(2) The amount of any penalty assessed under this section is due and payable on the date on which the notice of assessment is served by the Commissioner.

(3) Any assessment made under this section shall be without prejudice to prosecution for any offence under this Regulation.

Limitation on assessment and re-assessment.

34. (*1*) No assessment or re-assessment shall be made by the Commissioner after the expiry of four years from—

(a) the end of the year comprising of one or more tax periods for which the person furnished a return under section 26 or section 27; or

(b) the date on which the Commissioner made an assessment of tax for the tax period, whichever is the earlier:

Provided that where the Commissioner has reason to believe that tax was not paid by reason of concealment, omission or failure to disclose fully material particulars on the part of the person, the said period shall stand extended to six years.

(2) Notwithstanding anything contained in sub-section (*1*), the Commissioner may make an assessment of tax within one year after the date of any decision of the Appellate Tribunal or court where the assessment is required to be made in consequence of, or to give effect to, the decision of the Appellate Tribunal or court which requires the re-assessment of the person.

Collection of assessed tax and penalties.

35. (*1*) Subject to provisions of sub-sections (*2*) and (*4*), where an amount of tax or penalty has been assessed under section 32 or section 33, the Commissioner may not proceed to enforce payment of the amount assessed until two months after the date of service of the notice of assessment.

(2) Where a person has made an objection to an assessment or part of an assessment and has complied with the condition, if any, to entertain such objection in the manner provided in section 74, the Commissioner may not enforce the payment of balance amount in dispute under that assessment until the objection is resolved by the Commissioner.

(3) Nothing contained in this section shall stay any proceedings by the Commissioner or before a court for the recovery of—

(a) any amounts due under this Regulation that are not the subject of a dispute before the Commissioner; or

(b) any amounts due under this Regulation where the person has made an appeal to the Appellate Tribunal.

(4) Notwithstanding anything contained in sub-section (*1*), where an amount of tax or penalty has been assessed by the Commissioner and he is satisfied that there is a likelihood that it may not be possible to recover the amount assessed if collection is delayed, the Commissioner may specify a date in the notice of assessment as the date on which collection of the amounts due and payable may commence which is earlier than two months after the date of service of the notice of assessment.

Manner of payment of tax, penalties and interest.

36. Every person liable to pay tax, interest, penalty or any other amount under this Regulation shall pay the amount to a branch in Lakshadweep of a bank prescribed under the rules, or at such other place or in such other manner as may be prescribed.

Order of application of payments.

37. Where a person owes to the Commissioner tax, interest, or penalty and the person pays to the Commissioner or the Commissioner recovers some but not all of the amounts owed by the person, the amounts shall be treated as reducing the person's obligations to pay—

(a) interest, penalty and tax owed under this Regulation; and

74 of 1956.

(b) interest, penalty and tax owed under the Central Sales Tax Act, 1956, in the above order.

Refunds.

38. (*1*) Subject to the other provisions of this Regulation and the rules, the Commissioner shall refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him.

(2) Before making any refund, the Commissioner shall first apply such excess towards the recovery of any other amount due under this Regulation, or under the Central Sales Tax Act, 1956.

74 of 1956.

(3) Subject to the provisions of sub-section (*4*) and sub-section (*5*), any amount remaining after the application referred to in sub-section (*2*) shall be at the election of the dealer, either—

(a) refunded to the person,—

(i) within one month after the date on which the return was furnished or claim for the refund was made, if the tax period for the person claiming refund is one month; or

(ii) within two months after the date on which the return was furnished or claim for the refund was made, if the tax period for the person claiming refund is a quarter; or

(b) carried forward to the next tax period as a tax credit in that period.

(4) Where the Commissioner has issued a notice to the person under section 58 advising him that an audit, investigation or inquiry into his business affairs shall be undertaken or sought additional information under section 59 of this Regulation, the amount shall be carried forward to the next tax period as a tax credit in that period.

(5) The Commissioner may, as a condition of the payment of a refund, demand security from the person pursuant to the powers conferred in section 25 within fifteen days from the date on which the return was furnished or claim for the refund was made.

(6) The Commissioner shall grant refund within fifteen days from the date the dealer furnishes the security to his satisfaction under sub-section (*5*).

(7) For calculating the period prescribed in clause (*a*) of sub-section (*3*), the time taken to—

(a) furnish the security under sub-section (*5*) to the satisfaction of the Commissioner; or

(b) furnish the additional information sought under section 59; or

(c) furnish returns under section 26 and section 27; or

(d) furnish the declaration or certificate forms as required under the Central Sales Tax Act, 1956, shall be excluded. 74 of 1956.

(8) Notwithstanding anything contained in this section, where—

(a) a registered dealer has sold goods to an unregistered person;

(b) the price charged for the goods includes an amount of tax payable under this Regulation; and

(c) the dealer is seeking the refund of this amount or to apply this amount under clause (*b*) of sub-section (*3*),

no amount shall be refunded to the dealer or may be applied by the dealer under clause (*b*) of sub-section (*3*) unless the Commissioner is satisfied that the dealer has refunded the amount to the purchaser.

(9) Where—

(a) a registered dealer has sold goods to another registered dealer; and

(b) the price charged for the goods expressly includes an amount of tax payable under this Regulation,

the amount may be refunded to the seller or may be applied by the seller under clause (*b*) of sub-section (*3*) and the Commissioner may reassess the buyer to deny the amount of the corresponding tax credit claimed by such buyer, whether or not the seller refunds the amount to the buyer.

(10) Where a registered dealer sells goods and the price charged for the goods is expressed not to include an amount of tax payable under this Regulation the amount may be refunded to the seller or may be applied by the seller under clause (*b*) of sub-section (*3*) without the seller being required to refund an amount to the purchaser.

(11) Notwithstanding anything to the contrary contained in sub-section (*3*), no refund shall be allowed to a dealer who has not filed any return due under this Regulation.

Power to withhold refund in certain cases.

39. (*1*) Where a person is entitled to a refund and any proceeding under this Regulation, including an audit under section 58, is pending against him, and the Commissioner is of the opinion that payment of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner may for reasons to be recorded in writing, either obtain a security equal to the amount to be refunded to the person or withhold the refund till such time the proceeding or the audit has been concluded.

(2) Where a refund is withheld under sub-section (*1*), the person shall be entitled to interest as provided under sub-section (*1*) of section 42 if as a result of the appeal or further proceeding, or any other proceeding he becomes entitled to the refund.

40. (*1*) No person who is not a registered dealer shall collect in respect of any sale of goods by him in Lakshadweep any amount by way of tax under this Regulation and no registered dealer shall make any such collection except in accordance with this Regulation and the rules made thereunder and at the rates specified under this Regulation. Collection of tax only by registered dealers.

(*2*) The tax collected by a person who is not a registered dealer shall not be refunded and shall stand forfeited.

41. (*1*) The bodies listed in the Fourth Schedule shall be entitled to claim a refund of tax paid on goods purchased in Lakshadweep, subject to such restrictions and conditions as may be prescribed. Refund of tax for embassies, officials, international and public organisations.

(*2*) Any person entitled to a refund under sub-section (*1*) may apply to the Commissioner in the manner and within the time prescribed.

42. (*1*) A person entitled to a refund under this Regulation, shall be entitled to receive, in addition to the refund, simple interest at the annual rate notified by the Government from time to time, computed on a daily basis from— Interest.

(a) the date that the refund was due to be paid to the person; or

(b) the date that the overpaid amount was paid by the person,

whichever is later, and such interest shall be calculated upon the date on which the refund is given:

Provided that the interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Regulation:

Provided further that if the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

(2) When a person is in default in making the payment of any tax, penalty or other amount due under this Regulation, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at the annual rate notified by the Government from time to time, computed on a daily basis, from the date of such default for so long as he continues to make default in the payment of the said amount.

(3) Where the amount of tax including any penalty due is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is varied, the interest due shall be calculated accordingly.

(4) Where the collection of any amount is stayed by the order of the Appellate Tribunal or any court or any other authority and the order is subsequently vacated, interest shall be payable for any period during which such order remained in operation.

(5) The interest payable by a person under this Regulation may be collected as tax due under this Regulation and shall be due and payable once the obligation to pay interest has arisen.

CHAPTER VII

RECOVERY OF TAX, INTEREST AND PENALTIES

43. (*1*) The amount of any tax, interest, penalty or other amount due under this Regulation shall be paid in the manner specified in section 36 and a notice of assessment served on the person for such an amount shall constitute a demand for payment of the amount stated in the assessment by the time stipulated in the notice of assessment. Recovery of tax.

(2) On an application made before the expiry of the due date specified under section 35, the Commissioner may, in respect of any dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) Any amount of tax, interest or penalty, composition money or other amount due under this Regulation which remains unpaid, shall be recoverable—

(a) as arrears of land revenue, or

(b) by the Commissioner in accordance with the provisions of sub-section (*6*) and the rules regulating the procedure of recovery of tax, interest or penalty, composition money or other amount due as may be prescribed.

(4) Where security, other than in the form of surety bond, has been furnished under the Regulation, the Commissioner may, for reasons to be recorded in writing, recover any amount of tax, interest, penalty, composition money or other amount due or part thereof by ordering the forfeiture of the whole or any part of the security.

(5) Where any security tendered for the purposes is to be sold, it shall be sold in the manner stipulated in section 63.

(6) Where any amount of tax, interest or penalty, composition money or other amount due under this Regulation is recoverable in accordance with the provisions of clause (*b*) of sub-section (*3*), the Commissioner may prepare a recovery certificate (hereafter in this Chapter referred to as "certificate") under his signature specifying the amount of such tax, interest or penalty, composition money or other amount due from the dealer, casual dealer, transporter, carrier or transporting agent, owner or lessee or occupier of warehouse, owner of any goods or any other person (hereafter in this Chapter referred to as the "certificate-debtor") and he shall cause the said certificate to be served upon the certificate-debtor, in such manner and form as may be prescribed and proceed to recover from the certificate-debtor the amount specified in the certificate by one or more of the following modes in accordance with the rules as may be prescribed—

(a) attachment and sale of movable property of the certificate-debtor;

(b) attachment and sale of immovable property of the certificate-debtor;

(c) arrest of the certificate-debtor and his detention in prison for a period of fifteen days;

(d) appointing a receiver for the management of the movable and immovable properties of the certificate-debtor.

(7) The Commissioner may serve upon the defaulter the recovery certificate under sub-section (*6*), notwithstanding that proceedings for recovery of such tax, interest or penalty, composition money or other amount due have been initiated or continuing by any other mode.

(8) On the service of the certificate under sub-section (*6*) upon a certificate-debtor—

(a) any private transfer or delivery of any of his immovable property or of any interest in any such property, shall be void against any claim enforceable in the execution of the certificate; and

(b) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate-debtor, to which every other charge created subsequently to the service of the said certificate shall be postponed.

(9) The certificate-debtor may, within thirty days from the service of the certificate, present to the Commissioner a petition denying his liability in whole or in part.

(10) The Commissioner shall hear the petition, take evidence, if necessary, and determine whether the certificate-debtor is liable for the whole or any part of the amount for which certificate was signed.

(11) Where any proceedings for the recovery of any tax, interest or penalty, composition money or other amount due remaining unpaid have been commenced under this section and

the tax, interest or penalty, composition money or other amount due is subsequently modified, enhanced or reduced in consequence of any assessment made, or order passed on objection, appeal, revision or review under this Regulation, the Commissioner may inform the certificate-debtor and thereupon such proceedings may be continued as if the tax, interest or penalty, composition money or other amount due as so modified, enhanced or reduced has been substituted for the tax, interest or penalty, composition money or other amount due which was to be recovered under sub-section (*3*).

Application of Lacadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965 for purposes of recovery.

44. (*1*) For the purposes of recovery of any amount recoverable as arrears of land revenue under this Regulation, the provisions of the Lacadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965, as to the recovery of arrears of land revenue shall, notwithstanding anything contained in that Regulation or in any other enactment, be deemed to be in force throughout the Lakshadweep and the provisions of the Revenue Recovery Act, 1890 shall have effect accordingly.

Reg. 6 of 1965.

1 of 1890.

(2) For the purposes of sub-section (*1*)—

(a) the Additional Commissioner of Value Added Tax and the Joint Commissioner of Value Added Tax shall have and exercise all the powers and perform all the duties of the Deputy Commissioner under the Lacadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965;

Reg. 6 of 1965.

(b) the Deputy Commissioner of Value Added Tax and the Assistant Commissioner of Value Added Tax shall have and exercise all the powers and perform all the duties of Assistant Commissioner or Assistant Commissioner (Settlement) under the said Regulation;

(c) the Value Added Tax Officers and the Assistant Value Added Tax Officers shall have and exercise all the powers and perform all the duties of Tehsildar under the said Regulation.

Continuation of certain recovery proceedings.

45. Where an assessment or notice of demand in respect of any tax, penalty or other amount payable under this Regulation (hereafter in this section referred to as " Government dues") is served upon any person and any objection or appeal is initiated by the person against the assessment or demand for such Government dues then—

(a) if the objection or appeal is disallowed in whole or in part, any recovery proceedings taken for the recovery of such Government dues before the making of the objection or appeal, may, without the service of any fresh assessment or notice of demand, be continued from the stage at which such recovery proceedings stood immediately before the person who made the objection or appeal;

(b) where such Government dues are reduced in any objection or appeal—

(i) it shall not be necessary for the Commissioner to serve upon the person a fresh assessment or notice of demand;

(ii) the Commissioner shall give intimation of such reduction to him and to the person with whom recovery proceedings are pending; and

(iii) any recovery proceedings initiated on the basis of an assessment or notice of demand served upon a person before the disposal of such objection or appeal, may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before the person who made the objection or appeal; and

(c) no recovery proceedings in relation to such Government dues shall be invalid by reason only that no fresh notice of demand was served upon the dealer or person after the disposal of such objection or appeal or such Government dues have been enhanced or reduced in such objection or appeal.

Special mode of recovery.

46. (*1*) Notwithstanding anything contained in any law for the time being in force or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require,—

(a) any person from whom any amount of money is due, or may become due, to the person (in this section called "the taxpayer") liable to pay tax, interest or penalties under section 45; or

(b) any person who holds or may subsequently hold money for or on account of the taxpayer, to pay to the Commissioner, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of the arrears of tax, interest and penalty under this Regulation, or the whole of the money when it is equal to or less than that amount.

(2) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the taxpayer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the taxpayer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the taxpayer or that he does not hold any money for or on account of the taxpayer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as if arrears of land revenue.

(7) The Commissioner may apply to the court in whose custody there is money belonging to the taxpayer for payment to him of the entire amount of such money or if it is more than the tax, interest and penalty, if any, due, an amount sufficient to discharge such tax and the penalty.

(8) Where, during the course of inquiry of any proceeding including any proceeding for recovery of any amount due in respect of any person or dealer or during any inspection or search in relation to the business of any person or dealer under this Regulation, the Commissioner is of the opinion that for the purpose of protecting the interest of the revenue it is necessary so to do, he may, notwithstanding anything contained in any law for the time being in force or any contract to the contrary, by order in writing, attach provisionally any property movable or immovable, belonging to such person or dealer.

(9) Every provisional attachment referred to in sub-section (*8*) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (*1*):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years:

Provided further that the Commissioner may, by an order, revoke such order if the person or the dealer furnishes to the Commissioner, a Bank Guarantee in such time, for such period as may be specified by the Commissioner in this behalf:

Provided also that the power under this section shall be exercised by the Commissioner himself or by the Additional Commissioner to whom the Commissioner has delegated such power.

Transfer of assets during pendency of proceedings void.

47. Where, during the pendency of any proceedings for the recovery of an amount owed by a person under this Regulation, that person creates a charge on or parts with the possession by way of sale, mortgage, gift or exchange or any other mode of transfer whatsoever, any of his assets in favour of any other person, such charge or transfer shall be void against any claim by the Commissioner in respect of the amount which is the subject of proceedings, unless the other person—

(a) acted *bona fide* and without notice of the recovery proceedings; and

(b) has paid the fair market value for the assets.

CHAPTER VIII

ACCOUNTS AND RECORDS

Records and accounts.

48. (*1*) Every dealer or person, on whom a notice has been served to furnish returns under section 27, shall prepare, maintain and retain sufficient records at the principal place of business as recorded in his certificate of registration to allow the Commissioner to readily ascertain the amount of tax due under this Regulation, and to explain all transactions, events and other acts engaged in by the person that are relevant for any purpose:

Provided that the dealer maintaining computerised books of account using a software should be able to readily provide soft or hard copy of the records at the principal place of business as recorded in his certificate of registration, as and when required by the Commissioner.

(2) Notwithstanding anything contained in sub-section (*1*)—

(a) every registered dealer shall preserve a copy of all tax invoices issued by him;

(b) every dealer shall preserve the original of all tax invoices received by him; and

(c) every person who has paid an amount of tax, interest, penalty or other amount owed under this Regulation, shall preserve a copy of the challan which shall be a documentary evidence that the amount has been paid.

(3) The Commissioner may prescribe the manner and form in which accounts and records are to be prepared.

(4) If the Commissioner considers that such records are not sufficiently clear and intelligible to enable him to make a proper check of the obligations required of the person under this Regulation, he may require such person by notice in writing to keep such accounts (including records of purchase and sales) as may be specified therein.

(5) The Commissioner may, by notification in the Official Gazette, direct any class of dealers, transporters or operators of warehouses to keep such accounts (including records of purchases and sales) as may be specified in the notification.

(6) Every person required to prepare or preserve records and accounts shall retain the required records and accounts for, at least, seven years after the conclusion of the events or transactions which they record unless any proceedings in respect of that year are pending in which case they shall be preserved till the final decision in those proceedings. Any loss thereof shall be reported to the Police and the Commissioner within a period of fifteen days from the date of occurrence.

Accounts to be audited in certain cases.

49. If, in respect of any particular year, the gross turnover of a dealer exceeds sixty lakh rupees or such other amount as may be prescribed, then, such dealer shall submit a report in such manner, form and period as may be notified by the Commissioner.

Tax invoices.

50. (*1*) A registered dealer making a sale liable to tax under this Regulation shall, at the request of the purchaser, provide the purchaser at the time of sale with a tax invoice containing the particulars specified in sub-section (*2*) and retain a copy thereof:

Provided that a tax invoice shall not be issued by a dealer who—

(a) elects to pay tax under section 16; or

(b) is making the sale in the course of inter-State trade or commerce or export:

Provided further that not more than one tax invoice shall be issued for each sale:

Provided also that if an invoice has been issued under the provisions of the Central Excise Act, 1944, it shall be deemed to be a tax invoice if it contains the particulars specified in sub-section (*2*). 1 of 1944.

(2) The tax invoice issued under sub-section (*1*) shall contain the following particulars on the original as well as copies thereof—

(a) the words "tax invoice" in a prominent place;

(b) the name, address and registration number of the selling registered dealer;

(c) the name and address of the purchaser and his registration number, where the purchaser is a registered dealer;

(d) an individual pre-printed serialised number and the date on which the tax invoice is issued:

Provided that a dealer may maintain separate numerical series, with distinct codes either, as a prefix or suffix, for each place of business in case the dealer has more than one place of business in Lakshadweep or for each product in case he deals in more than one product or both:

Provided further that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;

(e) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately;

(f) the signature of the selling dealer or his servant, manager or agent, duly authorised by him; and

(g) the name and address of the printer and first and last serial number of tax invoices printed and supplied by him to the dealer.

(3) A tax invoice in respect of a sale shall be issued in duplicate, the original shall be issued to the purchaser (or the person taking the delivery, as the case may be) and the duplicate shall be retained by the selling dealer.

(4) Except when a tax invoice is issued under sub-section (*1*), if a dealer sells any goods exceeding such amount in value as may be prescribed, in any one transaction to any person, he shall issue to the purchaser a retail invoice containing the particulars specified in sub-section (*5*) and retain a copy thereof.

(5) The retail invoice issued under sub-section (*4*) shall contain the following particulars on the original as well as copies thereof—

(a) the words "retail invoice" or "cash memorandum" or "bill" in a prominent place;

(b) the name, address and registration number of the selling dealer, if registered;

(c) in case the sale is in the course of inter-State trade or commerce, the name, registration number and address of the purchasing dealer and type of statutory form, if any, against which the sale has been made;

(d) an individual pre-printed serialised number and the date on which the retail invoice is issued:

Provided that a dealer may maintain separate numerical series with distinct codes, either as prefix or suffix, for each place of business, in case the dealer has more than one place of business in Lakshadweep or for each product in case he deals in more than one product or both:

Provided further that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;

(e) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately; and

(f) the signature of the selling dealer or his servant, manager or agent, duly authorised by him.

(6) Retail invoice shall be issued in duplicate, the original shall be issued to the purchaser and the copy shall be retained by the selling dealer.

(7) The Commissioner may, by notification in the Official Gazette, specify the manner and form in which the particulars on a tax invoice or retail invoice are to be recorded.

(8) If a purchaser claims to have lost the original tax invoice, the selling dealer may, subject to such conditions and restrictions as may be prescribed, provide a copy clearly marked as a duplicate.

Credit and debit notes.

51. Where a tax invoice has been issued in respect of a sale and—

(a) the amount shown as tax in that tax invoice exceeds the tax payable in respect of the sale, the dealer shall provide the purchaser with a credit note, containing such particulars as may be prescribed; or

(b) the tax payable in respect of the sale exceeds the amount shown as tax on the tax invoice,

the dealer shall provide the purchaser with a debit note, containing such particulars as may be prescribed.

CHAPTER IX

LIABILITY IN SPECIAL CASES

Liability in case of transfer of business.

52. (*1*) Where a dealer liable to pay tax under this Regulation transfers his business in whole or in part, by sale, gift, lease, leave or license, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax, interest or penalty due from the dealer up to the time of such transfer, whether such amount has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

(*2*) Where the transferee or the lessee of a business referred to in sub-section (*1*) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is registered as a dealer, apply within the time specified in section 21 for the amendment of his registration.

Liability in case of company in liquidation.

53. (*1*) Every person—

(a) who is a liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company (hereafter in this section referred to as the "liquidator"),

shall, within one month after he has become such liquidator, give notice of his appointment as such to the Commissioner.

(2) The Commissioner shall, after making such inquiries or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received notice of the appointment of the liquidator, the amount which, in the opinion of the Commissioner, would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter, to become payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hand until he has been notified by the Commissioner under sub-section (*2*) and on being so notified, the liquidator shall set aside an amount equal to the amount notified and, until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hand:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax and penalty, if any, payable by the company under this Regulation or for making any payment to secured creditors whose debts are entitled under law to priority of payments over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable.

(4) If the liquidator fails to give notice in accordance with sub-section (*1*) or fails to set aside the amount as required by sub-section (*3*) or parts with any assets of the company or the properties in his hand in contravention of the provisions of that sub-section, he shall be personally liable for the payment of tax and penalty, if any, which the company would be liable to pay under this Regulation:

Provided that if the amount of tax and penalty, if any, payable by the company is notified under sub-section (*2*) the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there is more than one liquidator, the obligations and liabilities attached to a liquidator under this section shall attach to all the liquidators jointly and severally.

(6) When any private company is wound up and any tax and penalty, if any, assessed under this Regulation on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax and penalty, if any, unless he proves to the satisfaction of the Commissioner that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(7) The provisions of this Regulation shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(8) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned to them under clauses (*20*) and (*68*) of section 2 of the Companies Act, 2013. 18 of 2013.

Liability of partners of firm to pay tax.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Regulation, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Provided that where any such partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice to that effect in writing and he shall be liable

to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement though unassessed on that date:

Provided further that if no such intimation is given within fifteen days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

55. Where the business in respect of which tax is payable under this Regulation is carried on by, or is in the charge of any guardian, trustee or agent of a minor or other incapacitated person on his behalf and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, if he were of full age and of sound mind and if he were conducting the business himself, and all the provisions shall, so far as may be, apply accordingly.

Liability of Court of Wards, etc.

56. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Regulation is under the control of the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in like manner and to the same extent as it would be assessable upon and be recoverable from the dealer if he were conducting the business himself, and all the provisions shall, so far as may be, apply accordingly.

Liability in other cases.

57. (*1*) Where a dealer is a firm or an association of persons or a Hindu Undivided Family, and such firm, association or family has discontinued business—

(a) the tax payable under this Regulation, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm, association or family, whether such tax, interest or penalty has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

Provided that where the partner of a firm liable to pay such tax, interest or penalty dies, the provisions of sub-section (*4*) shall, so far as may be, apply.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of the association as it existed before and as it exists after its reconstitution shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (*1*) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as references to dissolution or, as the case may be, to partition.

(4) Where a dealer liable to pay tax under this Regulation dies, then—

(a) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax, interest or penalty due from the dealer under this Regulation,

whether such tax, interest or penalty had been assessed before his death but has remained unpaid, or is assessed after his death;

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent the estate is capable of meeting the charge, the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death, but has remained unpaid, or is assessed after his death,

and the provisions shall, so far as may be, apply to such legal representative or other person as if he were the dealer himself.

CHAPTER X

AUDIT, INVESTIGATION AND ENFORCEMENT

Audit, investigation and enforcement.

58. (*1*) The Commissioner may serve on any person in the prescribed manner a notice informing him that an audit of his business affairs shall be performed and where applicable, that an assessment already concluded under this Regulation may be reopened.

(2) A notice served under sub-section (*1*) may require the person on whom it is served, to appear on a date and place specified therein, which may be at his business premises or at a place specified in the notice, to either attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns (including tax invoices, if any), or to produce such evidence as is specified in the notice.

(3) The person on whom a notice is served under sub-section (*1*) shall provide all co-operation and reasonable assistance to the Commissioner as may be required to conduct the proceedings under this section at his business premises.

(4) The Commissioner shall, after considering the return, the evidence furnished with the returns, if any, the evidence acquired in the course of the audit, if any, or any information otherwise available to him, either—

(a) confirm the assessment under review; or

(b) serve a notice of the assessment or re-assessment of the amount of tax, interest and penalty if any pursuant to sections 32 and 33.

(5) Any assessment pursuant to an audit of the person's business affairs shall be without prejudice to prosecution for any offence under this Regulation.

(6) (*i*) If the Commissioner, having regard to,—

(a) the nature and complexity of the business of a dealer; or

(b) the interest of the revenue; or

(c) volume of accounts; or

(d) doubts about the correctness of the accounts; or

(e) multiplicity of transactions in the accounts; or

(f) specialised nature of business activity; or

(g) non-production of all records and accounts; or

(h) non-filing of audit report under this Regulation; or

(i) any other reason, is of the opinion that it is necessary so to do,

he may direct the dealer by a notice in writing to get his records including books of account, examined and audited by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and

verified by such accountant or panel of accountants or professional or panel of professionals and setting forth such particulars as may be specified;

(ii) The provision of sub-section (*1*) shall have effect notwithstanding that the accounts of the dealer have been audited under any other provision or any other law for the time being in force or otherwise;

(iii) Every report under sub-section (*1*) shall be furnished by the dealer to the Commissioner within such period as may be specified by the Commissioner:

Provided that the Commissioner may, on an application made in this behalf by the dealer and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit:

Provided further that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred eighty days from the date on which the direction under sub-section (*1*) is received by the dealer;

(iv) The expenses of, and incidental to, the examination and audit of records under sub-section (*1*), (including the remuneration of the accountant or a panel of accountants or professional or panel of professionals) shall be determined and paid by the Commissioner and that determination shall be final.

Inspection of records.

59. (*1*) All records, books of account, registers and other documents, maintained by a dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.

(2) The Commissioner may, for the proper administration and subject to such conditions as may be prescribed, require—

(a) any dealer; or

(b) any other person, including a banking company, post office, a person who transports goods or holds goods in custody for delivery to, or on behalf of any dealer, who maintains or has in his possession any books of account, registers or documents relating to the business of a dealer, and, in the case of a person which is an organisation, any officer thereof, to—

(i) produce before him such records, books of account, registers and other documents;

(ii) answer such questions; and

(iii) prepare and furnish such additional information,

relating to his activities or to the activities of any other person as the Commissioner may deem necessary.

(3) The Commissioner may require a person referred to in sub-section (*2*), to—

(a) prepare and provide any documents; and

(b) verify the answer to any question,

in the manner specified by him.

(4) The Commissioner may retain, remove, take copies or extracts, or cause copies or extracts to be made of the said records, books of account, registers and documents without fee by the person in whose custody the records, books of account, registers and documents are held.

Power to enter premises and seize records and goods.

60. (*1*) All goods kept at any business premises by a dealer, transporter or operator of a warehouse shall at all reasonable times be open to inspection by the Commissioner.

(2) Where the Commissioner, upon information in his possession or otherwise has reasonable grounds to believe that any person or dealer is attempting to avoid or evade tax

or is concealing his tax liability in any manner and for the purposes of administration, it is necessary so to do, the Commissioner may—

(a) enter and search any business premises or any other place or building;

(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*a*) where the keys thereof are not readily available;

(c) seize and remove any records, books of account, registers, other documents or goods;

(d) place marks of identification on any records, books of account, registers and other documents or make or cause to be made extracts or copies thereof without charge;

(e) make a note or any inventory of any such money or goods found as a result of such search or place marks of identification on such goods; and

(f) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle.

(3) Where it is not feasible to remove any records, books of account, registers, other documents or goods, the Commissioner may serve on the owner and any person who is in immediate possession or control thereof, an order that he shall not remove or part with or otherwise deal with them except with the previous permission of the Commissioner.

(4) Where any premises have been sealed under clause (*f*) of sub-section (*2*), or an order made under sub-section (*3*), the Commissioner may, on an application made by the owner or the person in occupation or in-charge of such shop, godown, box, locker, safe, almirah or other receptacle, permit the de-sealing or release thereof, as the case may be, on such terms and conditions including furnishing of security for such sum in such form and manners as may be prescribed.

(5) The Commissioner may requisition the services of any police officer or any public servant, or of both, to assist him for all or any of the purposes specified in sub-section (*2*).

(6) Save as otherwise provided in this section, every search or seizure made under this section shall as far as possible be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code. 2 of 1974.

Power to stop, search and detain goods vehicles.

61. (*1*) The Commissioner may at any check-post or barrier or any other place to enable proper administration of this Regulation, require the owner, driver or person in-charge of a goods vehicle to stop the vehicle and keep it stationary so long as may be required to search the vehicle, examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such owner, driver or person in-charge.

(2) The owner, driver or person in-charge of a goods entering or leaving Lakshadweep shall carry such records and also file a declaration containing such particulars in the prescribed form obtainable from the Commissioner and in such manner as may be prescribed, before the officer in-charge of a check-post or barrier or before any other officer of agent empowered as aforesaid:

Provided that where the owner, driver or person in-charge of a goods vehicle, after filing a declaration at the time of entering Lakshadweep that the goods are meant to be carried to a place outside Lakshadweep fails, without reasonable cause, to carry such goods outside Lakshadweep within the prescribed period, he shall, in addition to the payment of tax, if any, be liable to a penalty not exceeding two and a half time the tax that would have been payable had the goods been sold inside Lakshadweep or one thousand rupees, whichever is more.

(3) The owner, driver or person in-charge of a goods vehicles entering or leaving Lakshadweep Islands shall also file a declaration containing such particulars in prescribed form obtainable from the Commissioner and such manner as may be prescribed, before the officer in-charge of a check-post or barrier or before any other officer or agent empowered as aforesaid:

Provided that where the owner, driver or person in-charge of a goods vehicles after filling a declaration at the time of entering Lakshadweep Islands that goods are meant to be carried to a place outside Lakshadweep Islands fails, without reasonable cause, to carry such goods outside Lakshadweep Islands within the prescribed period, he shall, in additional to the payment of tax, if any, be liable to a penalty not exceeding two and a half time the tax that, would have been payable had the goods been sold inside Lakshadweep Islands or one thousand rupees, whichever is more.

(4) The owner, driver or person in-charge of the goods vehicle shall, if required, inform the Commissioner of—

(a) his name and address;

(b) the name and address of the owner of the vehicle;

(c) the name and address of the consignor of the goods;

(d) the name and address of the consignee of the goods; and

(e) the name and address of the transporter.

(5) If, on an examination of the contents of a goods vehicle or the inspection of documents relating to the goods carried, the Commissioner has reason to believe that the owner or driver or person in-charge of such goods vehicle is not carrying the documents as required by sub-section (*2*) or is not carrying proper and genuine documents or is attempting to evade payment of tax due under this Regulation, he may, for reasons to be recorded in writing, do any one or more of the following, namely:—

(a) refuse to allow the goods or the goods vehicle to enter or leave Lakshadweep;

(b) seize the goods and any documents relating to the goods; and

(c) seize the goods vehicle and any documents relating to the goods vehicle.

(6) Where the owner, driver or person in-charge of the goods vehicle—

(a) requests time to adduce evidence of payment of tax in respect of the goods to be detained or impounded; and

(b) furnishes security to the satisfaction of the Commissioner in such form, manner and for such amount as may be prescribed,

the goods vehicle, the goods and the documents so seized may be released:

Provided that where the owner or his agent, driver or person in-charge of the goods vehicle exercises the option of paying a penalty of an amount equal to three and a half times the tax, which in the opinion of the Commissioner, would be leviable on such goods, if such goods were sold in Lakshadweep, the Commissioner instead of detaining or impounding the goods or the goods vehicle or the documents relating to the goods and goods vehicle shall release the same.

(7) The Commissioner may permit the owner, driver or person in-charge of goods vehicle to remove any goods or goods vehicle seized under sub-section (*6*) subject to an undertaking—

(a) that the goods and goods vehicle shall be kept in the office, godown or other place within Lakshadweep, belonging to the owner of the goods vehicle and in the custody of such owner; and

(b) that the goods shall not be delivered to the consignor, consignee or any other person without the approval in writing of the Commissioner, and for this purpose the person in-charge of the goods vehicle shall furnish an authorisation from the owner of the goods vehicle authorising him to give such undertaking on his behalf.

(8) Save as otherwise provided in this section, every search or seizure made under this section shall as far as possible be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code. 2 of 1974.

(9) Nothing contained in this section shall apply to the rolling stock as defined in the Railways Act, 1989. 24 of 1989.

Custody and release of records.

62. (*1*) Where the Commissioner seizes any books of account or other documents, he shall give the dealer or the person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the dealer or person from whose custody the books of account or other documents are seized refuses to give an acknowledgement, the Commissioner may leave the receipt at the premises and record this fact.

(*2*) The Commissioner shall keep in his custody the books of account, registers, other documents seized under section 60 for a period not exceeding one year, and thereafter shall return the same to the dealer or person from whose custody or power they were seized:

Provided that the Commissioner may, before returning the books of account, registers and other documents, require the dealer or the person, as the case may be, to give a written undertaking that the books of account, registers and other documents shall be presented whenever required by the Commissioner for any proceedings under this Regulation:

Provided further that the Commissioner shall, when requested, allow the person whose books of account, registers and documents have been seized, reasonable access to the books of account, registers and documents for the purpose of inspection and shall allow the person the opportunity to make copies thereof at the person's own expense:

Provided also that the period of custody of the books of account, registers and other documents seized under section 60 may be extended beyond one year if any proceedings under this Regulation are pending or for reasons to be recorded by the Commissioner in writing.

Custody, return and disposal of goods, goods vehicle and security.

63. (*1*) Where the Commissioner seizes any goods or goods vehicle, he shall give the dealer or person in-charge of the goods vehicle or a person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the person from whose custody the goods or goods vehicle are seized refuses to give an acknowledgement, the Commissioner may leave the receipt in his presence and record this fact.

(2) The Commissioner—

(a) shall keep any goods or goods vehicle seized under section 61 in his custody;

(b) may retain them for such time as he considers reasonable; and

(c) subject to the provisions of sub-section (*3*), shall return the goods or goods vehicle to the dealer or other person from whose custody or power they were seized.

(3) Where the Commissioner—

(a) has seized any goods;

(b) has seized a goods vehicle; or

(c) holds any goods as security for the performance of an obligation under this Regulation,

he may, not sooner than one month after the service of notice on—

(i) the person from whom the goods were seized;

(ii) the person from whom the goods vehicle was seized;

(iii) the person for whom the security was given; and

(iv) any person against whom the security is to be enforced,

of his intention to sell the goods, direct the auction of such goods or goods vehicle to meet any arrears of tax, interest or penalty owed under this Regulation.

(4) An auction of goods or a goods vehicle shall be carried out in the manner prescribed for the sale of property held by the Commissioner.

Detention of goods pending disclosure.

64. (*1*) If any person on being required by the Commissioner, fails to give any information in respect of any goods in his possession or fails to permit the inspection thereof, the Commissioner may seize any goods in his custody or possession in respect of which the default is committed.

(*2*) The seizure shall remain in force until it is revoked or the person concerned furnishes the information required or makes proper arrangements for the inspection of the goods, whichever occurs first.

Obligation to provide reasonable assistance.

65. Every person shall provide co-operation and reasonable assistance to the Commissioner as may be required to conduct the Commissioner's activities under the Regulation.

CHAPTER XI

VALUE ADDED TAX AUTHORITIES AND APPELLATE TRIBUNAL

Value Added Tax Authorities.

66. (*1*) The Government shall appoint a person to be known as the Commissioner of Value Added Tax.

(2) The Government may, to assist the Commissioner in the administration of this Regulation, appoint as many Special Commissioners of Value Added Tax, Value Added Tax Officers and such other persons with such designations as the Government thinks necessary (hereafter in this Chapter referred to as "Value Added Tax Authority").

(3) The Commissioner and the Value Added Tax Authorities shall exercise such powers as may be conferred and perform such duties under this Regulation.

(4) The powers exercised by the Value Added Tax Authorities for the making of assessments of tax, the computation and imposition of penalties, the computation of interest due or owed, the computation of the entitlement and the amount of any refund, the determination of specific questions under section 84, the making of general rulings under section 85, and the conduct of audit or investigations shall, for the purposes of this Regulation, be the administrative functions.

Powers and responsibilities of Commissioner.

67. (*1*) The Commissioner shall have responsibility for the due and proper administration and shall have jurisdiction over the whole of the Union territory of Lakshadweep.

(2) Subject to the provisions of sub-section (*3*) the Commissioner may, from time to time, issue such orders, instructions and directions to any Value Added Tax Authority as he thinks fit for the due and proper administration and all such persons engaged in the administration shall observe and follow such orders, instructions and directions of the Commissioner.

(3) No orders, instructions or directions may be issued by the Commissioner to a person exercising the power to determine—

(a) a particular objection made or to be made under section 74; or

(b) a particular question made under section 84,

so as to require the person to determine the objection or answer the question of a particular person in a particular manner.

(4) Nothing in sub-section (*3*) shall prevent the Commissioner from issuing general orders, instructions and directions to any person who determines objections made under section 74 or answers questions made under section 84 about the manner of determining classes of objections or answering classes of questions.

Delegation of Commissioner's powers.

68. (*1*) Subject to such restrictions and conditions as may be prescribed, the Commissioner may delegate any of his powers under this Regulation to any Value Added Tax Authority.

(2) Where the Commissioner delegates his powers under Chapter X, the delegate shall carry and produce on demand evidence in the prescribed form of the delegation of these powers when exercising the powers.

(3) Where the Commissioner has delegated a power to a Value Added Tax Authority, the Commissioner may supervise, review and rectify any decision made or action taken by that Authority.

(4) Notwithstanding anything to the contrary contained in any law for the time being in force, the power delegated by the Commissioner to a person to determine an objection under section 74 may be exercised by that person, even though the person determining the objection is equal in rank to the person whose decision is under objection.

Change of incumbent of office.

69. Whenever in respect of any proceeding under this Regulation the Commissioneror any Value Added Tax Authority is succeeded by another person—

(a) no delegation of power made by the former incumbent shall be revoked by virtue of the succession; and

(b) the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

Powers of Commissioner to notify forms.

70. (*1*) The Commissioner may notify such forms which may be necessary for the reporting of information to the Value Added Tax Authorities.

(2) Where the Commissioner has notified a form for a particular purpose, all persons shall be required to report the information using the form, in such manner as may be notified by him.

(3) Where in his opinion it is necessary or convenient to do so, the Commissioner may issue notifications for carrying out the purposes:

Provided that any notification shall not be inconsistent with this Regulation or any rules or Regulations made pursuant to it.

(4) In particular and without prejudice to the generality of the foregoing power, a notification issued by the Commissioner may stipulate all or any of the matters which in the opinion of the Commissioner are necessary or convenient for the proper administration.

(5) Every notification issued by the Commissioner under this Regulation shall be published in the Official Gazette, and shall not have any effect prior to such publication.

Persons to be public servants.

71. The Commissioner, Value Added Tax Authorities and all members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Immunity from civil suit.

72. No suit or proceeding shall be brought in any civil court against the Government, the Commissioner, any Value Added Tax Authority, or member of the Appellate Tribunal for anything done or intended to be done in good faith under this Regulation or the rules made thereunder.

Appellate Tribunal.

73. (*1*) The Government shall, as soon as may be after the commencement of this Regulation, constitute an Appellate Tribunal consisting of one or more members, as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Regulation or may request the Central Government to designate any Tribunal of the nearby State to function as Appellate Tribunal for the purpose:

Provided that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least five years or who has been a member of the Indian Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

(2) Where the number of members of the Appellate Tribunal is more than one, the Government shall appoint one of those members to be the Chairperson of the Appellate Tribunal.

(3) Subject to the provisions of sub-section (*1*), the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be determined by the Government.

(4) Any vacancy in the Appellate Tribunal shall be filled up by the Government as soon as practicable.

(5) Where the number of members of the Appellate Tribunal is more than one and if the members differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, the decision of the Chairperson of the Appellate Tribunal thereon shall be final.

(6) Subject to the previous sanction of the Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make regulations consistent with the provisions and the rules made thereunder.

(7) The regulations made under sub-section (*6*) shall be published in the Official Gazette.

(8) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 75 and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.
2 of 1974.

(9) Notwithstanding anything to the contrary contained in this section, the Government, may, by a notification in the Official Gazette, constitute benches comprising of one or more members, subject to such conditions and regulations as may be laid down in the notification.

CHAPTER XII

OBJECTIONS, APPEALS, DISPUTES AND QUESTIONS

Objections.

74. (*1*) Any person who is dissatisfied with—

(a) an assessment made under this Regulation; or

(b) any other order or decision made under this Regulation,

may make an objection against such assessment or order or decision, as the case may be, to the Commissioner:

Provided that no objection may be made against a non-appealable order as defined in section 79:

Provided further that no objection against an assessment shall be entertained unless the amount of tax, interest or penalty assessed that is not in dispute has been paid failing which the objection shall be deemed to have not been filed:

Provided also that the Commissioner may, after giving to the dealer an opportunity of being heard, may direct the dealer to deposit an amount deemed reasonable, out of the amount under dispute, before such objection is entertained:

Provided also that only one objection may be made by the person against any assessment, decision or order:

Provided also that in the case of an objection to an amended assessment, order, or decision, an objection may be made only to the portion amended:

Provided also that no objection shall be made to the Commissioner against an order made under section 84 or section 85 if the Commissioner has not delegated his power under the said sections to other Value Added Tax Authorities.

(2) A person who is aggrieved by the failure of the Commissioner to reach a decision or issue any assessment or order, or undertake any other procedure under this Regulation, within six months after a request in writing was served by such person, may make an objection against such failure in such form and in such manner as may be prescribed.

(3) The objection shall be made—

(a) in the case of an objection made under sub-section (*1*), within two months of the date of service of the assessment, or order or decision, as the case may be; or

(b) in the case of an objection made under sub-section (*2*), not earlier than six months and not later than eight months after the written request was served by the person:

Provided that where the Commissioner is satisfied that the person was prevented for sufficient cause from lodging the objection within the time specified, he may accept such objection within a further period not exceeding two months.

(4) The Commissioner shall conduct its proceedings by an examination of the assessment, or order or decision, as the case may be, the objection and any other document or information as may be relevant:

Provided that where the person aggrieved, requests a hearing in person, such person shall be given an opportunity to be heard in person.

(5) Where a person has requested a hearing under sub-section (*4*) and the person fails to attend the hearing at the time and place stipulated, the Commissioner shall proceed and determine the objection in the absence of the person.

(6) Within three months after the receipt of the objection, the Commissioner shall either—

(a) accept the objection in whole or in part and take appropriate action to give effect to the acceptance (including the remission of any penalty assessed either in whole or in part); or

(b) refuse the objection or the remainder of the objection, as the case may be; and in either case, serve on the person objecting, a notice in writing of the decision and the reasons for it, including a statement of the evidence on which it is based:

Provided that where the Commissioner within three months of the making of the objection notifies the person in writing, he may continue to consider the objection for a further period not exceeding two months:

Provided further that the person may, in writing, request the Commissioner to delay considering the objection for a period of three months for the proper preparation of its position, in which case the period of the adjournment shall not be counted towards the period by which the Commissioner shall reach his decision.

(7) Where the Commissioner has not notified the person of his decision within the time specified under sub-section (*6*), the person may serve a written notice requiring him to make a decision within fifteen days.

(8) If the decision has not been made by the end of the period of fifteen days after being given the notice referred to in sub-section (*7*), then, at the end of that period, the Commissioner shall be deemed to have allowed the objection.

(9) (*a*) In case of revision of any order under this section or any decision in objection is passed under this Regulation, rules or notifications made thereunder, by any officer or person sub-ordinate to him, the Commissioner may, of his own motion or upon information received by him, call for the record of such order and examine whether—

(i) any turnover of sales has not been brought to tax or has been brought to tax at lower rate, or has been incorrectly classified, or any claim is incorrectly granted or that the liability to tax is understated; or

(ii) any case, the order is erroneous, in so far as it is prejudicial to the interest of revenue, and after examination, the Commissioner may pass an order to the best of his judgment, where necessary.

(b) (*i*) For the purpose of the examination and passing of the order, the Commissioner may require, by service of notice, the dealer to produce or cause to be produced before him such books of account and other documents or evidence as he thinks necessary for the purposes aforesaid.

(ii) Notwithstanding anything to the contrary contained in section 34, no order under this section shall be passed after the expiry of four years from the end of the year in which the order passed by the sub-ordinate officer has been served on the dealer.

(iii) Notwithstanding anything to the contrary contained in section 34, where in respect of any order or part of the said order passed by the sub-ordinate officer, an order has been passed by any authority hearing the objection or any appellate authority including the Tribunal or such order is pending for decision in objection or in appeal, or an objection or an appeal is filed, then, whether or not the issues involved in the examination have been decided or raised in the objection or the appeal, the Commissioner may, within five years of the end of the year in which the said order passed by the sub-ordinate officer has been served on the dealer, make a report to the said objection hearing authority or the appellate authority including the Tribunal regarding his examination or the report or the information received by him and the said appellate authority including the Tribunal shall thereupon, after giving the

dealer a reasonable opportunity of being heard, pass an order to the best of its judgment, where necessary.

(c) If the Commissioner has initiated any proceeding before an appropriate forum against an issue which is decided against the revenue by an order of the Tribunal, then the Commissioner may, in respect of any order, other than the order which is the subject-matter of the order of the Tribunal, call for the record, conduct an examination as aforesaid, record his findings, call for the said books of account and other evidence and pass an order as provided for under this section as if the issue was not so decided against the revenue, but shall stay the recovery of the dues including the interest or penalty, in so far as they relate to such issue until the decision by the appropriate forum and after such decision, may modify the order of revision, if necessary.

(d) No proceedings under this section shall be entertained on any application made by a dealer or a person.

(e) Notwithstanding anything contained in any judgment, decree or order of any court, the provisions of this Regulation, shall be deemed to have come into force on the date of the publication of this Regulation in the Official Gazette.

(10) (*a*) Notwithstanding anything to the contrary contained in section 34, the Commissioner may, at any time within four years from the end of the year in which any order passed by him has been served, on his own motion, rectify any mistake apparent on record and shall within the said period or thereafter rectify any such mistake which has been brought to his notice within the said period, by any person affected by such order.

(b) The provisions of sub-section (*1*) shall apply to the rectification of a mistake by the appellate authority or an objection hearing authority as they apply to the rectification of mistake by the Commissioner:

Provided that where any matter has been considered and decided in any proceedings by way of objection or appeal or review in relation to any order or part of an order, the authority passing the order on objection, appeal or review, may, notwithstanding anything contained in this Regulation, rectify the order or part of the order on any matter other than the matter which has been so considered and decided.

(c) Where any such rectification has the effect of reducing the amount of the tax or penalty or interest, the Commissioner shall refund any amount due to such person in accordance with the provisions.

(d) Where any such rectification has the effect of enhancing the amount of the tax or penalty or interest or reducing the amount of refund, the Commissioner shall recover the amount due from such person in accordance with the provisions.

(e) Save as provided in the foregoing sub-sections, and subject to such rules as may be prescribed, any assessment or re-assessment made or order passed under this Regulation or the rules made thereunder by any person appointed under section 66 may be reviewed by such person *suo motu* or upon an application made in that behalf.

Power of Commissioner and other authorities to take evidence on oath, etc.

75. (*1*) The Commissioner or any person determining objections under section 74, for the purposes of this Regulation, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of accounts and documents; and

(c) issuing commissions for the examination of witnesses and any proceeding under this Regulation before the Commissioner or person determining objections under section 74 shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code. 45 of 1860.

(*2*) Subject to any rules made in this behalf, the Commissioner or any person determining objections under section 74 may impound and retain in his custody, any books of account or other documents produced before him in any proceedings under this Regulation until such proceedings are concluded:

Provided that the Commissioner or the person determining an objection under section 74 shall not impound any books of account or other documents without recording in writing his reasons for so doing.

Appeals to Appellate Tribunal.

76. (*1*) Any person aggrieved by a decision made by the Commissioner under sections 74, 84 and 85 may appeal to the Appellate Tribunal against such decision.

(2) Subject to the provisions of section 77, no appeal shall be entertained unless it is made within two months from the date of service of the decision appealed against.

(3) Every appeal made under this section shall be in form, verified in such manner and shall be accompanied by such fee as may be prescribed.

(4) No appeal against an assessment shall be entertained by the Appellate Tribunal unless the appeal is accompanied by satisfactory proof of the payment of the amount in dispute and any other amount assessed as due from the person:

Provided that the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of some or all of the amount in dispute, on the appellant furnishing in the prescribed manner security for such amount as it may direct:

Provided further that no appeal shall be entertained by the Appellate Tribunal unless it is satisfied that such amount as the appellant admits to be due from him has been paid.

(5) In proceedings before the Appellate Tribunal—

(a) the person aggrieved shall be limited to disputing only those matters stated in the objection;

(b) the person aggrieved shall be limited to arguing only those grounds stated in the objection; and

(c) the person aggrieved may be permitted to adduce evidence not presented to the Commissioner for good and sufficient reasons.

(6) The Appellate Tribunal shall—

(a) in the case of an assessment, confirm, reduce, or annul the assessment (including any penalty and interest imposed);

(b) in the case of any other decision of the Commissioner, affirm or reject the decision; or

(c) pass such other order for the determination of the issue as it thinks fit:

Provided that the Appellate Tribunal shall give reasons in writing for its decision which shall include its findings on material questions of fact and the evidence or other material on which those findings were based.

(7) The Appellate Tribunal shall use its best endeavors to make a final resolution of the matter before it and for this purpose may make a decision in substitution for the order in dispute, including the exercise or re-exercise of any discretion or power vested in the Commissioner.

(8) The Appellate Tribunal shall not set aside an assessment and remit the matter to the Commissioner for a further assessment, unless it has first—

(a) advised the aggrieved person of the proposed order;

(b) offered the person the opportunity to adduce such further evidence before it as might assist the Appellate Tribunal to reach a final determination.

(9) Where the Appellate Tribunal sets aside an assessment and remits the matter to the Commissioner for a further assessment, the Appellate Tribunal shall at the same time order the Commissioner to refund to the person some or all of the amount in dispute:

Provided that where no order is made, it shall be presumed that the Appellate Tribunal has ordered the refund of the amount in dispute.

(10) Where a person has failed to attend the hearing at the time and place stipulated, the Appellate Tribunal may adjourn the proceedings, strike out the appeal or proceed to make an order determining the objection in the absence of the person.

(11) Save as provided in section 81 and sub-section (*12*), an order passed by the Appellate Tribunal on an appeal shall be final.

(12) The Appellate Tribunal may rectify any mistake or error apparent from the record of its proceedings.

(13) Any order passed by the Appellate Tribunal may be reviewed *suo motu* or upon an application made in that behalf:

Provided that before any order which is likely to affect any person adversely is passed, such person shall be given a reasonable opportunity of being heard.

Extension of period of limitation in certain cases.

77. (*1*) The Appellate Tribunal may admit an appeal under section 76 after the period of limitation laid down in that section, if the appellant satisfies the Appellate Tribunal that he had sufficient cause for not preferring the appeal within such period.

(2) In computing the period laid down under sections 76 and 81, the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply. 36 of 1963.

(3) In computing the period of limitation prescribed by or under any provision, or the rules made thereunder, other than section 76 or section 81, any period during which any proceeding is stayed by an order or injunction of any court shall be excluded.

Burden of proof.

78. The burden of proving any matter in issue in proceedings under section 74, or before the Appellate Tribunal which relates to the liability to pay tax or any other amount under this Regulation shall lie on the person alleged to be liable to pay the amount.

Bar on appeal or objection against certain orders.

79. (*1*) No objection or appeal shall lie against—

(a) a decision of the Commissioner to make an assessment of tax or penalty;

(b) a notice requiring a person to furnish a return;

(c) a notice issued under section 58 or section 59;

(d) a decision of the Commissioner to notify any matter;

(e) a notice asking a dealer to show cause why he should not be prosecuted for an offence under this Regulation;

(f) a decision relating to the seizure or retention of books of account, registers and other documents;

(g) a decision sanctioning a prosecution under this Regulation;

(h) an interim decision made in the course of any proceedings;

(i) a decision of the Commissioner touching on the internal administration of the Value Added Tax Authorities;

(j) an assessment issued by the Commissioner to give effect to an order of the Appellate Tribunal or a court; or

(k) a notice served on the person under sub-section (*10*) of section 84 referred to as "non-appealable orders".

(*2*) Save as provided in clause (*j*) of sub-section (*1*), nothing contained in sub-section (*1*) shall prevent the person from objecting to the amount or the obligation to pay any amount assessed by the Commissioner under section 74.

Assessment proceedings, etc., not to be invalid on certain grounds.

80. (*1*) No assessment, notice, summons or other proceedings made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions or under the earlier law shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such assessment, notice, summons or other proceedings are in substance and effect in conformity with or according to the intent and purposes or any earlier law.

(2) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

(3) No assessment made under this Regulation shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions.

Appeal to High Court.

81. (*1*) An appeal shall lie to the High Court from every order passed by the Appellate Tribunal in appeal under this Regulation, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Commissioner or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(a) filed within sixty days from the date on which the order appealed against is received by the Commissioner or served upon the other party:

Provided that the High Court may entertain an appeal after the expiry of the period of sixty days, if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that the above proviso shall be deemed to have come into force on the date of the publication of this Regulation in the Official Gazette;

(b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal;

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (*1*).

(7) Where an appeal has been filed before the High Court, it shall be heard by a bench of not less than two judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(8) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other judges of the High Court and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

(9) Save as otherwise provided in this Regulation, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section. 5 of 1908.

Appearances before any authority in proceedings.

82. (*1*) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Regulation, may attend—

(a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(b) by a legal practitioner or chartered accountant or cost accountant or company secretary who is not disqualified by or under sub-section (*2*); or

(c) by a Value Added Tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (*2*).

(2) The Commissioner may, for reasons to be recorded in writing, disqualify for a period from appearing before any such authority, any legal practitioner, chartered accountant, cost accountant, company secretary or Value Added Tax practitioner—

(a) who has been dismissed from government service; or

(b) who, being a legal practitioner or chartered accountant or cost accountant or company secretary is found guilty of misconduct in connection with any proceedings under this Regulation by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(c) who, being a Value Added Tax practitioner, is found guilty of such misconduct by the Commissioner.

(3) Any person who is disqualified under this section may, within one month of the date of disqualification, appeal to the Government to have the disqualification cancelled.

(4) The decision of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(5) The Commissioner may, at any time, *suo motu* or on an application made to him in this behalf, revoke any decision made against any person under sub-section (*2*) and thereupon such person shall cease to be disqualified.

Bar of suits in civil courts.

83. No suit or proceeding shall be brought in any civil court to set aside or modify any assessment made or any order passed under this Regulation or the rules made thereunder.

Determination of specific questions.

84. (*1*) If any determinable question arises, otherwise than in proceedings before a court, a person may apply in the prescribed manner to the Commissioner for the determination of that question.

(2) Subject to sub-section (*3*), an application for the determination of a determinable question may be made in respect of a proposed transaction, a transaction that is being undertaken, or a transaction has been concluded.

(3) An application for the determination of a determinable question may not be made after—

(a) the Commissioner has commenced the audit of the person pursuant to section 58; or

(b) the Commissioner has issued an assessment for the tax period in which the transaction that is the subject of the determinable question occurred.

(4) For the purposes of this section, the following shall be determinable questions—

(a) whether any person, society, club or association or any firm or any branch or department of any firm is or would be a dealer;

(b) whether any dealer is or would be required to be registered under this Regulation;

(c) the amount of the taxable quantum of a dealer for a period;

(d) whether a transaction is or would be a sale, or requires an adjustment to be made under section 8 arising out of a sale;

(e) whether a transaction is or would be in the nature of works contract, or transfer of right to use any goods;

(f) whether a sale is not liable to tax under section 7;

(g) whether a sale is exempted from tax under section 6;

(h) the sale price of a transaction;

(i) the proportion of the turnover or turnover of purchases of a dealer which arises in a tax period, and the time at which an adjustment to tax or tax credit arises;

(j) whether any transaction is or would be the import of goods;

(k) the value of any goods imported into Lakshadweep;

(l) the rate of tax that is payable on a sale or import of goods and the classification of the goods under the Schedules;

(m) whether a transaction is the purchase of goods, or requires an adjustment to be made under section 10 arising out of a purchase;

(n) the amount of any tax credit to which the dealer is entitled in respect of a purchase or import of goods;

(o) the amount of any tax credit in respect of any used goods purchased by a dealer;

(p) the location of any sale or purchase;

(q) the application of a composition scheme in the circumstances of a dealer; or

(r) the tax period of a dealer.

(5) The Commissioner shall make the determination within such period as may be prescribed.

(6) Where—

(a) the Commissioner fails to make a determination under this section within the time prescribed under sub-section (*5*);

(b) the person thereafter implements the transaction which is the subject of the application and in the manner described in the application; and

(c) the person has, in the application for the determination of the determinable question, indicated the answer to the determinable question which the person believes to be correct (in this section called the "proposed determination"),

the Commissioner shall be deemed for the purposes to have made and issued to the person on the day after the expiry of the prescribed period, a determination of the determinable question in the terms of the proposed determination.

(7) The Commissioner may—

(a) direct that the determination shall not affect the liability of any person under this Regulation with respect to any transaction effected prior to the determination;

(b) limit the period for which the determination will apply;

(c) limit the transactions to which the determination will apply; and

(d) impose such other limitations or restrictions on the determination as seem appropriate.

(8) If any such question arises from any order already passed under this Regulation, no such question shall be entertained for determination under this section but such question may be raised in an objection or appeal against such order.

(9) Where—

(a) the Commissioner has issued to a person a determination in respect of a particular transaction; and

(b) the person implements the transaction based on the determination issued to him under this section and in the manner described in the application,

no assessment may be raised by the Commissioner against that person which is inconsistent with the determination and no penalty may be imposed on the person if the determination is later held incorrect.

(10) The Commissioner may, by notice served on the person, withdraw or qualify a determination issued under this section but such withdrawal or qualification shall not affect the entitlement of any person to rely on the determination with respect to any transaction or action which he has commenced or which he has completed prior to the withdrawal or qualification.

Ruling on general questions.

85. (*1*) The Commissioner may, by notification in the Official Gazette, publish his ruling on the answer to any question involving the interpretation or application to a class of persons or class of transactions.

(2) A ruling issued by the Commissioner under this section may be issued subject tosuch restrictions and conditions as the Commissioner may deem fit.

(3) The ruling shall be treated as coming into effect on the date stated in the ruling (which may be a date prior to the publication of the ruling) or, if no date is stated in the ruling, on the date of publication of the Official Gazette.

(4) Where—

(a) the Commissioner has published a ruling in respect of a class of persons or transactions;

(b) a person implements a transaction or undertakes any action based on the ruling;

(c) the ruling has, at the time of implementing the transaction or undertaking the action, not been withdrawn by the Commissioner; and

(d) according to the terms of the ruling, the ruling purports to apply to the transaction or action undertaken by the person,

no assessment which is inconsistent with the ruling, may be raised by the Commissioner against that person and no penalty may be imposed on the person if the ruling is later held incorrect.

(5) The Commissioner may, by notification published in the Official Gazette, withdraw or qualify a ruling already issued under this section but such withdrawal or qualification

shall not affect the entitlement of any person to rely on the ruling with respect to any transaction or action commenced or completed by him prior to such withdrawal or qualification.

CHAPTER XIII

PENALTIES AND OFFENCES

Interpretation.

86. (*1*) In this Chapter "tax deficiency" means the difference between the tax properly payable by the person in accordance with the provisions of this Regulation and the amount of tax paid by the person in respect of a calendar month.

(*2*) Where two or more penalties arise under this Regulation in respect of the same person, such person shall be liable to pay only the higher penalty.

Penalty for non-registration.

87. Where a person who is required to be registered under this Regulation has failed to apply for registration within one month from the day on which the requirement arose, such person shall be liable to pay a penalty of an amount equal to five hundred rupees per day from the day immediately following the expiry of the said period until such person makes an application for registration in such form, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed:

Provided that the amount of penalty payable under this sub-section shall not exceed an amount of fifty thousand rupees.

Penalty for contravenetion of section 21.

88. If, a registered dealer fails to comply with the provisions of sub-section (*1*) of section 21, he shall be liable to pay a penalty of an amount of two hundred and fifty rupees per day of default subject to a maximum of five thousand rupees.

Penalty for contravenetion of section 22.

89. If a registered dealer—

(a) fails to comply with the provisions of sub-section (*2*) of section 22; or

(b) fails to surrender his certificate of registration as provided in sub-section (*7*) of section 22,

the registered dealer shall be liable to pay a penalty of an amount equal to five hundred rupees for every day of default subject to a maximum of fifteen thousand rupees.

Penalty for false representation.

90. If any person falsely represents that he is registered as a dealer under this Regulation, he shall be liable to pay a penalty equal to the amount of tax wrongly collected or fifty thousand rupees, whichever is higher.

Penalty for non-compliance of certain conditions.

91. Where a person—

(a) has applied for registration under sub-section (*4*) of section 18;

(b) has been registered; and either—

(i) has failed to undertake activities which would make the person a dealer within the period specified in his application; or

(ii) has failed to comply with any of the restrictions or conditions subject to which such registration was granted,

such person shall be liable to pay a penalty of five thousand rupees.

Penalty for failure to furnish return.

92. If a person required to furnish a return under Chapter V—

(a) fails to furnish any return by the due date; or

(b) fails to furnish with a return any other document that is required to be furnished with the return; or

(c) being required to revise a return already furnished, fails to furnish the revised return by the due date; or

(d) fails to comply with a requirement in a notification issued under section 70,

such person shall be liable to pay a penalty of an amount two hundred and fifty rupees per day from the day immediately following the due date until the failure is rectified:

Provided that the total amount of penalty payable under this sub-section shall not exceed twenty-five thousand rupees.

Penalty for filing false returns.

93. Any person who—

(a) furnishes a return under this Regulation which is false, misleading or deceptive in a material particular; or

(b) omits from a return furnished under this Regulation any matter or thing without which the return is false, misleading or deceptive in a material particular,

shall be liable to pay a penalty of an amount of five thousand rupees or the amount of the tax deficiency, whichever is higher.

Other penalties.

94. (*1*) Any dealer who—

(a) has claimed tax credit under section 14 to which he is not entitled; or

(b) has claimed a greater tax credit under section 14 than is allowed,

shall be liable to pay a penalty of an amount equal to the amount of tax credit so claimed or five thousand rupees, whichever is higher.

(2) Where a tax deficiency arises in relation to a person, the person shall be liable to pay a penalty of an amount equal to one per cent. of the tax deficiency per week or an amount equal to rupees fifty per week, whichever is higher, for the period of default.

(3) Where a person is required under this Regulation to—

(a) prepare records or accounts; or

(b) prepare records or accounts in a prescribed manner; or

(c) retain prescribed or notified records or accounts,

and such person—

(i) fails to prepare the prescribed or notified records and accounts; or

(ii) fails to prepare prescribed or notified records and accounts in the prescribed manner; or

(iii) fails to retain the prescribed or notified records and accounts for the prescribed period; or

(iv) fails to retain or produce the prescribed or notified records at the principal place of business as recorded in his certificate of registration; or

(v) fails to comply with a direction issued or fails to produce prescribed or notified records and accounts, or cause them to be produced, on or before the date specified in any notice served on him by the Commissioner or by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf under clause (*a*) of sub-section (*6*) of section 58,

such person shall be liable to pay a penalty of an amount of twenty-five thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(4) If, any dealer fails to comply with the provisions of section 49, the dealer shall be liable to pay a penalty of an amount equal to one per cent. of his turnover or a sum of fifty thousand rupees, whichever is less.

(5) Where a person who is required to prepare records and accounts under this Regulation, prepares records and accounts in a manner that is false, misleading or deceptive,

the person shall be liable to pay a penalty of an amount of fifty thousand rupees or the amount of the tax deficiency, if any, whichever is higher.

(6) Where a person—

(a) has issued a tax invoice or retail invoice with incomplete or incorrect particulars; or

(b) having issued a tax invoice or retail invoice, has failed to account it correctly in his books of account,

such person shall be liable to pay a penalty of an amount of three thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(7) Where a person who is not authorised under this Regulation to issue a tax invoice has issued a tax invoice for a sale, such person shall be liable to pay a penalty of an amount of fifty thousand rupees or the tax deficiency, if any, whichever is higher.

(8) Any person who fails to comply with the requirement under sub-section(*2*) or sub-section (*3*) of section 59 shall be liable to pay a penalty of an amount of twenty-five thousand rupees.

(9) Where goods are being carried by a transporter without the documents or without proper and genuine documents or without being properly accounted for in the documents referred to in sub-section (*2*) of section 61, the transporter shall be liable to a penalty equal to twenty paisa in a rupee for the value of such goods.

(10) Any person who—

(a) makes a statement to the Commissioner which is false, misleading or deceptive in a material particular; or

(b) omits from a statement made to the Commissioner any matter or thing without which the statement is false, misleading or deceptive in a material particular,

such person shall be liable to pay a penalty of an amount of twenty-five thousand rupees, or the amount of the tax deficiency, whichever is higher.

Penalties on certain persons.

95. (*1*) Where a casual trader who is required to be registered under this Regulation has failed to apply for registration within stipulated period, the casual trader shall be liable to pay a penalty of an amount equal to three thousand rupees per day, from the day immediately following the expiry of the due date until the person makes an application for registration under this Regulation:

Provided that the amount of penalty payable under this sub-section shall not exceed fifty thousand rupees.

(2) If a casual trader required to furnish a return under this Regulation—

(a) fails to furnish any return by the due date; or

(b) fails to furnish with a return any other document that is required to be furnished with the return,

such person shall be liable to pay a penalty of an amount of five hundred rupees per day from the day immediately following the due date until the failure is rectified:

Provided that the amount of penalty payable under this sub-section shall not exceed fifteen thousand rupees.

(3) Where any person who, whether as principal, agent or in any other capacity organises any exhibition-cum-sale in Lakshadweep and fails—

(a) to furnish any information in respect of the goods brought or kept in stock or sold by any participant before or during or after the exhibition-cum-sale; or

(b) to ensure that all such participants in the exhibition-cum-sale have obtained registration under this Regulation and paid due tax; or

(c) to permit inspection of the business premises or goods or account and records of the participants; or

(d) to permit inspection of the accounts and records of the organiser in respect of the exhibition-cum-sale,

such person shall be liable to pay a penalty of an amount equal to twenty-five thousand rupees or an amount equal to the amount of tax payable on such goods if such goods were sold in Lakshadweep, whichever is higher.

General penalty.

96. Any person, who contravenes any of the provisions of this Regulation or any rules made thereunder for which no penalty is separately provided under the Act, shall be liable to pay a penalty of five thousand rupees.

Automatic mitigation and increase of penalties.

97. (*1*) Where as a result of any proceedings, the amount of tax with respect to which a penalty was levied has been wholly reduced, the penalty levied shall be cancelled and if the penalty has been paid, it shall be refunded.

(2) If—

(a) a person is liable to pay a penalty under sub-section (*2*) of section 94; and

(b) the person voluntarily discloses to the Commissioner in writing the existence of the tax deficiency before the Commissioner informs the person that an audit of the person's tax obligations is to be carried out,

the amount of the penalty otherwise due shall be reduced by eighty per cent. of the penalty.

(3) If—

(a) a person is liable to pay a penalty under sub-section (*2*) of section 94; and

(b) the person voluntarily discloses to the Commissioner in writing the existence of the tax deficiency after the Commissioner informs the person that an audit of the person's tax obligations is to be carried out,

the amount of the penalty due shall be reduced by fifty per cent. of the penalty.

(4) If—

(a) a person is liable to pay a penalty under sub-section (*2*) of section 94;

(b) the tax deficiency arose because the person treated this Regulation as applying to the person in a particular way; and

(c) the decision to adopt that treatment was made by the person relying on a determination given to the person by the Commissioner under section 84 or a ruling issued by the Commissioner under section 85,

the amount of the penalty otherwise due, shall be reduced to nil.

(5) Where—

(a) the penalty under this Regulation has been assessed;

(b) the penalty has not been remitted in full after objection; and

(c) the person is subsequently assessed to a further penalty in respect of the same or a substantially similar failure occurring on another occasion (hereafter in this section called the "subsequent offence"),

the penalty otherwise due under this Regulation shall be increased by—

(i) in the case of the first subsequent offence, fifty per cent. of the specified penalty; and

(ii) in the case of the second and any further subsequent offence, one hundred per cent. of the specified penalty.

(6) If—

(a) a person is liable to pay penalty under section 86;

(b) the person voluntarily discloses to the Commissioner, in writing, the existence of the tax deficiency, during the course of proceedings under section 60; and

(c) makes payment of such tax deficiency within three working days of the conclusion of the said proceedings,

the amount of the penalty otherwise due, against the admitted and paid tax, shall be reduced by eighty per cent.

Relationship to assessment and impact on criminal penalties.

98. (*1*) The penalties specified under this Regulation are owed notwithstanding that no assessment of tax owed under this Regulation has been made.

(*2*) Any penalty imposed under this Regulation shall be without prejudice to any prosecution for any offence under this Chapter.

Imprisonment and fine for certain acts.

99. (*1*) Whoever—

(a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or buys goods;

(b) knowingly keeps false account or does not keep the account of the value of the goods bought or sold by him in contravention of section 48; or

(c) issues to any person a false invoice, bill, cash memorandum, voucher or other document which he knows or has reason to believe to be false,

shall, on conviction, be punishable with rigorous imprisonment for a term which may extend to six months, and with a fine which may extend to three thousand rupees.

(2) Whoever knowingly—

(a) furnishes a false return;

(b) produces before the Commissioner, false bill, cash memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit; or

(c) produces false accounts, registers or documents or knowingly furnishes false information,

he shall—

(i) in case where the amount of tax which could have been evaded if the false return, bill, cash memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit, accounts, registers or documents or false information, as the case may be, had been accepted as true exceeds fifty thousand rupees, on conviction, be punished with rigorous imprisonment for a term which may extend to six months; and

(ii) in any other case, with rigorous imprisonment for a term which may extend to six months, and with fine which may extend to three thousand rupees.

(3) Whoever, willfully attempts, in any manner whatsoever, to evade payment of tax, penalty or interest or all of them under this Regulation, shall, on conviction, be punished—

(a) in any case where the amount involved exceeds fifty thousand rupees during the period of a year, with rigorous imprisonment for a term which may extend to six months, and with a fine which may extend to three thousand rupees; and

(b) in any other case, with rigorous imprisonment for a term which may extend to three months and with fine which may extend to three thousand rupees.

(4) Whoever—

(a) carries on business as a dealer without being registered in willful contravention of sub-section (*1*) of section 18;

(b) fails without sufficient cause to furnish any information required under section 21;

(c) fails to surrender his certificate of registration as provided in sub-section (*7*) of section 22;

(d) fails without sufficient cause to furnish any returns as required under section 27 by the date or in the manner prescribed;

(e) without reasonable cause, contravenes any of the provisions of section 40;

(f) without sufficient cause fails to issue invoice as required under section 50;

(g) fails without sufficient cause, when directed so to do under section 48 to keep any accounts or record, in accordance with the directions;

(h) fails without sufficient cause, to comply with any requirements made of him under section 58 or section 59, or obstructs any officer making inspection or search or seizure under sections 60 and 61;

(i) obstructs or prevents any officer performing any function under Chapter X;

(j) being owner in-charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 61; or

(k) interferes with or obstructs the Commissioner or any officer exercising any other power conferred under this Regulation,

shall, on conviction, be punishable with imprisonment for a term which may extend to six months, and with a fine which may extend to five thousand rupees.

(5) Whoever aids or abets any person in the commission of any act specified in sub-sections (*1*) to (*3*) shall, on conviction, be punishable with rigorous imprisonment which may extend to six months, and with a fine which may extend to five thousand rupees.

(6) Whoever commits any of the acts specified in sub-sections (*1*) to (*5*) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punishable with a fine of not less than one hundred rupees per day during the period of the continuance of the offence, in addition to the punishments provided under this section.

(7) Notwithstanding anything contained in sub-sections (*1*) to (*5*) of this section, no person shall be proceeded under these sub-sections, if—

(a) the total amount involved is less than two hundred rupees during the period of a year; or

(b) the person has voluntarily disclosed existence of tax deficiency under the provisions of the Act.

(8) Where a dealer is accused of an offence specified in sub-section (*1*), (*2*) or (*3*) or in clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*) and (*i*) of sub-section (*4*), or sub section (*6*), the person deemed to be the manager of the business of such dealer under section 95 shall also

be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

Offences by companies, etc.

100. (*1*) Where an offence under this Regulation or the rules 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 this Regulation 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 this Regulation 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.

Cognizance of offences.

101. (*1*) No court shall take cognizance of any offence under this Regulation or rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Judicial Magistrate of first class shall try any such offence.

2 of 1974.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences punishable under this Regulation or the rules made there under shall be cognizable and bailable.

Investigation of offences.

102. (*1*) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Regulation.

2 of 1974.

(*2*) Every officer or person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in-charge of a police station for the investigation of a cognizable offence.

Compounding of offences.

103. (*1*) The Commissioner may, before the institution of proceedings for any offence punishable under sub-section (*4*) of section 89 or under any rules made under this Regulation, accept from any person charged with such offence by way of composition of offence, an amount not exceeding fifty thousand rupees or a sum not exceeding three times the amount of tax which would thereby have been avoided, whichever is higher.

(*2*) On payment of such sum as may be determined by the Commissioner under sub-section (*1*), no further proceedings shall be taken against such person in respect of the same offence.

2 of 1974.

Chapter XXXVI of the Code of Criminal Procedure, 1973, not to apply in certain case.

104. Nothing contained in Chapter XXXVI of the Code of Criminal Procedure, 1973, shall apply to—

(a) any offence punishable under this Regulation; or

(b) any other offence which under the provisions of that Code may be tried along with such offence,

and every offence referred to in clause (*a*) or clause (*b*) may be taken cognizance of by the court having jurisdiction under this Regulation as if the provisions of that Chapter were not enacted.

CHAPTER XIV

MISCELLANEOUS

Dealer to declare the name of manager of business, Permanent Account Number and Importer Exporter Code.

105. (*1*) Every dealer being an association of persons or club or society or firm or company or any person or body who is engaged in business as the guardian or trustee or otherwise on behalf of another person, and who is liable to pay tax under this Regulation, shall, within the period prescribed, furnish a declaration in the manner prescribed, stating the name of the person or persons who shall be deemed to be the manager or managers of such person's business for the purposes.

(2) The declaration furnished under sub-section (*1*) may be revised from time to time as required.

(3) Every dealer at the time of applying for registration under this Regulation shall mention the Permanent Account Number obtained under the Income-tax Act, 1961: 43 of 1961.

Provided that the dealers already registered under this Act shall intimate their Permanent Account Number obtained under the Income-tax Act, 1961 in the prescribed form, within a period of two months from the date of issuance of notification of this amendment. 43 of 1961.

(4) Every dealer liable to pay tax under this Regulation and having an Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, shall mention the Importer Exporter Code, at the time of applying for registration under this Regulation: 22 of 1992.

Provided that the dealers already registered under the Act and having Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, shall intimate the details in the prescribed form, within a period of two months from the date of issuance of notification of this amendment: 22 of 1992.

Provided further that every dealer registered under the Act, who obtains an Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992, subsequently shall provide the Code details in the prescribed form, within a period of fifteen days from the date of obtaining such Code. 22 of 1992.

(5) Any person who fails to furnish a declaration or, as the case may be, a revised declaration as provided in sub-section (*1*) and sub-section (*2*) or fails to provide details of the Permanent Account Number obtained under the Income-tax Act, 1961, as provided in sub-section (*3*) or fails to provide the Importer Exporter Code under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 as provided in sub-section (*4*), shall be liable to pay a penalty of an amount equal to one thousand rupees per week of default subject to a maximum of fifty thousand rupees. 43 of 1961. 22 of 1992.

Service of notice when family is disrupted or firm is dissolved.

106. (*1*) Where a Hindu Undivided Family has been partitioned, notices under this Regulation shall be served on the person who was the last manager of the Hindu Undivided Family, or if such person cannot be found, then, on all adults who were members of the Hindu Undivided Family, immediately before the partition.

(2) Where a firm or an association of persons is dissolved, notices under this Regulation may be served on any person who was a partner (not being a minor) of the firm, or member of association, as the case may be immediately before its dissolution.

Service of notice in the case of discountinued business.

107. Where an assessment is to be made in respect of business which has been discontinued, a notice under this Regulation shall be served in the case of a firm or an association of persons or any person who was a member of such firm or association at the time of its discontinuance or in the case of a company on the principal officer thereof.

Return, etc., to be confidential.

108. (*1*) All the particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Regulation, or in any record of evidence given in the course of any proceedings under this Regulation, other than proceedings before a criminal court, shall, save as provided in sub-section (*3*), be treated as confidential,

1 of 1872. and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to a fine.

(3) Nothing contained in this section shall apply to the disclosure—

(a) of any of the particulars referred to in sub-section (*1*) for the purposes of investigation or prosecution under this Regulation or the Indian Penal Code or any other enactment for the time being in force; 45 of 1860.

(b) of such facts to an officer of the Central Government or any State Government as may be necessary for the verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it;

(c) of any such particulars where such disclosure is occasioned by the lawful employment under this Regulation of any process for the service of any notice or the recovery of any demand;

(d) of any such particulars to a civil court in any suit or proceeding to which the Government or any Value Added Tax authority is a party and which relates to any matter arising out of any proceeding under this Regulation or under any other law for the time being in force authorising any Value Added Tax authority to exercise any powers thereunder;

(e) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899 to impound an insufficiently stamped document; 2 of 1899.

(f) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment;

(g) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for the purpose of audit of tax receipts or refunds;

(h) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs;

(i) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Government may, by general or special order, direct; or

(j) of any information relating to a class of dealers or class of transactions, if, in the opinion of the Commissioner it is desirable in the public interest to publish such information.

Application to sales and purchases.

109. (*1*) The tax imposed by section 3 applies to every—

(a) sale, including an instalment sale and hire purchase of goods, made on and after the date of commencement of this Regulation;

(b) sale in the form of the transfer of a right to use goods, to the extent that the right to use goods is exercised after the date of commencement of this Regulation.

(2) Tax credits arising under section 9 shall be allowed for—

(a) a purchase, including a purchase under an installment sale and hire purchase of goods, made on and after the date of commencement of this Regulation; and

(b) a purchase occurring in the form of the acquisition of a right to use goods, to the extent that the right to use goods is exercised after the date of commencement of this Regulation.

(c) where an amount is paid or received prior to the date of the commencement of this Regulation, in respect of a sale or purchase occurring on or after the date of the commencement of this Regulation and the person calculates his turnover or turnover of purchases based on amounts paid and received, such amount shall be treated as forming part of the person's turnover or turnover of purchases in the tax period in which the sale occurs.

Publication and disclosure of information in respect of dealers and other persons in public interests.

110. (*1*) Notwithstanding anything contained in this Regulation, if the Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Regulation in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

(*2*) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Regulation, until the time for presenting an appeal to the appropriate appellate body has been expired without an appeal having been presented or the appeal, if presented has been disposed of.

Power to collect statistics.

111.(*1*) If the Commissioner considers that for the purposes of the better administration it is necessary so to do, he may, by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection with this Regulation.

(2) Upon such direction being made, the Commissioner or any person or persons authorised by him in this behalf may call upon all dealers or any class of dealers or persons to furnish such information or statements as may be stated therein relating to any matter in respect of which statistics are to be collected and the form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed:

Provided that the call for information may be made by notification in the Official Gazette, by notice in newspapers or in such other manner as, in the opinion of the Commissioner or the said person, is best calculated to bring to the attention of the dealers and other persons.

(3) Without prejudice to the generality of the foregoing provisions, the Government may by rules provide that every dealer or, as the case may be, any class of dealer shall furnish such statements as may be prescribed, with the self assessment, and different provisions may be made for different classes of dealers.

(4) (*a*) The Government may, by notification in the Official Gazette, provide that the provisions contained in the Information Technology Act, 2000, as amended from time to time, and the rules made and directions given under that Act, including the provisions relating to digital signatures, electronic governance, attribution, acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, in so far as they may, as far as feasible, apply to the procedures under this Regulation. 21 of 2000.

(*b*) Where a notice or communication is prepared on any automated data processing system and is properly served on any dealer or person, then, the said notice or communication shall not be required to be personally signed by the Commissioner or any other officer subordinate to him, and the said notice or communication shall not be deemed to be invalid only on the ground that it is not personally signed by the Commissioner.

Setting up of check-posts and barriers.

112. The Government may, by notification in the Official Gazette, set up check-posts or barriers, or both, at any place in Lakshadweep with a view to prevent evasion of tax and other dues payable under this Regulation.

113. If the Government is of opinion that it is expedient in the interest of general public so to do, it may, by notification in the Official Gazette, add to, or omit from, or otherwise amend, the First, the Second, the Third and the Fourth Schedules, prospectively, and thereupon the said Schedules shall be deemed to have been amended accordingly: Power to amend Schedules.

Provided that no such amendment shall be made retrospectively if it would have the effect of prejudicially affecting the interests of a dealer.

114. (*1*) The Government may, by notification in the Official Gazette and subject to the condition of previous publication hereby makes the rules not inconsistent with the provisions of this Regulation to carry out the provisions and purposes of this Regulation. Power to make rules.

(*2*) Every rule made under this Regulation shall be be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the 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.

115. (*1*) If any difficulty arises in giving effect to the provisions, the Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Regulation as may appear to it to be necessary or expedient for the removal of the difficulty: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Regulation.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE FIRST SCHEDULE

(*See* section 4)

LIST OF GOODS TO BE TAXED

Sl. No.	Description of Goods	Rate of Tax
(1)	(2)	(3)
1.	Petroleum Crude	10 per cent.
2.	High Speed Diesel	10 per cent.
3.	High Speed Diesel (Ship)	10 per cent.
4.	Motor Spirit (Commonly known as petrol)	10 per cent.
5.	Natural Gas	10 per cent.
6.	Aviation Turbine Fuel	10 per cent.
7.	Indian Made Foreign Liquor	10 per cent.
8.	Beer	10 per cent.

THE SECOND SCHEDULE

(*See* section 6)

LIST OF GOODS TO BE EXEMPTED

Sl. No.	Description of Goods	Rate of Tax
(1)	(2)	(3)
	Nil	

THE THIRD SCHEDULE

[*See* section 9(*1*)(*b*)]

NON CREDITABLE GOODS

Sl. No.	Description of Goods	Rate of Tax
(1)	(2)	(3)
	Nil	

THE FOURTH SCHEDULE

[*See* section 41(*1*)]

BODIES ENTITLED TO CLAIM A REFUND OF TAX PAID ON GOODS PURCHASE

Sl. No.	Name of Organisation	Conditions
(1)	(2)	(3)
	Nil	

DROUPADI MURMU,
President.

K. BISWAL,
Additional Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th September,* 2022/*Bhadra* 28, 1944 (*Saka*)

THE LAKSHADWEEP (RIGHT TO PUBLIC SERVICES) REGULATION, 2022

No. 2 of 2022

Promulgated by the President in the Seventy-third Year of the Republic of' India.

A Regulation to lay down an obligation upon every public authority in the Union territory of Lakshadweep to provide for timely delivery of public services to the eligible persons and for grievance redressal mechanism in case of default and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

Preliminary

1. (*1*) This Regulation may be called the Lakshadweep (Right to Public Services) Regulation, 2022. Short title and commencement.

(*2*) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Regulation.

Definitions.

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

(a) "Administrator" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;

(b) "Appellate Authority" means a Union territory Appellate Authority constituted under sub-section (*1*) of section 12;

(c) "complaint" means a complaint filed by an eligible person regarding any grievance relating to, or arising out of, any failure in rendering of services as notified in section 4 or in the functioning of a public authority, but does not include grievance relating to the service matters of a public servant whether serving or retired;

(d) "Designated Authority" means the officers designated by the public authority under sub-section (*1*) of section 9;

(e) "Designated Officer" means an officer whose name is published under sub-section (*1*) of section 5 for rendering of services;

(f) "eligible person" means a person who is eligible for obtaining the services notified under section 4;

(g) "Grievance Redressal Officer" means a Grievance Redressal Officer designated as such under sub-section (*1*) of section 6;

(h) "member" means a person appointed as a member of the Union territory Appellate Authority under sub-section (*2*) of section 12;

(i) "notification" means a notification published in the Official Gazette and the term "notify" or "notified" shall be construed accordingly;

(j) "prescribed" means prescribed by rules made by the Administrator under section 29;

(k) "public authority" means any authority or body or institution of Government established or constituted,—

(i) by or under the Constitution in the Union territory of Lakshadweep;

(ii) by any other law made by Parliament;

(iii) by notification issued or order made by the Administrator, and includes any,—

(a) body owned, controlled or substantially financed by funds provided by the Administrator;

(b) non-Government organisation substantially financed directly or indirectly by funds provided by the Administrator;

(c) an organisation or body corporate in its capacity as an instrumentality of "State" as defined under article 12 of the Constitution and rendering services of public utility in the Union territory of Lakshadweep;

(d) a Government company as defined under clause (*45*) of section 2 of the Companies Act, 2013, which is a State Public Sector Undertaking; 18 of 2013.

(e) any other company which supplies goods or renders services to the Union territory in pursuance of an obligation imposed under any Central Act or State Act or under licence or authorisation under any law for the time being in force;

(iv) by an agreement or memorandum of understanding between the Union territory and any private entity as Public Private Partnership or otherwise;

(l) "service" means all the goods and services, including functions, obligations, responsibility or duty, to be provided or rendered by a public authority;

(m) "Union territory" means the Union territory of Lakshadweep.

CHAPTER II

RIGHT TO DELIVERY OF SERVICES

Right to services.

3. Subject to the provisions of this Regulation, every eligible person shall have the right to time bound delivery of services and redressal of grievances.

Notification of services by Administrator.

4. The Administrator may, from time to time, notify the services to which this Regulation shall apply and the stipulated time limits within which the services shall be provided.

Obligation of public authority to publish names of Designated Officers responsible for rendering services.

5. (*1*) A public authority shall, within two months of the notification issued under section 4, publish the names and addresses of Designated Officers responsible for rendering of services notified under section 4.

(*2*) It shall be the duty of the Designated Officer to provide public services to the eligible persons within the time limit as specified in the notification issued under section 4.

CHAPTER III

GRIEVANCE REDRESSAL OFFICERS

Grievance Redressal Officers.

6. (*1*) Every public authority shall designate as many officers as may be necessary as Grievance Redressal Officers in all departments, administrative units or offices in the Union territory, notified areas, panchayats and such other offices where services are rendered to receive, enquire into and redress any complaints from eligible persons in such manner as may be prescribed:

Provided that the Grievance Redressal Officer so designated shall be an officer of the level as may be prescribed.

(2) Every public authority shall display at its office or its website or customer care centre or help desk or *Jan Seva Kendra* and at the sales outlet, if any, and at the office of the Grievance Redressal Officer, the name of the Grievance Redressal Officer, his address and telephone number, E-mail address, facsimile number and other means, if any, of contacting him.

(3) Every public authority shall designate such number of Grievance Redressal Officers under sub-section (*1*) for such areas, as it may consider necessary, for the Grievance Redressal Officer to be easily accessible and available for redressal of grievance of the public.

(4) Where a complainant is unable to make a complaint in writing, the Grievance Redressal Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

Acknowledgement of complaint by receipt thereof.

7. The Grievance Redressal Officer shall, within three working days of receipt of the complaint, acknowledge such receipt, in writing or through electronic means or through text message or through any other means as may be prescribed, specifying the date, time, place, unique complaint number and particulars of receiver of complaint along with the stipulated time frame within which the complaint shall be redressed.

Duties of Grievance Redressal Officer.

8. (*1*) Upon receipt of a complaint under section 6, it shall be the duty of the concerned Grievance Redressal Officer to ensure that,—

(a) the grievance is remedied within such time as may be prescribed;

(b) the reason for the grievance is identified, the grievance is redressed satisfactorily and the responsibility, if any, of the defaulting person is fixed;

(c) where the grievance has occurred as a result of a deficiency, negligence or malfeasance on the part of an individual, action is taken in accordance with the applicable rules; and

(d) where the Grievance Redressal Officer is convinced that the Designated Officer responsible for the rendering of the services has wilfully neglected to render the service or there exists *prima facie* grounds for a case under the Prevention of Corruption Act, 1988, the Grievance Redressal Officer shall make an observation to that effect and refer the same to the appropriate authority in writing. 49 of 1988.

(2) The Grievance Redressal Officer shall ensure that the complainant is informed in writing the manner in which his grievance is redressed.

(3) The Grievance Redressal Officer shall, within such time as may be prescribed, report every complaint which has not been redressed along with the details of the complainant, nature of complaint, and reasons for non-redressal of the complaint to the Designated Authority referred to in section 9.

CHAPTER IV

DESIGNATED AUTHORITY

Designated Authority.

9. (*1*) Every public authority shall designate such officers as Designated Authorities in all its administrative units and offices as it may deem necessary who shall hear complaints referred to it under sub-section (*3*) of section 8.

(2) Every complaint received by the Designated Authority under sub-section (*3*) of section 8 shall be deemed to be an appeal before such authority.

(3) Any person aggrieved by a decision of the concerned Grievance Redressal Officer or who has not been informed in writing the manner in which his grievance has been redressed in respect of a complaint filed by him may, within thirty days from the expiry of such decision or from the receipt of such decision, prefer an appeal to the Designated Authority:

Provided that the Designated Authority may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.

(4) The receipt of an appeal under sub-section (*3*) shall be acknowledged by the Designated Authority in writing or through electronic means or through text message or through any other means as may be prescribed, within three working days.

(5) Every appeal filed under sub-section (*3*) or deemed appeal under sub-section (*2*) shall be disposed of by the Designated Authority within such time as may be prescribed.

(6) The Designated Authority shall arrange to deliver copies of the decision to the parties concerned within such time as may be prescribed.

Other powers of Designated Authority.

10. (*1*) Where it appears to the Designated Authority that the grievance complained of is *prima facie* indicative or representative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988 on the part of the officer complained against, then it shall record in writing such evidence as may be found in support of such conclusion and shall in writing refer the same to the appropriate authority. 49 of 1988.

(*2*) The Designated Authority shall upon adjudication of a complaint have the powers to issue directions requiring the concerned officers of the public authority to take such steps as may be necessary to render the services in compliance of the notification issued under section 4.

CHAPTER V

UNION TERRITORY APPELLATE AUTHORITY

Appellate Authority.

11. (*1*) Any person who does not receive a decision within such time as may be prescribed or is aggrieved by a decision of the Designated Authority may, within thirty days from the expiry of such period or from the receipt of such a decision, prefer an appeal to the Union territory Appellate Authority:

Provided that the Appellate Authority may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.

(*2*) The decision of the Appellate Authority under this section shall be binding.

Constitution of Union territory Appellate Authority.

12. (*1*) The Administrator shall, by notification in the Official Gazette, constitute one or more Union territory Appellate Authority to exercise the powers conferred on or imposed upon and to perform the functions assigned to it under this Regulation.

(*2*) A Union territory Appellate Authority shall consist of such number of members, not exceeding three, as may be prescribed.

Qualifications for appointment as member of Appellate Authority.

13. A person shall not be qualified for appointment as a member of Appellate Authority unless he is or has been an officer holding or has held a post in the rank of, or equivalent to, a Secretary or Principal Secretary or Additional Chief Secretary or Chief Secretary to the Union territory Administration.

Term and other conditions of service of member of Appellate Authority.

14. (*1*) A person appointed as member of Appellate Authority shall hold the office for a term of three years from the date on which he enters upon office or until he attains the age of sixty-five years, whichever is earlier.

(*2*) The salary and allowances payable to and the other terms and conditions of service of a member of the Appellate Authority shall be such as may be prescribed:

Provided that if a member at the time of his appointment is in receipt of a pension, other than a disability or widow pension in respect of any previous service under the Union territory, his salary in respect of the service as member of Appellate Authority shall be reduced by the amount of that pension, including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent or retirement gratuity:

Provided further that where a member, if at the time of his appointment, is in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any State Act or a Government company owned or controlled by the Union territory Administration, his salary in respect of the service as a member shall be reduced by the amount of pension equivalent to the retirement benefit:

Provided also that neither the salary and allowances nor the other terms and conditions of service of a member of Appellate Authority shall be varied to his disadvantage after the appointment.

Resignation and removal.

15. (*1*) Any member of the Appellate Authority, may, by notice in writing under his hand addressed to the Administrator, resign his office.

(2) Notwithstanding anything contained in sub-section (*1*), the Administrator may by order remove from office a member if the member,—

(i) is adjudged an insolvent; or

(ii) has been convicted of an offence which, in the opinion of the Administrator involves moral turpitude; or

(iii) engages during his term of office in any paid employment outside the duties of his office; or

(iv) is, in the opinion of the Administrator, unfit to continue in office by reason of infirmity of mind or body; or

(v) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

Powers of Appellate Authority.

16. (*1*) The Appellate Authority shall, for the purposes of its functions under this Regulation, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) discovery and production of any document or other material object producible as evidence;

(iii) receiving evidence on affidavits;

(iv) requisitioning of any public record;

(v) issuing commission for the examination of witnesses; and

(vi) such other matter which may be prescribed.

(*2*) The Appellate Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Regulation and of any rules made thereunder, the Appellate Authority shall have the power to regulate its own procedure. 5 of 1908.

Delivery of copies of decision.

17. The Appellate Authority shall arrange to deliver copies of its decision to the parties concerned within such time as may be prescribed.

Other powers of Appellate Authority.

18. (*1*) The Appellate Authority shall, upon adjudication of a complaint, have the power to issue directions requiring the public authority to take such steps as may be necessary to render the services in compliance of the notification issued under section 4.

(2) It shall be the duty of the Appellate Authority to receive and inquire into a complaint from any person—

(a) who has been unable to submit an appeal to the Designated Authority;

(b) who has been refused redress of grievance under this Regulation;

(c) whose complaint has not been disposed of within the specified time limit; and

(d) in respect of any other matter relating to registering and redressing of a complaint or appeal under this Regulation.

Burden of proof to be on Grievance Redressal Officer.

19. In any appeal proceedings, the burden of proof to establish the non-redressal of complaint, shall be on the Grievance Redressal Officer who denied the request.

Where grievance complained of is a result of corrupt practices.

20. Where it appears to the Appellate Authority that the grievance complained of is *prima facie* indicative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988 on the part of the responsible officer of the public authority complained against, then it shall record such evidence as may be found in support of such conclusion and shall refer the same to the appropriate authority. 49 of 1988.

CHAPTER VI

PENALTIES AND COMPENSATION

Penalty and compensation.

21. (*1*) The Appellate Authority or the Designated Authority may impose a penalty on the Designated Officer responsible for rendering of service to the eligible person or Grievance Redressal Officer for failing to discharge his duties without any sufficient and reasonable cause.

(2) The penalty to be imposed on the Designated Officer or Grievance Redressal Officer under sub-section (*1*) shall not be less than one thousand rupees but may extend to ten thousand rupees, which shall be recovered from the salary of the officer against whom penalty has been imposed:

Provided that the concerned Designated Officer or Grievance Redressal Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him under this section.

(3) On imposition of the penalty under sub-section (*1*), the Appellate Authority or the Designated Authority, as the case may be, may by order, direct that such portion of the penalty imposed under sub-section (*1*) shall be awarded to the appellant as compensation, as it may deem fit:

Provided that the amount of such compensation awarded shall not exceed the amount of penalty imposed under this section.

CHAPTER VII

MISCELLANEOUS

Reporting requirements.

22. (*1*) Every public authority shall ensure that every Grievance Redressal Officer keeps a record of complaints made to it or appeal therein and the decisions on such complaints and appeals under this Regulation.

(2) Every public authority shall publish, in such manner and within such time as may be prescribed, a report mentioning therein—

(a) the number of appeals and complaints received;

(b) the number of appeals and complaints disposed of;

(c) the number of appeals and complaints pending; and

(d) such other particulars, as may be prescribed, for discharge of its functions under this Regulation.

Officers and employees of Appellate Authority.

23. (*1*) The Administrator shall provide to the Appellate Authority with such officers and employees as may be necessary for efficient performance of its functions under this Regulation.

(*2*) The officers and employees so appointed under sub-section (*1*) shall discharge their functions under the general superintendence of the Appellate Authority.

Officers and employees of Appellate Authority to be public servants.

45 of 1860.

24. The officers and employees of the Appellate Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Bar of Jurisdiction of court.

25. No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Regulation required to be settled, decided or dealt with or to be determined by the Grievance Redressal Officer or the Designated Authority or the Appellate Authority.

Enforcement of orders by Appellate Authority.

26. Every order made by the Appellate Authority may be enforced by it in the same manner as if it were a decree or order made by a court in a suit pending therein and it shall be lawful for the Appellate Authority to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction,—

(a) in the case of public authority not falling under clauses (*b*) and (*c*), the place at which the main office of such public authority is situated; or

(b) in the case of an order against a public authority being a company, the registered office of the company is situated; or

(c) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain is situated, and thereupon, the court to which the order is so sent, shall execute the order as if it were a decree or order sent to it for execution.

Protection of action taken in good faith.

27. No suit, prosecution or other legal proceedings shall lie against any person for—

(a) anything which is in good faith done or intended to be done, in pursuance of this Regulation or any rule made thereunder; or

(b) delay in rendering of service or not being able to render service where such delay or inability is on account of reasonable cause beyond the control of the person responsible for delivery of the service.

Provisions to be in addition to existing laws.

28. The provisions of this Regulation shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

29. (*1*) The Administrator may, by notification in the Official Gazette, make rules, not inconsistent with this Regulation, for carrying out the purposes of this Regulation.

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

(i) the manner of receipt, enquiry, redressal of complaints and the level of officer to be designated as Grievance Redressal Officer under sub-section (*1*) of section 6;

(ii) the manner of acknowledgement of complaints received, particulars of receiver of complaint and time frame for redressal of complaint under section 7;

(iii) the time within which grievances shall be redressed by the Grievance Redressal Officer under sub-section (*1*) and time within which report shall be made by him to the Designated Authority of complaints which are not redressed under sub-section (*3*), of section 8;

(iv) the other means of acknowledgement under sub-section (*4*), the time within which an appeal may be disposed of under sub-section (*5*) and the time within which copies of the decision shall be delivered under sub-section (*6*), of section 9;

(v) the time within which the Designated Authority shall deliver copies of the decision to the parties concerned under sub-section (*1*) of section 11;

(vi) the number of members of the Union territory Appellate Authority under sub-section (*2*) of section 12;

(vii) the salary and allowances payable to and the other terms and conditions of service of a member of the Union territory Appellate Authority under sub-section (*2*) of section 14;

(viii) the other matters for which the Union territory Appellate Authority shall have power of civil court under clause (*vi*) of sub-section (*1*) of section 16;

(ix) the time within which the Appellate Authority shall arrange to deliver copies of its decision to the parties concerned under section 17;

(x) the manner and the time within which the public authority shall publish a report and other particulars for discharge of functions of the public authority under sub-section (*2*) of section 22;

(xi) any other matter which is or may be provided by rules under this Regulation.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the 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.

Power to remove difficulties.

30. If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Regulation as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after expiry of two years from the commencement of this Regulation.

DROUPADI MURMU,
President.

K. BISWAL,
Additional Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th September,* 2022/*Bhadra* 28, 1944 (*Saka*)

THE LAKSHADWEEP BUILDING DEVELOPMENT BOARD (REPEAL) REGULATION, 2022

NO. 3 OF 2022

Promulgated by the President in the Seventy-third Year of the Republic of India.

A Regulation to repeal the Lakshadweep Building Development Board Regulation, 1997 *in force in the Union territory of Lakshadweep.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

1. (*1*) This Regulation may be called the Lakshadweep Building Development Board (Repeal) Regulation, 2022. Short title and commencement.

(*2*) It shall come into force at once.

Repeal of Regulation and savings.

2. (*1*) The Lakshadweep Building Development Board Regulation, 1997 is hereby repealed. 1 of 1997.

(2) The repeal of the Regulation shall not—

(a) affect any other enactment or Regulation in which the repealed Regulation has been applied, incorporated or referred to;

(b) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any Regulation hereby repealed;

(c) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force;

(d) affect the previous operation of any law so repealed or anything duly done or suffered thereunder;

(e) affect any right, privilege, obligation or liability acquired, accrued or incurred under this Regulation so repealed;

(f) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against this Regulation so repealed;

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

(h) affect any duty, or fee levied, assessed or collected or purported to have been levied, assessed or collected under this Regulation under repeal, before the commencement of the Regulation, shall be deemed to have been validly levied, assessed or collected in accordance with law:

Provided that anything done or any action taken (including any appointment or delegation made, notification, instruction or direction issued, form, bye-law or scheme framed, certificate obtained, patent permit or licence granted, or registration effected) under this Regulation under repeal, shall be deemed to have been done or taken under the corresponding provision of this Regulation and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the said Regulation.

(3) The mention of particular matters referred to in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal. 10 of 1897.

DROUPADI MURMU,
President.

K. BISWAL,
Additional Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th September,* 2022/*Bhadra* 28, 1944 (*Saka*)

THE LAKSHADWEEP CO-OPERATIVE SOCIETIES REGULATION, 2022

No. 4 of 2022

Promulgated by the President in the Seventy-third Year of the Republic of India.

A Regulation for registration, incorporation and management of Co-operative Societies in the Union territory of Lakshadweep and to repeal the Laccadive, Minicoy and Amindivi Islands Co-operative Societies Regulation, 1960 *and for matters connected therewith or incidental thereto.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Lakshadweep Co-operative Societies Regulation, 2022.

(2) It extends to the whole of the Union territory of Lakshadweep.

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

Definitions.

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

(1) "Administration" means the Administration of the Union territory of Lakshadweep;

(2) "Administrator" means the Administrator of the Union territory of Lakshadweep, appointed by the President under article 239 of the Constitution;

(3) "auditor" means a certified auditor, who is authorised and appointed by the Registrar to audit the accounts of the society.

Explanation.—For the purposes of this clause, the expression "certified auditor" means a person who possesses the prescribed qualifications and is authorised by the Registrar as an auditor under section 84;

(4) "authorised person" means any person duly authorised by the Registrar to take action under the provisions of this Regulation;

(5) "Board" means the Board of Directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted;

(6) "bye-laws" means the registered bye-laws for the time being in force, and includes a registered amendment of such bye-laws;

(7) "central bank" means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies, but does not include the urban co-operative bank;

(8) "Committee" means the Managing Committee or other governing body of a society to which the direction and control of the management of the affairs of a society is entrusted;

(9) "company" means a company as defined in the Companies Act, 2013 and includes a banking company, any board, corporation or other corporate body, constituted or established by any Central, State or Provincial Act for the purpose of the development of any organisation; 18 of 2013.

(10) "co-operative bank" means a society registered under this Regulation and carrying the business of banking as defined in clause (*b*) of sub-section (*1*) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(11) "co-operative election authority" means an authority constituted by the Administrator under section 68;

(12) "co-operative society" means a society registered or deemed to be registered under the regulations and rules or any other law relating to co-operative societies for the time being in force in Union territory of Lakshadweep;

(13) "Deposit Insurance Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961; 47 of 1961.

(14) "dividend" means the amount paid, out of the profit of a society, to a member in proportion to the shares held by such member;

(15) "federal society" means a society—

(a) not less than five members of which are themselves societies; and

(b) in which the voting rights are so regulated that the members which are societies have not less than four-fifths of the total number of votes in the general meeting of such society;

(16) "firm" means a firm registered under the Indian Partnership Act, 1932; 9 of 1932.

(17) "General Body" means the individuals or institutions obtaining membership of respective societies;

(18) "Islands" means the Islands of the Union territory of Lakshadweep;

(19) "Liquidator" means a person appointed under section 108;

(20) "member" means a person joining in an application for the registration of a co-operative society which is subsequently registered or a person duly admitted to membership of a society after registration and includes a nominal, associate or sympathiser member;

(21) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;

61 of 1981.

(22) "officer" means a person elected or appointed by a society to any office of such society according to its bye-laws and includes a Chairperson, Vice-Chairperson, President, Vice-President, Managing Director, General Manager, Manager, Secretary, Treasurer, Member of the Committee, and any other person elected or appointed under this Regulation, the rules or the bye-laws, to give directions in regard to the business of such society;

(23) "office bearer" means a President, Vice-President, Secretary or Treasurer of a co-operative society and includes any other person to be elected by the board of any co-operative society;

(24) "official assignee" means a person or body of persons appointed under sub-section (*2*) of section 22;

(25) "Official Gazette" means the Official Gazette of the Union territory of Lakshadweep;

(26) "prescribed" means prescribed by rules made under this Regulation;

(27) "rebate" means any payment made in cash or kind, out of the profits of a society, to a member or any other person, on the basis of his contribution to the business of the society;

(28) "Registrar" means a person appointed to be the Registrar of co-operative societies under this Regulation and includes an Additional Registrar, Joint Registrar, Deputy Registrar and Assistant Registrar;

(29) "Reserve Bank" means the Reserve Bank of India constituted under sub-section (*1*) of section 3 of the Reserve Bank of India Act, 1934;

2 of 1934.

(30) "rules" means rules made under this Regulation;

(31) "society" means a co-operative society registered, or deemed to be registered, under this Regulation;

(32) "society with limited liability" means a society having the liability of its members limited by its bye-laws;

(33) "Tribunal" means the Union territory Co-operative Tribunal constituted under section 123;

(34) "Union territory" means the Union territory of Lakshadweep.

CHAPTER II

REGISTRAR AND REGISTRATION

Registrar and officers and their powers.

3. (*1*) For carrying out the purposes of this Regulation, the Administrator shall appoint a person to be called the Registrar of co-operative societies for the Union territory.

(2) To assist the Registrar in his functions under this Regulation, the Administrator may appoint such number of Additional Registrars, Joint Registrars, Deputy Registrars, Assistant Registrars and other persons with such designations as it may think fit.

(3) The Administrator may, by general or special order, confer on a person or persons appointed under sub-section (*2*) all or any of the powers of the Registrar under this Regulation.

(4) Every person appointed under sub-section (*2*) shall work under the general guidance, and the superintendence and control of the Registrar.

Societies which may be registered.

4. A society established for,—

(i) promotion of the economic interests or general welfare of its members, or of the public, in accordance with the co-operative principles; or

(ii) facilitating the operations of any such society,

may be registered under this Regulation:

Provided that no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect upon any other society, or it is opposed to, or its working is likely to be in contravention of public policy or which may have an adverse effect on development of the co-operative movement, or the registration of which may be contrary to the policy directives which the Union territory Administration may, from time to time, issue.

Registration with limited or unlimited liability.

5. A society may be registered with limited or unlimited liability.

Conditions of registration.

6. (*1*) No society, other than a federal society, shall be registered under this Regulation, unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic liability of a society and development of the co-operative movement, determine from time to time for a class of societies (each of such persons being a member of a different family), who are qualified to be members under this Regulation, and who reside in the area of operation of such society:

Provided that the Registrar may specify the norms and conditions for registration of societies or class of societies.

(2) No society with unlimited liability shall be registered, unless all persons forming the society reside in the same Island, or in the same group of Islands.

Explanation.—For the purposes of this sub-section, the expression "society with unlimited liability" means a society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of its obligations and to contribute to any deficiency in the assets of the society.

(3) No federal society shall be registered, unless it has at least five societies as its members.

(4) Nothing in this Regulation shall be deemed to affect the registration of any society made before the commencement of this Regulation.

(5) The word "limited" or "unlimited" shall be the last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Regulation.

Explanation.—For the purposes of this section the expression "member of a family" means a wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half-brother, half-sister and wife of brother or half-brother.

7. Notwithstanding anything contained in this Regulation, the Administrator may, by special order in each case and for the reasons to be recorded in writing, exempt subject to such conditions, if any, as it may impose, any society from any of the requirements of this Regulation as to registration.

Power to exempt societies from conditions as to registration.

8. (*1*) For the purposes of registration, an application shall be made to the Registrar in the prescribed form and shall be accompanied by four copies of the proposed bye-laws of the society and the person by whom, or on whose behalf, such application is made, shall furnish such information in regard to the society, as the Registrar may require.

Application for registration.

(2) The application shall be signed—

(a) in the case of a society other than a federal society, by at least ten persons (each of such persons being a member of a different family) who are qualified under this Regulation; and

(b) in the case of a federal society, by at least five societies.

(3) No signature to an application on behalf of a society shall be valid unless the person signing it is a member of the Committee of such society, and is authorised by such Committee by resolution to sign on its behalf the application for registration of the society and its bye-laws; and a copy of such resolution is appended to the application.

9. (*1*) On receipt of an application for registration from a society,—

Provisional registration.

(a) if the Registrar is satisfied that the society has complied with the provisions of this Regulation and the rules as to registration and that its bye-laws are not contrary to this Regulation and the rules, he shall register the society and its bye-laws; and

(b) if the Registrar is of the opinion that the application complies with the requirements of section 8, but that its bye-laws are not in conformity with the provisions of this Regulation and the rules made thereunder, he may provisionally register the society and by an order in writing permit the society to perform such functions subject to such conditions as he may specify in the order and may also by an order in writing direct the society to amend, within the period prescribed in this behalf, its bye-laws so as to bring them in conformity with this Regulation and the rules made thereunder.

(2) When a society has been provisionally registered, the Registrar shall, on its compliance with the order made under clause (*b*) of sub-section (*1*) finally register it and its bye-laws; and on its failure to comply with the order shall cancel its provisional registration:

Provided that the provisional registration of a society shall not be cancelled unless such society has been given an opportunity of being heard in the matter.

(3) A provisionally registered society shall not be deemed to be a society registered under this Regulation.

(4) On the registration of a society, the Registrar shall issue to it a certificate of registration signed by him within a period of fifteen days from the date of registration.

(5) A certificate of registration issued under sub-section (*4*) shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration has been cancelled.

(6) If the Registrar refuses to register the society, he shall forthwith communicate his decision with reasons therefor, to the person who has signed first on the application.

10. The Registrar shall maintain a register in the prescribed form of all societies registered or deemed to be registered under this Regulation.

Register of societies.

11. When any question arises whether, for the purpose of the formation or registration or continuance of a society or the admission of a person as a member of a society under this Regulation, a person is an agriculturist or non-agriculturist, or whether any person is a

Power of Registrar to decide certain questions.

resident in an Island or group of Islands, or whether two or more Islands shall be considered to form a group, or whether any person belongs to any particular tribe, class or occupation, the question shall be decided by the Registrar.

Classification of societies.

12. The Registrar may classify all societies in such manner, and into such classes, as he thinks fit; and the classification of a society under any head of classification by the Registrar shall be final and binding on the societies.

Amendment of bye-laws of society.

13. (*1*) No amendment of the bye-laws of a society shall be valid until registered under this Regulation.

(2) For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that the amendment so forwarded is not contrary to this Regulation or the rules, he may register the amendment:

Provided that no order refusing to register the amendment shall be passed except after giving the society an opportunity of being heard:

Provided further that the application for registration of amendment of bye-laws of a society shall be disposed of within two months from the date of its receipt.

(4) When the Registrar registers an amendment of the bye-laws of a society, he shall issue to the society, the copy of the amendment certified by him within a period of fifteen days from the date of registration of the amendment, which shall be conclusive evidence of its registration.

(5) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with his reasons therefor within a period of fifteen days, to the society.

Power to direct amendment of bye-laws.

14. (*1*) If it appears to the Registrar that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society or any bye-laws of the society are inconsistent with the provisions of this Regulation or rules made thereunder and that amendment is necessary in such bye-laws, he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time so specified, the Registrar after giving the society an opportunity of being heard and with the prior approval of the Administrator, may register the amendment, and shall thereupon issue to the society a copy thereof certified by him.

(3) With effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly and the bye-laws as amended shall be binding on the society and its members.

Change of name.

15. (*1*) Subject to the provisions of the rules made under this Regulation, a society may, by resolution passed at a general meeting, and with the approval of the Registrar, change its name but such change shall not affect any right or obligation of the society, or of any of its members, or of any of the persons who have ceased to be members; and any legal proceedings pending before any person, authority or court may be continued by or against the society, under its new name.

(2) When a society changes its name, the Registrar shall enter the new name in its place in the register of societies, and shall also amend the certificate of registration accordingly.

Change of liability.

16. (*1*) Subject to the provisions of this Regulation and the rules made thereunder, a society may, by passing a resolution and by amending its bye-laws, change the form or extent of its liability.

(2) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding anything in any bye-laws or contract to the contrary, any member or creditor shall, during a period of thirty days from the date of service of such notice upon him, have the option of withdrawing his investment in its shares, and his deposits and loans, and of demanding the payment of his other dues, if any.

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

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

(a) all members and creditors have assented, or deemed to have assented, thereto as aforesaid; or

(b) all claims of members and creditors exercising the option, under sub-section (*2*) have been complied *in toto*.

Amalgamation, transfer, division or conversion of societies.

17. (*1*) Subject to the provisions of the rules made under this Regulation and the previous sanction of the Registrar, a society may, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide—

(a) to amalgamate with another society or a society registered under the Multi-State Co-operative Societies Act 2002;

39 of 2002.

(b) to transfer its assets and liabilities, in whole or in part, to any other society;

(c) to divide itself into two or more societies;

(d) to convert itself into another class of society; or

(e) to change its objects.

(2) Where the amalgamation, transfer, division or conversion referred to in sub-section (*1*) involves a transfer of the liabilities of a society to any other society, the Registrar shall not sanction the resolution of the society unless he is satisfied that—

(i) the society, after passing such resolution, has given notice thereof in writing to all its members, creditors and other persons whose interests are likely to be affected (hereafter, in this section referred to as "other interested persons"), giving them the option to exercise within one month from the date of the receipt of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or of withdrawing their investments in its shares, their deposits and loans and demanding payment of their other dues, if any;

(ii) all the members and creditors and other interested persons have assented to the decision, or are deemed to have assented thereto by having failed to exercise the option within the period specified in clause (*i*); and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been complied *in toto*.

4 of 1882.
16 of 1908.

(3) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

(4) The amalgamation, transfer, division or conversion made under this section shall not affect any right or obligation of the societies so amalgamated, or of the society so

divided or converted, or of the transfer, or render defective, any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly such legal proceedings may be continued or commenced by or against the amalgamated society, the converted society, the new societies or the transferee, as the case may be.

Power to direct amalgamation and re-organisation of societies in public interest, etc.

18. (*1*) Where the Registrar is satisfied that it is essential in the public interest or in the interest of co-operative movement, or for the purpose of securing proper management of any society that two or more societies should be amalgamated or that any society should be re-organised, then, notwithstanding anything contained in section 17 but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified in this behalf by the Administrator by order published in the Official Gazette, provide for the amalgamation of these societies into a single society or, as the case may be, for the re-organisation of that society, with such constitution, property rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order.

(2) The order referred to in sub-section (*1*) may also provide for the constitution of the Committee of management or any other Committees of the new amalgamated or re-organised society, the persons who shall be, or continue to be, the officers of such society and the period after which such Committee or Committees may be re-constituted.

(3) No order shall be made under this section unless,—

(a) a copy of the draft of the proposed order has been sent to the society or each of the societies concerned; and

(b) the Registrar has considered suggestions and objections if any received either from the society or from any member or class of members thereof or from any creditor or class of creditors within such period (not being less than one month from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, and has, if necessary, modified the same in the light of such suggestions and objections.

(4) The order referred to in sub-section (*1*) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation or re-organisation.

(5) Every member of each of the societies so amalgamated, shall be deemed to be a member of the new amalgamated society, and every member of the society so re-organised shall be deemed to be a member of the new re-organised society and all such members shall have all rights, privileges and liabilities of the members of the concerned new societies:

Provided that any member of the new society so amalgamated or re-organised may, within such period and in such manner as may be prescribed, resign his membership of the new society and on such resignation, he shall be entitled to withdraw his share and any other dues and interest in the society.

(6) On the issue of an order under sub-section (*1*) in respect of any societies or society, notwithstanding anything contained in any law for the time being in force, all the assets, rights and liabilities of the amalgamating societies, or, as the case may be, the original society which is re-organised shall stand transferred to, and vest in, the new amalgamated society, or, as the case may be, the new re-organised society;

(7) The provisions of sub-sections (*3*) and (*4*) of section 17 and the provisions of section 19 shall apply in relation to the amalgamation or re-organisation of the societies under this section as if—

(a) the order of amalgamation were a resolution of societies concerned with amalgamation; and

(b) the original society was re-organised under section 17.

19. Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society, as the case may be, shall be cancelled on the date of registration of the new society or societies so formed.

Cancellation of registration of amalgamated, divided or converted societies.

20. Where a compromise or arrangement is proposed—

Reconstruction of societies.

(a) between a society and its creditors; or

(b) between a society and its members,

the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the Liquidator, order reconstruction in the prescribed manner, of the society.

21. (*1*) The Registrar shall make an order cancelling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies, or if its affairs are wound up or it has not commenced business within a reasonable time of its registration or has ceased to function:

Cancellation of registration.

Provided that the registration of a society shall not be cancelled unless such society has been given an opportunity of being heard in the matter.

(2) An order made under sub-section (*1*) shall be published in the Official Gazette.

(3) The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

22. (*1*) If the Registrar is satisfied that any society is registered on mis-representation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, or any primary agricultural co-operative credit society using the word "bank", "banking", "banker" or any other derivative of the word "bank" in its name, he may, after giving an opportunity of being heard to the society, de-register the society.

De-registration of societies.

(2) When a society is de-registered under the provisions of sub-section (*1*), the Registrar may, notwithstanding anything contained in this Regulation or any other law for the time being in force, make such incidental and consequential orders including appointment of official assignee as the circumstances may require.

(3) Subject to the rules made under this Regulation, the official assignee shall realise the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(4) The official assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

23. (*1*) Any two or more societies may, with the prior approval of the Registrar, by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses, provided that each member of each society has had clear ten days written notice of the resolution, and the date of the meeting.

Partnership of societies.

9 of 1932.
18 of 2013.

(*2*) Nothing in the Indian Partnership Act, 1932 and the Companies Act, 2013 shall apply to such partnership.

Collaboration by societies.

24. (*1*) Any society or societies may, with the prior approval of the Administrator and subject to such terms and conditions as the Administrator may impose and in such manner as may be prescribed, enter into collaboration with any undertaking or any undertaking approved by the Administrator for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise.

(2) Before approving any such scheme of collaboration by any society or societies under sub-section (*1*), the Administrator shall have due regard to the following matters, namely:—

(a) that the scheme is economically viable;

(b) that it can be implemented without, in any way, eroding the co-operative character of the society or the societies concerned; and

(c) that the scheme is in furtherance of the interests of the members of the society or societies concerned, or is in the public interest, and in the interest of the co-operative movement in general.

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES

Person who may become member.

25. (*1*) Subject to the provisions of section 28, no person shall be admitted as a member of a society unless such person is,—

(a) an individual, who is competent to contract under the provisions of the Indian Contract Act, 1872; 9 of 1872.

(b) a firm, company or any other body corporate constituted under any law for the time being in force;

(c) a society registered, or deemed to be registered, under this Regulation;

(d) the Central Government;

(e) the Administrator;

(f) a local authority;

(g) a public trust registered or deemed to have been registered under any law for the time being in force;

(h) the depositor or the financial service user; or

(i) a group of the individuals eligible under clause (*a*), whether incorporated or not and whether established or not by or under any law:

Provided that the provisions of clause (*a*) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or a college:

Provided further that subject to such terms and conditions as may be laid down by the Administrator by general or special order, a firm or company may be admitted as a member only of a society which is a federal or urban society or which conducts or intends to conduct an industrial undertaking:

Provided also that any firm or company, which is immediately before the commencement of this Regulation a member of a society deemed to be registered under this Regulation, shall have, subject to the other provisions of this Regulation, the right to continue to be such member on and after such commencement.

(2) Every person seeking admission as a member of a society, if duly qualified for membership of such society under the provisions of this Regulation, the rules and the bye-laws of the society may make an application to the society for membership and the society shall take decision on the application and shall communicate the decision within a period of three months from the date of the receipt of the application.

(3) If the society does not communicate any decision to the applicant within three months from the date of receipt of such application, the applicant shall be deemed to have been admitted as a member of the society.

(4) If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

(5) Notwithstanding anything contained in sub-section (*1*), the Administrator may, having regard to the fact that the interest of any person or class of persons engaged in or carrying on any profession, business or employment conflicts or is likely to conflict with the objects of any society or class of societies, by general or special order published in the Official Gazette, declare that such person or such class of persons shall be disqualified from being admitted, or for continuing, as member or members or shall be eligible for membership only to a limited extent, of any society or class of societies, so long as such person or persons are engaged in or carry on that profession, business or employment, and the question whether a person is or is not so engaged in or carrying on any profession, business or employment or whether a person belongs or does not belong to such class of persons as declared under this sub-section and has or has not incurred a disqualification under this sub-section shall be decided by the Registrar under section 11.

(6) Where the Registrar has decided under section 11 that a person has incurred a disqualification under section 11, the Registrar may, after conducting enquiry, by order, remove such person from the membership of the society; and such person shall cease to be a member of the society.

Removal from membership in certain circumstances.

26. (*1*) Where a person becomes a member of any society on his making a declaration as required by the bye-laws of the society or otherwise and such declaration is found to be false, then such person shall be disqualified to continue as a member of the society.

(*2*) Where a person continues as a member of the society notwithstanding the disqualification incurred by him under sub-section (*5*) of section 25 or under sub-section (*1*), he shall be removed from the society by the Registrar:

Provided that the Registrar shall, before making an order of removal give the person an opportunity of being heard.

Open membership.

27. (*1*) No society shall without a sufficient cause, refuse admission to membership to any person duly qualified under the provisions of this Regulation and its bye-laws.

(2) Where a society refuses to issue or accept the application for membership from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with payment in respect of membership, if any, to the Registrar, who shall forward the application and the amount, if any, so paid, to the society concerned within thirty days from the date of receipt of such application and the amount; and thereupon, if the society fails to communicate any decision to the applicant within three months from the date of receipt of such application and the amount by the society, the applicant shall be deemed to have become a member of such society.

(3) If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

(4) Any person aggrieved by the decision of a society, refusing him admission to its membership, within a period of two months from the date of the decision of the society may appeal to the Registrar and every such appeal, as far as possible, be disposed of by the Registrar within a period of three months from, the date of its receipt.

(5) The decision of the Registrar in appeal shall be final and binding on the parties.

Nominal, associate and sympathiser member.

28. (*1*) Notwithstanding anything contained in section 25, a society of such class as may be prescribed may admit any person as a nominal, associate or sympathiser member:

Provided that the total number of associate and sympathiser members in a society shall not exceed ten per cent. of the total number of members thereof.

(2) A nominal, associate or sympathiser member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society:

Provided that subject to the provisions of sub-section (*7*) of section 32 a nominal, associate or sympathiser member shall have such rights and privileges of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

Cessation of membership.

29. A person shall cease to be a member of a society on his resignation from the membership thereof being tendered in writing to the society and accepted by the society or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society:

Provided that the resignation of a person from the membership of a society, if such member is not in debt to the society or is not a surety for an unpaid debt due to the society, shall unless it is accepted earlier be deemed to have been accepted on the expiry of one month from the date of tendering his resignation in writing to the society.

No rights of membership to be exercised till due payments are made.

30. A member shall be entitled to exercise such rights as provided in this Regulation and rules made thereunder and bye-laws:

Provided that no member shall exercise the rights, until he has made such payment to the society in respect of membership, or acquired such interest in the society, as may be prescribed and specified under the bye-laws of the society, from time to time:

Provided further that in case of increase in minimum contribution of member in share capital to exercise right of membership, the society shall give a due notice of demand to the members and give reasonable period to comply with.

Duties of member.

31. It shall be the duty of every member of a society,—

(a) to attend at least, one general body meeting within a consecutive period of five years:

Provided that nothing in this clause shall apply to the member whose absence has been condoned by the general body of the society;

(b) to utilise minimum level of services at least once in a period of five consecutive years as specified in the bye-laws of the society:

Provided that a member who does not attend at least one meeting of the general body and does not utilise minimum level of services at least once in a period of five consecutive years, as specified in the bye-laws of such society shall be classified as non-active member:

Provided further that when a society classifies a member as a non-active member, the society shall, in the prescribed manner communicate such classification, to the concerned member within a period of thirty days from the date of closing of the financial year:

Provided also that a non-active member who does not attend at least one meeting of the general body and does not utilise minimum level of services as specified in the bye-laws, in next five years from the date of classification as a non-active member, shall have no right to vote:

Provided also that a member classified as a non-active member shall, on fulfilment of the eligibility criteria as provided in this section be entitled to be re-classified as an active member:

Provided also that if a question of a member being active or non-active member arises, an appeal shall lie to the Registrar within a period of sixty days from the date of communication of classification.

Voting powers of member.

32. (*1*) No member of any society shall have more than one vote in its affairs and every powers of right to vote shall be exercised personally, and not by proxy:

Provided that in the case of an equality of votes, the Chairperson shall have a casting vote.

(2) Where a share of a society is held jointly by more than one person, each such person shall have, in the absence of preceding person or persons, a right to vote:

Provided that such person shall be present and not be a minor:

Provided further that where the manner of voting is by ballot, all the joint holders of the share may appoint one of them to vote on their behalf in the affairs of the society.

(3) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of that other society, and accordingly such member shall have the right to vote on behalf of the first society:

Provided that the first society shall not appoint any of its members who is also its paid employee.

(4) A company or any other body corporate constituted under any law for the time being in force which has invested any part of its funds in the shares of a society may appoint any one of its directors or officers to vote on its behalf in the affairs of such society and accordingly such director or officer shall have the right to vote on behalf of the company or the body corporate, as the case may be.

(5) Where a firm has invested any part of its funds in the shares of a society, any one of its partners appointed by the firm shall be entitled to vote in the affairs of the society on behalf of the firm.

(6) A local authority or public trust which has invested any part of its funds in the shares of a society may appoint any of its members or trustees to vote on its behalf in the affairs of that society; and accordingly, such person shall have the right to vote on behalf of the local authority or the public trust, as the case may be.

(7) No nominal or sympathiser member shall have the right to vote and no such member shall be eligible to be a member of a Committee or for appointment as a representative of the society on any other society.

(8) The person who has committed a default and remains as such defaulter in making repayment of loan or interest thereon for a period of one year from the due date of repayment of such loan or interest or instalment shall not be entitled to exercise voting rights of a member of a society till all such repayments are made.

(9) No person shall exercise the right to vote at an election of a member of a Committee in a financial year unless he is a member of the society for the whole of the financial year preceding the financial year in which the election is being held:

Provided that no member society of a federal society shall exercise the right to vote at an election of a member of a Committee unless such society has its last accounts audited in class A, B or C.

(10) Nothing in sub-section (*9*) shall apply to the first election of a Committee to be held immediately after the registration of a society.

(11) The voting rights of individual members of a federal society shall be such as may be regulated by the rules and bye-laws of the society.

Restrictions on holding of shares.

33. In any society, no member other than the Administrator or a society, shall hold more than such portion not exceeding one-fifth of the total share capital of the society as may be prescribed:

Provided that the Administrator may, by notification in the Official Gazette, specify in respect of any class of societies a higher maximum than one-fifth of the share capital.

Restrictions on transfer of shares or interest.

34. (*1*) Subject to the provisions of section 33 and sub-section (*2*) a transfer of, or charge on, the share or interest of a member in the capital of a society shall be subject to such conditions as may be prescribed.

(2) A member shall not transfer any share held by him, or his interest in the capital or property of any society, or any part thereof, unless,—

(a) he has held such share or interest for not less than one year;

(b) the transfer or charge is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the society; and

(c) the Committee has approved such transfer.

(3) Notwithstanding anything contained in sub-sections (*1*) and (*2*), where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this Regulation or by the rules made thereunder or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed:

Provided that the total payment of share capital of a society in any financial year for such purposes does not exceed ten per cent. of the paid-up share capital of the society on the last day of the financial year immediately preceding.

Explanation.—For the purposes of this section, the expression "financial year" means the year ending on the 31st day of March or, in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day, the year ending on such day.

(4) Where the Administrator is a member of a society, the restrictions contained in this section shall not apply and that Administrator may, notwithstanding anything contained in this Regulation, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

Transfer of interest on death of member.

35. (*1*) On the death of a member of a society, the society shall subject to the provisions of sub-section (*2*), transfer his share or interest in the society to a person or persons nominated by such member in accordance with the rules or, in the absence of such nomination to such person as may appear to the Committee to be the heir or legal representative of such member.

(2) No such transfer shall be made unless such nominee, heir or legal representative, as the case may be, is duly admitted as a member of the society.

(3) Notwithstanding anything contained in sub-section (*2*), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the amount equivalent to the value of the share or interest of the deceased member, in such manner as may be prescribed.

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

(5) All transfers and payments duly made by a society in accordance with the provisions of this section, shall be valid and effectual against any demand made upon the society by any other person.

(6) Nothing in the foregoing provisions of this section or section 25 shall be construed to prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member of a society, but his liability in consequence of such acquisition shall be limited to his interest in the shares of the society and the unpaid dividends as also the loan, stock, bonds, if any, and the interest earned on them which is unpaid and he shall not have the right of voting.

(7) A person under any such disability as is referred to in section 6 shall, on his disability ceasing, furnish to the society a declaration of his willingness to become a member and on receipt of such declaration the society, notwithstanding anything contained in this section may, and if it is a co-operative housing society such society shall admit him as a member if he is not otherwise disqualified and a person so admitted shall become entitled to all the rights and privileges of a member and become subject to liabilities like any other member of the society.

Share or interest not liable to attachment.

36. The share or interest of a member in the capital of a society, or in the loan stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposits shall not be liable to attachment or sale under any decree or order of a court for or in respect of any debt or liability incurred by the member and accordingly, neither a receiver under the Provincial Insolvency Act, 1920, nor any such person or authority under any corresponding law for the time being in force, shall be entitled to or have any claim on, such share or interest.

5 of 1920.

Rights of members to see books, etc.

37. (*1*) Every member of a society shall be entitled to inspect, free of cost, at the society's office during office hours, or any time fixed for the purpose by the society, the Regulation, the rules, and the bye-laws, the last audited annual balance-sheet, annual audit report, the profit and loss account, a list of the members of the Committee, a register of members, the minutes of general meetings, and those portions of the books and records in which his transactions with the society have been recorded.

(2) A society shall furnish to a member, on request in writing and on payment of such fees as may be prescribed therefore, a copy of any of the documents mentioned in sub-section (*1*).

(3) A society shall authorise any officer or officers as it deems necessary, for the purpose of discharging the functions as provided under sub-sections (*1*) and (*2*).

Liability of person who has ceased to be member.

38. (*1*) Where a person has ceased to be a member of a society under section 29,—

(a) his liability in respect of any debt due by him to the society and in respect of any outstanding demand owing to the society by him shall continue as if he had not ceased to be a member; and

(b) his liability for the debts of the society as they stood immediately before the date of such cessation shall, save as otherwise provided in sub-section (*2*), continue for a period of three years from such date as if he had not ceased to be a member:

Provided that the liability shall attach to the estate of such person, if such cessation was due to his death or such person dies after his ceasing to be a member.

(*2*) Where a society is ordered to be wound up under any provisions of this Regulation, then the liability under clause (*b*) of sub-section (*1*) of a person, who has ceased to be a member thereof within three years immediately preceding the date of order of winding up, shall continue, until the entire liquidation proceedings are completed.

Insolvency of members.

5 of 1920.

39. Notwithstanding anything contained in the Provincial Insolvency Act, 1920, or any corresponding law for the time being in force, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to his dues to the Union territory Administration or to a local authority.

Expulsion of members.

40. (*1*) A society may, by resolution passed by three-fourths majority of all the members present and voting at a general meeting of members held for the purpose, expel a member for acts which are detrimental to the proper working of the society:

Provided that, no resolution shall be,—

(i) valid, unless the member concerned is given an opportunity of representing his case to the general body; and

(ii) effective unless it is submitted to the Registrar for his approval and approved by him:

Provided further that the approval or disapproval of the Registrar shall be communicated to the society within a period of three months from the date of such submission.

(*2*) No member of a society who has been expelled under sub-section (*1*) shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of two years from the date of such expulsion:

Provided that the Registrar may, in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.

CHAPTER IV

INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES

Societies to be bodies corporate.

41. A society on its registration shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all such things as are necessary for the purpose for which it is incorporated.

Address of societies.

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

Register of members.

43. (*1*) Every society shall keep a register of its members, and enter therein the following particulars, namely:—

(a) the name, address and occupation of each member;

(b) in the case of a society having share capital, the share held by each member;

(c) the date on which each person was admitted as a member;

(d) the date on which any person ceased to be a member; and

(e) such other particulars as may be prescribed:

Provided that where a society has by or under this Regulation, permitted a member to transfer his share or interest on death to any person, the register shall also show against the member concerned the name of the person entitled to the share or interest of the member, and the date on which the nomination was recorded.

(*2*) The register shall be *prima facie* evidence of the date on which any person was admitted to membership, and of the date on which he ceased to be a member.

Admissibility of copy of entry as evidence.

44. (*1*) A copy of any entry in any book, register or list, regularly kept in the course of business and in the possession of a society shall, if duly certified in such manner as may be prescribed, be admissible in evidence of the existence of the entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matter.

(*2*) In the case of such societies, as the Administrator may by general or special order direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under sub-section (*1*) or to appear as a witness to prove the matters, transactions and accounts therein recorded, except by order of the court or a Judge made for special cause.

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

16 of 1908.

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

(a) to any instrument relating to shares in a society not being a housing society notwithstanding that the assets of the society consist in whole or in part of immovable property; or

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

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

Power to exempt from taxation.

46. The Administrator may, in the case of any society or class of societies, by notification in the Official Gazette, exempt—

(a) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or awards of the Registrar or his nominee or board of nominees under this Regulation, are respectively chargeable;

(b) any fee payable by or on behalf of a society under the law relating to the registration of documents and to court-fees, for the time being in force; and

(c) any other tax or fee or duty (or any portion thereof) payable by or on behalf of a society under any law for the time being in force, which the Administrator is competent to levy.

Restrictions on borrowing.

47. (*1*) A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the bye-laws of the society.

(*2*) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (*1*), for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and bye-laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extent up to which such society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.

Restrictions on making loans.

48. (*1*) No society shall make a loan to any person other than a member, or on the security of its own shares, or on the security of any person who is not a member:

Provided that subject to such rules as may be determined, a society may make loans to another society.

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

(3) Notwithstanding anything contained in this Regulation, no person or group of persons other than a member or members shall be eligible to borrow from or make deposit in a Primary Agricultural Credit Co-operative Society.

(4) If in the opinion of the Administrator, it is necessary or expedient in the interest of the society or societies concerned to do so, the Administrator may, by general or special order, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property:

Provided that the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules and bye-laws, by general or special order, regulate further the extent, conditions and manner of making loans by any society or class of societies to its members or other societies.

Restrictions on other transactions with non-members.

49. Save as provided in this Regulation, the transactions of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

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

50. In respect of any debt due to a society by any member thereof, the society shall have a charge upon the share or interest of such member in the capital of the society, upon the deposits of such member with the society and upon any dividend, rebate or profits payable to such member; and the society may set off any sum credited or payable to such member in or towards the payment of any such debt:

Provided that no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund referred to in section 62, and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.

Prior claim of society.

51. (*1*) Notwithstanding anything contained in any other law for the time being in force, but subject to any prior claim of the Union territory Administration in respect of land revenue or any money recoverable as land revenue and to the provisions of sections 60 and 61 of the Code of Civil Procedure, 1908,— 5 of 1908.

(a) any debt or outstanding demand, owing to a society by any member or a person who has ceased to be a member shall be a first charge upon—

(i) the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by him;

(ii) cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or workshop, godown or place of business, supplied to, or purchased by him in whole or in part, from any loan whether in money or goods made to him by the society; and

(iii) any movable property which may have been hypothecated, pledged or otherwise mortgaged by him with the society, and remaining in his custody;

(b) any outstanding demands or dues payable to a society by any member or a person who has ceased to be a member, in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society:

Provided that the prior claim of the Union territory Administration in respect of dues other than land revenue, shall be restricted for the purpose of this sub-section to the assets created by a member out of the funds in respect of which the Union territory Administration has a claim.

(2) No property or interest in property, which is subject to a charge under sub-section (*1*) shall be transferred in any manner without the previous permission of the society; and such transfer shall be subject to such conditions, if any, as the society may determine.

(3) Any transfer made in contravention of sub-section (*2*) shall be void.

(4) Notwithstanding anything contained in sub-sections (*2*) and (*3*), a society, which has as one of its objects the disposal of the produce of its members, may provide in its bye-laws, or may otherwise contract with its members,—

(a) that every such member shall dispose of his produce through the society; and

(b) that any member, who is found guilty of a breach of the bye-laws or of any such contract, shall reimburse the society for any resultant loss, determined in such manner as may be provided in the bye-laws.

Charge on immovable property of members borrowing from certain societies.

52. (*1*) Notwithstanding anything contained in this Regulation or in any other law for the time being in force,—

(a) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the prescribed form, such declaration shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application, and for all future advances, if any, required by him which the society may make to him as such member, subject to such maximum as may be determined by the society, together with interest on such amount of the loan and advances;

(b) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Regulation, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (*a*); and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;

(c) a declaration made under clause (*a*) or clause (*b*) may be varied at any time by a member, with the consent of the society in favour of which such charge is created;

(d) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (*a*) or clause (*b*) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

Provided that it shall be lawful for a member to execute a mortgage bond in favour of the Union territory Administration in respect of such land or any part thereof, under the law for the time being in force, for the supply of water from a canal to such land:

Provided further that if a part of the amount borrowed by a member is paid, the society may, on an application from the member, release from the charge created under the declaration made under clause (*a*) or clause (*b*) such part of the movable or immovable property specified in the declaration as it may deem proper, with due regard to the adequacy, of the security for the balance of the amount remaining due from or outstanding against the member;

(e) any alienation made in contravention of the provisions of clause (*d*) shall be void;

(f) subject to the prior claims of the Union territory Administration in respect of land revenue or any money recoverable as land revenue, and to the charge, if any, created under an award made under the law for the time being in force in any part of the Union territory:

Provided that notwithstanding anything contained in the Land Revenue Code or any law for the time being in force, the Record of Rights maintained thereunder shall also include the particulars of every charge on land or interest created under a declaration under clause (*a*) or clause (*b*).

(2) For the purposes of this section, the expression "society" means—

(i) any society, the majority of the members of which are agriculturists and the primary object of which is to obtain credit for its members, or

(ii) any society, or any society of the class of societies, specified in this behalf by the Union territory Administration by a general or special order.

Deduction from salary to meet society's claim in certain cases.

53. (*1*) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay to the society the amount so deducted in satisfaction of any debt or other demand of the society against the member.

(2) On the execution of such agreement, the employer shall, if by a requisition in writing so required by the society and so long as the society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement notwithstanding anything to the contrary contained in the Payment of Wages Act, 1936 or any corresponding law for the time being in force and pay the amount so deducted to the society, within a period of fourteen days from the date on which such deduction is made as if it were a part of the wages payable by him as required under the said Act on the day on which he makes payment and in making such deduction and payment, it shall not be open to the employer to question the validity or otherwise of such debt or demand. 4 of 1936.

(3) If after receipt of a requisition made under sub-section (*2*), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the payment thereof; and the amount shall be recoverable on behalf of the society from him as an arrear of land revenue on a certificate being issued by the Registrar after holding such inquiry as he deems fit, and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears and a certificate so issued by the Registrar shall not be questioned in any court.

(4) Nothing contained in this section shall apply to persons employed in any railway within the meaning of the Constitution, and in mines and oil fields.

CHAPTER V

AID TO SOCIETIES

Direct partnership of Union territory Administration in societies.

54. (*1*) The Union territory Administration may subscribe directly to the share capital of a society with limited liability.

(2) The share capital subscribed by the Union territory Administration under sub-section (*1*) shall not be returned to the Union territory Administration by a society except with the previous approval of the Union territory Administration.

Other forms of aid to societies.

55. Notwithstanding anything contained in any law for the time being in force, but subject to such conditions as the Union territory Administration may, by general or special order, specify in this behalf, it may,—

(a) give loans to a society;

(b) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both, or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the Union territory Administration;

(c) guarantee the repayment of the principal of and the payment of interest on, means given by a co-operative bank to a society;

(d) guarantee the repayment of the principal of and payment of interest on, loans and advances given by the Reserve Bank of India, or the Industrial Finance Corporation of India, or any other authority constituted under any law for the time being in force; or

(e) provide financial assistance, in any other form including subsidies, to a society.

CHAPTER VI

PROPERTY AND FUNDS OF SOCIETIES

Fund not to be divided.

56. (*1*) No part of the funds or assets of a society, other than the dividend equalisation fund, if any, and the net profits thereof, shall be paid by way of rebate or dividend or otherwise distributed, to its members:

Provided that in the case of a member, who is also a salaried employee of the society payment on such scale as may be laid down by the bye-laws may be made to him for work done as such employee.

(*2*) No honorarium shall be paid out of the funds and assets of a society other than the net profits and such honorarium shall not exceed the prescribed limit.

Appropriation of profits.

57. (*1*) A society earning profit, shall calculate its annual net profits by deducting from the gross profits for the year, all accrued interest which is overdue for more than three months, establishment charges, contributions, if any, towards the provident fund and gratuity fund of its employees, interest payable on loan and deposits, audit fees, working expenses including repairs, rents, taxes and depreciation, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profits.

(2) A society may, however, add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year and the net profits thus arrived at together with the amount of profits brought forwarded from the previous year shall be available for appropriation.

(3) A society may appropriate its profits to its reserve fund or any other fund created by it to payment of dividends to members on their shares, to contribution to the educational fund as the Administrator may, by notification in the Official Gazette, specify to the payment of rebate on the basis of support received from members and persons who are not members to its business and subject to the prescribed conditions to payment of honorarium, and to any other purpose which may be specified in the rules or bye-laws:

Provided that no part of the profits shall be appropriated except with the approval of the annual general meeting and in conformity with this Regulation, rules and bye-laws.

Reserve fund.

58. (*1*) Every society which does, or can, derive a profit from its transactions, shall maintain a reserve fund.

(2) At least one-fourth of the net profits of the society each year, shall be carried to, the reserve fund; and such reserve fund may be used in the business of the society or may, subject to the provisions of section 63, be invested, as the Administrator may by general or special order direct, or may, with the previous sanction of the Administrator, be used in part for some public purpose likely to promote the objects of this Regulation, or for some such purpose of the Union territory or of local interest:

Provided that if the Registrar is satisfied that financial condition of the society is such that it is unable to carry to its reserve fund an amount up to the aforesaid limit of one-fourth of its net profits, he may by order in writing, for such period as he may specify in the order, fix for the society a limit lower than the aforesaid limit but not lower than one-tenth of its net profits.

(3) Where the reserve fund of a society exceeds its authorised share capital, then, notwithstanding anything contained in sub-section (*1*), the society may, with the previous permission of the Registrar carry to its reserve fund each year an amount which may be less than one-fourth but not less than one-tenth of its net profit.

Restrictions on dividend.

59. No society shall pay dividend to its members at a rate exceeding fifteen per cent. except with the prior sanction of the Registrar.

Contribution to education fund.

60. (*1*) Every society which declares, out of the current year's profit, a dividend to its members, shall contribute towards the education fund at such rate as may be prescribed.

(2) No society, liable to contribute towards the education fund, shall pay a dividend to its members, unless the said contribution is made to the Registrar within two months from the date on which its accounts are adopted by the general body of members at its annual general meeting.

(3) An officer who wilfully fails to comply with the requirements of this section, shall be personally liable for making good the amount to the Registrar.

Contribution to public purpose.

61. After providing for the reserve fund as provided in section 58, for the educational fund as provided in section 60, a society may set aside a sum not exceeding twenty per cent. of its net profits, and utilise from time to time, with the approval of the Registrar, whole or part of such sum in contributing to any prescribed co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose. 6 of 1890.

Investments of funds.

62. A society may invest, or deposit its fund,—

(a) in a Central Bank, or the State Co-operative Bank;

(b) in the State Bank of India or in any nationalised bank;

(c) in the Postal Savings Bank;

(d) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; 2 of 1882.

(e) in shares, or security bonds, or debentures, issued by any other society with limited liability;

(f) in any land or building;

(g) in Employee's provident fund; or

(h) in any corporation owned or controlled by the Union territory Administration,

with the prior approval of the Administrator subject to such terms and conditions as may be prescribed in this behalf.

Explanation.—For the purposes of this section, the expression "nationalised bank" means a corresponding new bank constituted under sub-section (*1*) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. 5 of 1970. 40 of 1980.

Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities.

63. (*1*) No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under any section of this Regulation.

(2) If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.

(3) If any person incurs expenditure in violation of sub-section (*1*), the Registrar shall direct the person to repay the amount to the society within one month and where such person fails to repay the amount as directed, such amount shall, on a certificate issued by the Registrar, be recoverable as arrears of land revenue.

(4) The person against whom action is taken by the Registrar under sub-section (*3*) shall be disqualified to continue to be the officer of any society or to be officer of any society at any next election including any next bye-election held immediately after the expiration of a period of one month during which such person has failed to pay the amount referred to in sub-section (*3*).

CHAPTER VII

MANAGEMENT OF SOCIETIES

Final authority of society.

64. Subject to the provisions in this Regulation and the rules made thereunder, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the bye-laws:

Provided that, where the bye-laws of a society provide for the election of delegates of such members, the final authority may vest in the delegates of such members elected in the prescribed manner, and assembled in the general meeting.

Committee, qualifications, dis-qualifications to become member of Committee, powers and functions of Committee.

65. (*1*) The management of every society shall vest in a Committee, constituted in accordance with this Regulation, the rules and bye-laws, which shall exercise such powers and perform such duties as may be conferred or imposed on it respectively by this Regulation, the rules and the bye-laws.

(2) Except as otherwise provided herein, the Managing Committee of a society, which is not an apex society, shall consist of, among others, such number of elected members not exceeding twenty-one.

Explanation.—For the purposes of this sub-section, the expression "apex society" means a society,—

(a) the area of operation of which extends to the whole of the Union territory of Lakshadweep;

(b) the main object of which is to promote the principal objects of the societies affiliated to it as members and to provide for the facilities and services to them; and

(c) which has been classified as an apex society by the Registrar.

(3) There shall be reserved two seats for women in the Managing Committee of every society consisting of individuals as members and having members from such class or category of persons as may be prescribed:

Provided that one seat shall be reserved for the persons who are small farmers and marginal farmers.

(4) Every member of a society who is entitled to vote shall be eligible for appointment as a member of a Committee thereof if—

(a) he is continuously a member of the society for a period not less than three years and continues to be such member and not in default in respect of any loan taken by him from any co-operative society, co-operative bank or any other financial institution;

(b) he has any interest directly or indirectly in any subsisting contract made with the society or in any property sold or purchased by the society or any other transaction of the society except in any investment made in or any loan taken from the society;

(c) he is not otherwise disqualified for appointment as such member;

(d) he is not held responsible under section 80;

(e) no order for recovery of costs is made against him by a magistrate under section 90;

(f) no order is made against him under section 92;

45 of 1860.

(g) he is not found guilty of any of the offences under section 120 of this Regulation or any offence section 403 of the Indian Penal Code in respect of the property of any society.

(5) A member of the Committee who incurs any of the disqualifications specified above shall vacate the office and if he does not vacate such office, he shall be removed by the Registrar as such member:

Provided that the Registrar shall before making such order of removal, give the person concerned an opportunity of being heard.

(6) Notwithstanding anything contained in sub-section (*4*),—

(a) in case of societies dispensing with credit, no person who does money lending business shall be eligible for appointment as a member of the Managing Committee of the society; and

(b) a member of a society, who carries on business of the kind carried on by the societies of which he is the member, shall not be eligible to be the member of any Committee of that society without the sanction of the Registrar.

(7) Where any person becomes a member of a Committee of a society in contravention of sub-section (*6*) he shall be removed from office as a member of such Committee by the Registrar:

Provided that the Registrar shall, before making order of removal, give the person concerned an opportunity of being heard.

(8) The term of the elected members of the Managing Committee and its office bearers shall be five years from the date of election:

Provided that the term of office bearers shall be two and a half years from the date of election of Managing Committee for the co-operative banks and federal societies:

Provided further that the Managing Committee shall fill up a casual vacancy in the Committee by nomination out of the same class or categories of members in respect of which the casual vacancy has arisen within sixty days from the date of such vacancy, if the remaining term of office of the Managing Committee is less than half of its original term.

(9) The elected members of the Managing Committee and its office bearers shall cease to hold the office on the date of expiry of their term.

(10) The office bearers of the Managing Committee of the co-operative banks and federal societies shall be eligible for re-election.

(11) The society shall co-opt persons having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the society as the members of the Managing Committee:

Provided that the number of such co-opted members shall not exceed two in addition to the twenty-one members as specified in sub-section (*2*).

(12) The co-opted members as aforesaid shall not have the right to vote in any election of the society in their capacity as such members or to be eligible to be elected as office bearers of the Managing Committee.

(13) In case, where there are functional directors of a society, they shall also be members of the Managing Committee and such members shall be excluded for the purpose of counting the total number of members of such Managing Committee.

Explanation.—For the purposes of this sub-section, the expression "functional director" means and includes a Managing Director or a Chief Executive Officer, by whatever designation called, or any *ex officio* member or any of the Head of the Department of the concerned society, nominated by the Committee.

Appointment of custodian in certain circumstances.

66. (*1*) Where in respect of any society—

(i) a new Committee of Management is, for any reason whatsoever, not elected before the expiry of the term of office of members of a Committee of Management of such society;

(ii) a new Committee has been elected and not functioning within a period of fifteen days (not being a Committee referred to in section 79);

(iii) there is a stalemate in the constitution of the Committee and if such Committee has ceased to function and a vacuum is created in the Management;

(iv) any Committee is prevented from entering upon office;

(v) a new Committee has failed to enter upon office on the date on which the term of office of the existing Committee expired; or

(vi) where more than one group of persons in a society is claiming to be elected as the Committee members and proceedings in respect thereof have been filed,

the Registrar shall, by an order in writing, appoint a person or a Committee of persons to be the custodian of the society to manage the affairs of the society for a period of one year or until a new Committee of Management is elected or, as the case may be, starts functioning:

Provided that before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period:

Provided further that it shall not be necessary to publish such notice in any case where Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

(2) The custodian shall arrange to hold election of such society within a period of one year and the Committee shall be constituted before the expiration of that period.

(3) The custodian so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have powers to exercise all or any of the functions of the Committee and take all such action as may be required in the interest of the society.

(4) All acts done or purported to be done by the custodian during the period when the affairs of the society are carried on by such custodian, shall be binding on the new Committee of Management.

Motion of no-confidence.

67. (*1*) A President, Vice-President, Chairperson, Vice-Chairperson, Secretary, Treasurer or any other officer by whatever designation called, who holds office by virtue of his election to that office, shall cease to be the President, Vice-President, Chairperson, Vice-Chairperson, Secretary, Treasurer or such officer, as the case may be, if a motion of no-confidence is carried at a meeting of the Committee by the majority of not less than two-thirds of the total number of members present at the meeting and voting, and such office shall thereupon be deemed to be vacant.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the Committee who are entitled to vote, shall be delivered to the Registrar in respect of a Committee of a society which has the Registrar as its member and also in any other cases to the Registrar:

Provided that no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (*1*) has entered upon his office.

(3) The Registrar upon whom the requisition has been made under sub-section (*2*) shall convene a special meeting of the Committee within a period of thirty days from the date of receipt of such requisition.

(4) The meeting shall be presided over by such officer as authorised by the Registrar and the officer shall, when presiding over such meeting, have the same powers as the President or Chairperson when presiding over such meeting, but shall not have the right to vote:

Provided that the voting shall be by secret ballot of votes.

(5) The meeting called under this section shall not, for any reason, be adjourned.

(6) If such motion of no-confidence is rejected, no fresh motion of no-confidence shall be brought within a period of six months from the date of such rejection of the motion.

Co-operative Election Authority.

68. (*1*) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a society shall vest in the authority called as the "Co-operative Election Authority", as may be constituted by the Administrator in that behalf.

(2) Every general election of the members of the Committee and election of the office-bearers of a society including any casual vacancy, to the extent applicable, shall be held as per the procedure prescribed.

(3) The Co-operative Election Authority shall consist of a Co-operative Election Officer, appointed by the Administrator from officers of the Union territory who fulfills such qualification and experience as may be prescribed.

(4) The Administrator may appoint any employee of the Union territory, as a Secretary to the Co-operative Election Authority.

(5) The Administrator, after consultation with the Co-operative Election Officer, may provide the officers and employees for his office, to assist him in performing his functions under this Regulation.

(6) The Administrator may, when so requested by the Co-operative Election Officer, make available to the Co-operative Election Authority such staff as may be necessary for discharge of the functions conferred on the Co-operative Election Authority by sub-section (*1*).

(7) Notwithstanding anything contained in any law for the time being in force, the election of the Committee of each society shall be conducted by the Co-operative Election Authority one month before the expiry of the term of the existing Committee so as to ensure that the newly elected members of the Committee assume office immediately on the expiry of the office of the members of the outgoing Committee.

(8) The Co-operative Election Authority shall hold the elections of the society or class of societies as per the procedure, guidelines and the manner, including using the latest technology and expertise, as may be prescribed:

Provided that the Administrator may, considering the objects of the society, class of societies, area of operation and norms of business and for proper management and interest of members, may by general or special order, classify the societies in such manner as may be prescribed.

(9) The Co-operative Election Authority shall conduct elections to the Committee and also to the office of President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected as per the bye-laws of the society, within fifteen days from the date of constitution of the Committee after a general election.

(10) There shall be an Election Fund maintained at level of the Co-operative Election Authority and every society shall deposit in advance, the estimated amount of expenditure on its election, as may be prescribed and required by the Co-operative Election Authority towards the Election Fund. The Co-operative Election Authority shall incur the necessary expenses, for the conduct of the elections of the societies, including the election of the office bearers, from the said Fund contributed by the concerned society.

(11) The expenses of the holding of any election, including the payment of travelling allowances, daily allowances and remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be incurred from the said Fund and the expenditure shall be made in the manner prescribed and the Registrar, on requisition by the Co-operative Election Authority, shall recover expenses of holding election from any such society or class of societies as may be prescribed in the rules:

Provided that if any society fails to pay the election expenses, the Registrar may issue the recovery certificate for recovery of the amount due and such amount shall be recovered as arrears of land revenue.

(12) The Committee of every co-operative society shall,—

(a) inform the Registrar of co-operative societies about the expiry of its term of office at least six months before the date of expiry of such term;

(b) inform any casual vacancy occurred in the Committee or its office bearers, within fifteen days of the occurrence of such vacancy;

(c) furnish such books, records and information as the Co-operative Election Authority may require as per the calendar specified by it; and

(d) provide all necessary help, assistance and co-operation for the smooth preparation of electoral rolls for the conduct of elections.

Power of Administrator to postpone election.

69. Where due to scarcity, drought, flood, fire or any other natural calamity or rainy season or any election programme, of the Council or House of the People or a local authority, coinciding with the election programme of any society or class of societies, in the opinion of the Administrator, it is not in the public interest to hold elections to any society or class of societies, the Administrator may, notwithstanding anything contained in this Regulation or the rules or bye-laws made thereunder, or any other law for the time being in force, for reasons to be recorded in writing, by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time, which period may further be extended so, however, that, the total period shall not exceed one year in the aggregate.

Election to more than one seat on Committee of society.

70. If a person is elected to more than one seat on the Committee then, unless within a period of seven days from the date of declaration of the result of the election he resigns all but one of the seats by writing under his hand addressed to the Election Officer, or as the case may be, the officer authorised by the Co-operative Election Authority in this regard, all the seats shall become vacant and on receipt of such resignation or on the seats becoming so vacant, the Election Officer, or as the case may be, the officer authorised by the Co-operative Election Authority in this regard shall cause to hold the election for filling the vacancy.

Responsibility of Committee or Special Officer or Custodian to intimate and assist to arrange for election, before expiry of term.

71. (*1*) It shall be the duty of the Committee to intimate to the Co-operative Election Authority, for holding of its election, before expiry of its term.

(2) Where there is a wilful failure on the part of the Committee to intimate to the Co-operative Election Authority as required under sub-section (*1*) for holding of its election, and for any reason whatsoever, election of the members of the Committee could not be held before the expiry of its term then the members thereof shall cease to hold their office and in such a situation the Registrar shall take action as contemplated under section 66.

(3) On taking such action under sub-section (*2*), the custodian so appointed shall intimate to the Co-operative Election Authority for holding of the election with immediate effect and assist to make necessary arrangement for holding such election within the period specified.

Handing over records and property to new Chairperson on election.

72. (*1*) On the election of a new Committee and its Chairperson, the retiring Chairperson in whose place the new Chairperson is elected shall hand over charge of the office of the Committee and all papers and property, if any, of the society in possession of the Committee or any officer thereof, to the new Chairperson of the Committee.

(*2*) If the retiring Chairperson fails or refuses to hand over charge or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property and the Registrar may, on the retiring Chairperson's failure to comply with such

direction, make order for seizing the records and property and handing them over to the new Chairperson, in the manner provided in section 83.

Restriction on rates of sitting fees and travelling and daily allowances of members of Committee.

73. Notwithstanding anything contained in the bye-laws of a society—

(1) no society shall prescribe nor a member of a Committee thereof shall be entitled to sitting fees, and travelling and daily allowances while touring on public business, at rates exceeding such rates as may be prescribed, and

(2) a member of a Committee of a society shall, in relation to touring on public business be subject to such conditions and limitations as may be prescribed and different rates, conditions and limitations may be prescribed in relation to members of Committees of different societies or class of societies.

Explanation.—For the purposes of this section, the expression "touring on public business" includes—

(a) a journey for attending any meeting of the Committee;

(b) a journey in connection with the performance of any other functions of the Committee;

(c) a journey for attending any conference sponsored by—

(i) the Central Government;

(ii) the State Government;

(iii) the Union territory Administration;

(iv) any co-operative institution; or

(v) such other institutions recognised by the Union territory Administration in this behalf.

Removal of officer.

74. (*1*) If, in the opinion of the Registrar, any officer makes persistent default or is negligent in performance of the duties imposed on him by this Regulation or the rules or the bye-laws made thereunder or does anything which is prejudicial to the interests of the society or where he stands disqualified by or under this Regulation, the Registrar may, after giving the officer an opportunity of being heard, by order remove such officer and direct the society to elect or appoint a person or a qualified member in the vacancy caused by such removal and the officer so elected or appointed shall hold office so long only as the officer in whose place he is elected or appointed would have held if the vacancy had not occurred.

(*2*) The Registrar may, by order, direct that the officer so removed shall be disqualified to hold or to contest election for any office in the society from which he is removed and in any other society for a period not exceeding six years from the date of the order and such officer shall stand disqualified accordingly.

Annual general meeting.

75. (*1*) Every society shall convene the general meeting of its members within a period of six months of closure of the financial year to transaction the business as provided under this Regulation:

Provided that if such meeting is not called by the society within such period, the Registrar or any person authorised by him in that behalf may in the prescribed manner, call such meeting which shall be deemed to be a general meeting duly called by the society.

(2) At every annual general meeting of a society, the Committee shall lay before the society a balance-sheet and profit and loss account for the year in the manner prescribed by the Registrar by general or special order for any class or classes of societies.

Explanation.—For the purposes of this section, it is hereby clarified that in the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account;

and all references to profit and loss account, and to "profit" or loss in this Regulation, shall be construed in relation to such society as references respectively to the "excess of income over expenditure" and "excess of expenditure over income".

(3) There shall be attached to every balance sheet laid before the society in general meeting, a report by its Committee, with respect to—

(a) the state of the society's affairs;

(b) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and

(c) the amounts, if any, which it recommends for payment by way of dividend, bonus, or honoraria to honorary workers.

(4) The Committee's report shall also deal in any changes in the nature of the society's business which have occurred during the year for which the accounts are drawn up and such report shall be signed by its Chairperson, or any other member authorised to sign on behalf of the Committee.

(5) At every annual general meeting, the balance sheet, the profit and loss account, the auditor's report and the Committee's report, shall be placed for adoption, and such other business shall be transacted as may be laid down in the bye-laws and of which due notice has been given.

(6) Where any officer of the society, whose duty was to call a general meeting within the period specified in sub-section (*1*) or to comply with sub-section (*2*), (*3*) or (*4*) fails without reasonable excuse to call such meeting or to comply with such sub-sections, then—

(i) if such officer is a servant of the society, the Registrar may by an order in writing impose on him a penalty of an amount not exceeding ten thousand rupees; and

(ii) if such officer is not a servant of the society, the Registrar may by an order in writing declare such officer to be disqualified for being an officer or a member of the Committee of the society or for being elected or appointed to any office of the society, for such period not exceeding six years as he may specify in the order:

Provided that before making an order under this sub-section, the Registrar shall give or cause to be given, a reasonable opportunity to the officer to show cause against the act proposed to be taken in regard to him.

Special general meeting.

76. (*1*) A special general meeting may be called at any time by a majority of the Committee, and shall be called by the Committee within one month—

(i) on a requisition in writing of one-fifths of the members of the society or of members the number of which is specified in the bye-laws for the purpose, whichever is lower;

(ii) on a requisition from the Registrar; or

(iii) in the case of a society, which is a member of a federal society, on a requisition from the Committee of such federal society.

(2) Where any officer or a member of the Committee, whose duty was to call such meeting, without reasonable excuse, fails to call such meeting, the Registrar may by order declare such officer or member disqualified for being a member of the Committee for such period not exceeding six years, as he may specify in such order and if the officer is an employee of the society, he may impose on him a penalty not exceeding ten thousand rupees:

Provided that before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.

(3) If a special general meeting of a society is not called in accordance with the requisition referred to in sub-section (*1*), the Registrar or any person authorised by him in that behalf, shall have power to call such meeting, which shall be deemed to be a meeting duly called by the Committee.

(4) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (*3*) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for refusal or failure to convene the meeting.

Acts of societies, etc., not to be invalidated by certain defects.

77. (*1*) No act of a society or a Committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organisation of the society, or in the constitution of the Committee, or in the appointment, or election of an officer, or on the ground that such officer was disqualified for his office.

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

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of the society and his decision thereon shall be final.

Power to appoint nominee of Union territory Administration.

78. (*1*) Where the Union territory Administration has subscribed to the share capital of a society, directly or through another society, or has guaranteed the repayment of the principal and payment of interest on, debentures issued or loans raised by a society, the Union territory Administration shall, notwithstanding anything contained in the bye-laws of such society, have the right to nominate three representatives on the Committee of such society, in such manner as may be determined by the Union territory Administration from time to time.

(2) The members so nominated shall hold office during the pleasure of the Union territory Administration, or for such period as may be specified in the order by which they are appointed, and any such member on assuming office shall have all rights, duties, responsibilities and liabilities as if he were a member of the Committee duly elected.

Explanation.— For the purposes of this clause, it is hereby clarified that a nomination of the Registrar or his nominee on the Committee of a society under the bye-laws of such society shall not be construed as nomination of the representative on that Committee in exercise of the right of the Union territory Administration under this sub-section.

(3) Where the Union territory Administration is of the opinion that having regard to the public interest involved in the operation of a society it is necessary or expedient so to do, it may nominate its representatives on the Committee of such society as if the Union territory Administration had subscribed to the share capital of the society and the provisions of sub-sections (*1*) and (*2*) shall, so far as may be apply to such nomination.

Extension of term of nominated Committee or appointment of custodian.

79. (*1*) Where on the expiry of the term of office of the members of any Committee of Management nominated by the Administrator, or the Registrar, the Administrator or, as the case may be, the Registrar is of the opinion that it is necessary or expedient so to do, it or he may, by an order published in the Official Gazette,—

(a) extend the term of office of the members of the said Committee of the Management; or

(b) appoint a person or a Committee of persons to be the custodian of the society for such period not exceeding two years in the aggregate or until a new Committee of Management is elected, whichever is earlier.

(2) The custodian so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to time, give, have powers to exercise all or any of the

functions of the Committee, and take all such actions as may be required in the interests of the society.

(3) All acts done or purported to be done by the custodian during the period when the affairs of the society are carried on by the custodian appointed under sub-section (*1*) shall be binding on the new Committee of Management.

Supersession of a Committee and appointment of a Committee or special officer.

80. (*1*) If, in respect of a Committee of a society having the Registrar as its member, the Administrator and in respect of a Committee of a society which does not have the Registrar as its member, the Registrar, is of the opinion that—

(i) the Committee persistently makes default;

(ii) the Committee is negligent in the performance of its duties imposed on it by or under this Regulation or the rules made thereunder or bye-laws; or

(iii) the Committee has committed any act prejudicial to the interest of the society or its members,

the Administrator or, as the case may be, the Registrar, after giving the Committee an opportunity of being heard, within fifteen days from the date of issue of notice, by an order in writing, supersede the Committee and appoint—

(a) a Committee, consisting of one or more members of the society, not being the members of the Committee superseded under this sub-section; or

(b) a special officer from amongst the officers of the Union territory Administration,

to manage the affairs of the society for a period not exceeding one year as may be specified in the order, which period may, at the discretion of the Administrator or the Registrar, as the case may be, be extended from time to time, so, however, the term of the Committee or the special officer shall be, two years in aggregate.

(2) Before passing an order under sub-section (*1*), the Administrator or the Registrar, as the case may be, shall consult the co-operative financing institution if such society is indebted to it.

(3) The Committee or special officer so appointed shall, subject to such instructions and control of the Administrator or the Registrar, as the case may be, have power to exercise all or any of the functions of the Committee or of any officer of the society, and take all such action as may be required in the interests of the society.

(4) The Committee or special officer appointed under sub-section (*1*) shall arrange to hold the election of the Committee of the society at such time as directed by the Administrator or the Registrar, as the case may be, but not later than the period as specified in sub-section (*1*).

(5) All acts done or purported to be done by the Committee or special officer during the period during which the affairs of the society are carried on by the Committee or special officer appointed under sub-section (*1*), shall be binding on the new Committee.

(6) The remuneration of members of the Committee or special officer appointed under sub-section (*1*) shall be such as may be prescribed and the same shall be paid from the fund of the society.

(7) The members of the Committee which has been superseded under sub-section (*1*), shall not be eligible to become a member of the Committee of any society for a period of six years from the date of supersession of such Committee.

Registrar's power to enforce performance of obligation.

81. (*1*) It shall be the duty of every society to keep the prescribed books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place, all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and

returns and such records to the Registrar as the Registrar may by order direct from time to time and the officer or officers of the society shall be bound to comply with the order within the period specified therein.

(2) Where any society is required to take any action under this Regulation, the rules or the bye-laws made thereunder, or in compliance with an order made under sub-section (*1*) and such action is not taken—

(a) within the time provided in this Regulation, the rules or the bye-laws, or the order, as the case may be; or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing,

the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society and such expense shall be recoverable from the society as if it were an arrear of land revenue.

(3) Where the Registrar takes action under sub-section (*2*), he may call upon any officer of the society whom he considers to be responsible for not complying with the provisions of this Regulation, the rules or the bye-laws made thereunder, or the order made under sub section (*1*), and, after giving him an opportunity of being heard, may require him to pay to the society the expenses paid or payable by it to the Union territory Administration as a result of his failure to take action, and to pay to the assets of the society such sum not exceeding one hundred rupees for each day until the directions of the Registrar are carried out.

Union territory Administration's power to give directions in public interest, etc.

82. (*1*) If the Union territory Administration, on receipt of a report from the Registrar or otherwise, is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by the Union territory Administration or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the Union territory Administration may issue directions to them from time to time, and all societies or the society concerned, as the case may be, shall be bound to comply with such directions.

(2) The Union territory Administration may modify or cancel any directions issued under sub-section (*1*), and in modifying or cancelling such directions, it may impose such conditions as it may deem fit.

(3) Where the Registrar is satisfied that any person was responsible for complying with directions or modified directions issued to a society under sub-sections (*1*) and (*2*) and he has failed, without any good reason or justification, to comply with the directions, the Registrar may by order,—

(a) if the person is a member of the Committee of the society, declare him to be disqualified or to continue to be a member of the Committee of any society for a period of six years from the date of the order;

(b) if the person is an employee of the society, direct the Committee to remove such person from employment of the society forthwith, and if any member or members of the Committee, without any good reason or justification, fail to comply with this order, declare them disqualified as provided in clause (*a*):

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated:

Provided further that, such federal society shall communicate its opinion to the Registrar within a period of forty-five days from the date of receipt of communication, failing which it

shall be presumed that such federal society has no objection to take action under this section and the Registrar shall be at liberty to proceed further to take action accordingly.

(4) Any order made by the Registrar under this section shall be final and binding on the parties.

Registrar's power to seize records, etc.

83. (*1*) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with or destroyed or the funds and property of a society are likely to be mis-appropriated or mis-applied or the officer or the person in possession unreasonably refuses to give possession of the books, records, funds and property, the Registrar may issue an order directing the person duly authorised by him in writing to seize and take possession of such books, records, funds and property of the society, and the officer of the society responsible for the custody of such books, records, funds and property or person in possession of the same shall give delivery thereof forthwith to the person so authorised.

(2) If the officer of the society or person in possession does not so give the delivery, then, without prejudice to any other action that may be taken against such officer, person or society under the provisions of this Regulation, the Registrar or the person authorised by him may apply to the Executive Magistrate within whose jurisdiction the society is functioning for seizing and taking the possession of such books, records, funds and property of the society.

(3) On receipt of an application under sub-section (*2*), the Magistrate may authorise any police officer not below the rank of a Sub-Inspector to enter and search any place where the books, records, funds and property are kept or likely to be kept and to seize them and hand over possession thereof to the Registrar or the person authorised by him, as the case may be.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SUPERVISION

Audit.

84. (*1*) The Registrar shall audit, or cause to be audited by a person possessing prescribed qualifications and authorised by the Registrar by general or special order in writing in this behalf, the accounts of every society at least once in each year and the person so authorised shall be an auditor for the purposes of this Regulation.

(2) The auditor shall for the purpose of audit, at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash and other properties to be produced the same at any place at the headquarters of the society or any branch thereof.

(3) If it appears to the Registrar on an application or otherwise that it is necessary or expedient to get any account of the society re-audited, the Registrar may, by an order, provide for such re-audit and the provisions of this Regulation applicable to the audit of accounts of the society shall apply to such re-audit.

(4) The Registrar shall, by an order, provide for a special audit of any society on its own or on the basis of the recommendation of the Reserve Bank of India or, as the case may be, the National Bank and the provisions relating to audit of accounts of the society made under this section shall also apply to such special audit.

(5) For auditing the accounts of a society under this section, every society shall be liable to pay to the auditor such amount as audit fee as may be prescribed for different categories or class of societies.

(6) The Registrar may, in consultation with the National Bank determine prudential norms including capital to risk weighted assets ratio for Primary Agricultural Credit Co-operative Societies.

(7) The Administrator may by rules, provide for the form and manner in which and the period within which the accounts of the society or the class of society shall be prepared and submitted for the purpose of online audit.

(8) The auditor's report shall contain,—

(a) all particulars of the defects or the irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor or the auditing firm shall investigate and report the *modus operandi*, the entrustment and amount involved;

(b) the accounting irregularities and their implications on the financial statements to be indicated in detail in the report with the corresponding effects on the profit and loss; and

(c) the manner of functioning of the Committee and Sub-Committees of the societies be checked and if any irregularities or violations are observed or reported, duly fixing the responsibilities for such irregularities or violations.

(9) If it is brought to the notice of the Registrar that the audit report submitted by the auditor does not disclose the true and correct picture of the accounts, the Registrar or the authorised person may carry out or cause to be carried out a test audit of accounts of such society and the test audit shall include the examination of such items as may be prescribed and specified by the Registrar in such order.

(10) If, during the course of audit of any society, the auditor is satisfied that some books of accounts or other documents contain any incriminatory evidence against past or present officer or employee of the society the auditor shall immediately report the matter to the Registrar and, with previous permission of the Registrar, may impound the books or documents and give a receipt thereof to the society.

(11) The auditor shall submit his audit report within a period of one week from its completion to the society and to the Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation given to him by the society the said accounts give all information required by or under this Regulation and present the true and fair view of the financial transaction of the society:

Provided that where the auditor has come to a conclusion in his audit report that any person, is guilty of any offence relating to the accounts or any other offences, he shall file a specific report to the Registrar within a period of fifteen days from the date of submission of his audit report and the auditor concerned shall, after obtaining written permission of the Registrar, file a First Information Report of the offence and the auditor, who fails to file First Information Report, shall be liable for disqualification and his name shall be liable to be removed from the panel of auditors and he shall also be liable to any other action as the Registrar may thinks fit:

Provided further that when it is brought to the notice of the Registrar that, the auditor has failed to initiate action, the Registrar shall cause a First Information Report to be filed by a person authorised by him in that behalf:

Provided also that on conclusion of his audit, if the auditor finds that there are apparent instances of financial irregularities resulting into losses to the society caused by any member of the Committee or officers of the society or by any other person, then he shall prepare a Special Report and submit the same to the Registrar along with his audit report and failure to file such Special Report, would amount to negligence in the duties of the auditor and he shall be liable for disqualification for appointment as an auditor or any other action, as the Registrar may deem fit.

Rectification of defects or irregularities in accounts and inspection report of society.

85. If the result of the audit held under section 84 and inspection held under, section 87 and section 88 discloses any defects in the working of the society, the society shall within a period of two months from the date of the audit and inspection report, clarify to the Registrar as regards the defects or the irregularities so pointed out in audit and inspection report, and if clarification in respect of any defect or irregularity is not accepted, take steps to rectify the defects and remedy irregularities within such period as may be specified by the Registrar and shall report to the Registrar, failing which the Registrar shall have power to impose a penalty of such amount not exceeding rupees ten thousand and where society concerned is a member of a federal society, such order shall be made after consulting the federal society.

Inquiry by Registrar.

86. (*1*) The Registrar may of his own motion or,—

(a) on the requisition of a society duly authorised by rules made in this behalf to make such requisition, in respect of any of its members, such member being itself a society;

(b) on the application of a majority of the Committee of a society; or

(c) on the application of one-third of the members of a society,

shall hold such an inquiry himself, or by a person duly authorised by him in writing in this behalf, hold an inquiry into the constitution, working and financial conditions of a society.

(2) Every officer, member and past member of the society in respect of which an inquiry is held, and any other person who is in possession of information, books and papers relating to the society, shall on being so required furnish such information as is in his possession, and produce all books and papers relating to the society which are in his custody or power, and otherwise give to the officer holding the inquiry all assistance in connection with the inquiry which he can reasonably give.

(3) If any such person refuses to produce to the Registrar or any person authorised by him under sub-section (*1*), any book or paper which it is his duty under sub-section (*2*) to produce or to answer any question which is put to him by the Registrar or the person authorised by the Registrar in pursuance of sub-section (*2*) the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar may impose on the defaulter a penalty of an amount not exceeding five thousand rupees and before imposing such penalty, the Registrar shall give, or cause to be given a reasonable opportunity to the defaulter, of showing cause against the action proposed to be taken in regard to him.

(4) If at any stage of the inquiry under this section, the Registrar is satisfied that in the interest of the members of the society it is necessary to take over all books and papers relating to the society during the period of inquiry, he may make an order in writing to that effect and directing the society to hand over all books and papers relating to the society to such officer as may be specified in the order and the Registrar may also issue a direction to the society to refrain from doing such acts or engaging in such activities as may be specified in the direction.

(5) The society shall be bound to comply with any direction issued to it under sub-section (*4*).

(6) The books and papers taken over under sub-section (*4*) shall be returned to the society on the completion of the inquiry.

(7) When an inquiry is held under this section the Registrar shall communicate the result of the inquiry—

(a) in case the Union territory Administration have subscribed directly to the share capital of the society to the Union territory Administration or to any officer appointed by it in this behalf;

(b) to the federal co-operative society concerned; and

(c) to the society concerned.

(8) The Registrar may withdraw the responsibility of inquiry from the officer to whom it is entrusted, and to hold the inquiry himself or entrust it to any other person as he deems fit.

Inspection of books of indebted society.

87. (*1*) On the application of a creditor of a society who,—

(a) satisfies the Registrar that there is a debt which is due, and that he has demanded payment thereof and has not received satisfaction within reasonable time; and

(b) deposits with the Registrar such sum as the Registrar may require as security for the costs of any inspection of the books of the society,

the Registrar may, if he thinks it necessary or expedient, inspect or direct a person authorised by him by order in writing in this behalf to inspect the books of the society.

(2) The Registrar shall communicate the result of any such inspection to the applicant, and to the society whose books have been inspected.

(3) The Registrar may withdraw any inspection from the officer to whom it is entrusted, and to carry out the inspection himself or entrust it to any other person as he deems fit.

Inspection of books by Registrar or financing bank or federal society.

88. (*1*) The Registrar or the person authorised by him in this behalf shall have the right to inspect the books of any society and shall have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society.

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

(3) Where a society is indebted to any co-operative financing bank, such bank shall have the right to inspect the books of that society and the inspection may be made either by an officer of the bank authorised by the Committee of such bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection.

(4) The officer or member so inspecting shall at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns, as may be necessary, to ascertain the financial condition of the society and the safety of the sums lent to it by the bank.

(5) Where a society is a member of a federal society recognised by the Union territory Administration under section 95 such federal society shall have the right to inspect the books of that society and the inspection may be made either by an officer or endorsee of the federal society authorised by the Committee of such federal society or by a paid employee of such federal society certified by the Registrar as competent to undertake such inspection.

(6) The officer or employee referred to in sub-section (*5*) shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the society and may also call for such information, statements and returns, as may be necessary.

Suspension of officer or servant of society.

89. (*1*) Where in the course of an audit under section 84 or an inquiry under section 86 or an inspection under section 87 or section 88, it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion, there is *prima facie* evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interest of the society, direct the Committee of the society pending the investigation and disposal of the matter, to

place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him.

(2) On receipt of a direction from the Registrar under sub-section (*1*), the Committee of the society shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(3) The Registrar may direct the Committee to extend from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.

(4) If the Committee fails to comply with the direction issued under sub-section (*1*), the Registrar may make an order placing such paid officer or servant under suspension from such date and for such period as he may specify in the order and thereupon the paid officer or servant, as the case may be, shall be under suspension.

Cost of inquiry and inspection.

90. (*1*) Where an inquiry is held under section 86 or an inspection is made under section 88, the Registrar may apportion the costs, or such part of the costs, as he may think just, between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society and pass such order within a period of six months from the date of submission of inquiry report:

Provided that,—

(a) no order of apportionment of the costs shall be made under this section, unless the society or persons or the legal representative of the deceased person liable to pay the costs thereunder, has or have been heard, or have had a reasonable opportunity of being heard; and

(b) the Registrar shall state in writing the grounds on which the costs are apportioned.

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

Mode of recovery of sums imposed as penalty or awarded as costs.

91. Any sum imposed as penalty under section 68,75,76,81,85 or 86 or awarded by way of costs under section 90 may, on an application by the Registrar or a person authorised by him in that behalf to a Judicial Magistrate having jurisdiction in the place where the person from whom the penalty or costs are recoverable resides or carries his business, be recovered by the Judicial Magistrate as if it were a fine imposed by himself and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Registrar to bring defects disclosed in inquiry or inspection to notice of society.

92. (*1*) If the result of any inquiry held under section 86 or inspection made under section 87 or section 88, discloses any defects in the constitution, working or financial condition or the books of a society, the Registrar may bring such defects to the notice of the society and the Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.

(2) The society concerned may make an appeal against an order made by the Registrar under sub-section (*1*) to the Administrator within two months from the date of the communication of the order to the society.

(3) The Administrator may, in deciding the appeal, annul, reverse, modify or confirm the order of the Registrar.

(4) Where the society fails to rectify the defects as directed by the Registrar and where no appeal has been made to the Administrator under sub-section (*2*) or where on the appeal so made the Administrator has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the cost from the officers of the society who, in his opinion, have failed to rectify the defects.

Power of Registrar to assess damages against delinquent, promoter, etc.

93. (*1*) Where, in the course of or as a result of an audit under section 84, or an inquiry under section 86 or an inspection under section 87 or section 88, or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 84, or the person authorised to inspect the books under section 87 or section 88 or the Liquidator under section 110, that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of commencement of such audit or date of order for inquiry, inspection or winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may investigate the conduct of such person or persons and after framing charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine:

Provided that, proceedings under this sub-section, shall be completed by the authorised person within a period of two years from the date of issue of order by the Registrar:

Provided further that, the Registrar may, after recording the reasons therefor, extend the said period for a maximum period of six months:

Provided also that, the Administrator may, on the report of the Registrar or *suo motu*, for the reasons to be recorded in writing, extend the said period as may be required, from time to time, to complete the proceedings under this sub-section.

(2) The Registrar or the person authorised under sub-section (*1*) in making any order under this section, may provide therein for the payment of the costs or any part thereof of such investigation, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

(3) This section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible.

Power to enforce attendance, etc.

94. The Registrar or the person authorised by him, when acting under section 86, 87, 88 or section 93 shall have the power to summon and enforce the attendance of any person to give evidence or to compel the production of any document or other material object by the same means and in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1908. 5 of 1908.

Constitution or recognition of federal society to supervise working of societies.

95. (*1*) The Union territory Administration may constitute Committees or recognise one or more co-operative federal societies in such manner as may be prescribed and subject to such conditions as the Union territory Administration may determine, for the supervision of a society or a class of societies and may frame rules for making grants to any such Committee or federal society.

(2) The Union territory Administration may, by general or special order, require a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupment of expenditure which the Union territory Administration or any person authorised or a Committee in that behalf has incurred or is likely to incur, in respect of the supervision of societies.

(3) A society to which sub-section (*2*) is applicable shall pay to such authority such fee as may be prescribed within a reasonable time and, if it fails to pay such fee within a reasonable time, the authority may recover it as if it were an arrear of land revenue.

CHAPTER IX

PROCEDURE FOR DECIDING DISPUTES.

Disputes.

96. (*1*) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management, business, election of the Committee or its officers or conduct of general meetings of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, to the Registrar if the parties thereto are amongst the following, namely:—

(a) a society, its Committee, any past Committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the liquidator of the society;

(b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society;

(c) a person, other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions under the provisions of section 49, and any person claiming through such a person;

(d) a surety of a member, past member or a deceased member, or a person other than a member who has been granted a loan by the society under section 49, whether such a surety is or is not a member of the society; and

(e) any other society, official assignee or the Liquidator of such a society.

(2) When any question arises whether for the purposes of sub-section (*1*) a matter referred to for decision is a dispute or not, the question shall be considered by the Registrar, whose decision shall be final.

Explanation.—For the purposes of this sub-section,—

(a) a dispute shall include—

(i) a claim by a society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether such a debt or demand be admitted or not;

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not;

(iii) a claim by a society for any loss caused to it by a member, past member, or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its Committee, past or present whether such loss be admitted or not; and

(iv) a refusal or failure by a member, a past member or a nominee, heir or legal representative of a deceased member, to deliver possession to a society of land or any other asset resumed by it for breach of conditions of the assignment; and

(b) the expression "agent" includes, in the case of a housing society, an architect, engineer or contractor engaged by the society.

36 of 1963.

Limitation.

97. (*1*) Notwithstanding anything contained in the Indian Limitation Act, 1963, but subject to the specific provisions made in this Regulation, the period of limitation in the case of a dispute referred to the Registrar under section 96 shall—

(a) when the dispute relates to the recovery of any sum, including interest thereon due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;

(b) when the dispute is between a society or its Committee, and any past Committee, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 107, or in respect of which a nominated Committee or special officer has been appointed under section 81, be six years from the date of the order issued under section 107, or section 81, as the case may be; and

(d) when the dispute is in respect of an election of any office-bearer of a society, be two months from the date of the declaration of the result of such election.

(2) The period of limitation in the case of any dispute other than those mentioned in sub-section (*1*) which are required to be referred to the Registrar under section 96 shall be regulated by the provisions of the Indian Limitation Act, 1963, as if the dispute were a suit, and the Registrar were a civil court. 36 of 1963.

(3) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the Registrar may admit dispute after the expiry of the period of limitation, if the applicant satisfies him that he had sufficient cause for not referring the dispute within such period, and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.

Settlement of disputes.

98. (*1*) If the Registrar is satisfied that any matter, referred to him is a dispute, within the meaning of section 96 the Registrar shall, subject to the rules to be made in this behalf, decide the dispute himself, or refer it for disposal to a nominee, or a board of nominees, appointed by the Registrar:

Provided that no person who is connected with a dispute or with the society at any stage or has previously inspected the society or audited its accounts shall be appointed as a nominee or as member of the board of nominees to settle the dispute.

(2) Where any dispute is referred under sub-section (*1*) for decision to the Registrar's nominee or board of nominees, the Registrar may at any time, for reasons to be recorded in writing withdraw such dispute from his nominee, or board of nominees, and may decide the dispute himself, or refer it again for decision to any other nominee, or board of nominees, appointed by him.

(3) Notwithstanding anything contained in section 96, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated question of law or fact, until the question has been tried by a regular suit instituted by one of the parties or by the society and if any such suit is not instituted within two months from the Registrar's order suspending proceedings, the Registrar shall take action as is provided in sub-section (*1*).

Procedure for settlement of disputes and power of Registrar, his nominee or board of nominees.

99. (*1*) The Registrar or his nominee or board of nominees, hearing a dispute under section 96 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, and to compel the production of documents by the same means and as far as possible in the same manner as provided in the case of a civil court by the Code of Civil Procedure, 1908. 5 of 1908.

(2) Except where a dispute involves complicated question of law or fact, no legal practitioner in his capacity as a legal practitioner or as a person holding a power of attorney shall be permitted to appear on behalf of any party at the hearing of a dispute.

(3) If the Registrar or his nominee or board of nominees is satisfied that a person, whether he be a member of the 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 board of nominees shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(4) Where a dispute has been instituted in the name of the wrong person or where all the defendants have been not included, the Registrar or his nominee or board of nominees 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.

(5) The Registrar or his nominee or board of nominees may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Registrar, his nominee or board of nominees, as the case may be, to be just, order that the name of any party in proper 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, his nominee or board of nominees, as the case may be, may be necessary in order to enable the Registrar, his nominee or board of nominees effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be aided.

(6) 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 all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar, his nominee or board of nominees.

(7) Notwithstanding anything contained in sub-sections (*1*) to (*6*), the following disputes or class of disputes, if the plaintiff so desires, shall be decided summarily by the Registrar, or his nominee or board of nominees, in such manner as may be prescribed, namely:—

(a) any dispute for recovery of debt upon promissory note, *hundi*, bill of exchange or bond, with or without interest, whether agreed upon under such instrument or under bye-laws;

(b) any dispute for recovery of a fixed sum of money or, the nature of debt in with or without interest, arising on a written contract;

(c) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing; or

(d) any dispute for recovery of dues payable by a member of a housing society towards contribution for construction of the house or any dispute in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electrical charges, maintenance and upkeep charges or charges for other services rendered by the society and the interest on such arrears, payable under the written agreement or under bye-laws.

(8) The defendant shall not be entitled to defend the dispute unless he obtains leave from the Registrar or his nominee or board of nominees, as the case may be, in such manner as may be prescribed.

(9) The Registrar or his nominee or board of nominees may grant the leave under sub-section (*8*) on such conditions, as he or it thinks fit.

(10) The Registrar or his nominee or board of nominees shall not refuse the leave to defend the dispute unless he or it satisfies that the facts disclosed by the defendant do not indicate that he has substantial defense to raise or that the defense intended to be put up by him is frivolous or vexatious.

(11) Where the defendant fails to obtain such leave or fails to appear or defend the dispute in pursuance of such leave, the averments made in the plaint and documents produced therewith shall be deemed to have been admitted by the defendant:

Provided that the Registrar or his nominee or board of nominees in his or its discretion may require any fact so admitted to be proved otherwise than by such admission.

(12) Where the conditions on which leave to defend is granted are not complied with by the defendant, the Registrar or his nominee or board of nominees, as the case may be, may pass an award against him, as if he has not been granted such leave.

(13) The Registrar or his nominee or as the case may be, board of nominees may under special circumstances set aside the award, passed by him or it and if necessary, stay or set aside the execution, and may grant leave to the defendant to appear and defend the disputes, if it seems reasonable so to do and on such terms as he or it thinks fit.

Attachment before award.

100. (*1*) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 98 or section 110, or whereas the Registrar or the person authorised under section 93 hears a person against whom charges are framed under that section, the Registrar or his nominee or board of nominees, or as the case may be, the person so authorised under section 93 if satisfied on inquiry or otherwise that a party to such dispute or against whom proceedings are pending under section 93 with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made,—

(a) is about to dispose of 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, may, unless adequate security is furnished, direct conditional attachment of the said property and such attachment shall have the same effect as if made by a competent civil court.

(2) Where a direction to attach property is issued under sub-section (*1*), the Registrar or his nominee or board of nominees or the person authorised under section 93 shall issue a notice calling upon the person whose property is so attached to furnish such security within such period as may be specified in the notice and if the person fails to provide the security so demanded, the Registrar or his nominee or board of nominees or, as the case may be, the person authorised under section 93 may confirm the order and, after the decision in the dispute or the completion of the proceedings referred to in sub-section (*1*) 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 prior to such attachment against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

Decision of Registrar or his nominee or board of nominees.

101. (*1*) When a dispute is referred to the Registrar for decision, he or his nominee or board of nominees as the case may be, may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings and the fees and expenses payable to the Registrar or his nominee or board of nominees, as the case may be and such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed by the Registrar, for deciding the dispute and shall, subject to appeal or review or revision, be binding on the parties to the dispute.

(2) The Registrar, his nominee or the board of nominees, as the case may be, may before hearing the parties, require any party or parties to such dispute to deposit such sum as may, in his or its opinion, be considered reasonable to meet the expenses including the payment of fees, that may be payable to the Registrar, his nominee or the board of nominees as the case may be, in pursuance of the award to be made under sub-section (*1*).

(3) The Registrar may, having regard to the nature of the cause of action or subject matter of dispute, the nature of relief that may be claimed in a dispute and such other matters, specify by a general or special order, the scale of fees and expenses that may be made payable to him or his nominee or the board of nominees, as the case may be, by or under an award made under sub-section (*1*).

Appeal against decision of Registrar or his nominee or board of nominees.

102. Any party aggrieved by any decision of the Registrar or his nominee or board of nominees, as the case may be, under section 101 or in an order passed under section 100 may, within sixty days from the date of the decision or order, appeal to the Tribunal:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of sixty days, if it is satisfied that there was a sufficient cause for not filing it within that period.

Money how recovered.

103. Every order passed by the Registrar or a person authorised by him under section 93, or by the Registrar, his nominee or board of nominees under section 100 or 101, every order passed by a Liquidator under section 110, every order passed by the Administrator in appeal against orders passed under section 110, and every order passed in revision under section 128, shall, if not carried out,—

(a) on a certificate signed by the Registrar or a Liquidator, be deemed to be a decree of a civil court, as defined in clause (*2*) of section 2 of the Code of Civil Procedure, 1908 and shall be executed in the same manner as a decree of such court; or

5 of 1908.

(b) be executed according to the provisions of the Land Revenue Code or any corresponding law in force and the rules made thereunder for the time being in force for the recovery of arrears of land revenue:

Provided that, any application for the recovery in such manner of any such sum shall be made to the Collector, and shall be accompanied by a certificate signed by the Registrar, or by any Assistant Registrar to whom the said power has been delegated by the Registrar and such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

Private transfer of property made after issue of certificate void against society.

104. Any private transfer or delivery of, or encumbrance or charge on property made or created after the issue of the certificate of the Registrar, Liquidator or Assistant Registrar, as the case may be, under section 103 shall be null and void as against the society on whose application the said certificate was issued.

Transfer of property which cannot be sold.

105. (*1*) When in execution of an order sought to be executed under section 103 any property cannot be sold for want of buyers, if such property is in property occupancy of the defaulter, or of some person in his behalf, or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (*a*) or clause (*b*) of section 103, the court or the Collector or the Registrar, as the case may be, may direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order, in the manner prescribed.

(2) Where property is transferred to the society under sub-section (*1*), or is sold under the provisions of section 103, the court, the Collector 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 the rules 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 Collector or the Registrar, as the case may be, and the said society subject to the general or special orders of the Administrator, the Collector or the Registrar may delegate to an officer, not below the rank of an Assistant or Deputy Collector

or an Assistant Registrar powers exercisable by the Collector or the Registrar under this section.

Recovery of crop loans.

106. (*1*) Notwithstanding anything contained in sections 96, 98 and 103, on an application made by a society undertaking the financing of crops and seasonal finance as defined under any law for the time being in force, or undertaking medium term finance for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops, seasonal finance or medium term finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

Explanation.—For the purposes of this sub-section, the expression "medium term finance" means advancing of loans for any purpose of production relating to agriculture, fishery, animal husbandry, poultry, dairy and industry such loans being repayable otherwise than in the manner specified in the definitions of the expressions "financing of crops" and "seasonal finance" under any law for the time being in force.

(2) If a society referred to in sub-section (*1*) fails to make an application under that sub-section, then, if such society is a member of any co-operative financing bank such co-operative financing bank may direct such society to take such action and if the society fails to take action in pursuance of such direction, the co-operative financing bank may itself make an application under sub-section (*1*) on behalf of the society.

(3) Where the Registrar is satisfied that a society or the co-operative financing bank to which such society is affiliated has failed to make an application under sub-section (*1*) or, as the case may be, under sub-section (*2*) in respect of such arrears the Registrar may, of his own motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as such arrears, and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

(4) A certificate granted by the Registrar under sub-section (*1*) or sub-section (*3*) shall be final and a conclusive proof of the arrears stated to be due therein, which shall be recoverable according to the provisions of the Land Revenue Code or any other law for the time being in force and of the rules made thereunder for the recovery of land revenue.

(5) It shall be lawful for the Collector and the Registrar to take precautionary measures specified under Land Revenue Code or any other law for the time being in force, 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.

CHAPTER X

LIQUIDATION

Winding up.

107. (*1*) Except as otherwise provided in sub-section (*2*), if the Registrar,—

(a) after an inquiry has been held under section 86, or an inspection has been made under the provisions of section 87 or section 88 or on the report of the auditor auditing the accounts of the society;

(b) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special general meeting called for the purpose; or

(c) of his own motion, in the case of a society which—

(i) has not commenced working;

(ii) has ceased working;

(iii) possesses shares or member's deposits not exceeding five thousand rupees; or

(iv) has ceased to comply with any conditions as to registration and management in this Regulation or the rules or the bye-laws,

he may, after giving the society an opportunity of making a representation, by order, direct it to be wound up.

(2) Notwithstanding anything contained in sub-section (*1*), in case where the members of the society, after having discharged liabilities towards the debt and assets of the society, upon a resolution carried by three-fourths majority of the members of the society present at a special general meeting called for the purpose, *suo motu* resolves to wind up the society and conveys such resolution to the Registrar and the Registrar shall, after disposing of the surplus assets in accordance with the provisions of section 115, cancel the registration of such society under section 21.

(3) Where an interim order is made on a ground specified in clause (*a*) or sub-clause (*iv*) of clause (*c*) of sub-section (*1*), a copy thereof shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a period of one month from the date of issue of such order.

(4) The Registrar, after giving an opportunity to the society of being heard, shall make a final order, vacating or confirming the interim order.

Appointment of Liquidator.

108. (*1*) When an interim or final order is made under section 107 for the winding up of a society, the Registrar may, in accordance with the rules made under this Regulation appoint a person to be the Liquidator of the society and fix his remuneration.

(2) Where an interim order is made, the officers of the society shall hand over to the Liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society and, shall have no access to any of them.

(3) When a final order is made confirming the interim order, the officers of the society—

(a) shall hand over to the Liquidator the custody and control of any property, effects and actionable claims and any books, records, and other documents pertaining to the business of the societies which for any reason are not handed over to the liquidator under sub-section (*2*) at the time when an interim order was made; and

(b) shall vacate their offices and while winding up order remains in force, the General Body of the society shall not exercise any powers.

(4) The Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 110 and the Registrar may remove him from his office and appoint another in his place, without assigning any reason.

(5) The whole of the assets of the society shall on the appointment of the Liquidator vest in him and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by him on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effected and no court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

(6) In the event of the interim order being vacated, the Liquidator shall hand over the property, effects, actionable claims, books, records and other documents of the society to the officers who had delivered the same to him and the acts done, and the proceedings taken by the Liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been vacated under section 107 be continued by the officers of the society.

Appeal against order of winding up.

109. (*1*) The Committee, or any member, of the society ordered to be wound up, may within two months from the date of the communication to the society of the order made under section 107 appeal, if the order is made by the Registrar, Additional Registrar or Joint Registrar to the Administrator, or if the order is made by any other person on whom the powers of the Registrar are conferred, to the Registrar:

Provided that no appeal shall lie against an order issued under sub-clauses (*i*), (*ii*) or (*iii*) of clause (*c*) of sub-section (*1*) of section 107:

Provided further that, no appeal shall lie against an order passed by the Registrar on appeal.

(*2*) No appeal under this section shall be entertained from a member unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

Powers of Liquidators.

110. The Liquidator appointed under section 108 shall have power, subject to the rules and the general supervision, control and direction of the Registrar,—

(a) to institute and defend suits and other legal proceedings, civil or criminal, on behalf of the society, in the name of his office;

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

(c) to sell the immovable and movable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body corporate, or sell the same in parcels;

(d) to raise on the security of the assets of the society, any money required;

(e) to investigate all claims against the society and, subject to the provisions of this Regulation, to decide questions of priority arising out of such claims, and to pay any class or classes of creditor in full or rateable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate to be approved by the Registrar, but not exceeding the contract rates;

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

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

(h) to determine, from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the estate, nominees, heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, heirs or legal representatives of a deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;

(i) to make applications under section 103;

(j) to get disputes referred to the Registrar for decision by himself or his nominee or board of nominees;

(k) to determine by what persons and in what proportion the costs of the liquidation shall be borne;

(l) to fix the time or times within which the creditors shall prove their debts and claims or be included for the benefits of any distribution made before those debts or claims are proved;

(m) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties

belonging to or in the custody of the society by the same means and in the same manner as provided in the case of a civil court under the Code of Civil Procedure,1908; 5 of 1908.

(n) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents, as may be necessary to such winding up; and

(o) to take such action as may be necessary under section 20, with the prior approval of the Registrar, if there is reason to believe that the society can be reconstructed.

Effect of order of winding up.

111. (*1*) After the expiry of the period for appeal under section 109 against the order made under sub-section (*3*) of section 107, or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all creditors and of all the contributories of the society as if it has been made on the joint petition of creditors and contributories.

(*2*) When a winding up order becomes effective, the Liquidator shall proceed to realise the assets of the society, by sale or otherwise, and no dispute shall be commenced, or if pending at the date of the winding up order, be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose and the Registrar may of his own motion, however, entertain or dispose of any dispute by or against the society.

Bar of suit in winding up and dissolution matters.

112. Save as expressly provided in this Regulation, no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Regulation and when a winding up order has been made no suit or other legal proceedings shall lie or be proceeded with against the society or the Liquidator, except by leave of the Registrar, and subject to such terms as he may impose:

Provided that, where the winding up order is cancelled, the provisions of this section shall cease to operate so far as the liability of the society and of the members thereof to be sued is concerned, but they shall continue to apply to the person who acted as Liquidator.

Audit of Liquidator's accounts.

113. (*1*) The Liquidator shall, during his tenure of office, at such times as may be prescribed, but not less than twice each year, present to the Registrar an account in the prescribed form of his receipt and payments as the Liquidator and the Registrar shall cause the accounts to be audited in such manner as he thinks fit and for the purpose of audit, the Liquidator shall furnish the Registrar with such vouchers and information as he, or the person appointed by him, may require.

(2) The Liquidator shall cause a summary of audited accounts to be prepared, and shall send a copy of such summary to every contributory.

(3) The Liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts of books kept by him in the manner prescribed.

(4) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of audit in respect of transactions subsequent to his taking charge of the affairs of the society, and may be proceeded against as if it were an act against which action could be taken under section 93:

Provided that no such action shall be taken unless the irregularities have caused or are likely to cause loss to the society, and have occurred due to gross negligence or want on omission by the Liquidator, in carrying out the duties and functions.

Termination of liquidation proceedings.

114. (*1*) The winding up proceedings of a society shall be closed within five years from the date of the order of the winding up, unless the period is extended by the Registrar:

Provided that the Registrar shall not grant any extension for a period exceeding one year at a time and five years in the aggregate, and shall, immediately after the expiry of ten years from the date of the order for winding up of the society, deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

Explanation.—For the purposes of this sub-section, it is hereby clarified that in the case of a society which is under liquidation at the date of the commencement of this Regulation, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the said date.

(2) Notwithstanding anything contained in sub-section (*1*), the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator and the final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and also state how the winding up has been conducted and the property and claims of the society have been disposed of, and shall include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount, if any, standing to the credit of the society, after paying off its liabilities including the share or interest of members, and shall suggest how the surplus should be utilised.

(3) The Registrar, on receipt of the final report from the Liquidator, shall direct the Liquidator to convene a general meeting of the members of the society for recording the report.

Disposal of surplus assets.

115. Any surplus assets, as shown in the final report of the Liquidator of a society which has been wound up, shall not be divided, amongst its members but shall be devoted to any object or objects provided in the bye-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose and where the society has no such bye-laws the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer itto the reserve fund of a new society registered with a similar object, and serving more or less an area which the society to which the surplus belonged was serving:

Provided that, where no such society exists or is registered within three years of the cancellation of the registration of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus in the manner he thinks best, among any or all of the following, namely:—

(a) an object of public utility and of local interest as may be recommended by the members in general meeting held under section 114 or where the society has ceased to function and its record is not available or none of its members is forthcoming, as the Registrar thinks proper;

(b) a federal society with similar objects to which the cancelled society was eligible for affiliation; and

(c) any charitable purpose under the Charitable Endowments Act, 1890 or any other law for time being in force. 6 of 1890.

CHAPTER XI

INSURED CO-OPERATIVE BANK

Order for winding up, reconstruction, supersession of Committee, etc., of insured co-operative bank not to be made without sanction or requisition of Reserve Bank.

116. Notwithstanding anything contained in this Regulation, in the case of an insured co-operative bank,—

(a) an order for winding up or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation) of the bank may be made only with the previous sanction in writing of the Reserve Bank;

(b) an order for winding up the bank shall be made by the Registrar if so required by the Reserve Bank in the circumstances referred to in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force; 47 of 1961.

(c) the Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank including supersession and winding up of the co-operative bank and shall appoint a special officer or a Liquidator as the case may be within a period of one month of being so advised by the Reserve Bank;

(d) if so required by the Reserve Bank in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made by the Registrar for supersession of the Committee and the appointment of a special officer in place thereof for such period or periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank, and the special officer so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new Committee of such bank;

(e) an order for winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation) or an order for the supersession of the Committee of the bank and the appointment of a special officer in place thereof made with the previous sanction in writing or on the requisition of the Reserve Bank shall be final and shall not be liable to be called in question in any manner in any court; and

(f) the Liquidator or such bank or the transferee bank, as the case may be, shall be under an obligation to pay the Deposit Insurance Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for time being in force, in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

47 of 1961.

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

(a) "insured co-operative bank" means a society which is an insured bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force;

47 of 1961.

(b) "transferee bank" in relation to an insured co-operative bank means a co-operative bank—

(i) with which such insured co-operative bank is amalgamated;

(ii) to which the assets and liabilities of such insured co-operative bank are transferred; or

(iii) into which such insured co-operative bank is divided or converted under sub-section (*1*) of section 17.

Application of provisions of Act No. 10 of 1949 and its overriding effect.

117. (*1*) In case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, as amended from time to time, shall also apply in relation to banking activities.

(*2*) In case of any conflict between the provisions of this Regulation and the provisions of the Banking Regulation Act, 1949, the provisions of the latter along with the rules, regulations, directions or instruction issued thereunder by the Reserve Bank from time to time shall apply.

Ensurance of certain things by Committee of co-operative bank.

118. A Committee of co-operative bank shall ensure that—

(a) information is furnished every month to the Registrar in such form as may be prescribed, regarding the loans taken from the bank by each Committee member, members of the family and companies with which he is associated, in any manner;

(b) the bank is registered as an insured bank under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force;

47 of 1961.

(c) defects in the working of the bank are rectified and financial irregularities disclosed in the course of audit of the bank or otherwise are remedied;

(d) action to recover loans given by the bank is taken within one year from the date when repayment of the same has become due;

(e) no financial loss is caused to the bank and any debt due to the bank which is not recovered within a period of one year from the date when it has become due shall be recovered;

(f) civil and criminal proceedings against a person who, in the opinion of the Committee, has misappropriated any fund of the bank are initiated; and

(g) the provisions of sections 18 and 24 of the Banking Regulation Act, 1949 as applicable to co-operative societies and of section 63 of this Regulation are complied with and if in its opinion any of the said provisions is contravened, such contravention is forthwith reported to the Registrar. 10 of 1949.

Prohibition of use of word "Co-operative".

119. (*1*) No person, other than a society registered, or deemed to be registered, under this Regulation, and a person or his successor in interest of any name or title under word which he traded or carried on business at the date on which this Regulation comes into force, shall without the prior sanction of the Administrator, function, trade or carry on business under any name or title of which the word "Co-operative" or its equivalent in any Indian language, forms part.

(2) Every person contravening the provisions of the foregoing sub-section shall on conviction, be punished with fine which may extend to twenty-five thousand rupees.

Offences.

120. (*1*) It shall be an offence under this Regulation, if—

(a) any person makes a declaration referred to in section 26 which he knows or has reason to believe to be false;

(b) if the officer or officers authorised under sub-section (*3*) of section 37 fail to discharge the functions as provided in the said section;

(c) any member of a society transfers any property or interest in property in contravention of sub-section (*2*) of section 51 or any person knowingly acquires, or abets the acquisition of, such property;

(d) any employer or any director, manager, secretary or other officer or agent acting on behalf of such employer without sufficient cause, fails to comply with sub-section (*2*) of section 53;

(e) a Committee of a society or an officer or member thereof fails to invest funds of such society in the manner required by section 62;

(f) any person, collecting the share money for a society or information, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or in any Nationalised Bank, or a postal savings bank;

(g) any person, collecting the share money for a society or information, makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise;

(h) any person before, during or after the election of members of the Managing Committee or office bearers, adopts corrupt practice;

(i) a retiring Chairperson to whom a direction has been issued under sub-section (*2*) of section 72 fails to comply with such direction;

(j) a Committee of a society or a member thereof fails to comply with the provisions of section 73;

(k) a Committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-section (*2*), (*3*) or (*4*) of section 75;

(l) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give

assistance to a person appointed or authorised by the Administrator of Union territory or the Registrar under sections 22, 66, 68, 78, 81, 84, 86, 87, 88, 99 or 108;

(m) any officer of a society fails to handover the custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under sections 22, 66, 78, 81 or 108;

(n) a Committee of a society or any officer or a member thereof fails without any reasonable excuse to comply with orders made under section 81 or to give any notice, or to send any return or document, do or allow to be done anything, which the Committee, officer or member is by this Regulation required to give, send, do or allow to be done;

(o) a Committee of a society or an officer or member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Regulation by the Registrar or other person duly authorised by him in writing in this behalf;

(p) a Committee of a society, or any officer or member thereof, wilfully makes a false return, or furnishes, false information, or fails to maintain proper accounts;

(q) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under provisions of this Regulation;

(r) an officer or a society fails to comply with the order made by the Registrar under section 83;

(s) an officer, member, agent or servant of a society fails to comply with the requirements of sub-section (*4*) of section 84;

(t) an officer or a member of a society wilfully fails to comply with any decision, award or order passed under section 98;

(u) a member of a society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society;

(v) an officer of a society wilfully recommends or sanctions for his own personal use or benefit or for use or benefit of a person in whom he is interested, a loan in the name of any other person;

(w) an officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secretes or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society;

(x) if a Committee of co-operative bank fails to comply with the provisions of any of the clauses (*a*) to (*g*) of section 118;

(y) if a Committee fails to ensure that the information under clause (*a*) of section 118 is true; and

(z) if a Committee fails to ensure that a report under clause (*g*) of section 118 is true.

(*2*) Where an offence under this Regulation has been committed by a Committee of a society, every person who at the time the offence was committed, was a member of such Committee 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 as provided in this Regulation, 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.

Punishments for offences under sections 118 and 120.

121. (*1*) Every employer or officer, member, agent or servant of a society, or any other person, who commits an offence under section 118 shall, on conviction, be punished,—

(a) if it is an offence under clause (*a*) of that section, with fine which may extend to fifty thousand rupees;

(b) if it is an offence under clause (*b*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both;

(c) if it is an offence under clause (*c*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both;

(d) if it is an offence under clause (*d*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both;

(e) if it is an offence under clause (*e*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both;

(f) if it is an offence under clause (*f*) of that section, with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both; and

(g) if it is an offence under clause (*g*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(2) Every employer or officer, member, agent or servant of a society, or any other person, who commits an offence under section 120 shall, on conviction, be punished,—

(a) if it is an offence under clause (*a*) of that section, with simple imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or with both;

(b) if it is an offence under clause (*b*) of that section, with fine which may extend to twenty-five thousand rupees;

(c) if it is an offence under clause (*c*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both;

(d) if it is an offence under clause (*d*) of that section, with imprisonment for a term which may extend to one month or with fine which may extend to fifty thousand rupees or with both;

(e) if it is an offence under clause (*e*) of that section, with fine which may extend to fifty thousand rupees;

(f) if it is an offence under clause (*f*) of that section, with fine which may extend to fifty thousand rupees;

(g) if it is an offence under clause (*g*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees, or with both;

(h) if it is an offence under clause (*h*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both;

(i) if it is an offence under clause (*i*) of that section, with imprisonment which may extend to one month or with fine which may extend to twenty-five thousand rupees or with both;

(j) if it is an offence under clause (*j*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both;

(k) if it is an offence under clause (*k*) of that section, with fine which may extend to twenty-five thousand five hundred rupees;

(l) if it is an offence under clause (*l*) of that section, with imprisonment for a term which may extend to three months or with fine which may extend to twenty-five thousand rupees or with both;

(m) if it is an offence under clause (*m*) of that section, with fine which may extend to twenty-five thousand rupees;

(n) if it is an offence under clause (*n*) of that section, with fine which may extend to twenty-five thousand rupees;

(o) if it is an offence under clause (*o*) of that section, with imprisonment for a term which may extend to one month or with fine which may extend to twenty-five thousand rupees or with both;

(p) if it is an offence under clause (*p*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both;

(q) if it is an offence under clause (*q*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both;

(r) if it is an offence under clause (*r*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to twenty-five thousand rupees or with both;

(s) if it is an offence under clause (*s*) of that section, with fine which may extend to twenty-five thousand rupees;

(t) if it is an offence under clause (*t*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees or with both;

(u) if it is an offence under clause (*u*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both;

(v) if it is an offence under clause (*v*) of that section, with imprisonment for a term which may extend to two years or with fine which may extend to twenty-five thousand rupees or with both;

(w) if it is an offence under clause (*w*) of that section, with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both; and

(x) if it is an offence under clauses (*x*), (*y*) and (*z*) of that section, with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both.

(3) No prosecution for an offence under section 120 shall be instituted in respect of the same facts on which a penalty has been imposed by the Registrar under any provisions of this Regulation.

Cognizance of offences.

122. (*1*) No court inferior to that of a Judicial Magistrate of first class shall try any offence punishable under this Regulation.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for a Judicial Magistrate of first class to pass a sentence or fine on any person

convicted of an offence under section 120 as provided under section 121, in excess of his powers under section 32 of that Code.

(3) No prosecution under this Regulation shall be lodged, except with the previous sanction of the Registrar.

CHAPTER XII

APPEALS, REVIEW AND REVISION

Constitution of Co-operative Tribunal.

123. (*1*) The Administrator shall constitute a Tribunal called the Co-operative Tribunal to exercise the functions conferred on the Tribunal by or under this Regulation.

(2) The Tribunal shall consist of a President and such number of other members not exceeding four.

(3) The qualifications, experience, the terms and conditions for appointment of the President and other members shall be such as may be prescribed.

(4) The Administrator may terminate the appointment of any member of the Tribunal before the expiry of the term of his office if such member—

(a) is adjudged as an insolvent;

(b) engages during his term of office in any paid employment outside the duties of his office unless such employment is authorised by the Administrator;

(c) is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Union territory Administration or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member;

(d) has become physically or mentally incapable of acting as a member:

Provided that the member shall not be removed from his office on the grounds specified under clause (*b*) or clause (*c*) of this sub-section except by an order made by the Administrator after an inquiry made by the Judge of the concerned High Court having jurisdiction in such manner as may be prescribed; or

(e) is convicted of an offence involving moral turpitude.

(5) Any vacancy in the membership of the Tribunal shall be filled by the Administrator.

(6) The powers and functions of the Tribunal may be exercised and discharged by the Benches constituted by the President from amongst the members of the Tribunal including himself.

(7) Such Benches shall consist of two or more members.

(8) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority and where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members, the opinion of the President shall prevail and in other cases the matter shall be referred for hearing to the President and shall be decided in accordance with his decision:

Provided that any interlocutory application may be heard by one or more members who may be present.

(9) Subject to the previous sanction of the Administrator, the Tribunal shall frame such regulations consistent with the provisions of this Regulation and rules made thereunder, for regulating its procedure and the disposal of its business and they shall be published in the Official Gazette.

(10) The Tribunal may call for and examine the record of any proceeding 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 appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem just.

(11) Where an appeal is made to the Tribunal under section 102, it may, in order to prevent the ends of justice being defeated, make such interlocutory order spending the decision of the appeal as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(12) An order passed, in appeal, or in revision under sub-section (*10*), or in review under section 124, by the Tribunal, shall be final and conclusive, and shall not be called in question in any civil court or revenue court.

(13) The Tribunal hearing an appeal under this Regulation shall exercise all the powers conferred upon an appellate court by section 97 and Order 41 in the First Schedule of the Code of Civil Procedure, 1908. 5 of 1908.

Review of orders of Tribunal.

124. (*1*) The Tribunal may, either on the application of the Registrar, or on the application of any party interested, review its own order in any case, and pass in reference thereto such order as it thinks just:

Provided that no such application made by the party interested shall be entertained, unless the Tribunal is satisfied that there has been discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made, or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reasons:

Provided further that no such order shall be varied or revised, unless notice has been given to the parties interested to appear and be heard in support of such order.

(*2*) An application for review under sub-section (*1*) by any party shall be made within ninety days from the date of the communication of the order of the Tribunal.

Tribunal to have power of civil court.

125. (*1*) In exercising the functions conferred on it by or under this Regulation, the Tribunal shall have the same powers as are vested in a civil court in respect of—

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person and examining him on oath;

(c) compelling the production of documents;

(d) issuing commissions for the examination of witnesses; and

(e) any other matter which may be prescribed.

(*2*) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

Appeals.

126. (*1*) An appeal against an order or decision under sections 4, 9, 11, 13, 17, 20, 22, 40, and 81 shall lie,—

(a) if made or sanctioned or approved by the Registrar or an Additional Registrar or Joint Registrar on whom powers of the Registrar are conferred, to the Administrator; or

(b) if made or sanctioned by any person other than the Registrar or a Deputy Registrar or Assistant Registrar on whom the powers of the Registrar are conferred, to the Registrar.

(2) An appeal against an order of a Liquidator under section 110 shall lie—

(a) to the Administrator if the order was made with the sanction or approval of the Registrar; and

(b) to the Registrar in any other case.

(3) An appeal against an order or decision under sections 81, 90, 93 and any order passed by the Registrar for paying compensation to a society, and any other order for which an appeal to the Tribunal has been provided under this Regulation, shall lie to the Tribunal.

(4) An appeal under sub-section (*1*), (*2*) or (*3*) shall be filed within two months of the date of the communication of the order or decision.

(5) The procedure to be followed in presenting and disposing of appeals under this section or under any other provisions of this Regulation shall be such as may be prescribed.

(6) Save as provided in this Regulation, no appeal shall lie against any order, decision or award passed in accordance with this Regulation and every such order, decision or award shall be final, and where any appeal has been provided for, any order passed on appeal shall be final and no further appeal shall lie against it.

Extension of period of limitation of appellate authority in certain cases.

127. In all cases in which it is provided under this Regulation that an appeal may be filed against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

Power of Administrator and Registrar to call for proceedings of subordinate officers to pass orders thereon.

128. The Administrator and the Registrar may call for and examine the record of any inquiry or the proceedings of any other matter of any officer subordinate to them, except those referred to in sub-section (*10*) of section 123, for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer and if in any case, it appears to the Administrator, or the Registrar, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Administrator or the Registrar, as the case may be, may after giving persons affected thereby an opportunity of being heard pass such order thereon as it or he may deem just.

CHAPTER XIII

MISCELLANEOUS

Power of Administrator to give directions for e-tender process.

129. The Administrator may, by general or special order to be published in the Official Gazette, direct any society or any class of society not to render contract in relation to such matters concerning such society or the class of any society and to make purchases for such amount by following the e-tender process.

Recovery of sums due to Union territory Administration.

130. (*1*) Unless otherwise provided by this Regulation, all sums due from a society or from an officer or member or past member or a deceased member of a society as such to the Union territory Administration, may be recovered as arrears of land revenue.

(2) Sums due from a society to the Union territory Administration and recoverable under sub-section (*1*) may be recovered—

(i) from the property of the society;

(ii) in the case of a society of which the liability of the members is limited, from the members or past members or from their estate if they have died, subject to the limit of their liability; and

(iii) in the case of societies with unlimited liability from the members or past members or their estate, if they have died.

(3) The liability under this section shall in all cases be subject to the provisions of section 38.

4 of 1882.
16 of 1908.

131. Notwithstanding anything contained in the Transfer of Property Act, 1882 and the Indian Registration Act 1908, it shall be lawful for a member of a Co-operative Farming Society to transfer to the society any land held by him or the whole or part of his interest in any land by an agreement and in such manner as may be prescribed.

Competency of a member to transfer land or interest therein to society.

132. (*1*) The Registrar or any officer subordinate to him and empowered by him in this behalf may, subject to such rules as may be made by the Administrator but without prejudice to any other mode of recovery provided by or under this Regulation, recover—

Registrar's powers to recover certain sums by attachment and sale of property.

(a) any amount due under a decree or order of a civil court, obtained by a society;

(b) any amount due under a decision, award or order of the Registrar, his nominee or the board of nominees or Liquidator or Tribunal;

(c) any sum awarded by way of costs under this Regulation; or

(d) any sum ordered to be paid under this Regulation as a contribution to the assets of the society,

together with interest, if any, due on such amount or sum and the costs of recovering the same, by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(*2*) The Registrar or the officer empowered by him shall be deemed when exercising the powers under sub-section (*1*) or when passing any order on any application made to him for such recovery, to be a civil court for the purposes of the Code of Civil Procedure, 1908.

5 of 1908.

133. The Administrator may, by general or special order, to be published in the Official Gazette, and for the reasons to be recorded in writing, exempt any society or class of societies from any of the provisions of this Regulation, or may direct that such provisions shall apply to such societies with such modifications not affecting the substance thereof as may be specified in the order:

Power to exempt societies from provisions of Regulation.

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

134. The Administrator may, by notification in the Official Gazette, and subject to such conditions, as it may think fit to impose, delegate—

Delegation of powers of Administrator and of Registrar.

(a) any power exercisable by it under this Regulation except the power under sub-section (*1*) of section 126, and section 139 thereof to the Registrar; and

(b) all of any of the powers of the Registrar under this Regulation to any Committee constituted or to any co-operative federal society recognised under section 95 or to an officer of such society or to any panchayat constituted under any law relating to panchayats for the time being in force.

135. (*1*) No society shall open a branch or a place of business outside the Union territory, and no co-operative society registered under any law in any other State shall open a branch or a place of business in the Union territory without the permission of the Registrar.

Branches, etc., of societies outside Union territory.

(2) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the Union territory under sub-section (*1*) or which has a branch or a place of business in the Union territory before the commencement of this Regulation, shall, within three months from the date of the opening of such branch or place of business or from the date of the commencement of this Regulation, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these be not in English a certified translation thereof in English or Hindi and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this

Regulation in addition to those which may be submitted to the Registrar of that State where such society is registered.

(3) The provisions of sub-sections (*1*) and (*2*) shall not apply to co-operative societies to which the provisions of the Multi-State Co-operative Societies Act, 2002 applies. 39 of 2002.

(4) Nothing in sub-section (*1*) shall affect a society which has a branch or a place of business outside the Union territory at the commencement of this Regulation.

Registrar and other officers to be public servants.

136. The Registrar, a person exercising the powers of the Registrar, an official assignee under section 22, a custodian under section 66, co-operative election officer under section 68, a person authorised to audit the accounts of a society under section 84, or to hold an inquiry under section 86, or to make an inspection under section 87 or section 88, and a person appointed as a special officer under section 81 or section 116, or as a nominee or board of nominees under section 98, or as a Liquidator under section 108, and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

137. No suit, prosecution or other legal proceeding shall lie against the Registrar or any officer of society or any member or officer of Appellate Tribunal for anything which is in good faith done or intended to be done under this Regulation or rules made thereunder.

Bar of jurisdiction of courts.

138. (*1*) Save as expressly provided in this Regulation, no civil court or revenue court shall have any jurisdiction in respect of—

(a) the registration of a society or its bye-laws, or the amendment of its bye-laws, or the dissolution of the Committee of a society, or the management of the society on dissolution thereof;

(b) any dispute required to be referred to the Registrar, or his nominee, or board of nominees, for decision; or

(c) any matter concerned with the winding up and dissolution of a society.

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

(3) All orders, decisions or awards passed in accordance with this Regulation or the rules, shall, subject to the provisions for appeal or revision in this Regulation, be final and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any court upon the merits, or upon any other ground whatsoever except for want of jurisdiction.

Power to make rules and its laying before Parliament.

139. (*1*) The Administrator may, by notification in the Official Gazette and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Regulation to carry out the provisions and purposes of this Regulation.

(*2*) Every rule made by the Administrator under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the 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.

Act no. 18 of 2013 not to apply.

140. The provisions of the Companies Act, 2013, shall not apply to societies registered, or deemed to be registered under this Regulation.

Power to remove difficulties.

141. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette make such provisions not inconsistent with the provisions of this Regulation as may appear to him to be necessary or expedient for the removal of that difficulty:

Provided that no such order shall be made under this section after the expiry of one year from the date of commencement of this Regulation.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

Reg. 5 of 1960.

142. (*1*) The Laccadive, Minicoy and Amindivi Islands Cooperative Societies Regulation, 1960 (hereafter in this section referred to as the said Regulation) is hereby repealed:

Provided that such repeal shall not affect—

(i) the previous operation of the said Regulation so repealed, or anything duly done or suffered thereunder;

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the said Regulation so repealed;

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Regulation so repealed; or

(iv) any investigation, proceedings, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, proceedings, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Regulation had not been promulgated.

10 of 1897.

(2) The mention of particular matters referred to in sub-section (*1*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

DROUPADI MURMU,
President.

K. BISWAL,
Additional Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th September,* 2022/*Bhadra* 28, 1944 (*Saka*)

THE LAKSHADWEEP PANCHAYAT REGULATION, 2022

No. 5 of 2022

Promulgated by the President in the Seventy-third Year of the Republic of India.

A Regulation to provide for Panchayats in the Union territory of Lakshadweep and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Lakshadweep Panchayat Regulation, 2022.

(2) It extends to the whole of the Union territory of Lakshadweep.

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

Definitions.

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

(a) "Administration" means the Union territory administration of Lakshadweep;

(b) "Administrator" means the Administrator of the Union territory of Lakshadweep appointed by the President of India under article 239 of the Constitution;

(c) "building" includes a house, an out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall not exceeding eight feet in height) and any other structure, whether of masonry, bricks, wood, metal or any other material but does not include any temporary structure erected on ceremonial or festive occasions or a tent;

(d) "Chief Executive Officer" means an officer appointed by the Administrator as Chief Executive Officer, District Panchayat;

(e) "Director Panchayat" means an officer in charge of Panchayats in the Department of Panchayati Raj working under the direct control and superintendence of the Secretary of that Department;

(f) "District" means a District specified by the Administrator by a public notification to be district for the purposes of this Regulation;

(g) "District Judge" means the District Judge of Union territory of Lakshadweep;

(h) "District Panchayat" means the District Panchayat constituted under section 57;

(i) "District Panchayat Fund" means the Fund constituted under section 87;

(j) "Election Commission" means the Election Commission referred to in sub-section (*1*) of section 107;

(k) "Finance Commission" means the Finance Commission referred to in section 108;

(l) "general election" means the election held under this Regulation for the constitution or the reconstitution of a Panchayat after the expiry of its terms or otherwise;

(m) "Gram" means a village;

(n) "Gram Fund" means the Fund referred to in section 38;

(o) "Gram Panchayat" means a Gram Panchayat constituted under this Regulation;

(p) "Gram Sabha" means the Gram Sabha constituted under sub-section (*2*) of section 3;

(q) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(r) "Official Gazette" means the Lakshadweep Gazette;

(s) "Ombudsman" means a body constituted by the Administrator under the provisions of this Regulation;

(t) "Panchayat area" means the territorial area of a Gram Panchayat declared by the Administrator under sub-section (*1*) of section 3;

(u) "Panchayat Secretary" means a Panchayat Secretary appointed under sub-section (*1*) of section 27;

(v) "population" means the population, as ascertained at the last preceding census of which the relevant figures have been published;

(w) "prescribed" means prescribed by rules made under this Regulation;

(x) "prescribed authority" means a person appointed by the Administrator to carry out the provisions of this Regulation;

(y) "President" and "Vice-President" means the President and the Vice-President of the District Panchayat respectively;

(z) "public street" means a pathway, road, street, square, court, alley, cart track, foot path or riding path over which the public have a right of way, whether through fare or not and includes—

(i) the road-way over any public bridge or cause-way;

(ii) the foot-way attached to any such street, public bridge or cause-way;

(iii) the drains attached to any such street, road, public bridge or cause-way; and

(iv) the land which lies on either side of the road-way,—

(a) up to the boundaries of the adjacent property; or

(b) up to the right of way duly notified by the Chief Executive Officer in this regard;

(*za*) "Regulation" means the Lakshadweep Panchayat Regulation, 2022;

(*zb*) "Sarpanch" means the Sarpanch of a Gram Panchayat;

(*zc*) "Schedule" means a Schedule appended to this Regulation;

(*zd*) "Secretary Panchayat" means the Secretary in charge of the Department of Panchayati Raj in the Union territory of Lakshadweep;

(*ze*) "section" means section of this Regulation;

(*zf*) "State Election Commissioner" means the Election Commissioner for the Union Territories;

(*zg*) "tax" means a tax, cess, rate of other impost leviable under this Regulation but does not includes a fee;

(*zh*) "Union territory" means the Union territory of Lakshadweep;

(*zi*) "Upa-Sarpanch" means an Upa-Sarpanch of Gram Panchayat;

(*zj*) "village" means a village notified by the Administrator, to be a village for the purpose of this Regulation and includes a group of villages;

(*zk*) "Ward" means a body consisting of persons registered in the electoral rolls relating to ward of a district.

CHAPTER II

GRAM SABHA

Declaration of Panchayat area and constitution of Gram Sabha.

3. (*1*) The Administrator shall, after making such inquiry as may be necessary, by notification, declare a local area, comprising of a village or a group of villages or any part or parts thereof or a combination of any two or more of them to be a Panchayat area, for the purposes of this Regulation and shall also specify its headquarters.

(2) The Administrator shall, by notification, constitute a Gram Sabha by a name for each Panchayat area.

(3) Every Gram Sabha shall, by the name notified under sub-section (*2*) of this section, be a body corporate having perpetual succession and a common seal and shall, subject to such restrictions and conditions as may be imposed by or under this Regulation, have power to acquire, hold, administer and transfer property, both movable and immovable, and to enter into a contract and shall, by the said name, sue or be sued:

Provided that the powers and duties of the Gram Sabha shall, save as otherwise expressly provided in this Regulation, be exercised, performed and discharged by the Gram Panchayat constituted under sub-section (*1*) of section 12.

Composition of Gram Sabha and disqualification for being as member of Gram Sabha.

4. (*1*) A Gram Sabha shall consist of persons registered in the electoral roll relating to a Gram either a village or group of villages.

(2) A person shall be disqualified for being a member of the Gram Sabha if he is—

(a) under eighteen years of age;

(b) not a citizen of India;

(c) of unsound mind and stands so declared by competent court; and

(d) not ordinarily a resident within the village for which the Gram Sabha is constituted.

Explanation.—For the purposes of this sub-section, it is hereby clarified that a "person" shall be deemed to be ordinarily resident in village if he has been ordinarily residing in such village or is in possession of a dwelling house therein ready for occupation.

Electoral Roll of Members of Gram Sabha.

5. (*1*) The prescribed authority under the superintendence, direction and control of the Election Commission shall cause to be prepared an electoral roll in such manner as may be prescribed.

(*2*) The electoral roll referred to in sub-section (*1*) shall contain the names of all persons entitled under section 4 to be the members of the Gram Sabha and such electoral roll shall be revised at least once in a financial year in such manner as may be prescribed.

Alteration in area of Gram Sabha.

6. (*1*) The Administrator may, after such inquiry as he thinks necessary at any time, by notification,—

(a) include any area in a Gram;

(b) exclude any area from a Gram;

(c) declare that any local area shall cease to be a Gram;

(d) alter the headquarter of any Gram Sabha; or

(e) alter the name of any Gram Sabha.

(2) Where, by a notification under sub-section (*1*), any area is included in a Gram, such area shall thereby become subject to all notifications, rules, bye-laws and orders made under this Regulation or any other law for the time being in force in the area within, the jurisdiction of the Gram Sabha.

(3) Where, by notification under sub-section (*1*), the whole of the area of a Gram, ceases to be a Gram, the Gram Sabha shall cease to exist and its assets and liabilities shall be disposed of in the prescribed manner, and if a part of such area is excluded from a Gram, the jurisdiction of the Gram Sabha shall be reduced by that part.

Cessation of membership of Gram Sabha.

7. (*1*) A member of a Gram Sabha shall cease to be member, if—

(a) he is disqualified under section 4;

(b) the area where he resides has been excluded from the jurisdiction of the Gram Sabha; or

(c) he ceases to be ordinarily resident within the jurisdiction of the Gram Sabha.

(2) Where any person ceases to be a member of a Gram Sabha under sub-section (*1*), he shall also cease to hold any office to which he may have been elected or appointed by reason of his being a member thereof.

Meetings of Gram Sabha.

8. (*1*) Every Gram Sabha shall hold at least four general meetings in each financial year and it shall be the responsibility of the Sarpanch to convene such meetings:

Provided that the Sarpanch shall, upon a requisition in writing by not less than one-tenth of the total number of members of the Gram Sabha call an extraordinary meeting of the Gram Sabha, within thirty days from the receipt of such requisition:

Provided further that where the Sarpanch fails to convene the meetings under this sub-section, such authority as may be prescribed, shall convene such meetings within a period of thirty days.

(2) The Sarpanch or in his absence the Upa-Sarpanch or in the absence of both any person chosen by the Gram Sabha shall preside at such meetings.

(3) For any general meeting of the Gram Sabha, one-tenth of the total number of its members shall form the quorum and decisions shall be taken by a majority of the members present and voting.

(4) The notice of time and place of meetings shall be given in the prescribed manner.

(5) The minimum quorum for the meeting should be ten per cent. of the total members out of which at least thirty per cent. should be women.

Transaction of business at general meeting.

9. (*1*) The Sarpanch shall place before the Gram Sabha for its approval the following matters, namely:—

(a) the annual statement of accounts;

(b) budget estimates;

(c) the developmental and other programmes of work proposed for the current financial year;

(d) proposals for fresh taxation or enhanced taxation;

(e) report of the administration of the preceding financial year; and

(f) the last audit note and replies thereto.

(2) The Gram Sabha, shall consider the following matters and make recommendations and suggestions to the Gram Panchayat, namely:—

(a) annual administration report of the preceding financial year;

(b) planning, supervising, co-ordinating and monitoring the schemes of the Gram Panchayat;

(c) recoveries of Panchayat dues;

(d) the last audit report and replies made thereto; and

(e) proposals for organising community service, voluntary labour or mobilisation of the local people for any specific work included in any programme:

Provided that the recommendations of the Gram Sabha shall be acted upon by the Gram Panchayat as far as practicable.

Functions of Gram Sabha.

10. The Gram Sabha shall perform the following functions, namely:—

(i) identification of the beneficiaries and sites under various programmes of the Administration;

(ii) determination of the priorities of the work to be undertaken by the Gram Panchayat;

(iii) issuance of utilisation certificate in respect of the development work undertaken by the Gram Panchayat from the grants-in-aid or the Gram Panchayat funds; and

(iv) any other function as may be assigned to it by the Administrator from time to time.

Supervisory Committees of Gram Sabha.

11. (*1*) The Gram Sabha shall constitute the following Supervisory Committees in such manner as may be prescribed to supervise the Gram Panchayat work and other activities in the Gram, namely:—

(a) the General Standing Committee;

(b) the Village Health Sanitation and Nutrition Committee;

(c) the Planning and Development Committee;

(d) the Education Committee (School Management Committees);

(e) the Social Justice Standing Committee; and

(f) the Water Supply, Water and Environmental Conservation Committee.

(2) The Supervisory Committees referred to in sub-section (*1*) shall submit its report to the Gram Panchayat and also place a copy of their report in the meeting of the Gram Sabha.

(3) Apart from ward members and Sarpanch, other expert government and non-government members shall be included as special invitees.

CHAPTER III

THE GRAM PANCHAYAT AND ELECTIONS

Constitution of Gram Panchayats.

12. (*1*) As soon as may be, after its constitution, every Gram Sabha shall elect by direct election an Executive Committee called the Gram Panchayat and a Chairperson of that Committee to be known as the Sarpanch.

(2) A Gram Panchayat shall, consist of such number of seats including the Sarpanch to be filled from such number of wards, as the Administrator may, by notification, determine.

(3) The ratio between the population of the territorial area of a Gram Panchayat and the number of seats in that Panchayat to be filled by election shall, so far as practicable, be the same throughout the Union territory.

(4) The territorial boundary for each ward shall be notified by the Administrator on the recommendations of the Election Commission.

(5) Each Gram Panchayat area shall be divided by the Election Commission into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Gram Panchayat area.

(6) The seats shall be reserved for the Scheduled Tribes in every Gram Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in the Gram Panchayat as the population of the Scheduled Tribes in that Gram Panchayat area bears to the total population of that area and such seats shall be allotted by the Election Commission by rotation to different constituencies in a Gram Panchayat, in such manner as may be prescribed:

Provided that no such reservation shall be necessary, if the total population of the Scheduled Tribes in a Gram Panchayat is less than half the proportionate population required to fill one seat.

(7) Not less than one-half of the total number of the seats reserved under sub-section (*6*), shall be reserved for women belonging to the Scheduled Tribes.

(8) Not less than one-half (including the number of seats reserved for women belonging to the Scheduled Tribes) of the total number of seats to be filled by direct election in every Gram Panchayat shall be reserved for women and such seats may be allotted by the Election Commission by rotation to different constituencies in a Gram Panchayat, in such manner as may be prescribed.

(9) The number of seats to be reserved under sub-sections (*7*) and (*8*) shall be determined by the Administrator, by an order published in the Official Gazette.

(10) The Administrator shall reserve—

(i) the number of offices of Sarpanch in the Gram Panchayats for the Scheduled Tribes which shall bear, as nearly as may be, the same proportion to the total number of such offices in the Gram Panchayats as the population of the Scheduled Tribes in the area of Union territory to which this Regulation extends bears to the total population of such area;

(ii) not less than one-half of the total number of offices of Sarpanch in the Gram Panchayats for women:

Provided that offices reserved under this sub-section shall be allotted by the Election Commission by rotation to different Gram Panchayats in such manner as may be prescribed.

Person qualified to vote and be elected.

13. (*1*) Every member of Gram Sabha shall, unless disqualified under this Regulation or any other law for the time being in force,—

(a) be qualified to vote at an election to the Gram Panchayat or at a meeting of the Gram Sabha;

(b) be qualified to be elected to fill up a seat in the Gram Panchayat as a member or as its Sarpanch or as both:

Provided that if a person is elected to both the offices of a member as well as Sarpanch, he shall resign either of the two offices within a period of fourteen days from the date of the publication of the result in the Official Gazette, failing which his seat in the Gram Panchayat shall become vacant.

(*2*) The vacancy caused by the result of such resignation, shall be filled by holding a bye-election for the purpose.

Disqualification for being a member of Gram Panchayat.

14. (*1*) No person shall be a member of a Gram Panchayat or continue as such who—

(a) has not attained the age of twenty-one years;

(b) is not a citizen of India;

(c) has, whether before or after the commencement of this Regulation, been convicted—

22 of 1955.

(i) of an offence under the Protection of Civil Rights Act, 1955 and a period of five years, or such lesser period as the Administrator may determine in any particular case, has elapsed since his conviction;

(ii) of any other offence and been sentenced to imprisonment for not less than six months, and a period of five years, or such lesser period as the Administrator may determine in any particular case, has elapsed since his release;

(d) has been adjudged by a competent court to be of unsound mind;

(e) has been adjudicated as an insolvent;

(f) has been removed from any office held by him in any Gram Panchayat under any provision of this Regulation or in any Gram Panchayat before the commencement of this Regulation and a period of five years has not elapsed from the date of such removal, unless he has, by an order of the Administrator notified in the Official Gazette, been relieved from the disqualification arising on account of such removal from office;

(g) has been disqualified from holding office under any provision of this Regulation and the period for which he was so disqualified has not elapsed;

(h) holds any salaried office or place of profit in the gift or disposal of any Panchayat, other than as such office or place as prescribed;

(i) has, directly or indirectly, any share or interest in any work done by order of the Panchayat, or in any contract with, by or on behalf of, or employment with or under the Panchayat.

Explanation.—For the removal of doubts, it is hereby clarified that a person shall not be disqualified for membership of a Panchayat by reason only of such person—

(i) having share in any joint stock company or a share or interest in any society registered under any law for the time being in force which shall contract with or be employed by or on behalf of any Panchayat;

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of any Panchayat may be inserted;

(iii) holding a debenture or being otherwise concerned in any loan raised by or on behalf of any Panchayat;

(iv) being professionally engaged on behalf of any Panchayat as a legal practitioner;

(v) having any share or interest in any lease of immovable property in which the amount of rent has been approved by the Gram Panchayat in the case of a Gram Panchayat, or by the District Panchayat in its own case or in any sale or purchase of immovable property or in any agreement for such lease, sale or purchase;

(vi) having a share or interest in the occasional sale to the Panchayat of any article in which he regularly trades or in the purchase from the Panchayat of any article, to a value in either case not exceeding in any year one thousand rupees; or

(vii) merely being a relative of a person in employment with or under or by or on behalf of the Panchayat;

(j) has, directly or indirectly, any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of any Panchayat;

(k) fails to pay any arrears of any kind due by him to the Panchayat or any Panchayat subordinate thereto or any sum recoverable from him under this Regulation, within three months after a special notice in accordance with the rules made in this behalf has been served upon him.

Explanation.—For the removal of doubts, it is hereby clarified that—

(i) a person shall not be deemed to be disqualified if he has paid the arrears or the sum referred to in clause (*k*), prior to the day prescribed for the nomination of candidates;

(ii) failure to pay the arrears or the sum referred to in clause (*k*) to the Panchayat by a member of a Hindu Undivided Family or by a person belonging to a group or unit, the members of which are by custom joint in estate or residence, shall be deemed to disqualify all members of such Hindu Undivided Family or as the case may be, all the members of such group or unit.

(l) is a servant of the Government or any local body;

(m) has voluntarily acquired the citizenship of a Foreign State or is under any acknowledgement of allegiance or adherence to a Foreign State;

(n) has no facility of water closet or privy accommodation at the place of his ordinary residence:

Provided that a sitting member shall be deemed to have incurred disqualification, if he does not submit to the Chief Executive Officer, within six months from the date of commencement of this Regulation, a certificate issued by the Panchayat Secretary of the Gram Panchayat in whose jurisdiction his ordinary residence is situated, to the effect that he is having facility of water closet or privy accommodation at the place of his ordinary residence.

(o) is disqualified under any other provision of this Regulation, and the period for which he was so disqualified has not elapsed;

(p) has more than two children:

Provided that a person having more than two children on the date of commencement of this Regulation shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification under this clause.

Explanation.—For the purposes of this clause, it is hereby clarified that—

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of single subsequent delivery shall be deemed to be one entity;

(ii) "child" does not include an adopted child or children;

(q) is, without permission of the Gram Panchayat, absent from three consecutive meetings;

(r) has been ordered to give security for good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1973; or

2 of 1974.

(s) has been dismissed from the service of the Government or Municipality or Gram Panchayat for misconduct within five years prior to the date of poll.

(*2*) A person shall be disqualified for being a member of the Gram Panchayat if he is so disqualified under the Fifth Schedule.

Decision on disqualification.

15. If any question arises as to whether a person has become subject to any disqualification referred to in section 4 or section 14, it shall be referred to the Administrator and his decision thereon shall be final:

Provided that before giving any decision on such question, the Administrator shall obtain the opinion of the Election Commission and shall act according to such opinion:

Provided further that no person shall be disqualified unless such person has been given an opportunity of being heard in the matter.

Leave of absence.

16. (*1*) Any member of a Gram Panchayat who during his term of office—

(a) is absent for more than three consecutive months from the village and leave not exceeding four months so to absent has been granted by the Panchayat; or

(b) absents himself for four consecutive months from the meetings of the panchayat without the leave of the said Panchayat,

shall cease to be a member and his office shall be vacant and thereupon the Panchayat shall, as soon as possible, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred to the Secretary Panchayat for decision, and the decision of such Secretary Panchayat shall be final:

Provided that such reference shall not be entertained, if it is made after the expiry of fifteen days from the date on which the Panchayat informs under sub-section (*1*) to the member in regard to such vacancy.

(3) Whenever, a leave is granted under sub-section (*1*) to a member, who is an Upa-Sarpanch, another member shall, subject to the conditions to which the election of the

Upa-Sarpanch so absenting himself was subjected to, be elected to perform all the duties and exercise all the powers of an Upa-Sarpanch during the period for which such leave is granted.

Election of members.

17. The election of members of a Gram Panchayat shall be held in such a manner (including the manner of voting) as may be prescribed and on such date or dates as the Administrator may, in consultation with the Election Commission, by notification direct:

Provided that a casual vacancy shall be filled up within a period of six months from the date of occurrence of such vacancy:

Provided further that no election shall be held to fill a casual vacancy occurring within six months prior to the general election of a Gram Panchayat under this section.

Election of Upa-Sarpanch.

18. (*1*) On the constitution of a Gram Panchayat for the first time under this Regulation or on the expiry of the term of a Gram Panchayat or on its reconstitution, a meeting shall be called on a date fixed by the Administrator for the election of Upa-Sarpanch in such manner as may be prescribed.

(2) The officer appointed by the Administrator shall preside over such meeting and shall not have the right to vote.

(3) No business other than the election of the Upa-Sarpanch shall be transacted at such meeting.

(4) In case of equality of votes, the result of the election shall be decided by draw of lots in the presence of officer referred to in sub-section (*2*), in such manner as he may determine.

Executive functions of Sarpanch.

19. The executive powers of the Gram Panchayat under this Regulation and the responsibility for the due fulfilment of the duties imposed on the Gram Panchayat under this Regulation and for carrying out the resolution of the Gram Panchayat shall vest in the Sarpanch.

Duration of Gram Panchayat.

20. (*1*) Every Gram Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and not longer.

(2) Notwithstanding anything contained in sub-section (*1*), the members of the Gram Panchayat functioning immediately before coming into force of this Regulation shall continue to hold their office till the expiration of the term specified under sub-section (*1*).

(3) An election to constitute a Gram Panchayat shall be completed—

(a) before the expiry of its period specified in sub-section (*1*);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Gram Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constitution the Gram Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of the Gram Panchayat before the expiration of its period shall continue only for the remainder of such period for which the dissolved Gram Panchayat would have continued under sub-section (*1*), had it not been so dissolved.

Oath of office.

21. (*1*) As soon as may be, on the first meeting of the Gram Panchayat, every member thereof and Sarpanch and Upa-Sarpanch shall take the oath of office before such officers as the Administrator may specify, in the form set out in the First Schedule.

(2) No member who has not taken such oath shall vote or take part in the proceedings of any meeting nor shall he be included as a member of any Committee constituted by the Gram Panchayat.

Resignation of office.

22. (*1*) Any member of the Gram Panchayat may resign his office by giving notice in writing to that effect to the Sarpanch under intimation to the Chief Executive Officer and such resignation shall take effect from date of its acceptance by the Sarpanch.

(2) The Upa-Sarpanch may resign his office by giving notice in writing to the Sarpanch under intimation to the Chief Executive Officer and such resignation shall take effect from the date of its acceptance by the Sarpanch.

(3) The Sarpanch may resign his office by giving notice in writing to the Chief Executive Officer and such resignation shall take effect from the date of its acceptance by the Chief Executive Officer.

(4) Where the office of the Sarpanch or Upa-Sarpanch falls vacant, the members of the Gram Panchayat may elect any person from amongst themselves by a simple majority to act as Sarpanch or Upa-Sarpanch, as the case may be, pending the election for such offices.

Motion of no confidence.

23. (*1*) A motion of no confidence may be moved against Sarpanch or Upa-Sarpanch by not less than one third of the total members of the Gram Panchayat after giving notice thereof to the Sarpanch under intimation to the Chief Executive Officer:

Provided that no such notice shall be given before six months of assumption of office by the Sarpanch or the Upa-Sarpanch.

(2) A special meeting of the Gram Panchayat shall be convened within a period of fifteen days from the date on which the motion of no confidence has been moved to deliberation, and decide the no confidence motion.

(3) If the motion of no confidence is carried by a majority of the total number of members of Gram Panchayat, then, the Gram Panchayat shall recommend to the Gram Sabha the removal of the Sarpanch or the Upa-Sarpanch, as the case may be, from his office.

(4) On receipt of recommendation under sub-section (*3*), a meeting of the Gram Sabha shall be convened with a quorum of not less than one-third of the total membership of the Gram Sabha and the recommendation shall be approved by majority of members present and voting.

(5) Upon the approval of the recommendation under sub-section (*4*), the Sarpanch shall cease to hold office after a period of three days from the date on which the recommendation is approved unless he has resigned earlier.

(6) If the recommendation of the Gram Panchayat is not approved by the Gram Sabha under sub-section (*4*) or there is no quorum in the special meeting of the Gram Sabha, no fresh motion of no confidence shall be moved against the Sarpanch in the Gram Panchayat within a period of six months from the date on which the recommendation fails to acquire approval of the Gram Sabha or the date on which the recommendation could not be considered for lack of quorum.

(7) Notwithstanding anything contained in this Regulation, the Sarpanch or Upa-Sarpanch, for the removal of whom the motion of no confidence or recommendation under sub-section (*3*) is under consideration, shall not preside over a meeting of Gram Panchayat under sub-section (*2*) and Gram Sabha under sub-section (*4*) but he shall have a right to speak or otherwise take part in the proceedings of such meetings.

Suspension of Sarpanch or Upa-Sarpanch or any Members of Gram Panchayat.

24. (*1*) The Chief Executive Officer may by order suspend from the office a Sarpanch or an Upa-Sarpanch or any member of a Gram Panchayat against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the Panchayat under section 14 or who has been detained under any law relating to preventive detention for the time being in force.

(2) Where any Sarpanch or Upa-Sarpanch or member, has been suspended under sub-section (*1*), another member of the Gram Panchayat shall, subject to the conditions to which the election of the Sarpanch or Upa-Sarpanch or member, so suspended was subjected to, be elected to perform all the duties and exercise all the powers of a Sarpanch or Upa-Sarpanch or member, during the period for which such suspension continues.

(3) An appeal against an order passed under sub-section (*1*) shall lie before the Administrator or any officer authorised by him within a period of thirty days from the date of the order.

Removal from office.

25. (*1*) The Secretary Panchayat may by order remove from office any member of the Panchayat, the Sarpanch or, as the case may be, the Upa-Sarpanch thereof, after giving him an opportunity of being heard and giving due notice in that behalf and after such inquiry as it deems necessary, if such member, Sarpanch or, as the case may be, Upa-Sarpanch has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his powers or makes persistent default in the performance of his duties and functions under this Regulation or has become incapable of performing his duties and functions under this Regulation and the Sarpanch or, as the case may be, the Upa-Sarpanch, so removed may at the discretion of the Secretary Panchayat also be removed from the membership of the Panchayat:

Provided that no member, Sarpanch or Upa-Sarpanch shall be removed unless such person has been given an opportunity of being heard in the matter.

(2) The Secretary Panchayat may, after following the procedure laid down in sub-section (*1*) by order disqualify for a period not exceeding five years any person who has resigned his office as a member, Sarpanch or Upa-Sarpanch, or otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (*1*) or has been incapable of performing his duties and functions:

Provided that an action under this sub-section shall be taken within a period of six months from the date on which the person resigns or ceases to hold any such office.

(3) Any person aggrieved by an order of the Secretary Panchayat under sub-section (*1*) or sub-section (*2*) may, within a period of thirty days from the date of the communication of such order, appeal to the Administrator or any officer authorised by him in this behalf against the said order.

Casual vacancy.

26. Any casual vacancy in the office of the Sarpanch or the Upa-Sarpanch in the Gram Panchayat, shall be filled for the remainder of his term by election in accordance with the provisions of this Regulation:

Provided that in the case of a seat or the office of Sarpanch reserved for the Scheduled Tribe or women, no person other than the member of the Scheduled Tribe or women shall be qualified to be chosen to such vacancy.

Officers and employees of Gram Panchayat.

27. (*1*) There shall be a Panchayat Secretary for every Gram Panchayat who shall be appointed by the Administrator and draw his salary and allowances from the Gram Fund.

(2) The Panchayat Secretary shall be in charge of the office of the Gram Panchayat and shall perform all the duties and exercise all the powers imposed or conferred upon him by or under this Regulation or any rules or bye-laws made thereunder.

(3) Subject to rules as may be made by the Administrator regarding discipline and control, the Panchayat Secretary shall act in all matters under the general supervision of the Sarpanch through whom he shall be responsible to the Gram Panchayat.

(4) The Gram Panchayat may appoint such other officers and employees and in such number as may, from time to time, be necessary with the prior approval of the Administrator and in such manner as may be prescribed:

Provided that no post shall be created for which no budget provision is made and is not provided in the staffing pattern approved by the Administrator.

(5) The posting and transfer of the staff recruited under sub-section (*4*), shall vest with the Chief Executive Officer.

(6) The terms and conditions of service and duties of Panchayat Secretary and the term and conditions of service of the officers shall be such as may be prescribed.

Meetings of Gram Panchayat.

28. (*1*) The time and place of meetings of a Gram Panchayat and the procedure to be followed at such meetings shall be such as may be prescribed.

(2) A member of a Gram Panchayat may, at any meeting, move any resolution and put questions to the Sarpanch or the Upa-Sarpanch on matters connected with the Administration of the Gram Panchayat in such manner as may be prescribed.

(3) No resolution of a Gram Panchayat shall be amended, varied or cancelled by the Gram Panchayat within a period of three months from the date of passing thereof, except by a resolution supported by two-thirds of the total number of members of the Gram Panchayat.

Committees.

29. (*1*) Subject to such control and restrictions as may be prescribed, a Gram Panchayat may appoint the following Committees for exercising its powers and discharging its duties and functions, namely:—

(a) the Executive Committee;

(b) the Public Health Committee;

(c) the Public Works Committee;

(d) the Education Committee;

(e) the Committee for production, co-operation and irrigation;

(f) the Social Justice Committee; and

(g) the Committee for Women, Child Development and Youth Activity.

(2) A Committee appointed under sub-section (*1*), shall consist of not more than five members and may be dissolved or reconstituted for such reasons and in such manner as may be prescribed.

(3) The recommendations of the Committees shall be advisory in nature and every Gram Panchayat shall have the powers to annul, revise or modify any decisions taken by any of its Committees.

Proceedings not to be invalid in certain cases.

30. No act or proceeding of a Gram Panchayat or of any Committee thereof shall be deemed to be invalid merely by reason of the existence of any vacancy.

CHAPTER IV

POWERS, DUTIES AND FUNCTIONS OF GRAM PANCHAYAT

Duties and functions of Gram Panchayat.

31. (*1*) It shall be the duty of Gram Panchayat, so far as the Gram Fund, to make reasonable provision within its jurisdiction, in regard to the matters specified in the Second Schedule.

(*2*) Subject to the provisions of sub-section (*1*) a Gram Panchayat shall have powers and responsibilities to make plans and implement schemes for the development and social justice including those in relation to the matters specified in the Second Schedule.

Control of Gram Panchayat on certain properties.

32. (*1*) The Gram Panchayat in respect of all roads, streets, bridges, culverts and other properties placed by the Administrator under section 37 under its direction, management and control, subject to the provisions of any other law for the time being in force, may do all things necessary for the maintenance and repair thereof, and in particular, may—

(a) wider, open, enlarge, or otherwise improve any such road, bridge or culvert and plant and preserve trees on the sides of such roads;

(b) deepen or otherwise improve any water-course and other property mentioned in clause (*c*) of sub-section (*1*) of section 89; and

(c) cut any hedge or branch or any tree projecting on any such public road or street and building.

(*2*) The Gram Panchayat shall also have control of all roads, streets, water-ways, bridges and culvert which are situated within its jurisdiction, not being private property or not being the property for the time being under the control of the Government and may do all things necessary for the improvement, maintenance and repair thereof and in particular, may—

(a) lay out and make new roads; and

(b) construct new bridges and culverts.

Transfer of any work or institution to Gram Panchayat.

33. The Administrator may entrust to the Gram Panchayat, the execution, maintenance or repair of any work or the management of any institution on behalf of the Administration or any local authority:

Provided that the funds necessary for the execution, maintenance or repairs of the work or the management of the institution shall be placed by the Administration or such local authority as may be determined by the Administrator at the disposal of the Gram Panchayat.

Collection of revenue.

34. (*1*) Subject to such conditions as may be prescribed, the Administrator may, by notification, entrust to the Gram Panchayat the functions and duties of collecting the taxes, land revenue and other dues recoverable under specified scheme.

(*2*) Where any functions or duties are entrusted to a Gram Panchayat under sub-section (*1*), the Administrator shall pay to such Gram Panchayat collection charges atsuch rates as may be prescribed.

Village Volunteer Force.

35. (*1*) Subject to the rules under this Regulation, a Gram Panchayat may organise a force to be known as Village Volunteer Force consisting of able bodied persons residing in the Gram who are not below the age of 18 years and who are willing to join the force and place such force under the command of a suitable person.

(2) The services of the Village Volunteer Force, may be utilised for general watch and ward purpose and in cases of emergency like fire, floods, out-break of epidemics or any other natural calamity.

(3) No member of the Village Volunteer Force, shall be held liable for damages on account of any act done by him in the *bona fide* discharge of his duties as a member of such force.

Execution of contracts.

36. Every contract or agreement entered into by a Gram Panchayat shall be signed by the Sarpanch and the Panchayat Secretary and sealed with the common seal of the Gram Panchayat.

Modification of powers, functions, etc., from Gram Panchayat.

37. Notwithstanding the transfer of any powers, functions and duties in respect of any matter to a Gram Panchayat, where the Administrator is satisfied that by reason of a change in the nature, the matter has ceased to be a matter in the Second Schedule and that it is necessary to withdraw from the Gram Panchayat the powers, function or duties in respect of such matter, by notification, withdraw such powers, functions and duties with effect from the date specified in the notification and make such incidental and consequential orders as may be necessary to provide for matters including the taking over of the property, rights and liabilities, if any, vesting in the Panchayat and of the staff, if any, which may have been transferred to the Panchayat.

CHAPTER V

FINANCE, PROPERTY AND ACCOUNTS

Gram Fund.

38. (*1*) There shall be a "Gram Fund" for each Gram Panchayat and the same shall be utilised for carrying out the duties and obligations imposed upon the Gram Panchayat by this Regulation.

(2) The following shall be credited to and form part of the Gram Fund, namely:—

(a) the proceeds of any tax or fee imposed under section 41;

(b) the contributions made by the Government or any local authority or person;

(c) all sums ordered by any authority or court to be credited to the Gram Fund;

(d) the income from securities in which the Gram Fund is invested;

(e) the share in the collection of land revenue or other grants from the Administration;

(f) all sums received by way of loans or gifts;

(g) the income derived from fisheries and other sectors under the management of the Gram Panchayat;

(h) the income from or proceeds of any property of the Gram Panchayat;

(i) the sale proceeds of all dust, dirt, dung or refuse collected by the functionaries of the Gram Panchayat;

(j) the sums assigned to the Gram Fund by any general or special order of the Administration; and

(k) all sums received in aid of or for expenditure on any institution or service maintained or financed from the Gram Fund or managed by the Gram Panchayat.

(3) The amount in the Gram Fund shall be applied subject to the provisions and for the purposes of this Regulation and shall be kept in such custody and in such manner as may be prescribed.

Grants.

39. The Administrator may, subject to such conditions as he may deem fit, make grants to the Gram Panchayat for general purposes or for the improvement of the village and the welfare of residents therein.

Properties placed under disposal, management and control of Gram Panchayat.

40. (*1*) The Administrator may, if he deems fit, place all or any of the properties, of the nature specified below, and situated within the jurisdiction of the Gram Panchayat under the direction, management and control of the Gram Panchayat, namely:—

(i) open sites, waste, vacant and grazing lands, not being private property and river beds;

(ii) public roads and streets;

(iii) public channels, water courses, wells, ponds, tanks (except irrigation tanks under the control of the Government), public reservoirs (except water treatment plants under the control of the Government), cisterns, fountains, aqueducts and any adjacent land (not being private property) appertaining to any public tanks or ponds, and lands appertaining thereto;

(iv) public sewers, drains, drainage works, tunnels and culverts and things appertaining thereto and other conservancy works;

(v) sewage, rubbish and offensive matter, deposited on streets or collected by the Gram Panchayat from streets, latrines, urinals, sewers, cesspools and other places;

(vi) street lights, public lamps, lamp posts and apparatus connected therewith or appertaining thereto;

(vii) public library, reading rooms, slaughter houses, fish farms, cremation grounds, primary schools, *anganwadi* centres; and

(viii) road side trees, fuel wood plantation, non-conventional energy equipments.

(*2*) All markets and fairs or such portions thereof as are held upon public land shall be managed and regulated by the Gram Panchayat and Gram Panchayat shall receive to the credit of the Gram Fund referred to in sub-section (*1*) of section 38 all dues levied or imposed in respect thereof.

Taxes which may be imposed.

41. (*1*) Subject to the rules made under this Regulation a Gram Panchayat, in relation to the services provided by it directly, may levy—

(a) a tax on the owners or occupiers of buildings;

(b) a tax on trades, callings and employment;

(c) a tax on vehicles other than mechanically propelled vehicles kept within the limits of the Gram Panchayat;

(d) a tax on sale of cattle within the limits of the Gram Panchayat;

(e) a theatre or show tax on entertainments and amusements;

(f) a lighting tax;

(g) a drainage tax;

(h) fees for providing sanitary arrangements at such places of worship, of pilgrimage, fairs and melas within its jurisdictions;

(i) fees for sale of goods in markets, melas, fairs and festivals;

(j) fee for grazing of cattle in grazing lands under the management of the Gram Panchayat;

(k) fee for providing the watch and ward of crops in the Gram Panchayat;

(l) licence fee for plying of public ferry; and

(m) such other taxes as may be approved by the Administrator.

(2) The taxes and fees referred to in sub-section (*1*) shall be imposed, assessed and realised in such manner and at such times as may be prescribed.

Appeal against levy of tax, etc.

42. Any person aggrieved by the assessment, levy or imposition of any tax or fee under section 41, may appeal to the Panchayat Secretary within thirty days of the date of the order imposing such tax or fee and second appeal in these cases shall lie with the Chief Executive Officer.

Suspension of levy of tax or fee.

43. The Chief Executive Officer may, by order, suspend the levy or imposition of any tax or fee under section 38 and may at any time in the like manner rescind such suspension.

Lease of collection of markets fees, etc.

44. It shall be lawful for a Gram Panchayat to lease by public auction or private contract after following prescribed procedure, the collection of any fee on specified markets and *bazars*, if any, such fee is imposed under section 41:

Provided that a lessee shall give security for the due fulfilment of the conditions of the lease or contract.

Recovery of taxes and other dues.

45. (*1*) When any tax or fee or other sum due to a Gram Panchayat has become payable, the Gram Panchayat shall with the least practicable delay cause to be sent to the person liable for the payment thereof, a demand notice in the prescribed form for the amount due from him and require him, to pay the amount within a period of thirty days, from the date of such notice.

(2) Every notice of demand under sub-section (*1*) shall be served in such manner as may be prescribed.

(3) If the sum for which a notice of demand has been served is not paid within a period of thirty days from the date of such notice, the Gram Panchayat may apply to the Mamlatdar or any other officer authorised in this behalf by the Administrator for its recovery as an arrear of land revenue.

Accounts.

46. Every Gram Panchayat shall maintain accounts in such form as may be prescribed.

Annual estimate of expenditure.

47. (*1*) Every Gram Panchayat shall, at such time and in such manner as may be prescribed, prepare in each year a development plan for that year and present before the District Planning Committee.

(*2*) No expenditure shall be incurred unless the budget is approved by the Administrator.

Audit.

48. (*1*) The accounts of every Gram Panchayat shall be audited annually in such manner as may be prescribed.

(2) The audit shall be carried out by the prescribed authority or such other officer as the Administrator may appoint in this behalf and such prescribed authority or other officer shall within one month of the completion of the audit, forward copies of the audit report to the Chief Executive Officer and the Gram Panchayat.

(3) The Chief Executive Officer may, after considering the report and after making such further enquiry as he may consider necessary, disallow any item which appears to him contrary to law and surcharge the same on the person making or authorising the illegal payment and shall—

(a) if such person is a member of the Gram Panchayat, proceed against him in the manner as specified in sub-sections (*2*) and (*3*) of section 53; and

(b) if such person is not a member of the Gram Panchayat, obtain the explanation of the person and direct such person to pay to the Gram Panchayat the amount surcharged within a specified period and if the amount is not paid within the specified period, the Chief Executive Officer shall cause it to be recovered as an arrear of land revenue and credit it to the Gram Fund referred to in sub-section (*1*) of section 38.

(4) Any person aggrieved by an order of the Chief Executive Officer under sub-section (*3*) may, within thirty days of the date of such order, prefer an appeal to the Secretary Panchayat whose decision thereon shall be final.

(5) Social audit of the major works being carried out by the Gram Panchayat shall be organised as may be decided by the Director Panchayat from time to time and the report of such audit whenever carried out shall be submitted to the Administrator by Director Panchayat along with his comments.

Administrative report.

49. (*1*) Every Gram Panchayat shall submit annually to the Chief Executive Officer a report on the administration of the Gram Panchayat during the previous year.

(2) The report shall be prepared by the Panchayat Secretary and after it is approved by the Gram Panchayat, shall be forwarded to the Chief Executive Officer with a copy of the resolution of the Gram Panchayat thereon.

(3) The annual administration report of the Gram Panchayat shall contain an introductory section with basic statistics about the Gram Panchayat and data related to devolution of functions, finances, functionaries and performance of its duties, functions and obligations.

(4) The Chief Executive Officer shall forward the annual administrative report through the Director Panchayat along with his comments to the Administrator.

CHAPTER VI

CONTROL OF GRAM PANCHAYAT

Power to call for proceedings, etc.

50. The Chief Executive Officer and the Director Panchayat shall have power to—

(a) call for—

(i) any extract from the proceeding of a Gram Panchayat or any book, record, correspondence or documents in the possession or under control of a Gram Panchayat;

(ii) any return, plan, estimate, account or report for the purpose of inspection or examination;

(b) require a Gram Panchayat to take into consideration—

(i) any objection which appears to the Chief Executive Officer or the Director Panchayat to exist to the doing of anything which is about to be done or is being done by such Gram Panchayat, or

(ii) any information which the Chief Executive Officer or the Director Panchayat is able to furnish and which appears to the Chief Executive Officer or the Director Panchayat to necessitate the doing of a certain thing by the Gram Panchayat, and to make written reply to the said Chief Executive Officer or the Director Panchayat, as the case may be, within a reasonable time, stating its reasons for desisting from doing such things.

Default in performance of duty by Gram Panchayat.

51. (*1*) If, at any time, it appears to the Chief Executive Officer that a Gram Panchayat has made wilful and persistent default in the performance of any duty imposed on it by this Regulation, he may, by order in writing, fix a period for the performance of that duty under intimation to the Director Panchayat.

(*2*) If the duty specified under sub-section (*1*), is not performed within the period so fixed, the Executive Officer may by an order in writing appoint any Government Agency to perform it, and direct that the expenses of the performance of such duty shall be paid by the defaulting Gram Panchayat within such period as the Chief Executive Officer may by order determine fit.

Suspension of execution of order on resolution of Panchayat.

52. (*1*) If in the opinion of the Panchayat Secretary, the execution of any order or resolution of a Gram Panchayat or the doing of anything which is about to be done or is being done by or on behalf of a Gram Panchayat is causing or likely to cause danger to human life, health and public safety or annoyance to the public or to lead to a breach of peace or is unlawful, he shall forthwith bring it to the notice of the Chief Executive Officer who may by an order in writing suspend the execution or prohibit the doing thereof.

(2) When the Chief Executive Officer makes order under sub-section (*1*), he shall forthwith send to the Gram Panchayat affected thereby a copy of the order together with a statement of the reasons for making it.

(3) The Chief Executive Officer shall forthwith submit to the Secretary Panchayat a report of the circumstances in which the order was made under this section and the Secretary Panchayat may after giving notice to the Gram Panchayat and making such inquiry as he deems fit, rescind, modify or confirm the order.

(4) All actions taken or order made under sections 50, 51 and this section shall be reported to the Administrator as soon as possible.

Liability of members for loss, waste or misapplication.

53. (*1*) Every member of the Gram Panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the Gram Panchayat which has been caused or facilitated by his misconduct or wilful neglect of his duty as a member of the Gram Panchayat.

(2) If after giving the member of the Gram Panchayat concerned a reasonable opportunity for showing cause to the contrary, the Panchayat Secretary is satisfied that the loss, waste or misapplication of any money or other property of the Gram Panchayat is a direct consequence of misconduct or wilful neglect on the part of such member, he shall report in writing to the Chief Executive Officer who shall direct such member to pay to the Gram Panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication:

Provided that no such order shall be made for *bona fide* or technical irregularities or mistake of a member of the Gram Panchayat.

(3) If the amount referred to in sub-section (*2*) is not so paid, the Chief Executive Officer shall recover it as an arrear of land revenue and credit it to the Gram Fund referred to in sub-section (*1*) of section 38.

(4) An order of the Chief Executive Officer shall be subject to an appeal to the Secretary Panchayat if made within thirty days of the date of the order.

Dissolution or suspension of panchayat for default.

54. (*1*) If, in the opinion of the Administrator, a Gram Panchayat exceeds or abuses its powers or is incompetent to perform or makes persistent default in the performance of the duties imposed on it or functions entrusted to it under any provision of this Regulation or by or under any other law for the time being in force, or fails to obey an order made under this Regulation by the Gram Panchayat superior thereto or by the Administrator or any officer authorised by it, under this Regulation or persistently disobeys any of such orders, the Administrator may, after giving the Gram Panchayat an opportunity of rendering an explanation, by order in the Official Gazette—

(i) dissolve such Gram Panchayat; or

(ii) supersede such Gram Panchayat for the period specified in the order:

Provided that such period shall not be longer than six months or the residual period of duration of such Gram Panchayat whichever is less:

Provided further that the Administrator may subject to, the preceding proviso from time to time after making such inquiry as it may consider necessary by an order published in the Official Gazette, extend the period of supersession of such Gram Panchayat until such date as may be specified in the order or by like order curtail the period of such supersession.

(2) When a Gram Panchayat is dissolved or superseded, all members of the Gram Panchayat shall from the date specified in the order, vacate their office as such members.

(3) When the Gram Panchayat is dissolved or superseded, it shall be reconstituted, in the manner provided in this Regulation.

(4) If a Gram Panchayat is dissolved or superseded—

(a) all the powers and duties of the Gram Panchayat shall during the period of dissolution or supersession, as the case may be, exercised and performed by such person or persons as the Administrator may from time to time appoint in that behalf;

(b) all property vested in the Gram Panchayat shall during the period of dissolution or supersession, as the case may be, vest in the Administrator; and

(c) on the dissolution, or, as the case may be, on the expiry of the period of supersession, the Gram Panchayat shall be reconstituted in the manner provided in this Regulation, and the persons vacating office shall be eligible for re-election.

Disputes between Gram Panchayats.

55. (*1*) If any dispute arises between two or more Gram Panchayats, it shall be referred to a Joint Committee of Panchayat appointed under section 80.

(*2*) If the Joint Committee is unable to resolve the issue it shall be referred to the Secretary Panchayat and the decision of Secretary Panchayat thereon shall be final.

Administrator or Secretary Panchayat may call for proceedings.

56. The Administrator or the Secretary Panchayat may call for and examine the record of the proceedings of any Gram Panchayat for the purpose of satisfying himself as to the legality or propriety of any order passed and may revise or modify the order as he may deem fit:

Provided that no order shall be so revised or modified without giving the Gram Panchayat concerned a reasonable opportunity of showing cause against the proposed order for revision or modification of the order.

CHAPTER VII

THE DISTRICT PANCHAYAT

District Panchayat.

57. The Administrator shall, by notification, constitute for the Districts in the Union territory, a Panchayat at the District level to be called the District Panchayat.

Composition of District Panchayat.

58. (*1*) The District Panchayat shall consist of such number of seats to be filled from such number of wards, as the Administrator may, by order, determine.

(2) Subject to the provisions of sub-section (*3*), the territorial boundary for each ward shall be notified by the Administrator on the recommendations of the Election Commission.

(3) The seats in the District Panchayat shall be filled by persons chosen by direct election from the wards in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall so far as practicable be the same throughout the District Panchayat area.

(4) The following persons shall also be represented in the District Panchayat, namely:—

(a) all sarpanches of Gram Panchayats;

(b) the Member of Lok Sabha representing the Constituency of Union territory:

Provided that the representatives under clauses (*a*) and (*b*) shall have the right to vote in the meetings other than the meetings held for election of the President and the Vice-President.

(5) The provisions of sub-sections (*5*), (*6*), (*7*) and (*8*) of section 12 shall, so far as may be, apply to the District Panchayat as they apply to a Gram Panchayat subject to the modification that for the words "Gram Panchayat" wherever they occur in those provisions, the words "District Panchayat" shall be substituted.

Incorporation of District Panchayat.

59. The District Panchayat shall, by the name notified under section 57 be a body corporate having perpetual succession and a common seal and subject to such restrictions and conditions imposed by or under this Regulation or any other law for the time being in force, have power to acquire, hold, administer and transfer property, both movable and immovable and enter into any contract and shall by the said name sue or be sued.

Persons qualified to vote and be elected.

60. Every member of the Gram Sabhas constituting the District Panchayat shall, unless disqualified under this Regulation or any other law for the time being in force be qualified,—

(i) to vote at an election to the District Panchayat;

(ii) be elected to the District Panchayat.

Disqualification.

61. (*1*) No person shall be a member of a District Panchayat or continue as such who—

(a) has not attained the age of twenty-one years;

(b) is not a citizen of India;

(c) has, whether before or after the commencement of this Regulation, been convicted—

22 of 1955.

(i) of an offence under the Protection of Civil Rights Act, 1955 and a period of five years, or such lesser period as the Administrator may determine in any particular case, has elapsed since his conviction;

(ii) of any other offence and been sentenced to imprisonment for not less than six months, and a period of five years, or such lesser period as the Administrator may determine in any particular case, has elapsed since his release;

(d) has been adjudged by a competent court to be of unsound mind;

(e) has been adjudicated an insolvent;

(f) has been removed from any office held by him in any District Panchayat under any provision of this Regulation or in any District Panchayat before the commencement of this Regulation and a period of five years has not elapsed from the date of such removal, unless he has, by an order of the Administrator notified in the Official Gazette, been relieved from the disqualification on account of such removal from office;

(g) has been disqualified from holding office under any provision of this Regulation and the period for which he was so disqualified has not elapsed;

(h) holds any salaried office or place of profit in the gift or disposal of any Panchayat, other than as such office or place as prescribed under this Regulation;

(i) has, directly or indirectly, any share or interest in any work done by order of the Panchayat, or in any contract with, by or on behalf of, or employment with or under the Panchayat.

Explanation.—For the removal of doubts, it is hereby clarified that a person shall not be disqualified under this clause for membership of a Panchayat by reason only of such person—

(i) having share in any joint stock company or a share or interest in any society registered under any law for the time being in force which shall contract with or be employed by or on behalf of any Panchayat;

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of any Panchayat may be inserted;

(iii) holding a debenture or being otherwise concerned in any loan raised by or on behalf of any Panchayat;

(iv) being professionally engaged on behalf of any Panchayat as a legal practitioner;

(v) having any share or interest in any lease of immovable property in which the amount of rent has been approved by the District Panchayat in the case of a village Panchayat, or by the District Panchayat in its own case or in any sale or purchase of immovable property or in any agreement for such lease, sale or purchase;

(vi) having a share or interest in the occasional sale to the Panchayat of any article in which he regularly trades or in the purchase from the Panchayat of any article, to a value in either case not exceeding in any year one thousand rupees;

(vii) merely being a relative of a person in employment with or under or by or on behalf of the Panchayat;

(j) has, directly or indirectly, any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of any Panchayat;

(k) fails to pay any arrears of any kind due by him to the Panchayat or any Panchayat subordinate thereto or any sum recoverable from him under this Regulation, within three months after a special notice in accordance with the rules made in this behalf has been served upon him.

Explanation.—For the removal of doubts, it is hereby clarified that—

(i) a person shall not be deemed to be disqualified if he has paid the arrears or the sum referred to in clause (*k*) of this sub-section, prior to the day prescribed for the nomination of candidates;

(ii) failure to pay the arrears or the sum referred to in clause (*k*) of this sub-section to the Panchayat by a member of an Hindu Undivided Family or by a person belonging to a group or unit, the members of which are by custom joint in estate or residence, shall be deemed to disqualify all members of such Hindu Undivided Family or as the case may be, all the members of such group or unit;

(l) is a employee of the Government or any local authority;

(m) has voluntarily acquired the citizenship of a Foreign State or is under any acknowledgement of allegiance or adherence to a Foreign State;

(n) has no facility of water closet or privy accommodation at the place of his ordinary residence:

Provided that a sitting member shall be deemed to have incurred disqualification if he does not submit to the Chief Executive Officer, within six months from the date of commencement of this, a certificate issued by the Panchayat Secretary of the Gram Panchayat in whose jurisdiction his ordinary residence is situated, to the effect that he is having facility of water closet or privy accommodation at the place of his ordinary residence;

(o) is disqualified under any other provision of this Regulation, and the period for which he was so disqualified has not elapsed;

(p) has more than two children:

Provided that a person having more than two children on the date of commencement of this Regulation shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification under this clause.

Explanation.—For the purposes of this clause, it is hereby clarified that,—

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of single subsequent delivery shall be deemed to be one entity;

(ii) "child" does not include an adopted child or children;

(q) is without permission of the Gram Panchayat, absent from three consecutive meetings;

(r) has been ordered to give security for good behaviour under section 109 or section 110 of the Code of Criminal Procedure, 1973; or 2 of 1974.

(s) has been dismissed from the service of the Government or Municipality or Gram Panchayat for misconduct within five years prior to the date of poll.

(*2*) A person shall be disqualified for being a member of the District Panchayat if he is so disqualified under the Fifth Schedule.

62. If any question arises as to whether a person has become subject to any disqualification referred to in section 4, section 14, section 15, section 60 and section 61, it shall be referred to the Administrator of the Union territory for decision and his decision thereon shall be final: Decision on question as to disqualification.

Provided that before giving any decision on such question, the Administrator shall obtain the opinion of the Election Commission and act according to such opinion:

Provided further that no person shall be disqualified unless such person has been given an opportunity for being heard in the matter.

63. (*1*) The election of members of a District Panchayat shall be held in such a manner (including the manner of voting) as may be prescribed and on such date or dates as the Administrator may, in consultation with the Election Commission, by notification direct: Election.

Provided that a casual vacancy shall be filled-up within a period of six months from the date of occurrence of such vacancy:

Provided further that no election shall be held to fill a casual vacancy occurring within six months prior to the general election of a District Panchayat under this section.

(2) It shall be competent for the Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued under sub-section (*1*).

(3) Where in respect of a Panchayat which is to be reconstituted on account of the expiry of its duration, the Administrator is satisfied that, it is not possible to hold elections before the expiry of duration for reconstituting the Panchayat, on account of any natural calamity, riots, communal disturbances, *force-majeure*, then, notwithstanding anything contained in this Regulation or rules made thereunder, the Administrator may by notification, make a declaration to that effect.

(4) On the issue of the notification under sub-section (*3*), all the powers and duties of the Panchayat shall be exercised and performed for the period, during which the notification remains in force by such officer as the Administrator may by order in writing specify.

64. (*1*) Any member of a District Panchayat who during his term of office— Leave of absence.

(i) is absent for more than three consecutive months from the district and a leave not exceeding four months so to absent himself has been granted by the Panchayat; or

(ii) absents himself for four consecutive months from the meetings of the Panchayat without the leave of the said Panchayat,

shall cease to be a member and his office shall be vacant and thereupon the Panchayat shall as soon as may be inform him that the vacancy has occurred.

(2) Any dispute, as to whether a vacancy has or has not occurred under this section, shall be referred to the Secretary Panchayat for decision, and the decision of such Secretary Panchayat shall be final:

Provided that such reference shall not be entertained, if it is made after the expiry of fifteen days from the date on which the Panchayat informs under sub-section (*1*) to the member in regard to such vacancy.

(3) Whenever a leave is granted under sub-section (*1*) to a member who is a Vice-President, another member shall, subject to the conditions to which the election of the Vice-President so absenting himself was subjected to, be elected to perform all the duties and exercise all the powers of a Vice-President during the period for which such leave is granted.

65. (*1*) On the constitution of the District Panchayat for the first time under this Regulation or on its reconstitution, a meeting shall be called on a date fixed by the Administrator for taking oath of office by all the members in the form set out in the First Schedule before the Secretary Panchayat. Oath of office.

(2) The officer appointed by the Administrator shall preside over at such meeting, but not have the right to vote.

(3) No member of the District Panchayat who has not taken such oath shall vote or take part in the proceedings of any meeting nor shall be included as a member of any Committee constituted by the District Panchayat.

Election of President and Vice-President.

66. (*1*) On the constitution of the District Panchayat for the first time under this Regulation or on the expiry of the term of the District Panchayat or on its reconstitution, a meeting shall be called on a date fixed by the Secretary Panchayat where the elected members of the District Panchayat shall elect, from amongst themselves, a President and a Vice-President.

(2) The officer appointed by the Secretary Panchayat shall preside over at such meeting, but shall not have the right to vote.

(3) No business other than the election of the President and the Vice-President shall be transacted at such meeting.

(4) In case of equality of votes, the result of the election shall be decided by lots drawn in the presence of the officer appointed, in such manner as he may determine.

(5) The office of the President and the Vice-President shall be reserved for the Scheduled Tribes according to a roster of reservation which shall be maintained in such form and manner as may be prescribed:

Provided that the office of the President and Vice-President shall be reserved for women in every second term.

(6) The term of the office of the President and Vice-President, unless the District Panchayat is sooner dissolved under any law for the time being in force, shall be maximum of two years and six months from the date they are appointed for its first meeting and no longer.

Meetings.

67. The President shall—

(i) convene and preside at and conduct meetings of the District Panchayat;

(ii) have access to the records of the Panchayat;

(iii) discharge all duties imposed, and exercise all the powers conferred on him by or under this Regulation;

(iv) watch over the financial and executive administration of the Panchayat and submit to the Panchayat all questions connected therewith which shall appear to him to require its orders; and

(v) exercise administrative supervision over the Chief Executive Officer for securing implementation of resolution or decisions of the Panchayat or of any Committee thereof.

Powers and duties of Vice-President.

68. The Vice-President shall,—

(a) exercise the powers and perform the duties of the President when he is absent on leave or incapacitated from functioning or when the office of the President falls vacant; and

(b) in the absence of the President or when the office of the President falls vacant, preside over the meetings of the District Panchayat.

Duration of District Panchayat.

69. (*1*) The District Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) An election to constitute the District Panchayat shall be completed—

(a) before the expiry of its duration specified in sub-section (*1*); and

(b) before the expiry of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved District Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the District Panchayat.

(3) The District Panchayat constituted upon the dissolution of a District Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved District Panchayat would have continued under sub-section (*1*) had it not been so dissolved.

Resignation of office.

70. (*1*) Any member of the District Panchayat may resign his office by giving notice in writing to that effect to the President under intimation to the Chief Executive Officer and such resignation, shall take effect from the date of its acceptance by the President.

(2) The Vice-President may resign his office by giving notice in writing to the President under intimation to the Chief Executive Officer and such resignation, shall take effect from the date of its acceptance by the President.

(3) The President may resign his office by giving notice in writing to the Secretary Panchayat, under intimation to the Administrator and such resignation, shall take effect from the date of its acceptance by the Secretary Panchayat.

Casual vacancy.

71. Any casual vacancy in the office of the President or the Vice-President or Member in the District Panchayat shall be filled for the remainder of the duration of the District Panchayat by election in accordance with the provisions of this Regulation:

Provided that where a seat or office of the President has been reserved for women or the Scheduled Tribes, no person other than a women or a member of the Scheduled Tribes shall be qualified to be chosen to fill such vacancy for the remainder of the term.

Suspension of President or Vice-President or any member of District Panchayat.

72. (*1*) The Secretary Panchayat may by order suspend from office the President or the Vice-President or any member of District Panchayat against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the Panchayat under section 58, or who has been detained under any law relating to preventive detention for the time being in force.

(2) Where the President or the Vice-President or any member of District Panchayat has been suspended under sub-section (*1*), another member shall, subject to the condition to which the election of the President, Vice-President or, as the case may be, any member of District Panchayat suspended, was subject be elected to perform all the duties and exercise all the powers of a President or a Vice-President or a member of District Panchayat, as the case may be, during the period for which such suspension continues.

(3) An appeal against an order passed under sub-section (*1*) shall lie before the Administrator or any officer authorised by him in this behalf within a period of thirty days from the date of the order.

Motion of no confidence.

73. (*1*) A motion of no confidence against the President or the Vice-President may be moved by not less than one-third of the elected members of the District Panchayat after giving notice thereof, but not before six months of assumption of office by the President or the Vice-President.

(2) If the motion is carried by a majority of not less than two-third of the elected members of the District Panchayat, the President or the Vice-President, as the case may be, shall cease to hold office from the date on which the motion is carried unless he has resigned earlier.

(3) Notwithstanding anything contained in this Regulation, the President or the Vice-President shall not preside over a meeting in which motion of no confidence is discussed

against him, but he shall have a right to speak or otherwise take part in the proceedings of such meetings.

Removal from office.

74. (*1*) The Secretary Panchayat may by order remove from office any member of the District Panchayat, the President or Vice-President thereof, after giving him an opportunity of being heard and due notice in that behalf and after such inquiry as it deems necessary, if such member, the President or the Vice-President has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his powers or makes persistent default in the performance of his duties and functions under this Regulation or has become incapable of performing his duties and functions under this Regulation and the President or as the case may be the Vice-President, so removed may at the discretion of the Secretary Panchayat also be removed from the membership of the Panchayat:

Provided that no member, the President or the Vice-President of District Panchayat shall be removed unless such person has been given an opportunity of being heard in the matter.

(2) The Secretary Panchayat may, after following the procedure laid down in sub-section (*1*) by order disqualify for a period not exceeding five years any person who has resigned from his office of member, the President or the Vice-President or otherwise ceases to hold any such office and has been guilty of misconduct specified in sub-section (*1*) or has been incapable of performing his duties:

Provided that such action shall be taken within six months from the date on which the person resigns or ceases to hold any such office.

(3) Any person aggrieved by an order of the Secretary Panchayat under sub-section (*1*) or sub-section (*2*) may, within a period of thirty days from the date of the communication of such order, appeal to the Administrator or any officer authorised by him in this behalf against the said order.

Staff of District Panchayat.

75. (*1*) The Administrator shall appoint the Chief Executive Officer of the District Panchayat who shall not be below the rank of Additional District Magistrate.

(2) The Administrator shall also appoint an Accounts Officer for District Panchayat.

(3) The Administrator shall post from time to time in District Panchayat such number of officers of Group 'A' and Group 'B' including any officers employed by the existing local authority and other officers allocated to serve under the Lakshadweep Administration, as the Administrator considers necessary.

(4) Notwithstanding anything contained in this Regulation or any other law for the time being in force the District Panchayat or other authority authorised by the District Panchayat in this behalf shall have power to effect transfer of the officers and officials other than those mentioned in sub-section (*3*) posted in the District Panchayat.

(5) The District Panchayat may create and fill-up such other posts in such number as may from time to time be necessary with the prior approval of the Administrator:

Provided that no post shall be created for which no budget provision is made and is not provided in the staffing pattern approved by the Administrator as provided under sub-section (*6*).

(6) The Administrator shall approve the staffing pattern for the District Panchayat and Gram Panchayat for carrying out the functions mentioned in this Regulation and the terms and conditions of service of such staff shall be such as may be prescribed.

Service conditions of staff of District Panchayat.

76. The staff posted in the District Panchayat shall be governed by the terms and conditions of their service as may be applicable to them before their posting in the District Panchayat.

Functions of Chief Executive Officer and other officers.

77. (*1*) Save as otherwise expressly provided by or under this Regulation, the executive powers of a District Panchayat for the purpose of carrying out the provisions of this Regulation, shall vest in the Chief Executive Officer and he shall—

(a) perform all the functions and exercise all the powers specifically imposed or conferred upon him by or under this Regulation, or under any law for the time being in force; and

(b) lay down the duties of all officers and employees of the District Panchayat.

(2) Subject to the provisions of this Regulation and the rules made thereunder the Chief Executive Officer shall—

(a) be entitled to—

(i) attend the meetings of the District Panchayat, or any of its committee;

(ii) call for any information, return statement, account or report from any officer or servant of or holding office under, the District Panchayat;

(iii) grant leave of absence to such class of officers as may be prescribed by rules; and

(iv) call for an explanation from any officer or servant of or holding office under the District Panchayat;

(b) subject to the control of the District Panchayat, discharge duties and perform function in respect of matters which by or under this Regulation are not expressly imposed or conferred on any committee, presiding officer or any officer of the District Panchayat;

(c) appoint such class of officers and employees subject to such terms and conditions as may be prescribed;

(d) supervise and control, engagement of all casual labours, daily wage workers and contractual employment of the District Panchayat;

(e) supervise and control, the execution of all activities of the District Panchayat;

(f) take necessary measures for the speedy execution of all works and development schemes of the District Panchayat;

(g) have custody of all papers and documents connected with the District Panchayat;

(h) assess and give his opinion confidentially every year on the work of the officers holding office under the District Panchayat; forward them to such authorities as may be prescribed by the Union territory Administration and lay down the procedure for writing such reports about the work of officers and servants under the District Panchayat;

(i) draw and disburse money out of the fund;

(j) exercise supervision and control over the acts of officers and servants holding office under the District Panchayat in matters of executive administration and those relating to accounts and records of the District Panchayat; and

(k) exercise such other powers and perform such other functions as may be prescribed.

(3) The Chief Executive Officer may subject to such conditions as may be prescribed, delegate any of his power and functions to any officer or employee holding office under the District Panchayat, provided such officer or employee is not below such rank as may be prescribed.

(4) Subject to the other provisions of this Regulation, the Chief Executive Officer shall be under the general control of the District Panchayat.

Right to requisition records.

78. Every person in possession of moneys, accounts, records or other property pertaining to a Gram Panchayat or a District Panchayat, shall on the requisition in writing of the Chief Executive Officer for this purpose, forthwith hand over such moneys or deliver up such accounts, records or other property to the Chief Executive Officer or the person authorised in the requisition to receive the same.

Meetings of District Panchayat.

79. (*1*) The time and place of meetings of the District Panchayat and the procedure to be followed at such meeting shall be such as may be prescribed.

(2) A member of the District Panchayat may, at any meeting, move any resolution and put question to the President or the Vice-President on matters connected with the administration of the District Panchayat in such manner as may be prescribed.

(3) No resolution of the District Panchayat shall be modified, amended, varied or cancelled by the District Panchayat within a period of three months from the date of passing thereof except by a resolution supported by two-thirds of the total number of members of the District Panchayat.

Standing Committees or Joint Committees, etc. .

80. (*1*) Subject to such rules as may be prescribed, the District Panchayat may appoint from amongst its members, the following Standing Committees for exercising its powers and discharging its duties and functions, namely:—

(a) Executive Committee;

(b) Public Health Committee;

(c) Public Works Committee;

(d) Education Committee;

(e) Committee for production, co-operation and irrigation;

(f) Social Justice Committee; and

(g) Committee for Women, Child Development and Youth activity.

(2) The composition and tenure of Committees referred to in clauses (*a*) to (*g*) of sub-section (*1*) shall be such as may be prescribed.

(3) In addition to the Committees referred to in sub-section (*1*), a District Panchayat may with the prior approval of the Administrator constitute a Committee or Committees to execute any work or scheme decided upon by the District Panchayat or to inquire into and report to the District Panchayat on matters which the Panchayat may refer to such Committee or Committees and the District Panchayat may make regulations for the procedure to be followed by any such Committee.

(4) No fee or allowances shall be payable for attending the meetings.

Acts or proceedings not to be invalid.

81. No act or proceedings of the District Panchayat or of Standing Committee thereof shall be deemed to be invalid merely by reason of the existence of any vacancy therein.

Consultation with President and Vice-President.

82. The Administrator shall, from time to time, consult the President and the Vice-President of the District Panchayat on any matter specified in the Fourth Schedule and the views of the President or the Vice-President on such matter shall be recommendatory in nature.

Duties and functions of District Panchayat.

83. The District Panchayat shall have such powers and authority as the Administrator may, by order, specify, so as to enable it to function as an institution of self-government with respect to the preparation of plans for economic development and social justice and the implementation of schemes for economic development and social justice in relation to the matters listed in the Third Schedule.

84. The District Panchayat in respect of roads, streets, bridges, culverts and other properties placed by the Administrator under sub-section (*1*) of section 89 under its direction, management and control, may do all things necessary for the maintenance and repair thereof, and in particular, may:— Control of District Panchayat on certain properties.

(a) widen, open, enlarge, or otherwise improve any such road, bridge or culvert and plant and preserve trees on both sides of such roads;

(b) deepen or otherwise improve any water course and other property mentioned in clause (*c*) of sub-section (*1*) of section 89;

(c) cut any hedge or branch of any tree projecting on any such public road or street; or

(d) lay out and make new roads; and construct new bridges and culverts.

85. The Administrator may entrust to the District Panchayat, the execution, maintenance or repair of any work or the management of any institution on behalf of the Administrator or any local authority: Transfer of any work or institution to District Panchayat.

Provided that the funds necessary for the execution, maintenance or repair of the work or the management of such institution shall be placed at the disposal of the District Panchayat by the Administrator or such local authority.

86. Every contract or agreement entered into on behalf of the District Panchayat, shall be in writing and shall be signed by the President and by two other members of the District Panchayat and shall be sealed by the common seal of be District Panchayat. Mode of making contracts.

87. A fund to be called "District Panchayat Fund, (Name of the District)" shall be constituted for crediting the following monies by or on behalf of the District Panchayat and also for withdrawal of such monies therefrom, namely:— Constitution of District Panchayat Fund.

(i) the proceeds of any tax or fee imposed by or under section 90;

(ii) the contribution made by the Government or any local authority or persons;

(iii) all sums ordered by any authority or court to be credited to the District Panchayat Fund;

(iv) the income from securities in which the District Panchayat Fund is invested;

(v) all sums received by way of loans or gifts;

(vi) income derived from fisheries under the management of the District Panchayat;

(vii) income from proceeds of any property of the District Panchayat;

(viii) sum assigned to the District Panchayat Fund by any general or special order of the Government;

(ix) all sums received in aid of or for expenditure or any institution or service, maintained or financed from the District Panchayat Fund or managed by the District Panchayat; and

(x) grants-in-aid from the consolidated fund of India.

88. The Administrator may, subject to such conditions as he may deem fit, make grants to the District Panchayat for general purposes or for the improvement of the District and the welfare of the residents thereof. Grants.

89. (*1*) The Administrator may, if he deems fit, place all or any of the following properties situated within the jurisdiction of the District Panchayat under the direction, management and control of the District Panchayat, namely:— Properties vested in District Panchayat.

(a) open sites, waste, vacant and gazing land, not being private property, and river beds;

(b) public roads and streets;

(c) public channels, water course, wells, ponds, tanks (except irrigation tanks under the control of the Government), public springs, reservoirs, cisterns, aqueducts and any adjacent land (not being private property) appertaining to any public tanks or ponds and lands appertaining thereto;

(d) public sewers, drains, drainage works tunnels and culverts and things appertaining thereto and other conservancy works;

(e) sewerage rubbish and offensive matters deposited on streets or collected by the Panchayat from streets, latrines, urinals, sewers, cesspools and other places;

(f) streetlight, public lamps, lamp posts and apparatus connected therewith or appertaining thereto;

(g) public library, reading rooms, slaughter houses, fish farms, cremation grounds, primary schools, anganwadi centres; and

(h) road side trees, fuel wood plantation, non-conventional energy equipments.

(*2*) All markets and fairs or such portion thereof as are held upon public land shall be managed and regulated by the District Panchayat and all dues levied or imposed in respect thereof shall be credited to the District Panchayat Fund.

Taxes which may be imposed.

90. The District Panchayat shall levy, collect, assess and appropriate the taxes, duties, tolls, cess and fees in relation to the services provided by it directly subject to rules made in this behalf and also levy such taxes at such rates as the Administrator may prescribe.

Appeal against levy of tax, etc.

91. (*1*) Any person aggrieved by the assessment, levy or imposition of any tax or fee under section 90 may prefer an appeal to the Secretary Panchayat within thirty days of the date of the order imposing such tax or fee.

(2) The second appeal from the order referred to in sub-section (*1*) shall lie to the Administrator.

(3) The first appeal and second appeal shall be filed in such form and shall be accompanied by such fee as may be prescribed.

Suspension of levy of tax or fee.

92. The Administrator may by notification, suspend the levy or imposition of any tax or fee under section 90 and may at any time in like manner rescind such suspension.

Lease of collection of fees, etc.

93. It shall be lawful for the District Panchayat to lease by public auction or contract after following an open transparent procedure the collection of any fee on specified markets and bazars, if any, such fee is imposed under section 90:

Provided that a lessee shall give security for the due fulfillment of the conditions of the lease or contract.

Recovery of taxes and other dues.

94. (*1*) When any tax or fee or other sum due to District Panchayat has become, payable, the Chief Executive Officer shall, with the least practicable delay, cause to be sent to the person liable for the payment thereof, a demand notice in the prescribed form for the amount due from him and require him to pay the amount within a period of thirty days from the date of such notice.

(2) Every such notice of demand under sub-section (*1*) shall be served in such manner as may be prescribed.

(3) If the sum for which a notice of demand has been served is not paid within thirty days from the date of such notice, the District Panchayat may apply to the Revenue Officer named as Mamlatdar concerned for its recovery as arrears of land revenue.

Accounts.

95. The District Panchayat shall maintain accounts in such form and manner as may be prescribed.

96. (*1*) The District Panchayat shall, in such time and in such manner as may be prescribed prepare in each financial year a budget of its estimated receipts and payments for the following year and submit it to the Secretary Panchayat who shall place it before the Administrator through the Finance Department of Union territory Administration. Budget.

(2) The Secretary Panchayat may, within such period as may be prescribed, either approve the budget or return it to the District Panchayat through District Planning Committee for such modification as he may direct.

(3) If any modifications are made under sub-section (*2*), the budget shall be re-submitted within such period as may be specified by the Secretary Panchayat.

(4) No expenditure shall be incurred by the District Panchayat unless the budget is approved by the Administrator.

(5) The District Panchayat may, at any time during the year for which annual budget estimates has been approved, prepared a revised or supplementary budget which shall be considered and approved by the Administrator in the same manner as an original budget under sub-section (*2*).

97. (*1*) The accounts of the District Panchayat shall be audited in such manner as may be prescribed. Audit.

(2) The audit shall be carried out by such officer as the Administrator may appoint in this behalf and that officer shall within one month of the completion of the audit forward copies of the audit report to the Secretary Panchayat.

(3) The Secretary Panchayat may after considering the report and after making such further enquiry as he may consider necessary, disallow, under intimation to the Administrator, any item which appears to him contrary to law and surcharge the same on the person making or authorising the illegal payment and shall:—

(a) if such person is a member of the District Panchayat proceed against him in the manner specified in section 103;

(b) if such person is not a member of the District Panchayat, obtain the explanation of the person and direct such person to pay to the District Panchayat the amount surcharged within a specified period and if the amount is not paid within the specified period, the Secretary Panchayat shall cause it to be recovered as an arrear of land revenue and credit it to the District Panchayat Fund.

(4) Any person, aggrieved by an order of the Secretary Panchayat under sub-section (*3*) may, within thirty days of the date of such order, prefer an appeal to the Administrator or any officer authorised by him in this behalf, whose decision on such appeal shall be final.

98. The Chief Executive Officer of District Panchayat shall prepare annually a report on the Administration of the District Panchayat for the previous year in such manner as may be prescribed and after it is approved by the District Panchayat it shall be submitted to the Administrator through the Secretary Panchayat. Administrative report.

99. (*1*) The social audit of the major works being carried out by the Panchayat shall be conducted by the Social Audit Committee appointed under section 80 in such manner, at such intervals and with the help of such officers as may be prescribed. Social audit.

(*2*) The Social Audit Committee shall submit its report on the social audit conducted under sub-section (*1*) to such officers as may be prescribed.

100. The Administrator or Secretary Panchayat or any other officer appointed by him in this behalf shall have power— Power to call for proceedings, etc.

(a) to call for—

(i) any extract from the proceedings of the District Panchayat or any books, records, correspondence or documents in the possession or under the control of the District Panchayat; or

(ii) any return, plan, estimate, statement, account or report for the purpose of inspection or examination; or

(b) to require a District Panchayat to take into consideration—

(i) any objection which appears to the Administrator or Secretary Panchayat to exist due to the doing of anything which is about to be or is being done by the District Panchayat; or

(ii) any information which the Administrator or Secretary Panchayat is able to furnish and to necessitate the doing of certain things by the District Panchayat and requiring it to make written reply to him within a reasonable time, stating its reasons from not desisting from doing such things.

Default in performance of duty in District Panchayat.

101. (*1*) If at any time, it appears to the Secretary Panchayat that a District Panchayat has made wilful and persistent default in the performance of any duty imposed on it by this Regulation, he may by order in writing, fix a period for the performance of that duty.

(*2*) If the duty under sub-section (*1*) is not performed within the period so fixed, the Secretary Panchayat may, with the prior approval of the Administrator appoint any person to perform it, and direct that the expenses of the performance of the duty shall be paid by the defaulting District Panchayat within such period as the Secretary Panchayat may think fit.

Suspension of execution of order on resolution of District Panchayat.

102. (*1*) If, in the opinion of the Secretary Panchayat the execution of any order or resolution of the District Panchayat or the doing of anything which is about to or is being done by or on behalf of the District Panchayat is causing or likely to cause injury or annoyance to the public or a grave loss to the public exchequer or is manifest against the public interest or lead to a breach of the peace or is unlawful, he may, by order in writing suspend the execution or prohibit the doing thereof:

Provided that no such order shall be passed without giving the District Panchayat concerned a reasonable opportunity of showing cause against proposed order.

(2) When the Secretary Panchayat makes an order under sub-section (*1*), he shall forthwith send to Panchayat affected thereby a copy of the order together with a statement of the reasons for making it.

(3) The Secretary Panchayat may, after giving such notice to the District Panchayat as he deems fit, rescind, modify or confirm the order made under sub-section (*1*).

(4) Any person aggrieved by an order under sub-section (*1*), may, within a period ofthirty days of the date of the order, prefer an appeal to the Administrator or any officer authorised by him in this behalf, who shall approve or disapprove the order of the Secretary Panchayat or modify it in such manner as he thinks fit.

Liability of members for loss, waste or misapplication.

103. (*1*) Every member of the District Panchayat shall be personally liable for the loss, waste or misapplication of any money or other property of the District Panchayat to which he has been a party or which has been caused or facilitated by his misconduct or wilful neglect of his duty as a member amounting to fraud.

(2) If, after giving the member of the District Panchayat concerned a reasonable opportunity for showing cause to the contrary, the Secretary Panchayat is satisfied that the loss, waste or misapplication of any money or other property of the District Panchayat is a direct consequence of misconduct or wilful neglect on the part of such member, he shall, with the prior approval of the Administrator, by order in writing, direct such member to pay to the District Panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication:

Provided that no such order shall be made *bona fide* or technical irregularities or mistakes of a member.

(3) If the amount is not so paid, the Secretary Panchayat shall recover it as an arrear of land revenue and credit it to the District Panchayat Fund.

(4) An order of the Secretary Panchayat shall be subject to an appeal to the Administrator or any officer authorised by him in this behalf, if made within thirty days of the date of the order and the Administrator may, after making such inquiry as he may deem necessary and after hearing the appellant, rescind or vary or confirm the order.

(5) All the actions taken or orders made under sections 101 and 102 and this section shall be reported to the Administrator as soon as possible.

Dissolution or suspension of Panchayat for defaults.

104. (*1*) If, in the opinion of the Administrator, a District Panchayat exceeds or abuses its powers or is incompetent to perform or makes persistent default in the performance of the duties imposed on it or functions entrusted to it under any provision of this Regulation or by or under any other law for the time being in force, or fails to obey an order made under this Regulation by the District Panchayat superior there to or by the Administrator or any officer authorised by it, under this Regulation or persistently disobeys any of such orders, the Administrator may, after giving the District Panchayat an opportunity of rendering an explanation, by order in the Official Gazette:—

(i) dissolve such District Panchayat, or

(ii) supersede such District Panchayat for the period specified in the order:

Provided that such period shall not be longer than six months or the residual period of duration of such District Panchayat whichever is less:

Provided further that the Administrator may subject to, the preceding proviso from time to time after making such inquiry as it may consider necessary by an order published in the Official Gazette, extend the period of supersession of such District Panchayat until such date as may be specified in the order or by like order curtail the period of supersession.

(2) When a District Panchayat is dissolved or superseded, all members of the District Panchayat shall from the date specified in the order, vacate their office as such members.

(3) When the District Panchayat is dissolved or superseded, it shall be reconstituted, in the manner provided in this Regulation.

(4) If a District Panchayat is dissolved or superseded—

(a) all the powers and duties of the District Panchayat shall during the period of dissolution or supersession, as the case may be, exercised and performed by such person or persons as the Administrator may from time to time appoint in that behalf;

(b) all property vested in the District Panchayat shall during the period of dissolution or supersession, as the case may be, vest in the Administrator; and

(c) on the dissolution, or, as the case may be, on the expiry of the period of supersession, the District Panchayat shall be reconstituted in the manner provided in this Regulation, and the persons vacating office shall be eligible for re-election.

Delegation of powers.

105. The Administrator may, by notification and subject to such restrictions and conditions as may be specified therein, authorise Secretary Panchayat or any other officer subordinate to him, to exercise in respect of District Panchayats any of the powers which may be exercised by him under this Regulation, except the power to make rules under section 130.

Modification of powers, functions, etc., of District Panchayat.

106. Notwithstanding the transfer of any powers, functions and duties in respect of any matter to a District Panchayat, where the Administrator is satisfied that by reason of a change in the nature of the matter, the matter has ceased to be a matter in the Third Schedule and that it is necessary to withdraw from the District Panchayat the powers, function or duties in respect of such matter, by notification in the Official Gazette, withdraw such powers, functions and duties with effect from the date specified in the notification and make such incidental and consequential orders as may be necessary to provide for matters including the taking over of the property, rights and liabilities, if any, vesting in the Panchayat and of the staff, if any, which may have been transferred to the Panchayat.

CHAPTER VIII

ELECTION COMMISSION AND FINANCE COMMISSION

Election Commission.

107. (*1*) The Election Commission appointed under section 185 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 shall be the Election Commission under this Regulation for the superintendence, direction and control of the preparation of electoral rolls, and conduct of all elections to the Gram Panchayats and District Panchayats in the Union territory of Lakshadweep. Reg. 1 of 1994.

(*2*) The Administrator shall, when so requested by the Election Commission, make available to that Commission such staff as may be necessary for the discharge of the functions conferred on the Election Commission by sub-section (*1*).

Finance Commission.

108. The Finance Commission constituted under section 186 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 shall be the Finance Commission under this Regulation for the purpose of reviewing the financial position of the Panchayats and making recommendations to the Administrator of the Union territory of the Lakshadweep, as to:— Reg. 1 of 1994.

(a) the principles which should govern:—

(i) the sharing among the Union territory Administration and Gram Panchayats and District Panchayats of the net-income of the taxes, duties, cess and fees which are being levied by the Union territory Administration and which may be shared with the Gram Panchayats and District Panchayats and dividing among the Gram Panchayats and District Panchayats at all levels, their shares in such incomes;

(ii) the determination of the taxes, duties, cess, tolls and fees which may be assigned to or appropriated by the Gram Panchayats and District Panchayats; and

(iii) the grants-in-aid to the Gram Panchayats and District Panchayats from the Consolidated Fund of India;

(b) the measures needed to improve the financial position of the Gram Panchayats and District Panchayats; and

(c) any other matter referred to the Finance Commission by the President of India.

CHAPTER IX

OMBUDSMAN FOR PACHAYATS

Establishment and appointment of Ombudsman.

109. (*1*) There shall be an authority for the Gram Panchayats and the District Panchayats known as "Ombudsman" for conducting investigations and inquiries, in respect of any action involving corruption or maladministration or irregularities in the discharge of administrative functions by Panchayats and Public Servants working for them.

(2) The Ombudsman shall be a single member body appointed by the Administrator by notification, on the recommendation of a Committee constituted by the Administrator from a panel of eminent persons of impeccable integrity from civil society.

(3) The Committee referred to in sub-section (*2*) shall comprise of the following, namely:—

(a) the State Election Commissioner, who shall be the *ex officio* Chairman;

(b) a retired district Judge;

(c) a retired civil servant not below the rank of Additional Secretary to the Government of India; and

(d) two civil society members nominated by the Administrator.

(4) A person appointed to be the Ombudsman shall, before he enters upon his office, make and subscribe before the Administrator or some person appointed in that behalf by him, an oath or affirmation according to the form prescribed.

(5) The Ombudsman shall not be a serving Government Officer.

Procedure to be prescribed.

110. The Administrator may, by rules, provide for the following matters, namely:—

(a) staff of the Ombudsman;

(b) terms and conditions of service of the Ombudsman and Ombudsman's staff;

(c) the manner of filing complaints before the Ombudsman and the manner of filing such complaints either *suo motu* or on reference by the Administration;

(d) powers and functions of Ombudsman;

(e) the manner and procedure of conducting investigation by the Ombudsman;

(f) procedure for moving the appropriate authority for the initiation of prosecution by the Ombudsman;

(g) procedure to be followed during the inquiry by the Ombudsman, which as far as possible should be summary proceedings;

(h) the manner of implementing the order of the Ombudsman and further proceedings; and

(i) any other matter, which the Administrator may deem necessary for the proper discharging of the duties of the Ombudsman.

CHAPTER X

MISCELLANEOUS

Election petitions.

111. (*1*) If the validity of any election of a member of a Gram Panchayat or District Panchayat or Sarpanch or Upa-Sarpanch or President or Vice-President is called into question by any person qualified to vote at the election to which such question relates, such person may at any time within thirty days after the date of the declaration of the results of the election, file a petition to the District Judge in such form as may be prescribed for the determination of such question.

(*2*) Every petition under sub-section (*1*) shall be heard as expeditiously as possible and endeavour shall be made to conclude the hearing and orders passed within six months from the date on which the petition is presented to the District Judge.

Procedure of hearing.

5 of 1908.

112. (*1*) Save as otherwise provided by this Regulation or by rules made thereunder, the procedure provided in the Code of Civil Procedure, 1908, in regard to suits shall, in so far as it may be applicable, be followed in the hearing of election petitions by the District Judge:

Provided that:—

(a) two or more persons whose election is called in question, may be made respondents to the same petition and their cases may be tried at the same time, and any two or more election petitions may be heard together; but so far as is consistent with such joint trial or hearing, the petition shall be deemed to be a separate petition against each respondent;

(b) the District Judge shall not be required to record or have recorded the evidence in full, but shall make a memorandum of the evidence sufficient in his opinion for the purpose of deciding the case;

(c) the District Judge may, at any stage of the proceedings require the petitioner to give security for the payment of all costs incurred or likely to be incurred by any respondent; and

(d) the District Judge, for the purpose of deciding any issue, shall only be bound to require the production of or to receive so much evidence, oral or documentary, as he may consider necessary.

(*2*) An order for the payment of costs, or an order for the realisation of a security bond for costs passed by the District Judge, shall be executed in the manner as if the amount to be recovered was an arrear of land revenue.

Findings of District Judge.

113. (*1*) If the District Judge, after making such inquiry as he thinks necessary, finds, in respect of any person whose election is called in question by a petition that his election was valid, the petition shall be dismissed against such person with cost.

(2) If the District Judge, finds, that the election of any person was invalid, he shall, by an order, either :—

(a) declare a casual vacancy to have arisen, or

(b) declare another candidate to have been duly elected,

whichever course appears, in the particular circumstances of the case, to be more appropriate, and in either case the District Judge may award costs at his discretion.

(3) In the event of the District Judge declaring a casual vacancy to have arisen, he shall send a copy of the order referred to in clause (*a*) of sub-section (*2*) to the Election Commission to initiate the proceedings for filling the vacancy.

Avoidance of election.

114. (*1*) Notwithstanding anything contained in section 111, if the District Judge, in the course of hearing an election petition, is of the opinion that the evidence discloses that corrupt practices at the election proceedings in question, have prevailed to such an extent as to render it advisable to set aside the whole of the election proceedings, he shall pass a conditional order to this effect and give notice thereof to every candidate declared elected who has not already been made a party to the case, calling upon such candidate to show cause why such conditional order should not be made final.

(2) Thereupon every such candidate may appear and show-cause, and may recall for the purpose of putting question to him, any witness who had appeared in the case.

(3) The District Judge shall thereafter either cancel the conditional order or make it absolute in which case he shall direct the Election Commission to take measures for holding fresh election proceedings.

Disqualification for corrupt or illegal practice.

115. The District Judge may declare any candidate, found to have committed any corrupt practice, to be ineligible for being a member of a Gram Sabha or for contesting an election under this Regulation or for being appointed or retained in any office or place in the Administration or any local authority for such period not exceeding five years as the District Judge may determine.

Bar to interference by courts in delimitations of constituencies.

116. (*1*) Notwithstanding anything contained in this Regulation, the validity of any law for the time being in force relating to delimitation of constituencies or allotment of seats to such constituencies made or purporting to be made under this Regulation shall not be called in question in any court.

(2) Save as otherwise provided in sections 111, 112, 113, 114 and 115, civil court shall have no jurisdiction to question the legality or validity of any action taken or decision given by the Election Commission or the Secretary Panchayat or the Secretary (Election) (Local Bodies) in connection with the conduct of election under this Regulation.

Prohibition of simultaneous membership.

117. (*1*) If a person is elected from more than one territorial constituencies of a Gram Panchayat or of the District Panchayat or of both, he shall, by notice in writing signed by him and delivered to the Secretary Panchayat within fourteen days from the date, or the latter of the dates, on which he is so elected, intimate as to which constituency he wishes to serve, and thereupon, his seat in all other constituencies in which he does not wish to serve shall become vacant.

(2) In default of such intimation within the period specified under sub-section (*1*), all the seats of such person, at the expiration of that period, shall become vacant.

(3) Any intimation given under sub-section (*1*) shall be final and irrevocable.

Bar of action against District Panchayat, Gram Panchayat, etc., and previous notice before institution.

118. No suit or other legal proceeding shall be instituted against Gram Panchayat or District Panchayat or any member, officer, employee or agent of such Panchayat for anything done or purporting to be done under this Regulation or any rule or bye-law made thereunder until the expiration of next two months after notice in writing has been served or delivered at the office of the Gram Panchayat or District Panchayat and also at the residence of the member, officer, employee or agent thereof against whom such suit or proceeding, as the case may be, is intended to be instituted, and the notice shall state the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the person who intends to institute the suit or proceeding:

Provided that no suit or proceeding shall lie against any member, officer, employee or agent of a Gram Panchayat or a District Panchayat in respect of anything which is done or intended to be done in good faith under this Regulation or any rule or bye-law made thereunder.

Electoral offences.

43 of 1951.

119. The provisions of sections 126, 127, 127A, 128, 129, 130,131, 132, 132A, 133, 134, 134A, 134B, 135, 135A, 135B, 135C and 136 of the Representation of the People Act, 1951 shall have effect as if—

(a) reference therein to an election where reference to an election under this Regulation;

(b) references therein to a constituency included references to the area within the jurisdiction of a Panchayat or a Ward thereof;

(c) in sections 134 and 136, for the words "by or under this Act" the words "by or under the Lakshadweep" had been substituted; and

(d) in sub-section (*1*) of section 135B, for the words "the House of the People or the Legislative Assembly of a State" the word "Panchayat" had been substituted.

Power of entry.

120. The Chief Executive Officer may authorise any of his officers to enter in and inspect or cause to be entered and inspected, any immovable property occupied by any Gram Panchayat or District Panchayat or any work in progress under direction of Gram Panchayat or District Panchayat.

Member of Panchayat to be public servants.

45 of 1860.

121. Every member of a Gram Panchayat or District Panchayat and every officer and servant employed under a Gram Panchayat or District Panchayat shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members, etc., to refrain from taking part at sale.

122. No member of a Gram Panchayat or a District Panchayat or any of their officers or officials having any duty to perform in connection with any sale under this Regulation, shall directly or indirectly bid for, or acquire any interest in any property sold at such sale.

Powers and duties of police in respect of offences and assistance to Panchayats.

123. Every Police Officer shall give immediate information to the Secretary Panchayat of an offence coming to his knowledge which has been committed against this Regulation or any rules or bye-laws made thereunder and shall assist all members and servants of the Gram Panchayat or District Panchayat in the exercise of their lawful authority.

Classification and preservation of records.

124. Every Gram Panchayat and District Panchayat shall classify and preserve its records in such manner as may be prescribed.

Inspection and copies of records.

125. Every Gram Panchayat and District Panchayat shall on an application made to it by any person interested, allow inspection of its records and grant certified copies thereof on payment of the prescribed fee.

Preparation of development plan.

126. (*1*) Every Gram Panchayat shall (having due regard to the development programmes suggested by the Gram Sabha) prepare every year a development plan and forward it to the District Panchayat before such date and in such manner as may be prescribed.

(*2*) Every District Panchayat shall prepare every year a development plan after including the development plans of the Gram Panchayat and forward it to the District Planning Committee as constituted under section 127.

District Planning Committee.

127. (*1*) The Administrator for the purpose of undertaking District Planning shall constitute a District Planning Committee consisting of such members as may be prescribed.

(*2*) The meetings and functions of the Committee referred to in sub-section (*1*) shall be such as may be prescribed.

Honorarium and allowances to President, Vice-President, Sarpanch, Upa-Sarpanch and members.

128. The honorarium and other perks and perquisites of Sarpanch and Upa-Sarpanch of a Gram Panchayat and of a President and Vice-President of District Panchayat and allowances of every member of Gram Panchayat and District Panchayat shall be such as the Administrator may prescribe in this behalf.

Previous sanction for prosecution against Sarpanch, Upa-Sarpanch, President, Vice-President or Chairman, of Committee.

129. No court shall take cognizance of offence except with the previous sanction of the Administrator or any officer authorised by the Administrator in this behalf, where any person who is or has been a Sarpanch, Upa-Sarpanch, President, Vice-President of a Panchayat or a Chairman of a Committee constituted under this Regulation is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty.

Power to make rules.

130. The Administrator may, by notification and subject to the conditions of previous publication, make rules not inconsistent with the provisions of this Regulation to carry out the purposes of this Regulation.

Power to make bye-laws.

131. (*1*) Subject to the provisions of this Regulation and the rules made thereunder, the Secretary Panchayat may, with the prior approval of the Administrator, frame bye-laws:—

(a) to prohibit the removal or use of water for drinking purpose from any source which is likely to cause danger to health;

(b) to prohibit or regulate the discharge of water, waste water or effluent from any drain or premises on a public street or into a river, pond, tank, well, soil or any other place;

(c) to prevent damage to public streets;

(d) to regulate sanitation, conservancy and drainage in the area of the Gram Panchayat;

(e) to prohibit or regulate the use of public streets or other public place by shopkeepers;

(f) to regulate the manner in which tanks, ponds and cess pools, pasture lands, play grounds, manure pits, land for disposal for dead bodies and bathing places shall be maintained and used;

(g) to prohibit or discharge of any kind of effluent in any form polluting air, water and soil, and the like;

(h) to regulate construction of buildings; and

(i) to regularise any other duties and functions of the Gram Panchayat or District Panchayat.

(*2*) Any bye-law made under sub-section (*1*) may provide that a contravention thereof shall be liable with penalty which may extend to such amount as may be prescribed and in the case of a continuing contravention with penalty which may extend to amount prescribed for each day during which the contravention continues and its Gram Panchayat or District Panchayat, as the case may be, authorised to impose penalty.

Laying of rules before Parliament.

132. Every rule and every bye-law made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree for making any modification in the rule or bye-law or both Houses agree that the rule or bye-law should not be made, the rule or bye-law shall thereafter have effect only in such modified form or be no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or bye-law.

Regulation to have overriding effect.

133. The provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force in the Union territory.

Power to remove difficulties.

134. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette make such provisions not inconsistent with the provisions of this Regulation as may appear to him to be necessary or expedient for the removal of that difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Regulation.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

Reg. 4 of 1994.

135. (*1*) The Lakshadweep Panchayat Regulation, 1994 (hereafter in this section referred to as said Regulation) is hereby repealed.

(2) The repeal of the said Regulation shall not affect—

(a) the previous operations of the said Regulation or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Regulation;

(c) any penalty, forfeiture or punishment incurred, in respect of any offence committed against the said Regulation; and

(d) any investigation, legal proceeding or remedy in respect of 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 Regulation had not been promulgated.

THE FIRST SCHEDULE

(*See* sections 21 and 65)

THE OATH OF OFFICE

I,.....having been elected as member/ Sarpanch/Upa-Sarpanch/President/Vice-President of ..... Gram Panchayat/District Panchayat do swear in the name of God / Solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will uphold the sovereignty and integrity of India and that I will faithfully and conscientiously discharge the duties of my office to the best of my ability, knowledge and judgment without fear or favour of ill-will.

Place: Signature.
Date:

THE SECOND SCHEDULE

(*See* section 31)

MATTERS WITHIN THE JURISDICTION OF GRAM PANCHAYAT

(A) General Functions:—

(1) Preparation of annual plans for the development of the Gram Panchayat area.

(2) Providing relief in natural calamities.

(3) Removal of encroachments of Gram Panchayat properties.

(4) Organising voluntary labour and contribution for community works.

(5) Maintenance of essential statistics of the village.

(B) Other Functions:—

(1) Agriculture, including agricultural extension.

(2) Land improvement, implementation of land reforms, land consolidation and soil conservation.

(3) Minor irrigation, water management and watershed development.

(4) Animal husbandry, dairying and poultry.

(5) Fisheries.

(6) Social forestry and farm forestry.

(7) Minor forest produce.

(8) Small-scale industries, including food processing industries.

(9) Khadi, village and cottage industries.

(10) Rural housing.

(11) Drinking water.

(12) Fuel and fodder.

(13) Roads, culverts, bridges, ferries, waterways and other means of communication.

(14) Rural electrification, including distribution of electricity.

(15) Non-conventional energy sources.

(16) Poverty alleviation programme.

(17) Education, including primary and secondary schools.

(18) Technical training and vocational education.

(19) Adult and non-formal education.

(20) Libraries.

(21) Cultural activities.

(22) Markets and fairs.

(23) Health and sanitation, including hospitals, primary health centres and dispensaries.

(24) Family welfare.

(25) Women and child development.

(26) Social welfare, including welfare of the handicapped and mentally retarded.

(27) Welfare of the weaker sections, and in particular, of the Scheduled Tribes.

(28) Public distribution system.

(29) Maintenance of community assets.

THE THIRD SCHEDULE

(*See* section 83)

MATTERS WITHIN THE JURISDICTION OF DISTRICT PANCHAYAT

(A) General functions:—

(1) Preparation of annual plans and execution of works covering more than one Gram Panchayat;

(2) Preparation of District plans;

(3) Take up works which cannot be executed by a Gram Panchayat but can be executed by the District Panchayat;

(4) Perform any functions assigned to a District Panchayat by the Administration.

(B) Other Functions:—

(1) Agriculture, including agricultural extension.

(2) Land improvement, implementation of land reforms, land consolidation and soil conservation.

(3) Minor irrigation, water management and watershed development.

(4) Animal husbandry, dairying and poultry.

(5) Fisheries.

(6) Social forestry and farm forestry.

(7) Minor forest produce.

(8) Small-scale industries, including food processing industries.

(9) Khadi, village and cottage industries.

(10) Rural housing.

(11) Drinking water.

(12) Fuel and fodder.

(13) Roads, culverts, bridges, ferries, waterways and other means of communication.

(14) Rural electrification, including distribution of electricity.

(15) Non-conventional energy sources.

(16) Poverty alleviation programme.

(17) Education, including primary and secondary schools.

(18) Technical training and vocational education.

(19) Adult and non-formal education.

(20) Libraries.

(21) Cultural activities.

(22) Markets and fairs.

(23) Health and sanitation, including hospitals, primary health centres and dispensaries.

(24) Family welfare.

(25) Women and child development.

(26) Social welfare, including welfare of the handicapped and mentally retarded.

(27) Welfare of the weaker sections, and in particular, of the Scheduled Tribes.

(28) Public distribution system.

(29) Maintenance of community assets.

THE FOURTH SCHEDULE

(*See* section 82)

MATTERS ON WHICH THE PRESIDENT AND THE VICE-PRESIDENT MAY BE CONSULTED BY THE ADMINISTRATOR

(1) All general matters pertaining to District Panchayats.

(2) Matters relating to training of staff of District Panchayats.

(3) Review of administration of District Panchayat and coordination of the activities of District Panchayats.

(4) Removal of difficulties of District Panchayats.

(5) Matters relating to small-scale industries including food processing industries.

(6) Matters pertaining to Union territory level educational institutions.

(7) Proposal relating to its taxes.

(8) Any other matter on which Administrator may like to consult.

THE FIFTH SCHEDULE

(*See* sections 14 and 61)

PROVISIONS AS TO DISQUALIFICATION ON GROUND OF DEFECTION.

1. Interpretation.——In this Schedule, unless the context otherwise requires,—

(a) "original political party", in relation to a member of a Panchayat means the political party to which he belongs for the purposes of paragraph 2;

(b) "Panchayat" means a District Panchayat constituted under this Regulation;

(c) "paragraph" means a paragraph of this Schedule.

2. Disqualification on ground of defection.—Subject to the provisions of paragraph 3, a member of a Panchayat belonging to any political party shall be disqualified for being a member of the Panchayat—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such Panchayat contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation.—For the purposes of this sub-paragraph,—

(1) an elected member of a Panchayat shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member.

(2) An elected member of a Panchayat who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the Panchayat if he joins any political party after such election.

(3) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of this Regulation, is a member of a Panchayat shall,—

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (*1*) of this paragraph, to have been elected as a member of such Panchayat as a candidate set up by such political party;

(ii) in any other case, be deemed to be an elected member of the Panchayat who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (*2*) of this paragraph.

3. Disqualification on ground of defection not to apply in case of merger.—

(1) A member of a Panchayat shall not be disqualified under sub-paragraph (*1*) of paragraph 2, where his original political party merges with another political party and he claims that he and any other members of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (*1*) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (*1*) of this paragraph, the merger of the original political party of a member of a Panchayat shall be deemed to have taken place if, and only if, not less than two-thirds of the members of such political party in the Panchayat concerned have agreed to such merger.

4. Decision on questions as to disqualification on ground of defection.—

(1) If any question arises as to whether a member of a Panchayat has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Administrator of Union territory and his decision thereon shall be final.

(2) Before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission appointed under section 185 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 and shall act according to such opinion.

Reg. 1 of 1994.

5. Rules.—The Administrator may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the Panchayat belong;

(b) the report which the leader of a political party in relation to a member of a Panchayat shall furnish with regard to any condonation of the nature referred to in clause (*b*) of sub-paragraph (*1*) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the report, which a political party shall furnish with regard to admission to such political party of any members of the Panchayat and the officer of the Panchayat to whom such report shall be furnished; and

(d) the procedure for deciding any question referred to in paragraph 4 including the procedure for any inquiry which may be made for the purpose of deciding such question.

DROUPADI MURMU,
President.

K. BISWAL,
Additional Secretary to the Govt. of India.

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No. 28] NEW DELHI, TUESDAY, DECEMBER 20, 2022/AGRAHAYANA 29, 1944 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 20*th December,* 2022/*Agrahayana* 29, 1944 (*Saka*)

THE LAKSHADWEEP OPEN PLACES (PREVENTION OF DEFACEMENT) REGULATION, 2022

No. 6 of 2022

Promulgated by the President in the Seventy-third Year of the Republic of India.

A Regulation to prevent defacement by objectionable or unauthorised advertisements in places open to public view in the Union territory of Lakshadweep.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Lakshadweep Open Places (Prevention of Defacement) Regulation, 2022.

(*2*) It extends to the whole of the Union territory of Lakshadweep.

(*3*) It shall come into force at once.

Definitions.

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

(*a*)"Administrator" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;

(*b*) "advertisement" includes any effigy or any bill, notice, document, paper or other thing containing any words, signs or visible representations;

(*c*) "defacement" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever and the word "deface" shall be construed accordingly;

(*d*)"objectionable advertisement" means any advertisement which is likely to—

(*i*) incite any person to commit murder, sabotage or any offence involving violence; or

(*ii*) seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or

(*iii*) incite any section of the citizens of India to acts of violence against any other section of the citizens of India or which—

(*A*) is deliberately intended to outrage the religious feelings of any class of the citizens of India by insulting or blaspheming or profaning the religion or the religious beliefs of that class; or

(*B*) is grossly indecent, or is scurrilous or obscene or intended for blackmail.

Explanation.—An advertisement shall not be deemed to be objectionable merely because words or signs or visible representations are used criticising any social or religious practices without malicious intention and with an honest view to promote social or religious reforms or social justice;

(*e*) "place open to public view" includes any private place or building, monument, statue, post, wall, fence, tree or other thing or contrivance which is visible to a person being in, or passing along, any public place;

(*f*) "property" includes any building, hut, monument, statue, water pipe line, structure, wall including compound wall, tree, fence, post, pole or any other erection;

(*g*) "public place" means any place (including a road, street or way, whether a through fare or not and a landing place) to which the public are granted access or have a right to resort, or over which they have a right to pass;

(*h*) "writing" includes decoration, lettering or ornamentation produced by stencil.

No person to affix, inscribe or exhibit any objectionable advertisement, etc., in any place open to public view.

3. On and from the commencement of this Regulation, no person shall affix to, or inscribe or exhibit on, any place open to public view,—

(*i*) any objectionable advertisement; or

(*ii*) any advertisement without the written consent of the owner or occupier or person in the management of the property in which such place is situated.

Administrator to specify by notification any area where no person shall deface any place open to public view.

4. Notwithstanding anything contained in this Regulation or in any other law for the time being in force, where the Administrator is satisfied that it is necessary or expedient so to do, he may, for the purpose of preventing defacement, by notification in the Official Gazette, direct that on and from such date, and in such area, as may be specified in the notification, no person shall deface any place open to public view by spitting or urinating or pasting pamphlets, poster or writing or marking with ink, chalk, paint or with any other

material or method, except for the purpose of indicating the name and for such other purposes, as may be specified in that notification.

5. Whoever affixes to, or inscribes or exhibits on, any place open to public view any objectionable advertisement shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both. Penalty for defacement by objectionable advertisements.

6. Whoever affixes to, or inscribes or exhibits on, any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both. Penalty for unauthorised defacement by advertisements.

7. Whoever defaces any place open to public view in contravention of the notification issued under section 4 shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both. Penalty for contravention of notification issued under section 4.

8. Whoever in any manner whatsoever causes, procures, counsels, aids, abets or is accessory to, the commission of any offence under section 3 or section 4 or section 5 shall be punished with the punishment provided for the offence. Punishment of abettors.

9. Where a person is prosecuted for committing an offence under section 6, the burden of proving that he has the written consent referred to in that section shall be on him. Burden of proof in certain cases.

10. (*1*) Where an offence has been committed by a company, every person who, at the time when 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: Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Regulation, 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 this Regulation 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 gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

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

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

2 of 1974.

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Regulation shall be deemed to be a cognizable offence within the meaning of that Code. Offences under Act to be cognizable.

12. No suit, prosecution or other legal proceeding shall lie against the Administrator, any local authority or person for anything which is in good faith or in public interest done or intended to be done under this Regulation. Indemnity.

13. (*1*) The Administrator or any officer authorised in this behalf may, by notice, require the owner or the person having control over any place open to public view, to erase any writing, free any defacement or remove any mark from such place within such time as may be specified in that notice. Power of Administrator to erase writing, etc.

(*2*) Where the owner or person to whom notice is issued under sub-section (*1*) fails to carry out erasing of writing or freeing or removing of defacement within the specified time, the Administrator or the authorised officer may cause erasing of writing or freeing or removing of defacement to be done and the expenses so incurred shall be paid by the owner or the other person and in default of such payment, such expenses shall be recovered from such owner or other person as if they were arrears of land revenue.

Other laws not affected.

14. The provisions of this Regulation are in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to make rules.

15. The Administrator may, by notification published in the Official Gazette, make rules to carry out the provisions of this Regulation.

DROUPADI MURMU,
President.

DR. REETA VASISHTA,
Secretary to the Govt. of India..

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No. 37] NEW DELHI, WEDNESDAY, OCTOBER 25, 2023/KARTIKA 3, 1945 (SAKA)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 25*th October,* 2023/*Kartika* 3, 1945 (*Saka*)

THE LACCADIVE, MINICOY AND AMINDIVI ISLANDS LAND REVENUE AND TENANCY (AMENDMENT) REGULATION, 2023

No. 1 of 2023

Promulgated by the President in the Seventy-fourth Year of the Republic of India.

A Regulation further to amend the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title and commencement.

1. (*1*) This Regulation may be called the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy (Amendment) Regulation, 2023.

(*2*) It shall be deemed to have come into force on 18th day of March, 2020.

Omission of section 15A.

2. Section 15A of the Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy Regulation, 1965 (hereinafter referred to as the principal Regulation) shall be omitted.

Reg. 6 of 1965.

Amendment of section 83.

3. In section 83 of the principal Regulation,—

(*i*) in clause (*b*), the word "or" shall be inserted at the end;

(*ii*) in clause (*c*), the word "or" occurring at the end shall be omitted;

(*iii*) clause (*d*) shall be omitted.

———

DROUPADI MURMU,
President.

———

S.K.G. RAHATE,
Secretary to the Govt. of India.

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No. 38] NEW DELHI, FRIDAY, NOVEMBER 24, 2023/AGRAHAYANA 3, 1945 (SAKA)

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th November,* 2023/*Agrahayana* 3, 1945 (*Saka*)

THE ANDAMAN AND NICOBAR ISLANDS TENANCY REGULATION, 2023

No. 2 OF 2023

Promulgated by the President in the Seventy-fourth Year of the Republic of India.

A Regulation to establish a Rent Authority to regulate renting of premises, to protect the interests of landlords and tenants, to provide speedy adjudication mechanism for resolution of disputes and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Tenancy Regulation, 2023.

(*2*) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

(*3*) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

Definitions.

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

(*a*) "Administration" means the Administration of the Union territory of Andaman and Nicobar Islands;

(*b*) "Administrator" means the Lieutenant Governor of the Union territory of Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution;

(*c*) "*force majeure*" means a situation of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature, affecting the habitation of the tenant in the premises let out on rent;

(*d*) "landlord", whether called landowner or lessor or by whatever name called, means a person who receives or is entitled to receive, the rent of any premises, on his own account, if such premises were let out to a tenant, and shall include,—

(*i*) his successor-in-interest; and

(*ii*) a trustee or guardian or receiver receiving rent for any premises or is entitled to so receive, on account of or on behalf of or for, the benefit of any other person such as minor or person of unsound mind who is not eligible to enter into a contract;

(*e*) "local authority" means a Village Panchayat or Panchayat Samiti or Zila Parishad or a Municipal Corporation or a Municipal Council or a Nagar Panchayat or a Planning or Development Authority, by whatever name called, or the Cantonment Board, or a civil area committee appointed under section 47 of the Cantonment Act, 2006 or such other body entitled to function as a local authority in any city or town, constituted under any law for the time being in force in the Union territory of Andaman and Nicobar Islands; 41 of 2006.

(*f*) "notification" means a notification published in the Official Gazette of the Union territory of Andaman and Nicobar Islands;

(*g*) "premises" means any building or part of a building which is, or is intended to be, let out on rent for the purpose of residential or commercial use except for hotel, lodging house, dharamshala, inn and for industrial use and includes—

(*i*) garden, garage or closed parking area, vacant land, grounds and out-houses, if any, appertaining to such building or part of the building; and

(*ii*) any fitting to such building or part of the building for the more beneficial enjoyment thereof;

(*h*) "prescribed" means prescribed by rules made by the Administrator under this Regulation;

(*i*) "property manager" means a person or any legal entity including rental agent who is authorised by the landlord to manage the premises and who represents the landlord in his dealings with the tenant;

(*j*) "rental agent" means any person, who negotiates or acts on behalf of landlord or tenant or both in a transaction of renting of any premises and receives remuneration or fees or any other charges for his services whether as a commission or otherwise and includes a person who introduces, through any medium, prospective landlord and tenant to each other for negotiation for renting of premises and includes property dealers, brokers or middlemen, by whatever name called;

(*k*) "Rent Authority" means an officer appointed as Rent Authority under section 30;

(*l*) "Rent Court" means an officer appointed as Rent Court under section 33;

(*m*) "Rent payable" in relation to any premises, means the rent as specified in sub-section (*1*) of section 8;

(*n*) "Rent Tribunal" means an officer appointed as Rent Tribunal under section 34;

(*o*) "Schedule" means the Schedules annexed to this Regulation;

(*p*) "sub-tenant" means a person to whom the tenant sub-lets whole or part of the premises held by him or transfers or assigns his rights accrued under the tenancy agreement or a supplementary agreement to the existing tenancy agreement;

(*q*) "supplementary agreement" means an agreement to the existing tenancy agreement executed between the landlord and the tenant on matters referred to in sub-section (*1*) of section 7;

(*r*) "tenant", whether called lessee or by any other name, means a person by whom or on whose account or on behalf of whom, the rent of any premises is payable to the landlord under a tenancy agreement and includes any person occupying the premises as a sub-tenant and also, any person continuing in possession after the termination of his tenancy whether before or after the commencement of this Regulation, but shall not include any person against whom any order or decree for eviction has been made.

Regulation not to apply to certain premises.

3. (*1*) Nothing contained in this Regulation shall apply to any,—

(*a*) premises owned or promoted by the Central Government or the Administration or local authority or a government undertaking or enterprise or a statutory body or the Cantonment Board;

(*b*) premises owned by a company, the University or organisation given on rent to its employees as part of service contract;

(*c*) premises owned by religious or charitable institutions as may be specified, by notification by the Administrator;

43 of 1995.

(*d*) premises owned by Waqf registered under the provisions of the Waqf Act, 1995 or by any trust registered under any other law, relating to public trust, for the time being in force in the Union territory of Andaman and Nicobar Islands; and

(*e*) other building or category of buildings specifically exempted in public interest by notification by the Administrator.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the owner and the tenant of the premises referred to in clauses (*a*) to (*e*) of the said sub-section agrees that the tenancy agreement entered into between such landlord and tenant be regulated under the provisions of this Regulation, such landlord may inform the Rent Authority about the agreement to do so at the time of information of the tenancy agreement under section 4.

CHAPTER II

TENANCY

Tenancy agreement.

4. (*1*) Notwithstanding anything contained in this Regulation or any other law for the time being in force in the Union territory of Andaman and Nicobar Islands, no person shall, after the commencement of this Regulation, let out or take on rent any premises except by an agreement in writing the information of which shall be given to the Rent Authority, by the landlord and tenant jointly, in the Form specified in the First Schedule within a period of two months from the date of such tenancy agreement.

16 of 1908.

(*2*) If the term of the agreement referred to in sub-section (*1*), exceeds eleven months, then such agreements shall be registered under the provisions of the Registration Act, 1908.

(*3*) Where the landlord and the tenant fail to jointly inform the execution of the tenancy agreement referred to in sub-section (*1*), the landlord and tenant shall separately inform the execution of such tenancy agreement to the Rent Authority within a period of one month from the date of expiry of the period referred to in sub-section (*1*).

(*4*) The Rent Authority may, within a period of three months from the date of its appointment, put in place a digital platform in the local vernacular language or the language

of the Union territory of Andaman and Nicobar Islands for enabling submissions of document in such form and manner as may be prescribed.

(*5*) The Rent Authority may, after receiving information about the execution of tenancy agreement along with the copy of the agreement and the documents specified in the First Schedule,—

(*a*) provide a unique identification number to the parties; and

(*b*) upload details of the tenancy agreement on its website in the local vernacular language or the language of the Union territory of Andaman and Nicobar Islands,

within a period of seven working days from the date of receipt of such information, in such manner along with such documents as may be prescribed.

(*6*) The terms of authorisation of the property manager, if any, appointed by the landlord to deal with the tenant shall be such as agreed to by the landlord and tenant in that behalf in the tenancy agreement.

(*7*) The information provided under sub-sections (*1*), (*2*) and (*3*) shall be conclusive proof of the facts relating to tenancy and matters connected therewith, and in the absence of any statement of information, the landlord and the tenant shall not be entitled to any relief under the provisions of this Regulation.

Period of tenancy.

5. (*1*) Every tenancy entered into after the date of commencement of this Regulation shall be valid for a period as agreed upon between the landlord and the tenant and as specified in the tenancy agreement.

(*2*) The tenant may request the landlord for renewal or extension of the tenancy, within the period agreed to in the tenancy agreement, and if agreeable to the landlord, may enter into a new tenancy agreement with the landlord on mutually agreed terms and conditions.

(*3*) Where a tenancy for a fixed term ends and has not been renewed or the tenant fails to vacate the premises at the end of such tenancy, then such tenant shall be liable to pay such enhanced rent to the landlord as may be provided in the tenancy agreement.

(*4*) Notwithstanding anything contained in this section, if the term of tenancy expires at a time when the locality where the premises let out on rent is situated is affected by any disastrous event of *force majeure*, then, subject to requisition by the tenant, the landlord shall allow the tenant to continue in possession of the said premises till a period of one month from the date of cessation of such disastrous event on the same terms and conditions of the tenancy agreement already entered into.

Rights and obligations of successor in case of death.

6. The terms of agreement executed between landlord and tenant, shall be binding upon their successors in the event of the death of the landlord or tenant, and in such case, the successors of the deceased landlord or tenant shall have the same rights and obligations as agreed to in the tenancy agreement for the remaining period of such tenancy.

Restriction on sub-letting.

7. (*1*) After the commencement of this Regulation, no tenant shall, except by entering into a supplementary agreement to the existing tenancy agreement,—

(*a*) sub-let whole or part of the premises held by him as a tenant; and

(*b*) transfer or assign his rights in the tenancy agreement or any part thereof.

(*2*) Where the premises is sub-let upon entering into a supplementary agreement to the existing tenancy agreement as referred to in sub-section (*1*), the landlord and the tenant shall jointly submit such agreement to the Rent Authority in the Form specified in the First Schedule within a period of two months from the date of such agreement.

(*3*) If the term of the agreement refereed to in sub-section (*1*) exceeds eleven months, then such agreement shall be registered under the provisions of the Registration Act, 1908. 16 of 1908.

CHAPTER III

RENT

8. (*1*) The rent payable in respect of a premises shall be the rent agreed to between the landlord and the tenant in accordance with the terms of the tenancy agreement. Rent payable.

(*2*) All rent, deposits and other charges payable shall be made by either bank deposit, electronic transfer, cheque, demand draft, postal money order or such other method as may be prescribed, which can be verified by the Rent Authority, the Rent Court, the Rent Tribunal and such other authority as may be prescribed.

9. (*1*) The revision of rent between the landlord and the tenant shall be in accordance with the terms of the tenancy agreement. Revision of rent.

(*2*) Where, after the commencement of tenancy, the landlord has entered into an agreement in writing with the tenant prior to the commencement of the work and has incurred expenditure for carrying out improvement, addition or structural alteration in the premises occupied by the tenant, which does not include repairs necessary to be carried out under section 15, the landlord may increase the rent of the premises by an amount as agreed to between the landlord and the tenant, and such increase in rent shall become effective within one month after the completion of such work.

10. In case of any dispute between the landlord and tenant regarding revision of rent, the Rent Authority may, on an application made by the landlord or tenant, determine the revised rent and other charges payable by the tenant and also fix the date from which such revised rent becomes payable. Rent Authority to determine revised rent in case of dispute.

11. (*1*) The security deposit to be paid by the tenant in advance shall be such as may be agreed upon between the landlord and the tenant in the tenancy agreement, which shall,— Security deposit.

(*a*) not exceed two months' rent, in case of residential premises; and

(*b*) not exceed six months' rent, in case of non-residential premises.

(*2*) The security deposit shall be refunded to the tenant on the date of taking over vacant possession of the premises from the tenant, after making due deduction of any liability of the tenant.

CHAPTER IV

RIGHTS AND OBLIGATIONS OF LANDLORD AND TENANT

12. The tenancy agreement shall be signed in duplicate by both the landlord and tenant, and each one of such original signed tenancy agreement shall be retained by the landlord and tenant. Original tenancy agreement to be retained by landlord and tenant.

13. (*1*) Every tenant shall pay rent and other charges payable within such period as agreed to in the tenancy agreement. Rent and other charges payable and receipt for payment thereof.

(*2*) Every landlord or his property manager shall, on receipt of payment towards rent and other charges payable within the period stipulated in the tenancy agreement from the tenant, provide forthwith against acknowledgement, a duly signed receipt for the amount received by him.

(*3*) Where the payment of rent or other charges is made by the tenant to the landlord through the electronic mode, the bank acknowledgement thereof shall be conclusive proof of such payment.

14. (*1*) Where the landlord refuses to accept any rent and other charges payable or refuses to give a receipt, the rent and other charges shall be paid to the landlord by postal Deposit of rent with Rent Authority.

money order or any other method, in such manner as may be prescribed, consecutively for two months, and if the landlord refuses to accept the rent and other charges within such period, then the tenant may deposit the same with the Rent Authority in such manner as may be prescribed.

(*2*) Where the tenant is unable to decide to whom the rent is payable during the period of tenancy agreement, the tenant may, in such case, deposit the rent with the Rent Authority in such manner as may be prescribed.

(*3*) Where the rent is deposited under sub-section (*1*) or sub-section (*2*), the Rent Authority shall enquire the case as to whom the rent is payable and pass orders as it may deem fit on the basis of the facts of the case.

(*4*) The withdrawal of rent and other charges payable, deposited under sub-section (*1*) or sub-section (*2*), shall not by itself operate as an admission against the landlord or any other claim made by the tenant, if the landlord withdraws it to the extent of rent agreed upon under the tenancy agreement.

Repair and mantenance of property.

15. (*1*) Notwithstanding any agreement in writing to the contrary, the landlord and the tenant shall keep the premises in as good a condition as at the commencement of the tenancy, except for normal wear and tear, and shall respectively be responsible to repair and maintain the said premises as specified in the Second Schedule or as agreed to in the tenancy agreement.

(*2*) In case of common facilities shared among the tenants or with the landlord, the respective responsibilities of the tenant and landlord to repair and maintain those facilities shall be such as may be specified in the tenancy agreement.

(*3*) If the tenant fails or refuses to carry out the repairs referred to in sub-section (*1*) or sub-section (*2*), the landlord may carry out the repairs or remove the additional structure erected by tenant without the consent of tenant and deduct the amount incurred for such repairs or removal from the security deposit and the amount so deducted shall be paid by the tenant within a period of one month of issue of notice by the landlord in that regard.

(*4*) If the cost for the repairs referred to in sub-section (*1*) or sub-section (*2*) exceed the security deposit, the tenant shall be liable to pay the excess cost including the security deposit so deducted to the landlord within a period of one month of the issue of notice by the landlord in that regard.

(*5*) In case the landlord refuses to carry out the repairs referred to in sub-section (*1*) or sub-section (*2*), the tenant may carry out such repairs and deduct the expenditure incurred towards the same from the rent to be paid for the succeeding months:

Provided that in no case the deduction from rent in any one month shall exceed fifty per cent. of the agreed rent for a month.

(*6*) Where the premises is uninhabitable without the repairs and the landlord refuses to carry out the required repairs, after being called upon by the tenant in writing to do so, the tenant may abandon the premises after giving the landlord fifteen days' notice in writing.

(*7*) Where the premises let out on rent becomes uninhabitable for the tenant due to an event of *force majeure* or the tenant is unable to reside due to occurrence of such event, the landlord shall not charge rent from the tenant until the said premises is restored by the landlord, subject to the provisions of this section, to be inhabitable.

(*8*) Where the rented premises becomes uninhabitable as specified in sub-section (*6*) or sub-section (*7*) and the landlord fails to carry out the required repairs to make it inhabitable or the said premises could not be made inhabitable, then, the security deposit and advance rent shall be refunded by the landlord to the tenant within a period of fifteen days of the expiry of the notice period, after making due deduction of liability of the tenant, if any.

Tenant to look after premises.

16. During the existence of tenancy, the tenant shall,—

(*a*) not intentionally or negligently damage the premises or permit such damage;

(*b*) inform in writing the landlord of any damage; and

(*c*) take reasonable care of the premises and its contents including fitting and fixtures and keep it reasonably habitable having regard to its condition at the commencement of tenancy and the normal incidence of living.

Entry into premises.

17. (*1*) Every landlord or the property manager may enter the premises let out on rent after serving a notice, in writing or through electronic mode, to the tenant at least twenty-four hours before the time of entry under any of the following circumstances, namely:—

(*a*) to carry out repairs or replacement or to do or to get work done in the premises;

(*b*) to carry out an inspection of the premises for the purpose of determining whether the premises are in a habitable state; or

(*c*) for any other reasonable cause for entry specified in the tenancy agreement.

(*2*) The notice referred to in sub-section (*1*) shall specify the day, time and reason for entry:

Provided that no person shall enter the premises before sunrise and after sunset:

Provided further that nothing contained in this section shall prevent the landlord from entering into the premises let out on rent without prior notice to the tenant in case of emergent situations like war, flood, fire, cyclone, earthquake or any other natural calamity, which may affect that premises.

Information as to property manager.

18. In case the landlord has engaged a property manager, the landlord shall provide the following information to the tenant, namely:—

(*a*) name of the property manager;

(*b*) proof that such property manager has been authorised by the landlord;

(*c*) specific purposes for which the property manager has been authorised by the landlord and the period of such authorisation; and

(*d*) if the property manager is a legal entity, the name of the entity and the person authorised in this behalf by that legal entity who may be contacted in relation to the tenancy agreement.

Duties of property manager and consequences of violation of duties.

19. (*1*) The duties of the property manager shall include the following, namely:—

(*a*) to collect rent against receipt;

(*b*) to do essential repairs on behalf of the landlord;

(*c*) to inspect the premises from time to time;

(*d*) to give notices to tenant for,—

(*i*) proper maintenance of the premises;

(*ii*) delay in payment of rent;

(*iii*) revision of rent;

(*iv*) vacation of premises; and

(*v*) renewal of tenancy;

(*e*) to help in resolution of disputes among tenants and between the landlord and tenant; and

(*f*) any other matters relating to tenancy to be acted upon only on the instructions of the landlord.

(*2*) Where the property manager acts, in contravention of the provisions of sub-section (*1*) or against the instructions of the landlord, the Rent Authority may, on an application made to it by the landlord or tenant in that behalf, remove the property manager or impose such costs on the property manager so as to compensate any loss incurred by the landlord or tenant due to such contravention.

Withholding essential supply or service.

20. (*1*) No landlord or property manager shall, either by himself or through any other person, withhold any essential supply or service in the premises occupied by the tenant.

(*2*) In case of contravention of provisions of sub-section (*1*) and on application made by the tenant in this behalf, the Rent Authority after examining the matter, may pass an interim order directing the restoration of supply of essential services immediately on service of such order upon the landlord or property manager, pending the enquiry referred to in sub-section (*3*).

(*3*) The Rent Authority shall conduct an enquiry in respect of the application made by the tenant under sub-section (*2*), and complete the enquiry within one month of filing such application.

(*4*) Any such enquiry or its outcome as refferred to in sub-section (*3*) shall not affect the terms of the tenancy agreement or the period of tenancy as mentioned in sections 4 and 5.

(*5*) The Rent Authority may, after giving an opportunity of being heard, award a compensation not exceeding two months' rent to be paid by the person responsible for withholding the essential supply, so as to compensate the loss incurred.

(*6*) The Rent Authority may levy a penalty of a sum not exceeding twice the monthly rent to the tenant, if it finds that the application was frivolous or vexatious.

(*7*) For the purposes of this section, the term "essential services" includes supply of water, electricity, piped cooking gas supply, lights in passages, lifts and on staircase, conservancy, parking, communication links, sanitary services and security fixtures and features.

CHAPTER V

EVICTION AND RECOVERY OF POSSESSION OF PREMISES BY LANDLORD

Eviction and recovery of possession of premises by landlord.

21. (*1*) A tenant shall not be evicted during the continuance of tenancy agreement unless otherwise agreed to in writing by the landlord and tenant, except in accordance with the provisions of sub-section (*2*) or in accordance with the provisions of section 22.

(*2*) The Rent Court may, on an application made to it by the landlord in such manner as may be prescribed, make an order for eviction and recovery of possession of the premises on one or more of the following grounds, namely:—

(*a*) that the tenant does not agree to pay the rent payable under sub-section (*1*) of section 8;

(*b*) that the tenant has not paid the arrears of rent and other charges payable in full as specified in sub-section (*1*) of section 13 for two consecutive months, including interest for delayed payment as may be specified in the tenancy agreement within a period of one month from the date of service of notice of demand, for payment of such arrears of rent and other charges payable to the landlord, in the manner provided in sub-section (*4*) of section 106 of the Transfer of Property Act,1882; 4 of 1882.

(*c*) that the tenant has, after the commencement of this Regulation, parted with the possession of whole or any part of the premises without obtaining the written consent of the landlord;

(*d*) that the tenant has continued to misuse the premises even after receipt of notice from the landlord to desist from such misuse;

(*e*) where it is necessary for the landlord to carry out any repair or construction or rebuilding or addition or alteration or demolition in respect of the premises or any part thereof, which is not possible to be carried out without the premises being vacated:

Provided that after such repair, construction, rebuilding, addition or alteration, the tenant may be allowed to reoccupy the premises only when it has been mutually agreed to between the landlord and the tenant and a new tenancy agreement has been submitted with the Rent Authority and if the term of such agreement exceeds eleven months, then such agreement shall be registered under the provisions of the Registration Act, 1908:

16 of 1908.

Provided further that the tenant shall not be allowed to reoccupy the premises,—

(*i*) in the absence of submission of such mutual tenancy agreement with the Rent Authority; and

(*ii*) in cases where the tenant has been evicted under the orders of a Rent Court;

(*f*) that the premises or any part thereof is required by the landlord for carrying out any repairs, construction, rebuilding, additions, alterations or demolition, for change of its use as a consequence of change of land use by the competent authority;

(*g*) that the tenant has given written notice to vacate the premises let out on rent and in consequence of that notice, the landlord has contracted to sell the said premises or has taken any other step, as a result of which his interests would seriously suffer if he is not put in possession of that premises; and

(*h*) that the tenant has carried out any structural change or erected any permanent structure in the premises let out on rent without the written consent of the landlord.

(*3*) No order for eviction of the tenant on account of failure to pay the rent specified in clause (*b*) of sub-section (*2*) shall be made, if the tenant makes payment to the landlord or deposits with the Rent Court the arrears of rent and other charges payable, if any, including interest within one month from the date of service of the said demand notice upon him.

(*4*) Where the tenant fails to pay rent consecutively for two months subsequent to the grant of the relief specified in sub-section (*3*) in any one year, then the tenant shall not be entitled to such relief again.

(*5*) In any proceedings for eviction under clause (*e*) of sub-section (*2*), the Rent Court may allow eviction from only a part of the premises, if the landlord agrees for the same.

(*6*) For the purposes of this section, the expressions,—

(*i*) "competent authority" means any Authority which provides permission on matters relating to repair or redevelopment or demolition of building or permission for change in land use; and

(*ii*) "misuse the premises" means encroachment of additional space by the tenant or use of premises which causes public nuisance or causes damage to the property or is detrimental to the interest of the landlord or for immoral or illegal purposes.

Eviction and recovery of possession of premises in case of death of landlord.

22. (*1*) Notwithstanding anything contained in this Regulation or any other law for the time being in force in the Union territory of Andaman and Nicobar Islands, in case of death of the landlord, where there is a *bona-fide* requirement of the premises let out on rent by the legal heirs of the landlord during the period of tenancy, such legal heirs may file an application in this behalf for eviction and recovery of possession of the said premises before the Rent Court in such form and manner, as may be prescribed.

(*2*) The Rent Court may, on an application made to it under sub-section (*1*), if it is satisfied that the legal heirs of the deceased landlord are in *bona-fide* requirement of the premises let out on rent, pass necessary orders against the tenant for handing over vacant possession of the said premises to the legal heirs of the deceased landlord.

Enhancement of rent in case of refusal by tenant to vacate.

23. Where the tenant fails to vacate the premises let out on rent in accordance with the tenancy agreement on the expiration of the period of tenancy or termination of tenancy by an order or notice under the provisions of this Regulation, such tenant shall be liable to pay the landlord twice the monthly rent for the first two months and four times the monthly rent thereafter till the tenant continues to occupy the said premises.

Refund of advance rent by landlord.

24. (*1*) Where a landlord exercises the right of recovery of possession under sub-section (*2*) of section 21 or under section 22, and he had received any rent or any other payment in advance from the tenant, he shall before recovery of possession, refund to the tenant such amount after deducting the rent and other charges due to him.

(*2*) If the landlord fails to make any refund, he shall be liable to pay simple interest to the tenant at such rate as may be prescribed from time to time on the amount which he has omitted or failed to refund.

Payment of rent during eviction proceedings.

25. In any proceedings for recovery of possession on any ground other than that referred to in clause (*a*) or clause (*b*) of sub-section (*2*) of section 21, where the tenant contests the claim for eviction, the landlord may at any stage of the proceedings apply to the Rent Court to direct the tenant to pay him the rent payable, as under sub-section (*1*) of section 8, and the Rent Court may order the tenant to make such payment and all other charges due from the tenant alongwith penal charges, if any, due to delay in payment, in accordance with the provisions of this Regulation.

Permission to build additional structures.

26. (*1*) The tenant shall not carry out any structural change or erect any permanent structure in the premises let out on rent without the written consent of the landlord.

(*2*) In case of any additional structures which were made or erected in the premises by the tenant without the written consent of the landlord, it shall be the responsibility of such tenant to remove such additional structures.

(*3*) Where the landlord proposes to make any improvement in or construct any additional structure on any premises which has been let out to a tenant and the tenant refuses to allow the landlord to make such improvement or construct such additional structure, the landlord may make an application in this behalf to the Rent Court.

(*4*) On an application made by the landlord under sub-section (*3*), if the Rent Court is satisfied that the landlord is ready and willing to commence the work which is necessary, it may permit the landlord to do such work and may make such other order as it may deem fit:

Provided that such improvement or additional structure shall not decrease or diminish or deteriorate the accommodation or housing services in the premises which may cause undue hardship to the tenant.

Special provision regarding vacant land.

27. (*1*) Notwithstanding anything contained in section 21 or section 22, where any premises let out for rent comprises vacant land, upon which it is permissible under the municipal bye-laws for the time being in force to erect any building whether for residential or for any other purpose, and the landlord who intends to erect such building is unable to obtain possession of the same from the tenant on the basis of the tenancy agreement, the landlord or, in case of death of the landlord, his legal heirs, may file an application in this behalf, in such form and manner as may be prescribed, before the Rent Court.

(*2*) The Rent Court may, on receipt of the application referred to in sub-section (*1*), if it is satisfied that the landlord is or, as the case may be, his legal heirs are ready and willing to commence the work and that the severance of the vacant land from the rest of the premises shall not cause undue hardship to the tenant,—

(*a*) direct such severance after such enquiry as it may deem fit;

(*b*) place the landlord in possession of the vacant land;

(*c*) determine the rent payable by the tenant in respect of the rest of the premises; and

(*d*) make such other orders as it may deem fit in the circumstances of the case.

28. Notwithstanding anything contained in any other law for the time being in force in the Union territory of Andaman and Nicobar Islands, where the interest of a landlord or in case of death of the landlord, of his legal heirs in any premises is determined for any reason whatsoever and any order is made by the Rent Court under this Regulation for the recovery of possession of such premises, such order shall, subject to the provisions of sub-section (*3*) of section 21, be binding on all occupants who may be in occupation of the premises and vacant possession thereof shall be given by all such occupants to the landlord or to the legal heirs of the landlord. Vacant possession to landlord.

29. Notwithstanding anything contained in any other law for the time being in force in the Union territory of Andaman and Nicobar Islands, a tenant may give up possession of the premises on giving such written notice as is required under the tenancy agreement and in the absence of any stipulation relating to such notice, the tenant shall give notice to the landlord at least one month before giving up possession of the premises. Provisions regarding notice of giving up possession by tenant.

CHAPTER VI

RENT AUTHORITIES, THEIR POWERS AND APPEALS

30. The District Collector or the District Magistrate shall, with the previous approval of the Administrator, appoint an officer, not below the rank of Deputy Collector, to be the Rent Authority within his jurisdiction. Rent Authority.

31. The Rent Authority shall have all the powers as are vested in the Rent Court under this Regulation and the procedure as laid down in sections 35 and 36 shall also be applicable to it. Power and procedure of Rent Authority.

32. Any person aggrieved by the order of the Rent Authority may prefer an appeal to the Rent Court having territorial jurisdiction within a period of thirty days from the date of the order of the Rent Authority: Appeals.

Provided that the Rent Court may entertain the appeal after expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by a sufficient cause from preferring the appeal in time.

CHAPTER VII

RENT COURTS AND RENT TRIBUNALS

33. The District Collector or the District Magistrate shall, with the previous approval of the Administrator, appoint Additional Collector or Additional District Magistrate or an officer of equivalent rank, well versed in quasi-judicial functions to be the Rent Court for the purposes of this Regulation, within his jurisdiction. Rent Court.

34. The Administrator may, in consultation with the jurisdictional High Court, by notification, appoint District Judge or Additional District Judge as the Rent Tribunal in each District. Rent Tribunal.

35. (*1*) Save as provided in this section, nothing contained in the Code of Civil Procedure, 1908 shall apply to the Rent Courts and the Rent Tribunals, which shall be guided by the principles of natural justice and shall have power to regulate their own procedure in the following manner, namely:— Procedure to be followed in Rent Court and Rent Tribunal.

5 of 1908.

(*a*) the landlord or the tenant may file an appeal before the Rent Court or the Rent Tribunal accompanied by an affidavit and documents, if any;

(*b*) the Rent Court or the Rent Tribunal shall then issue notice to the opposite party, accompanied by copies of appeal, affidavit and documents;

(*c*) the opposite party shall file a reply accompanied by affidavit and documents, if any, after serving a copy of the same to the applicant;

(*d*) the applicant may file a rejoinder, if any, after serving the copy to the opposite party; and

(*e*) the Rent Court or the Rent Tribunal shall fix a date of hearing and may hold such summary inquiry as it deems necessary.

(*2*) The Rent Court or the Rent Tribunal, as the case may be, shall endeavour to dispose of the case as expeditiously as possible, not exceeding a period of sixty days from the date of receipt of the appeal:

Provided that where any such appeal could not be disposed of within the said period of sixty days, the Rent Court or the Rent Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

(*3*) In every appeal, before the Rent Court or the Rent Tribunal, the evidence of a witness shall be given by affidavit:

Provided that the Rent Court or the Rent Tribunal may, where it appears to it that it is necessary in the interest of justice to call a witness for examination or cross-examination, order attendance of such witness to be present for examination or cross-examination.

(*4*) The provisions of the Code of Civil Procedure, 1908 regarding service of summons shall be applicable *mutatis mutandis* for service of notice by the Rent Court or the Rent Tribunal. 5 of 1908.

(*5*) Every appeal before the Rent Court or the Rent Tribunal shall be in such form and manner as may be prescribed.

(*6*) The Rent Authority or the Rent Court or the Rent Tribunal shall not allow more than three adjournments at the request of a party throughout the proceedings and in case of reasonable and sufficient cause to do so, it shall record the reasons for the same in writing and order the party requesting adjournment to pay a reasonable cost.

(*7*) Every application under clauses (*a*), (*b*), (*e*), (*f*) and (*g*) of sub-section (*2*) of section 21 or under section 22 shall be decided within ninety days from the date of filing of such application in the Rent Court.

(*8*) The Rent Court shall decide every application filed under clauses (*c*) and (*d*) of sub-section (*2*) of section 21 within a period of thirty days from the date of filing of such application.

Powers of Rent Court and Rent Tribunal.

36. (*1*) The Rent Court and the Rent Tribunal shall, while discharging their functions under this Regulation, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for the purposes of,— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) issuing Commissions for examination of the witnesses or documents;

(*d*) issuing Commission for local investigation;

(*e*) receiving evidence on affidavits;

(*f*) dismissing an appeal for default or deciding it *exparte*;

(*g*) setting aside any order of dismissal of any appeal for default or any other order passed by it *exparte*;

(*h*) execution of its orders and decisions under this Regulation without reference to any civil court;

(*i*) reviewing its orders and decisions;

(*j*) revision of orders and decisions of the Rent Authority and the Rent Court; and

(*k*) any other matter, which may be prescribed.

(*2*) Any proceedings before the Rent Court or Rent Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code; and the Rent Court and the Rent Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(*3*) For the purposes of holding any inquiry or discharging any duty under this Regulation, the Rent Court may,—

(*a*) after giving not less than twenty-four hours' notice in writing, enter and inspect or authorise any officer, sub-ordinate to it, to enter and inspect, any premises at any time between sunrise and sunset; and

(*b*) by written order, require any person to produce for its inspection such books or documents relevant to the inquiry, at such time and at such place as may be specified in the order.

(*4*) The Rent Court may, if it thinks fit, appoint one or more persons having special knowledge of the matter under consideration as an assessor or valuer to advise it in the proceedings before it.

(*5*) Any clerical or arithmetical mistake in any order passed by the Rent Court or any other error arising out of any accidental omission may, at any time, be corrected by the Rent Court on an application received by it in this behalf from any of the parties or otherwise.

(*6*) An order made by a Rent Court or an order passed in appeal or revision, or review under this Chapter shall be executable by the Rent Court as a decree of a civil court and for this purpose, the Rent Court shall have the same powers of a civil court.

(*7*) The Rent Court may set aside any order passed *ex parte*, if the aggrieved party files an application and satisfies it that notice was not duly served or that he was prevented by any sufficient cause from appearing when the case was taken up for hearing.

(*8*) Save as otherwise provided in this Regulation, every order made by the Rent Court shall, subject to decision in appeal, be final and shall not be called in question in any original suit, application or execution proceedings.

Appeal to Rent Tribunal.

37. (*1*) Any person aggrieved by an order passed by the Rent Court, may prefer an appeal along with a certified copy of such order to the jurisdictional Rent Tribunal within the local limits of which the premises is situated, within a period of thirty days from the date of that order:

Provided that the Rent Tribunal may entertain the appeal after expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by a sufficient cause from preferring the appeal in time.

(*2*) The Rent Tribunal, upon filing an appeal under sub-section (*1*) shall serve notice, along with a copy of appeal to the respondent and fix a hearing not later than thirty days from the date of service of notice of such appeal on the respondent and the same shall be disposed of within a period of sixty days from such date of service.

(*3*) Where the Rent Tribunal considers it necessary in the interest of arriving at a just and proper decision, it may allow documents at any stage of the proceedings in appeal:

Provided that no such document shall be allowed more than once during the hearing.

(*4*) The Rent Tribunal may, in its discretion, pass such interlocutory order during the pendency of the appeal, as it may deem fit.

(*5*) While deciding the appeal, the Rent Tribunal may, after recording reasons therefor, confirm, set aside or modify the order passed by a Rent Court.

Execution of order.

38. (*1*) The Rent Court shall, on an application filed by any party, execute an order of a Rent Court or a Rent Tribunal or any other order made under this Regulation, in such manner as may be prescribed, by—

(*a*) delivering possession of the premises to the person in whose favour the decision has been made;

(*b*) attaching one or more bank accounts of the opposite party for the purpose of recovering the amount specified in such order; and

(*c*) appointing any advocate or any other competent person including officers of the Rent Court or local administration or local body for the execution of such order.

(*2*) The Rent Court may seek assistance from the Local Government or local body or the local police during execution of the final orders:

Provided that no applicant shall obtain police help unless he pays such costs as may be decided by the Rent Court.

(*3*) The Rent Court shall conduct the execution proceedings, in relation to its order or an order of a Rent Tribunal or any other order passed under this Regulation, in a summary manner and dispose of the application for execution made under this section within a period of thirty days from the date of service of notice on opposite party.

CHAPTER VIII

MISCELLANEOUS

Officers and other employees of Rent Authority, Rent Court and Rent Tribunal.

39. (*1*) The Administrator may, in consultation with the Rent Authority or the Rent Court or Rent Tribunal, determine the nature and categories of officers and other employees as it considers necessary and appoint such officers and other employees for the efficient discharge of their functions under this Regulation.

(*2*) The method of appointment of officers and employees and the terms and conditions of their service shall be such as may be prescribed.

Jurisdiction of civil courts barred in respect of certain matters.

40. (*1*) Save as otherwise provided in this Regulation, no civil court shall entertain any suit or proceeding in so far as it relates to the provisions of this Regulation.

(*2*) The jurisdiction of the Rent Court shall be limited to tenancy agreement submitted to it as specified in the First Schedule and shall not extend to the question of title or ownership of the premises.

Court fees.

41. (*1*) The provisions of the Court Fees Act, 1870 shall apply in respect of applications or appeals to be presented before the Rent Authority or the Rent Court or the Rent Tribunal, as the case may be. 7 of 1870.

(*2*) For the purposes of computation of court fees, the application for recovery of possession made to the Rent Court and the memorandum of appeals presented before the Rent Tribunal, shall be deemed to be a suit between the landlord and the tenant.

(*3*) The court fees for the application filed before the Rent Authority shall be same as that of an interlocutory application presented in a civil court.

Members, etc., to be public servants.

42. Every member of Rent Authority, Rent Court and Rent Tribunal appointed under this Regulation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

43. No suit, prosecution or other legal proceeding shall lie against any person, Rent Authority, Rent Court or Rent Tribunal in respect of anything which is in good faith done or intended to be done in pursuance of this Regulation.

44. Save as otherwise provided, the provisions of this Regulation shall be in addition to and not in derogation of any other law for the time being in force in the Union territory of Andaman and Nicobar Islands.

Regulation in addition to and not in derogation of any other law.

45. (*1*) The Administrator may, subject to the condition of previous publication, make rules not inconsistent with the provisions of this Regulation for carrying out the purposes of this Regulation.

Power to make rules.

(*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 form and manner for submission of documents under sub-section (*4*) of section 4;

(*b*) the manner of providing of unique identification number and uploading details of the tenancy agreement by the Rent Authority and with such documents under sub-section (*5*) of section 4;

(*c*) the method of payment of rent, deposits and other charges and the mode of verification of the same by the authority under sub-section (*2*) of section 8;

(*d*) the manner of payment of rent and other charges and the manner of deposit of rent and other charges, if the landlord refuses to accept the rent and other charges under sub-section (*1*) of section 14;

(*e*) the manner of depositing of rent by the tenant with the Rent Authority under sub-section (*2*) of section 14;

(*f*) the manner of making an application to the Rent Court by the landlord under sub-section (*2*) of section 21;

(*g*) the form and manner of filing an application by the legal heirs of the deceased landlord for eviction and recovery of the possession under sub-section (*1*) of section 22;

(*h*) the rate of interest to be payable by the landlord to the tenant in case such landlord fails to make any refund under sub-section (*2*) of section 24;

(*i*) the form and manner of filing an application by the landlord or his legal heirs in case the landlord is unable to obtain the possession from tenant for erection of buildings under sub-section (*1*) of section 27;

(*j*) the form and manner of filing an appeal before the Rent Court under sub-section (*5*) of section 35;

(*k*) the powers to be exercised by the Rent Court on any other matter under clause (*k*) of sub-section (*1*) of section 36;

(*l*) the manner of execution of an order issued by a Rent Court or Rent Tribunal under sub-section (*1*) of section 38;

(*m*) the method of appointment of officers and employees to the Rent Authority, Rent Court and Rent Tribunal and the terms and conditions of their service under sub-section (*2*) of section 39; and

(*n*) any other matters which is required to be, or may be, prescribed or in respect of which provision is to be made, by rules.

46. Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree for making any modification in the rule or both Houses agree

Laying of rules.

that the rule should not be made, the 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.

Power to remove difficulties.

47. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette, not inconsistent with the provisions of this Regulation, remove the difficulty.

(*2*) No order as referred to in sub-section (*1*) shall be made after the expiry of a period of two years from the date of commencement of this Regulation.

(*3*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

48. (*1*) The Andaman and Nicobar Islands Rent Control Regulation, 1964 is hereby repealed. Reg. 7 of 1964.

(*2*) Notwithstanding such repeal, all cases and other proceedings under the Andaman and Nicobar Islands Rent Control Regulation, 1964, at the commencement of this Regulation, shall be continued and disposed of in accordance with the provisions of the Andaman and Nicobar Islands Rent Control Regulation, 1964, as if that Regulation had continued to be in force and this Regulation had not been promulgated. Reg. 7 of 1964.

(*3*) The mention of particular matters referred to in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal. 10 of 1897.

THE FIRST SCHEDULE

[*See* section 4(*1*)]

FORM FOR INFORMATION OF TENANCY/SUB-TENANCY

To

The Rent Authority _____

_____

_____ (Address)

1.	Name and address of the landlord	:	_____
2.	Name and address of the Property Manager (if any)	:	_____
3.	Name(s) and address of the tenant, including e-mail and contact details	:	_____
4.	Description of previous tenancy, if any	:	_____
5.	Description of premises let out to the tenant including appurtenant land, if any	:	_____
6.	Date from which possession is given to the tenant	:	_____
7.	Rent payable as in sub-section (*1*) of section 8	:	_____
8.	Furniture and other equipment provided to the tenant	:	_____
9.	Other charges payable—	:	_____
	(*a*) electricity	:	_____
	(*b*) water	:	_____
	(*c*) extra furnishing, fittings and fixtures, and	:	_____
	(*d*) other services	:	_____
10.	Attach rent or lease or tenancy agreement	:	_____
11.	Duration of tenancy (Period for which let out)	:	_____
12.	Permanent Account Number (PAN) of landlord	:	_____
13.	Aadhaar number of landlord	:	_____
14.	Mobile Number and e-mail id of landlord (if available)	:	_____
15.	Permanent Account Number (PAN) of tenant	:	_____
16.	Aadhaar number of tenant	:	_____

17. Mobile Number and e-mail id of tenant : _____

18. Permanent Account Number (PAN) of Property Manager (if any) : _____

19. Aadhaar number of Property Manager (if any) : _____

20. Mobile Number and e-mail id of Property Manager (if any) : _____

Name and signature of landlord

Photograph of landlord

Name and signature of tenant

Photograph of tenant

Enclosed:

1. Tenancy Agreement.
2. Self-attested copies of PAN and Aadhaar of landlord.
3. Self-attested copies of PAN and Aadhaar of tenant.

THE SECOND SCHEDULE

[*See* section 15(*1*)]

DIVISION OF MAINTENANCE RESPONSIBILITY BETWEEN THE LANDLORD AND THE TENANTS

Unless otherwise agreed in the tenancy agreement, the landlord shall be responsible for repairs relating to matters falling under Part A and the tenant shall be responsible for matters falling under Part B.

PART A

Responsibilities of the Landlord

1. Structural repairs except those necessitated by damage caused by the tenant.
2. Whitewashing of walls and painting of doors and windows.
3. Changing and plumbing pipes when necessary.
4. Internal and external electrical wiring and related maintenance when necessary.

PART B

Periodic repairs to be got done by the tenant

1. Changing of tap washers and taps.
2. Drain cleaning.
3. Water closet repairs.
4. Wash Basin repairs.
5. Bath tub repairs.
6. Geyser repairs.
7. Circuit breaker repairs.
8. Switches and socket repairs.
9. Repairs and replacement of electrical equipment except major internal and external wiring changes.
10. Kitchen fixtures repairs.
11. Replacement of knobs and locks of doors, cupboard, windows, etc.
12. Replacement of fly-nets.
13. Replacement of glass panels in windows, doors, etc.
14. Maintenance of gardens and open spaces let out to or used by the tenant.

DROUPADI MURMU,
President.

S.K.G. RAHATE,
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th November,* 2023/*Agrahayana* 3, 1945 (*Saka*)

THE DADRA AND NAGAR HAVELI AND DAMAN AND DIU TENANCY REGULATION, 2023

No. 3 OF 2023

Promulgated by the President in the Seventy-fourth Year of the Republic of India.

A Regulation to establish a Rent Authority to regulate renting of premises, to protect the interests of landlords and tenants, to provide speedy adjudication mechanism for resolution of disputes and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

PRELIMINARY

1. (*1*) This Regulation may be called the Dadra and Nagar Haveli and Daman and Diu Tenancy Regulation, 2023. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Dadra and Nagar Haveli and Daman and Diu.

(*3*) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

Definitions.

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

(*a*) "Administration" means the Administration of the Union territory of Dadra and Nagar Haveli and Daman and Diu;

(*b*) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli and Daman and Diu appointed by the President under article 239 of the Constitution;

(*c*) "*force majeure*" means a situation of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature, affecting the habitation of the tenant in the premises let out on rent;

(*d*) "landlord", whether called landowner or lessor or by whatever name called, means a person who receives or is entitled to receive, the rent of any premises, on his own account, if such premises were let out to a tenant, and shall include,—

(*i*) his successor-in-interest; and

(*ii*) a trustee or guardian or receiver receiving rent for any premises or is entitled to so receive, on account of or on behalf of or for the benefit of, any other person such as minor or person of unsound mind who is not eligible to enter into a contract;

(*e*) "local authority" means a Village Panchayat or Panchayat Samiti or Zila Parishad or a Municipal Corporation or a Municipal Council or a Nagar Panchayat or a Planning or Development Authority, by whatever name called, or the Cantonment Board, or a civil area committee appointed under section 47 of the Cantonment Act, 2006 or such other body entitled to function as a local authority in any city or town, constituted under any law for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu; 41 of 2006.

(*f*) "notification" means a notification published in the Official Gazette of the Union territory of Dadra and Nagar Haveli and Daman and Diu;

(*g*) "premises" means any building or part of a building which is, or is intended to be, let out on rent for the purpose of residential or commercial use except for hotel, lodging house, dharamshala, inn and for industrial use and includes—

(*i*) garden, garage or closed parking area, vacant land, grounds and out-houses, if any, appertaining to such building or part of the building; and

(*ii*) any fitting to such building or part of the building for the more beneficial enjoyment thereof;

(*h*) "prescribed" means prescribed by rules made by the Administrator under this Regulation;

(*i*) "property manager" means a person or any legal entity including rental agent who is authorised by the landlord to manage the premises and who represents the landlord in his dealings with the tenant;

(*j*) "rental agent" means any person, who negotiates or acts on behalf of landlord or tenant or both in a transaction of renting of any premises and receives

remuneration or fees or any other charges for his services whether as a commission or otherwise and includes a person who introduces, through any medium, prospective landlord and tenant to each other for negotiation for renting of premises and includes property dealers, brokers or middlemen, by whatever name called;

(*k*) "Rent Authority" means an officer appointed as Rent Authority under section 30;

(*l*) "Rent Court" means an officer appointed as Rent Court under section 33;

(*m*) "Rent payable" in relation to any premises means the rent as specified in sub-section (*1*) of section 8;

(*n*) "Rent Tribunal" means an officer appointed as Rent Tribunal under section 34;

(*o*) "Schedule" means the Schedules annexed to this Regulation;

(*p*) "sub-tenant" means a person to whom the tenant sub-lets whole or part of the premises held by him or transfers or assigns his rights accrued under the tenancy agreement or a supplementary agreement to the existing tenancy agreement;

(*q*) "supplementary agreement" means an agreement to the existing tenancy agreement executed between the landlord and the tenant on matters referred to in sub-section (*1*) of section 7;

(*r*) "tenant", whether called lessee or by any other name, means a person by whom or on whose account or on behalf of whom, the rent of any premises is payable to the landlord under a tenancy agreement and includes any person occupying the premises as a sub-tenant and also, any person continuing in possession after the termination of his tenancy whether before or after the commencement of this Regulation, but shall not include any person against whom any order or decree for eviction has been made.

Regulation not to apply to certain premises.

3. (*1*) Nothing contained in this Regulation shall apply to any,—

(*a*) premises owned or promoted by the Central Government or State Government or the Administration or local authority or a Government undertaking or enterprise or a statutory body or the Cantonment Board;

(*b*) premises owned by a company, the University or organisation given on rent to its employees as part of service contract;

(*c*) premises owned by religious or charitable institutions as may be specified, by notification by the Administrator;

43 of 1995.

(*d*) premises owned by waqf registered under the provisions of the Waqf Act, 1995 or by any trust registered under any other law, relating to public trust, for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu for the time being in force; and

(*e*) other building or category of buildings specifically exempted in public interest by notification by the Administrator.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the owner and the tenant of the premises referred to in clauses (*a*) to (*e*) of the said sub-section agrees that the tenancy agreement entered into between such landlord and tenant be regulated under the provisions of this Regulation, such landlord may inform the Rent Authority about the agreement to do so at the time of information of the tenancy agreement under section 4.

CHAPTER II

TENANCY

Tenancy agreement.

4. (*1*) Notwithstanding anything contained in this Regulation or any other law for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu, no person shall, after the commencement of this Regulation, let out or take on rent any premises except by an agreement in writing the information of which shall be given to the Rent Authority, by the landlord and tenant jointly, in the form specified in the First Schedule within a period of two months from the date of such tenancy agreement.

(*2*) If the term of the agreement referred to in sub-section (*1*) exceeds eleven months, then such agreement shall be registered under the provisions of the Registration Act, 1908. 16 of 1908.

(*3*) Where the landlord and the tenant fail to jointly inform the execution of the tenancy agreement referred to in sub-section (*1*), the landlord and tenant shall separately inform the execution of such tenancy agreement to the Rent Authority within a period of one month from the date of expiry of the period referred to in sub-section (*1*).

(*4*) The Rent Authority may, within a period of three months from the date of its appointment, put in place a digital platform in the local vernacular language or the language of the Union territory of Dadra and Nagar Haveli and Daman and Diu, for enabling submissions of document in such form and manner as may be prescribed.

(*5*) The Rent Authority may, after receiving information about the execution of tenancy agreement along with the copy of agreement and the documents specified in the First Schedule,—

(*a*) provide a unique identification number to the parties; and

(*b*) upload details of the tenancy agreement on its website in local vernacular language or the language of the Union territory of Dadra and Nagar Haveli and Daman and Diu,

within a period of seven working days from the date of receipt of such information, in such manner along with such documents as may be prescribed.

(*6*) The terms of authorisation of the property manager, if any, appointed by the landlord to deal with the tenant shall be such as agreed to by the landlord and tenant in that behalf in the tenancy agreement.

(*7*) The information provided under sub-sections (*1*), (*2*) and (*3*) shall be conclusive proof of the facts relating to tenancy and matters connected therewith, and in the absence of any statement of information, the landlord and the tenant shall not be entitled to any relief under the provisions of this Regulation.

Period of tenancy.

5. (*1*) Every tenancy entered into after the commencement of this Regulation shall be valid for a period as agreed upon between the landlord and the tenant and as specified in the tenancy agreement.

(*2*) The tenant may request the landlord for renewal or extension of the tenancy, within the period agreed to in the tenancy agreement, and if agreeable to the landlord, may enter into a new tenancy agreement with the landlord on mutually agreed terms and conditions.

(*3*) Where a tenancy for a fixed term ends and has not been renewed or the tenant fails to vacate the premises at the end of such tenancy, then such tenant shall be liable to pay such enhanced rent to the landlord as may be provided in the tenancy agreement.

(*4*) Notwithstanding anything contained in this section, if the term of tenancy expires at a time when the locality where the premises let out on rent is situated is affected by any disastrous event of *force majeure*, then, subject to requisition by the tenant, the landlord shall allow the tenant to continue in possession of the said premises

till a period of one month from the date of cessation of such disastrous event on the same terms and conditions of the tenancy agreement already entered into.

Rights and obligations of successor in case of death.

6. The terms of agreement executed between landlord and tenant, shall be binding upon their successors in the event of the death of the landlord or tenant and in such case, the successors of the deceased landlord or tenant shall have the same rights and obligations as agreed to in the tenancy agreement for the remaining period of such tenancy.

Restriction on sub-letting.

7. (*1*) After the commencement of this Regulation, no tenant shall, except by entering into a supplementary agreement to the existing tenancy agreement,—

(*a*) sub-let whole or part of the premises held by him as a tenant; and

(*b*) transfer or assign his rights in the tenancy agreement or any part thereof.

(*2*) Where the premises is sub-let upon entering into a supplementary agreement to the existing tenancy agreement as referred to in sub-section (*1*), the landlord and tenant shall jointly submit such agreement to the Rent Authority in the form specified in the First Schedule within a period of two months from the date of such agreement.

(*3*) If the term of the agreement referred to in sub-section (*1*) exceeds eleven months, then such agreements shall be registered under the provisions of the Registration Act, 1908.

16 of 1908.

CHAPTER III

RENT

Rent payable.

8. (*1*) The rent payable in respect of a premises shall be the rent agreed to between the landlord and the tenant in accordance with the terms of the tenancy agreement.

(*2*) All rent, deposits and other charges payable shall be made by either bank deposit, electronic transfer, cheque, demand draft, postal money order or such other method as may be prescribed, which can be verified by the Rent Authority, the Rent Court, the Rent Tribunal and such other authority as may be prescribed.

Revision of rent.

9. (*1*) The revision of rent between the landlord and the tenant shall be in accordance with the terms of the tenancy agreement.

(*2*) Where, after the commencement of tenancy, the landlord has entered into an agreement in writing with the tenant prior to the commencement of the work and has incurred expenditure for carrying out improvement, addition or structural alteration in the premises occupied by the tenant, which does not include repairs necessary to be carried out under section 15, the landlord may increase the rent of the premises by an amount as agreed to between the landlord and the tenant, and such increase in rent shall become effective within one month after the completion of such work.

Rent Authority to determine revised rent in case of dispute.

10. In case of any dispute between the landlord and tenant regarding revision of rent, the Rent Authority may, on an application made by the landlord or tenant, determine the revised rent and other charges payable by the tenant and also fix the date from which such revised rent becomes payable.

Security deposit.

11. (*1*) The security deposit to be paid by the tenant in advance shall be such as may be agreed upon between the landlord and the tenant in the tenancy agreement, which shall,—

(*a*) not exceed two months' rent, in case of residential premises; and

(*b*) not exceed six months' rent, in case of non-residential premises.

(*2*) The security deposit shall be refunded to the tenant on the date of taking over vacant possession of the premises from the tenant, after making due deduction of any liability of the tenant.

CHAPTER IV

RIGHT AND OBLIGATIONS OF LANDLORD AND TENANT

Original tenancy agreement to be retained by landlord and tenant.

12. The tenancy agreement shall be signed in duplicate by both the landlord and tenant, and each one of such original signed tenancy agreement shall be retained by the landlord and tenant.

Rent and other charges payable and receipt for payment thereof.

13. (*1*) Every tenant shall pay rent and other charges payable within such period as agreed to in the tenancy agreement.

(*2*) Every landlord or his property manager shall, on receipt of payment towards rent and other charges payable within the period stipulated in the tenancy agreement from the tenant, provide forthwith against acknowledgement, a duly signed receipt for the amount received by him.

(*3*) Where the payment of rent or other charges is made by the tenant to the landlord through the electronic mode, the bank acknowledgement thereof shall be conclusive proof of such payment.

Deposit of rent with Rent Authority.

14. (*1*) Where the landlord refuses to accept any rent and other charges payable or refuses to give a receipt, the rent and other charges shall be paid to the landlord by postal money order or any other method, in such manner as may be prescribed, consecutively for two months, and if the landlord refuses to accept the rent and other charges within such period, then the tenant may deposit the same with the Rent Authority in such manner as may be prescribed.

(*2*) Where the tenant is unable to decide to whom the rent is payable during the period of tenancy agreement, the tenant may, in such case, deposit the rent with the Rent Authority in such manner as may be prescribed.

(*3*) Where the rent is deposited under sub-section (*1*) or sub-section (*2*), the Rent Authority shall enquire the case as to whom the rent is payable and pass orders as may deem fit on the basis of the facts of the case.

(*4*) The withdrawal of rent and other charges payable, deposited under sub-section (*1*) or sub-section (*2*), shall not by itself operate as an admission against the landlord or any other claim made by the tenant, if the landlord withdraws it to the extent of rent agreed upon under the tenancy agreement.

Repair and maintenance of property.

15. (*1*) Notwithstanding any agreement in writing to the contrary, the landlord and the tenant shall keep the premises in as good a condition as at the commencement of the tenancy, except for normal wear and tear, and shall respectively be responsible to repair and maintain the said premises as specified in the Second Schedule or as agreed to in the tenancy agreement.

(*2*) In case of common facilities shared among the tenants or with the landlord, the respective responsibilities of the tenant and landlord to repair and maintain those facilities shall be such as may be specified in the tenancy agreement.

(*3*) If the tenant fails or refuses to carry out the repairs referred to in sub-section (*1*) or sub-section (*2*), the landlord may carry out the repairs or remove the additional structure erected by tenant without the consent of tenant and deduct the amount incurred for such repairs or removal from the security deposit and the amount so deducted shall be paid by the tenant within a period of one month of issue of notice by the landlord in that regard.

(*4*) If the cost for the repairs referred to in sub-section (*1*) or sub-section (*2*) exceed the security deposit, the tenant shall be liable to pay the excess cost including the security deposit so deducted to the landlord within a period of one month of the issue of notice by the landlord in that regard.

(*5*) In case the landlord refuses to carry out the repairs referred to in sub-section (*1*) or sub-section (*2*), the tenant may carry out such repairs and deduct the expenditure incurred towards the same from the rent to be paid for the succeeding months:

Provided that in no case the deduction from rent in any one month shall exceed fifty per cent. of the agreed rent for a month.

(*6*) Where the premises is uninhabitable without the repairs and the landlord refuses to carry out the required repairs, after being called upon by the tenant in writing to do so, the tenant may abandon the premises after giving the landlord fifteen days' notice in writing.

(*7*) Where the premises let out on rent becomes uninhabitable for the tenant due to an event of *force majeure* or the tenant is unable to reside due to occurrence of such event, the landlord shall not charge rent from the tenant until the said premises is restored by the landlord, subject to the provisions of this section, to be inhabitable.

(*8*) Where the rented premises becomes uninhabitable as specified in sub-section (*6*) or sub-section (*7*) and the landlord fails to carry out the required repairs to make it inhabitable or the said premises could not be made inhabitable, then, the security deposit and advance rent shall be refunded by the landlord to the tenant within a period of fifteen days of the expiry of the notice period, after making due deduction of liability of the tenant, if any.

Tenant to look after premises.

16. During the existence of tenancy, the tenant shall,—

(*a*) not intentionally or negligently damage the premises or permit such damage;

(*b*) inform in writing the landlord of any damage; and

(*c*) take reasonable care of the premises and its contents including fitting and fixtures and keep it reasonably habitable having regard to its condition at the commencement of tenancy and the normal incidence of living.

Entry into premises.

17. (*1*) Every landlord or the property manager may enter the premises let out on rent after serving a notice, in writing or through electronic mode, to the tenant at least twenty-four hours before the time of entry under any of the following circumstances, namely:—

(*a*) to carry out repairs or replacement or to do or to get work done in the premises;

(*b*) to carry out an inspection of the premises for the purpose of determining whether the premises are in a habitable state; or

(*c*) for any other reasonable cause for entry specified in the tenancy agreement.

(*2*) The notice referred to in sub-section (*1*) shall specify the day, time and reason for entry:

Provided that no person shall enter the premises before sun rise and after sun set:

Provided further that nothing contained in this section shall prevent the landlord from entering into the premises let out on rent without prior notice to the tenant in case of emergent situations like war, flood, fire, cyclone, earthquake or any other natural calamity, which may affect that premises.

Information as to property manager.

18. In case the landlord has engaged a property manager, the landlord shall provide the following information to the tenant, namely:—

(*a*) name of the property manager;

(*b*) proof that such property manager has been authorised by the landlord;

(*c*) specific purposes for which the property manager has been authorised by the landlord and the period of such authorisation; and

(*d*) if the property manager is a legal entity, the name of the entity and the person authorised in this behalf by that legal entity who may be contacted in relation to the tenancy agreement.

Duties of property manager and consequences of violation of duties.

19. (*1*) The duties of the property manager shall include the following, namely:—

(*a*) to collect rent against receipt;

(*b*) to do essential repairs on behalf of the landlord;

(*c*) to inspect the premises from time to time;

(*d*) to give notices to tenant for,—

(*i*) proper maintenance of the premises;

(*ii*) delay in payment of rent;

(*iii*) revision of rent;

(*iv*) vacation of premises; and

(*v*) renewal of tenancy;

(*e*) to help in resolution of disputes among tenants and between the landlord and tenant; and

(*f*) any other matters relating to tenancy to be acted upon only on the instructions of the landlord.

(*2*) Where the property manager acts, in contravention of the provisions of sub-section (*1*) or against the instructions of the landlord, the Rent Authority may, on an application made to it by the landlord or tenant in that behalf, remove the property manager or impose such costs on the property manager so as to compensate any loss incurred by the landlord or tenant due to such contravention.

Withholding essential supply or service.

20. (*1*) No landlord or property manager shall, either by himself or through any other person, withhold any essential supply or service in the premises occupied by the tenant.

(*2*) In case of contravention of provisions of sub-section (*1*) and on application made by the tenant in this behalf, the Rent Authority after examining the matter, may pass an interim order directing the restoration of supply of essential services immediately on service of such order upon the landlord or property manager, pending the enquiry referred to in sub-section (*3*).

(*3*) The Rent Authority shall conduct an enquiry in respect of the application made by the tenant under sub-section (*2*), and complete the enquiry within one month of filing such application.

(*4*) Any such enquiry or its outcome as referred to in sub-section (*3*) shall not affect the terms of the tenancy agreement or the period of tenancy as mentioned in sections 4 and 5.

(*5*) The Rent Authority may, after giving an opportunity of being heard, award a compensation not exceeding two months' rent to be paid by the person responsible for withholding the essential supply, so as to compensate the loss incurred.

(*6*) The Rent Authority may levy a penalty of a sum not exceeding twice the monthly rent to the tenant, if it finds that the application was frivolous or vexatious.

(*7*) For the purposes of this section, the term "essential services" includes supply of water, electricity, piped cooking gas supply, lights in passages, lifts and on staircase, conservancy, parking, communication links, sanitary services and security fixtures and features.

CHAPTER V

EVICTION AND RECOVERY OF POSSESSION OF PREMISES BY LANDLORD

Eviction and recovery of possession of premises by landlord.

21. (*1*) A tenant shall not be evicted during the continuance of tenancy agreement unless otherwise agreed to in writing by the landlord and tenant, except in accordance with the provisions of sub-section (*2*) or in accordance with the provisions of section 22.

(*2*) The Rent Court may, on an application made to it by the landlord in such manner as may be prescribed, make an order for eviction and recovery of possession of the premises on one or more of the following grounds, namely:—

(*a*) that the tenant does not agree to pay the rent payable under sub-section (*1*) of section 8;

(*b*) that the tenant has not paid the arrears of rent and other charges payable in full as specified in sub-section (*1*) of section 13 for two consecutive months, including interest for delayed payment as may be specified in the tenancy agreement within a period of one month from the date of service of notice of demand, for payment of such arrears of rent and other charges payable to the landlord, in the manner provided in sub-section (*4*) of section 106 of the Transfer of Property Act, 1882;

4 of 1882.

(*c*) that the tenant has, after the commencement of this Regulation, parted with the possession of whole or any part of the premises without obtaining the written consent of the landlord;

(*d*) that the tenant has continued to misuse the premises even after receipt of notice from the landlord to desist from such misuse;

(*e*) where it is necessary for the landlord to carry out any repair or construction or rebuilding or addition or alteration or demolition in respect of the premises or any part thereof, which is not possible to be carried out without the premises being vacated:

Provided that after such repair, construction, rebuilding, addition or alteration, the tenant may be allowed to reoccupy the premises only when it has been mutually agreed to between the landlord and the tenant and a new tenancy agreement has been submitted with the Rent Authority and if the term of such agreement exceeds eleven months, then such agreement shall be registered under the provisions of the Registration Act, 1908:

16 of 1908.

Provided further that the tenant shall not be allowed to reoccupy the premises,—

(*i*) in the absence of submission of such mutual tenancy agreement with the Rent Authority; and

(*ii*) in cases where the tenant has been evicted under the orders of a Rent Court;

(*f*) that the premises or any part thereof is required by the landlord for carrying out any repairs, construction, rebuilding, additions, alterations or demolition, for change of its use as a consequence of change of land use by the competent authority;

(*g*) that the tenant has given written notice to vacate the premises let out on rent and in consequence of that notice, the landlord has contracted to sell the said premises or has taken any other step, as a result of which his interests would seriously suffer if he is not put in possession of that premises; and

(*h*) that the tenant has carried out any structural change or erected any permanent structure in the premises let out on rent without the written consent of the landlord.

(*3*) No order for eviction of the tenant on account of failure to pay the rent specified in clause (*b*) of sub-section (*2*) shall be made, if the tenant makes payment to the landlord or deposits with the Rent Court the arrears of rent and other charges payable, if any, including interest within one month from the date of service of the said demand notice upon him.

(*4*) Where the tenant fails to pay rent consecutively for two months subsequent to the grant of the relief specified in sub-section (*3*) in any one year, then the tenant shall not be entitled to such relief again.

(*5*) In any proceedings for eviction under clause (*e*) of sub-section (*2*), the Rent Court may allow eviction from only a part of the premises, if the landlord agrees for the same.

(*6*) For the purposes of this section, the expressions,—

(*i*) "competent authority" means any Authority which provides permission on matters relating to repair or redevelopment or demolition of building or permission for change in land use; and

(*ii*) "misuse the premises" means encroachment of additional space by the tenant or use of premises which causes public nuisance or causes damage to the property or is detrimental to the interest of the landlord or for immoral or illegal purposes.

Eviction and recovery of possession of premises in case of death of landlord.

22. (*1*) Notwithstanding anything contained in this Regulation or any other law for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu, in case of death of the landlord, where there is a *bona fide* requirement of the premises let out on rent by the legal heirs of the landlord during the period of tenancy, such legal heirs may file an application in this behalf for eviction and recovery of possession of the said premises before the Rent Court in such form and manner, as may be prescribed.

(*2*) The Rent Court may, on an application made to it under sub-section (*1*), if it is satisfied that the legal heirs of the deceased landlord are in *bona fide* requirement of the premises let out on rent, pass necessary orders against the tenant for handing over vacant possession of the said premises to the legal heirs of the deceased landlord.

Enhancement of rent in case of refusal by tenant to vacate.

23. Where the tenant fails to vacate the premises let out on rent in accordance with the tenancy agreement on the expiration of the period of tenancy or termination of tenancy by an order or notice under the provisions of this Regulation, such tenant shall be liable to pay the landlord twice the monthly rent for the first two months and four times the monthly rent thereafter till the tenant continues to occupy the said premises.

Refund of advance rent by landlord.

24. (*1*) Where a landlord exercises the right of recovery of possession under sub-section (*2*) of section 21 or under section 22, and he had received any rent or any other payment in advance from the tenant, he shall before recovery of possession, refund to the tenant such amount after deducting the rent and other charges due to him.

(*2*) If the landlord fails to make any refund, he shall be liable to pay simple interest to the tenant at such rate as may be prescribed from time to time on the amount which he has omitted or failed to refund.

Payment of rent during eviction proceedings.

25. In any proceedings for recovery of possession on any ground other than that referred to in clause (*a*) or clause (*b*) of sub-section (*2*) of section 21, where the tenant contests the claim for eviction, the landlord may at any stage of the proceedings apply to the Rent Court to direct the tenant to pay him the rent payable, as under sub-section (*1*) of section 8 and the Rent Court may order the tenant to make such payment and all other charges due from the tenant along with penal charges, if any, due to delay in payment, in accordance with the provisions of this Regulation.

Permission to build additional structures.

26. (*1*) The tenant shall not carry out any structural change or erect any permanent structure in the premises let out on rent without the written consent of the landlord.

(*2*) In case of any additional structures which were made or erected in the premises by the tenant without the written consent of the landlord, it shall be the responsibility of such tenant to remove such additional structures.

(*3*) Where the landlord proposes to make any improvement in or construct any additional structure on any premises which has been let out to a tenant and the tenant refuses to allow the landlord to make such improvement or construct such additional structure, the landlord may make an application in this behalf to the Rent Court.

(*4*) On an application made by the landlord under sub-section (*3*), if the Rent Court is satisfied that the landlord is ready and willing to commence the work which is necessary, it may permit the landlord to do such work and may make such other order as it may deem fit:

Provided that such improvement or additional structure shall not decrease or diminish or deteriorate the accommodation or housing services in the premises which may cause undue hardship to the tenant.

Special provision regarding vacant land.

27. (*1*) Notwithstanding anything contained in section 21 or section 22, where any premises let out for rent comprises vacant land, upon which it is permissible under the municipal bye-laws for the time being in force, to erect any building whether for residential or for any other purpose, and the landlord who intends to erect such building is unable to obtain possession of the same from the tenant on the basis of the tenancy agreement, the landlord or, in case of death of the landlord, his legal heirs, may file an application in this behalf, in such form and manner as may be prescribed, before the Rent Court.

(*2*) The Rent Court may, on receipt of the application referred to in sub-section (*1*), if it is satisfied that the landlord is or, as the case may be, his legal heirs are ready and willing to commence the work and that the severance of the vacant land from the rest of the premises shall not cause undue hardship to the tenant,—

(*a*) direct such severance after such enquiry as it may deem fit;

(*b*) place the landlord in possession of the vacant land;

(*c*) determine the rent payable by the tenant in respect of the rest of the premises; and

(*d*) make such other orders as it may deem fit in the circumstances of the case.

Vacant possession to landlord.

28. Notwithstanding anything contained in any other law for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu, where the interest of a landlord or in case of death of the landlord, of his legal heirs in any premises is determined for any reason whatsoever and any order is made by the Rent Court under this Regulation for the recovery of possession of such premises, such order shall, subject to the provisions of sub-section (*3*) of section 21, be binding on all occupants who may be in occupation of the premises and vacant possession thereof shall be given by all such occupants to the landlord or to the legal heirs of the landlord.

Provisions regarding notice of giving up possession by tenant.

29. Notwithstanding anything contained in any other law for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu, a tenant may give up possession of the premises on giving such written notice as is required under the tenancy agreement and in the absence of any stipulation relating to such notice, the tenant shall give notice to the landlord at least one month before giving up possession of the premises.

CHAPTER VI

RENT AUTHORITIES, THEIR POWERS AND APPEALS

Rent Authority.

30. The District Collector or the District Magistrate shall, with the previous approval of the Administrator, appoint an officer, not below the rank of Deputy Collector, to be the Rent Authority within his jurisdiction.

Powers and procedure of Rent Authority.

31. The Rent Authority shall have all the powers as are vested in the Rent Court under this Regulation and the procedure as laid down in sections 35 and 36 shall also be applicable to it.

Appeals.

32. Any person aggrieved by the order of the Rent Authority may prefer an appeal to the Rent Court having territorial jurisdiction within a period of thirty days from the date of the order of the Rent Authority:

Provided that the Rent Court may entertain the appeal after expiry of the said period of thirty days if it is satisfied that the appellant was prevented by a sufficient cause from preferring the appeal in time.

CHAPTER VII

RENT COURTS AND RENT TRIBUNALS

Rent Court.

33. The District Collector or the District Magistrate shall, with the previous approval of the Administrator, appoint Additional Collector or Additional District Magistrate or an officer of equivalent rank well versed in quasi-judicial functions, to be the Rent Court for the purposes of this Regulation, within his jurisdiction.

Rent Tribunal.

34. The Administrator may, in consultation with the jurisdictional High Court, by notification, appoint District Judge or Additional District Judge as the Rent Tribunal in each District.

Procedure to be followed in Rent Court and Rent Tribunal.

35. (*1*) Save as provided in this section, nothing contained in the Code of Civil Procedure, 1908 shall apply to the Rent Courts and the Rent Tribunals, which shall be guided by the principles of natural justice and shall have power to regulate their own procedure in the following manner, namely:— 5 of 1908.

(*a*) the landlord or the tenant may file an appeal before the Rent Court or the Rent Tribunal accompanied by affidavit and documents, if any;

(*b*) the Rent Court or the Rent Tribunal shall then issue notice to the opposite party, accompanied by copies of appeal, affidavit and documents;

(*c*) the opposite party shall file a reply accompanied by affidavit and documents, if any, after serving a copy of the same to the applicant;

(*d*) the applicant may file a rejoinder, if any, after serving the copy to the opposite party; and

(*e*) the Rent Court or the Rent Tribunal shall fix a date of hearing and may hold such summary inquiry as it deems necessary.

(*2*) The Rent Court or the Rent Tribunal shall endeavour to dispose the case as expeditiously as possible, not exceeding a period of sixty days from the date of receipt of the appeal:

Provided that where any such appeal could not be disposed of within the said period of sixty days, the Rent Court or the Rent Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

(*3*) In every appeal, before the Rent Court or the Rent Tribunal, the evidence of a witness shall be given by an affidavit:

Provided that the Rent Court or the Rent Tribunal may, where it appears to it that it is necessary in the interest of justice to call a witness for examination or cross-examination, order attendance of such witness to be present for examination or cross-examination.

5 of 1908.

(*4*) The provisions of the Code of Civil Procedure, 1908 regarding service of summons shall be applicable *mutatis mutandis* for service of notice by the Rent Court or Rent Tribunal.

(*5*) Every appeal before the Rent Court or the Rent Tribunal shall be in such form and manner as may be prescribed.

(*6*) The Rent Authority or the Rent Court or the Rent Tribunal shall not allow more than three adjournments at the request of a party throughout the proceedings and in case of reasonable and sufficient cause to do so, it shall record the reasons for the same in writing and order the party requesting adjournment to pay a reasonable cost.

(*7*) Every application under clauses (*a*), (*b*), (*e*), (*f*) and (*g*) of sub-section (*2*) of section 21 or under section 22 shall be decided within ninety days from the date of filing of such application in the Rent Court.

(*8*) The Rent Court shall decide every application filed under clauses (*c*) and (*d*) of sub-section (*2*) of section 21 within a period of thirty days from the date of filing of such application.

Powers of Rent Court and Rent Tribunal.

36. (*1*) The Rent Court and the Rent Tribunal shall, while discharging their functions under this Regulation, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for the purposes of,—

5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) issuing commissions for examination of the witnesses or documents;

(*d*) issuing commission for local investigation;

(*e*) receiving evidence on affidavits;

(*f*) dismissing an appeal for default or deciding it *ex parte*;

(*g*) setting aside any order of dismissal of any appeal for default or any other order passed by it *ex parte*;

(*h*) execution of its orders and decisions under this Regulation without reference to any civil court;

(*i*) reviewing its orders and decisions;

(*j*) revision of orders and decisions of the Rent Authority and the Rent Court; and

(*k*) any other matter, which may be prescribed.

(*2*) Any proceedings before the Rent Court or the Rent Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code, and the Rent Court and the Rent Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(*3*) For the purposes of holding any inquiry or discharging any duty under this Regulation, the Rent Court may,—

(*a*) after giving not less than twenty-four hours' notice in writing, enter and inspect or authorise any officer, subordinate to it, to enter and inspect, any premises at any time between sunrise and sunset; and

(*b*) by written order, require any person to produce for its inspection such books or documents relevant to the inquiry, at such time and at such place as may be specified in the order.

(*4*) The Rent Court may, if it thinks fit, appoint one or more persons having special knowledge of the matter under consideration as an assessor or valuer to advise it in the proceeding before it.

(*5*) Any clerical or arithmetical mistake in any order passed by the Rent Court or any other error arising out of any accidental omission may, at any time, be corrected by the Rent Court on an application received by it in this behalf from any of the parties or otherwise.

(*6*) An order made by a Rent Court or an order passed in appeal or revision or review under this Chapter shall be executable by the Rent Court as a decree of a civil court and for this purpose, the Rent Court shall have the same powers of a civil court.

(*7*) The Rent Court may set aside any order passed *ex parte*, if the aggrieved party files an application and satisfies it that notice was not duly served or that he was prevented by any sufficient cause from appearing when the case was taken up for hearing.

(*8*) Save as otherwise expressly provided in this Regulation, every order made by the Rent Court shall, subject to decision in appeal, be final and shall not be called in question in any original suit, application or execution proceedings.

Appeal to Rent Tribunal.

37. (*1*) Any person aggrieved by an order passed by the Rent Court, may prefer an appeal along with a certified copy of such order to the jurisdictional Rent Tribunal within the local limits of which the premises is situated, within a period of thirty days from the date of that order:

Provided that the Rent Tribunal may entertain the appeal after expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by a sufficient cause from preferring the appeal in time.

(*2*) The Rent Tribunal, upon filing an appeal under sub-section (*1*) shall serve notice, along with a copy of appeal to the respondent and fix a hearing not later than thirty days from the date of service of notice of such appeal on the respondent and the same shall be disposed of within a period of sixty days from such date of service.

(*3*) Where the Rent Tribunal considers it necessary in the interest of arriving at a just and proper decision, it may allow documents at any stage of the proceedings in appeal:

Provided that no such document shall be allowed more than once during the hearing.

(*4*) The Rent Tribunal may, in its discretion, pass such interlocutory order during the pendency of the appeal, as it may deem fit.

(*5*) While deciding the appeal, the Rent Tribunal may, after recording reasons therefor, confirm, set aside or modify the order passed by a Rent Court.

Execution of order.

38. (*1*) The Rent Court shall, on an application filed by any party, execute an order of a Rent Court or a Rent Tribunal or any other order made under this Regulation, in such manner as may be prescribed, by—

(*a*) delivering possession of the premises to the person in whose favour the decision has been made;

(*b*) attaching one or more bank accounts of the opposite party for the purpose of recovering the amount specified in such order; and

(*c*) appointing any advocate or any other competent person including officers of the Rent Court or local administration or local body for the execution of such order.

(*2*) The Rent Court may seek assistance from the Local Government or local body or the local police during the execution of the final orders:

Provided that no applicant shall obtain police help unless he pays such costs as may be decided by the Rent Court.

(*3*) The Rent Court shall conduct the execution proceedings, in relation to its order or an order of a Rent Tribunal or any other order passed under this Regulation, in a summary manner and dispose of the application for execution made under this section within a period of thirty days from the date of service of notice on opposite party.

CHAPTER VIII

MISCELLANEOUS

Officers and other employees of Rent Authority, Rent Court and Rent Tribunal.

39. (*1*) The Administrator may, in consultation with the Rent Authority or the Rent Court or the Rent Tribunal, determine the nature and categories of officers and other employees as it considers necessary and appoint such officers and other employees for the efficient discharge of their functions under this Regulation.

(*2*) The method of appointment of officers and employees and the terms and conditions of their service shall be such as may be prescribed.

Jurisdiction of civil courts barred in respect of certain matters.

40. (*1*) Save as otherwise provided in this Regulation, no civil court shall entertain any suit or proceeding in so far as it relates to the provisions of this Regulation.

(*2*) The jurisdiction of the Rent Court shall be limited to tenancy agreement submitted to it as specified in the First Schedule and shall not extend to the question of title or ownership of the premises.

Court fees.

7 of 1870.

41. (*1*) The provisions of the Court Fees Act, 1870 shall apply in respect of applications or appeals to be presented before the Rent Authority or the Rent Court or the Rent Tribunal, as the case may be.

(*2*) For the purposes of computation of court fees, the application for recovery of possession made to the Rent Court and the memorandum of appeals presented before the Rent Tribunal, shall be deemed to be a suit between the landlord and the tenant.

(*3*) The court fees for the application filed before the Rent Authority shall be same as that of an interlocutory application presented in a civil court.

Members, etc., to be public servants.

42. Every member of Rent Authority, the Rent Court and the Rent Tribunal appointed under this Regulation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

43. No suit, prosecution or other legal proceeding shall lie against any person, Rent Authority, the Rent Court or the Rent Tribunal in respect of anything which is in good faith done or intended to be done in pursuance of this Regulation.

Regulation in addition to and not in derogation of any other law.

44. Save as otherwise provided, the provisions of this Regulation shall be in addition to and not in derogation of any other law for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu.

Power to make rules.

45. (*1*) The Administrator may, subject to the condition of previous publication, make rules not inconsistent with the provisions of this Regulation for carrying out the purposes of this Regulation.

(*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 form and manner for submission of documents under sub-section (*4*) of section 4;

(*b*) the manner of providing of unique identification number and uploading details of the tenancy agreement by the Rent Authority and with such documents under sub-section (*5*) of section 4;

(*c*) the method of payment of rent, deposits and other charges and the mode of verification of the same by the authority under sub-section (*2*) of section 8;

(*d*) the manner of payment of rent and other charges and the manner of deposit of rent and other charges, if the landlord refuses to accept the rent and other charges under sub-section (*1*) of section 14;

(*e*) the manner of depositing of rent by the tenant with the Rent Authority under sub-section (*2*) of section 14;

(*f*) the manner of making an application to the Rent Court by the landlord under sub-section (*2*) of section 21;

(*g*) the form and manner of filing an application by the legal heirs of the deceased landlord for eviction and recovery of the possession under sub-section (*1*) of section 22;

(*h*) the rate of interest to be payable by the landlord to the tenant in case such landlord fails to make any refund under sub-section (*2*) of section 24;

(*i*) the form and manner of filing an application by the landlord or his legal heirs in case the landlord is unable to obtain the possession from tenant for erection of buildings under sub-section (*1*) of section 27;

(*j*) the form and manner of filing an appeal before the Rent Court under sub-section (*5*) of section 35;

(*k*) the powers to be exercised by the Rent Court on any other matter under clause (*k*) of sub-section (*1*) of section 36;

(*l*) the manner of execution of an order issued by a Rent Court or a Rent Tribunal under sub-section (*1*) of section 38;

(*m*) the method of appointment of officers and employees to the Rent Authority, the Rent Court and the Rent Tribunal and the terms and conditions of their service under sub-section (*2*) of section 39; and

(*n*) any other matters which is required to be, or may be, prescribed or in respect of which provision is to be made, by rules.

Laying of rules.

46. Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree for making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be 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.

Power to remove difficulties.

47. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette, not inconsistent with the provisions of this Regulation, remove the difficulty.

(*2*) No order as referred to in sub-section (*1*) shall be made after the expiry of a period of two years from the date of commencement of this Regulation.

(*3*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

2 of 1969.

48. (*1*) The Goa, Daman and Diu Building (Lease, Rent and Eviction) Control Act, 1968 (hereafter in this section referred to as the repealed Act) and the rules made thereunder are hereby repealed.

(*2*) Notwithstanding such repeal, or cases and other proceedings made under the repealed Act and the rules made thereunder, at the commencement of this Regulation, shall be continued and disposed of in accordance with the provisions of the repealed Act and the Rules made thereunder as if that Act had continued to be in force and this Regulation had not been promulgated.

(*3*) The mention of particular matters referred to in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

THE FIRST SCHEDULE

[*See* section 4(*1*)]

FORM FOR INFORMATION OF TENANCY/SUB-TENANCY

To

The Rent Authority _____

_____

_____ (Address)

1.	Name and address of the landlord	:	_____
2.	Name and address of the Property Manager (if any)	:	_____
3.	Name(s) and address of the tenant, including e-mail and contact details	:	_____
4.	Description of previous tenancy, if any	:	_____
5.	Description of premises let out to the tenant including appurtenant land, if any	:	_____
6.	Date from which possession is given to the tenant	:	_____
7.	Rent payable as in sub-section (*1*) of section 8	:	_____
8.	Furniture and other equipment provided to the tenant	:	_____
9.	Other charges payable—		
	(*a*) electricity	:	_____
	(*b*) water	:	_____
	(*c*) extra furnishing, fittings and fixtures, and	:	_____
	(*d*) other services	:	_____
10.	Attach rent or lease or tenancy agreement	:	_____
11.	Duration of tenancy (Period for which let out)	:	_____
12.	Permanent Account Number (PAN) of landlord	:	_____
13.	Aadhaar number of landlord	:	_____
14.	Mobile Number and e-mail id of landlord (if available)	:	_____
15.	Permanent Account Number (PAN) of tenant	:	_____
16.	Aadhaar number of tenant	:	_____

17. Mobile Number and e-mail id of tenant : _____

18. Permanent Account Number (PAN) of Property Manager (if any) : _____

19. Aadhaar number of Property Manager (if any) : _____

20. Mobile Number and e-mail id of Property Manager (if any) : _____

Name and signature of landlord

Photograph of landlord

Name and signature of tenant

Photograph of tenant

Enclosed:

1. Tenancy Agreement.
2. Self-attested copies of PAN and Aadhaar of landlord.
3. Self-attested copies of PAN and Aadhaar of tenant.

THE SECOND SCHEDULE

[*See* section 15(*1*)]

DIVISION OF MAINTENANCE RESPONSIBILITY BETWEEN THE LANDLORD AND THE TENANTS

Unless otherwise agreed in the tenancy agreement, the landlord shall be responsible for repairs relating to matters falling under Part A and the tenant shall be responsible for matters falling under Part B.

PART A

Responsibilities of the Landlord

1. Structural repairs except those necessitated by damage caused by the tenant.
2. Whitewashing of walls and painting of doors and windows.
3. Changing and plumbing pipes when necessary.
4. Internal and external electrical wiring and related maintenance when necessary.

PART B

Periodic repairs to be got done by the tenant.

1. Changing of tap washers and taps.
2. Drain cleaning.
3. Water closet repairs.
4. Wash Basin repairs.
5. Bath tub repairs.
6. Geyser repairs.
7. Circuit breaker repairs.
8. Switches and socket repairs.
9. Repairs and replacement of electrical equipment except major internal and external wiring changes.
10. Kitchen fixtures repairs.
11. Replacement of knobs and locks of doors, cupboard, windows, etc.
12. Replacement of fly-nets.
13. Replacement of glass panels in windows, doors, etc.
14. Maintenance of gardens and open spaces let out to or used by the tenant.

DROUPADI MURMU,
President.

S.K.G. RAHATE,
Secretary to the Govt. of India.

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Kshitiz
Mohan

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24*th November,* 2023/*Agrahayana* 3, 1945 (*Saka*)

THE LAKSHADWEEP TENANCY REGULATION, 2023

No. 4 of 2023

Promulgated by the President in the Seventy-fourth Year of the Republic of India.

A Regulation to establish a Rent Authority to regulate renting of premises, to protect the interests of landlords and tenants, to provide speedy adjudication mechanism for resolution of disputes and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

Preliminary

1. (*1*) This Regulation may be called the Lakshadweep Tenancy Regulation, 2023. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Lakshadweep.

(*3*) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

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

(*a*) "Administration" means the Administration of the Union territory of Lakshadweep;

(*b*) "Administrator" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;

(*c*) "*force majeure*" means a situation of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature, affecting the habitation of the tenant in the premises let out on rent;

(*d*) "landlord", whether called landowner or lessor or by whatever name called, means a person who receives or is entitled to receive, the rent of any premises, on his own account, if such premises were let out to a tenant, and shall include,—

(*i*) his successor-in-interest; and

(*ii*) a trustee or guardian or receiver receiving rent for any premises or is entitled to so receive, on account of or on behalf of or for the benefit of, any other person such as minor or person of unsound mind who is not eligible to enter into a contract;

(*e*) "local authority" means a Village Dweep Panchayat or District Panchayat or a Planning or Development Authority, by whatever name called;

(*f*) "notification" means a notification published in the Official Gazette of the Union territory of Lakshadweep;

(*g*) "premises" means any building or part of a building which is, or is intended to be, let out on rent for the purpose of residential or commercial use except for hotel, lodging house, inn and for industrial use and includes—

(*i*) garden, garage or closed parking area, vacant land, grounds and out-houses, if any, appertaining to such building or part of the building; and

(*ii*) any fitting to such building or part of the building for the more beneficial enjoyment thereof;

(*h*) "prescribed" means prescribed by rules made by the Administrator under this Regulation;

(*i*) "property manager" means a person or any legal entity including rental agent who is authorised by the landlord to manage the premises and who represents the landlord in his dealings with the tenant;

(*j*) "rental agent" means any person, who negotiates or acts on behalf of landlord or tenant or both in a transaction of renting of any premises and receives remuneration or fees or any other charges for his services whether as a commission or otherwise and includes a person who introduces, through any medium, prospective landlord and tenant to each other for negotiation for renting of premises and includes property dealers, brokers or middlemen, by whatever name called;

(*k*) "Rent Authority" means an officer appointed as Rent Authority under section 30;

(*l*) "Rent Court" means an officer appointed as Rent Court under section 33;

(*m*) "rent payable" in relation to any premises means the rent as specified in sub-section (*1*) of section 8;

(*n*) "rent Tribunal" means an officer appointed as Rent Tribunal under section 34;

(*o*) "Schedule" means the Schedules annexed to this Regulation;

(*p*) "sub-tenant" means a person to whom the tenant sub-lets whole or part of the premises held by him or transfers or assigns his rights accrued under the tenancy agreement or a supplementary agreement to the existing tenancy agreement;

(*q*) "supplementary agreement" means an agreement to the existing tenancy agreement executed between the landlord and the tenant on matters referred to in sub-section (*1*) of section 7;

(*r*) "tenant", whether called lessee or by any other name, means a person by whom or on whose account or on behalf of whom, the rent of any premises is payable to the landlord under a tenancy agreement and includes any person occupying the premises as a sub-tenant and also, any person continuing in possession after the termination of his tenancy whether before or after the commencement of this Regulation, but shall not include any person against whom any order or decree for eviction has been made.

Regulation not to apply to certain premises.

3. (*1*) Nothing contained in this Regulation shall apply to any,—

(*a*) premises owned or promoted by the Central Government or the Administration or local authority or a government undertaking or enterprise or a statutory body;

(*b*) premises owned by a company, the University or organisation given on rent to its employees as part of service contract;

(*c*) premises owned by religious or charitable institutions as may be specified, by notification by the Administrator;

43 of 1995.

(*d*) premises owned by waqf registered under the provisions of the Waqf Act, 1995 or by any trust registered under any other law, relating to public trust, for the time being in force in the Union territory of Lakshadweep for the time being in force; and

(*e*) other building or category of buildings specifically exempted in public interest by notification by the Administrator.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the owner and the tenant of the premises referred to in clauses (*a*) to (*e*) of the said sub-section agrees that the tenancy agreement entered into between such landlord and tenant be regulated under the provisions of this Regulation, such landlord may inform the Rent Authority about the agreement to do so at the time of information of the tenancy agreement under section 4.

CHAPTER II

TENANCY

Tenancy agreement.

4. (*1*) Notwithstanding anything contained in this Regulation or any other law for the time being in force in the Union territory of Lakshadweep, no person shall, after the commencement of this Regulation, let out or take on rent any premises except by an agreement in writing the information of which shall be given to the Rent Authority, by the landlord and tenant jointly in the form specified in the First Schedule within a period of two months from the date of such tenancy agreement.

16 of 1908.

(*2*) If the term of the agreement referred to in sub-section (*1*) exceeds eleven months, then such agreement shall be registered under the provisions of the Registration Act, 1908.

(*3*) Where the landlord and the tenant fail to jointly inform the execution of the tenancy agreement referred to in sub-section (*1*), the landlord and tenant shall separately inform the execution of such tenancy agreement to the Rent Authority within a period of one month from the date of expiry of the period referred to in sub-section (*1*).

(*4*) The Rent Authority may, within a period of three months from the date of its appointment, put in place a digital platform in the local vernacular language or the language of the Union territory of Lakshadweep for enabling submissions of document in such form and manner as may be prescribed.

(*5*) The Rent Authority may, after receiving information about the execution of tenancy agreement along with the copy of agreement and the documents specified in the First Schedule,—

(*a*) provide a unique identification number to the parties; and

(*b*) upload details of the tenancy agreement on its website in local vernacular language or the language of the Union territory of Lakshadweep,

within a period of seven working days from the date of receipt of such information, in such manner along with such documents as may be prescribed.

(*6*) The terms of authorisation of the property manager, if any, appointed by the landlord to deal with the tenant shall be such as agreed to by the landlord and tenant in that behalf in the tenancy agreement.

(*7*) The information provided under sub-sections (*1*), (*2*) and (*3*) shall be conclusive proof of the facts relating to tenancy and matters connected therewith, and in the absence of any statement of information, the landlord and the tenant shall not be entitled to any relief under the provisions of this Regulation.

Period of tenancy.

5. (*1*) Every tenancy entered into after the commencement of this Regulation shall be valid for a period as agreed upon between the landlord and the tenant and as specified in the tenancy agreement.

(*2*) The tenant may request the landlord for renewal or extension of the tenancy, within the period agreed to in the tenancy agreement, and if agreeable to the landlord, may enter into a new tenancy agreement with the landlord on mutually agreed terms and conditions.

(*3*) Where a tenancy for a fixed term ends and has not been renewed or the tenant fails to vacate the premises at the end of such tenancy, then such tenant shall be liable to pay such enhanced rent to the landlord as may be provided in the tenancy agreement.

(*4*) Notwithstanding anything contained in this section, if the term of tenancy expires at a time when the locality where the premises let out on rent is situated is affected by any disastrous event of *force majeure*, then, subject to requisition by the tenant, the landlord shall allow the tenant to continue in possession of the said premises till a period of one month from the date of cessation of such disastrous event on the same terms and conditions of the tenancy agreement already entered into.

Rights and obligations of successor in case of death.

6. The terms of agreement executed between landlord and tenant, shall be binding upon their successors in the event of the death of the landlord or tenant and in such case, the successors of the deceased landlord or tenant shall have the same rights and obligations as agreed to in the tenancy agreement for the remaining period of such tenancy.

Restriction on sub-letting.

7. (*1*) After the commencement of this Regulation, no tenant shall, except by entering into a supplementary agreement to the existing tenancy agreement,—

(*a*) sub-let whole or part of the premises held by him as a tenant; and

(*b*) transfer or assign his rights in the tenancy agreement or any part thereof.

(*2*) Where the premises is sub-let upon entering into a supplementary agreement to the existing tenancy agreement as referred to in sub-section (*1*), the landlord and the tenant shall jointly submit such agreement to the Rent Authority in the form specified in the First Schedule within a period of two months from the date of such agreement.

(*3*) If the term of the agreement referred to in sub-section (*1*) exceeds eleven months, then such agreement shall be registered under the provisions of the Registration Act, 1908. 16 of 1908.

CHAPTER III

RENT

Rent payable.

8. (*1*) The rent payable in respect of a premises shall be the rent agreed to between the landlord and the tenant in accordance with the terms of the tenancy agreement.

(*2*) All rent, deposits and other charges payable shall be made by either bank deposit, electronic transfer, cheque, demand draft, postal money order or such other method as may be prescribed, which can be verified by the Rent Authority, the Rent Court, the Rent Tribunal and such other authority as may be prescribed.

Revision of rent.

9. (*1*) The revision of rent between the landlord and the tenant shall be in accordance with the terms of the tenancy agreement.

(*2*) Where, after the commencement of tenancy, the landlord has entered into an agreement in writing with the tenant prior to the commencement of the work and has incurred expenditure for carrying out improvement, addition or structural alteration in the premises occupied by the tenant, which does not include repairs necessary to be carried out under section 15, the landlord may increase the rent of the premises by an amount as agreed to between the landlord and the tenant, and such increase in rent shall become effective within one month after the completion of such work.

Rent Authority to determine revised rent in case of dispute.

10. In case of any dispute between the landlord and tenant regarding revision of rent, the Rent Authority may, on an application made by the landlord or tenant, determine the revised rent and other charges payable by the tenant and also fix the date from which such revised rent becomes payable.

Security deposit.

11. (*1*) The security deposit to be paid by the tenant in advance shall be such as may be agreed upon between the landlord and the tenant in the tenancy agreement, which shall,—

(*a*) not exceed two months' rent, in case of residential premises; and

(*b*) not exceed six months' rent, in case of non-residential premises.

(*2*) The security deposit shall be refunded to the tenant on the date of taking over vacant possession of the premises from the tenant, after making due deduction of any liability of the tenant.

CHAPTER IV

RIGHT AND OBLIGATIONS OF LANDLORD AND TENANT

Original tenancy agreement to be retained by landlord and tenant.

12. The tenancy agreement shall be signed in duplicate by both the landlord and tenant, and each one of such original signed tenancy agreement shall be retained by the landlord and tenant.

Rent and other charges payable and receipt for payment thereof.

13. (*1*) Every tenant shall pay rent and other charges payable within such period as agreed to in the tenancy agreement.

(*2*) Every landlord or his property manager shall, on receipt of payment towards rent and other charges payable within the period stipulated in the tenancy agreement from the tenant, provide forthwith against acknowledgement, a duly signed receipt for the amount received by him.

(*3*) Where the payment of rent or other charges is made by the tenant to the landlord through the electronic mode, the bank acknowledgment thereof shall be conclusive proof of such payment.

Deposit of rent with Rent Authority.

14. (*1*) Where the landlord refuses to accept any rent and other charges payable or refuses to give a receipt, the rent and other charges shall be paid to the landlord by postal money order or any other method, in such manner as may be prescribed, consecutively for two months, and if the landlord refuses to accept the rent and other charges within such period, then the tenant may deposit the same with the Rent Authority in such manner as may be prescribed.

(*2*) Where the tenant is unable to decide to whom the rent is payable during the period of tenancy agreement, the tenant may, in such case, deposit the rent with the Rent Authority in such manner as may be prescribed.

(*3*) Where the rent is deposited under sub-section (*1*) or sub-section (*2*), the Rent Authority shall enquire the case as to whom the rent is payable and pass orders as may deem fit on the basis of the facts of the case.

(*4*) The withdrawal of rent and other charges payable, deposited under sub-section (*1*) or sub-section (*2*), shall not by itself operate as an admission against the landlord or any other claim made by the tenant, if the landlord withdraws it to the extent of rent agreed upon under the tenancy agreement.

Repair and maintenance of property.

15. (*1*) Notwithstanding any agreement in writing to the contrary, the landlord and the tenant shall keep the premises in as good a condition as at the commencement of the tenancy, except for normal wear and tear, and shall respectively be responsible to repair and maintain the said premises as specified in the Second Schedule or as agreed to in the tenancy agreement.

(*2*) In case of common facilities shared among the tenants or with the landlord, the respective responsibilities of the tenant and landlord to repair and maintain those facilities shall be such as may be specified in the tenancy agreement.

(*3*) If the tenant fails or refuses to carry out the repairs referred to in sub-section (*1*) or sub-section (*2*), the landlord may carry out the repairs or remove the additional structure erected by tenant without the consent of tenant and deduct the amount incurred for such repairs or removal from the security deposit and the amount so deducted shall be paid by the tenant within a period of one month of issue of notice by the landlord in that regard.

(*4*) If the cost for the repairs referred to in sub-section (*1*) or sub-section (*2*) exceed the security deposit, the tenant shall be liable to pay the excess cost including the security deposit so deducted to the landlord within a period of one month of the issue of notice by the landlord in that regard.

(*5*) In case the landlord refuses to carry out the repairs referred to in sub-section (*1*) or sub-section (*2*), the tenant may carry out such repairs and deduct the expenditure incurred towards the same from the rent to be paid for the succeeding months:

Provided that in no case the deduction from rent in any one month shall exceed fifty per cent. of the agreed rent for a month.

(*6*) Where the premises is uninhabitable without the repairs and the landlord refuses to carry out the required repairs, after being called upon by the tenant in writing to do so, the tenant may abandon the premises after giving the landlord fifteen days' notice in writing.

(*7*) Where the premises let out on rent becomes uninhabitable for the tenant due to an event of *force majeure* or the tenant is unable to reside due to occurrence of such event, the landlord shall not charge rent from the tenant until the said premises is restored by the landlord, subject to the provisions of this section, to be inhabitable.

(*8*) Where the rented premises becomes uninhabitable as specified in sub-section (*6*) or sub-section (*7*) and the landlord fails to carry out the required repairs to make it inhabitable or the said premises could not be made inhabitable, then, the security deposit and advance rent shall be refunded by the landlord to the tenant within a period of fifteen days of the expiry of the notice period, after making due deduction of liability of the tenant, if any.

Tenant to look after premises.

16. During the existence of tenancy, the tenant shall,—

(*a*) not intentionally or negligently damage the premises or permit such damage;

(*b*) inform in writing the landlord of any damage; and

(*c*) take reasonable care of the premises and its contents including fitting and fixtures and keep it reasonably habitable having regard to its condition at the commencement of tenancy and the normal incidence of living.

Entry into premises.

17. (*1*) Every landlord or the property manager may enter the premises let out on rent after serving a notice, in writing or through electronic mode, to the tenant at least twenty-four hours before the time of entry under any of the following circumstances, namely:—

(*a*) to carry out repairs or replacement or to do or to get work done in the premises;

(*b*) to carry out an inspection of the premises for the purpose of determining whether the premises are in a habitable state; or

(*c*) for any other reasonable cause for entry specified in the tenancy agreement.

(*2*) The notice referred to in sub-section (*1*) shall specify the day, time and reason for entry:

Provided that no person shall enter the premises before sun rise and after sun set:

Provided further that nothing contained in this section shall prevent the landlord from entering into the premises let out on rent without prior notice to the tenant in case of emergent situations like war, flood, fire, cyclone, earthquake or any other natural calamity, which may affect that premises.

Information as to property manager.

18. In case the landlord has engaged a property manager, the landlord shall provide the following information to the tenant, namely:—

(*a*) name of the property manager;

(*b*) proof that such property manager has been authorised by the landlord;

(*c*) specific purposes for which the property manager has been authorised by the landlord and the period of such authorisation; and

(*d*) if the property manager is a legal entity, the name of the entity and the person authorised in this behalf by that legal entity who may be contacted in relation to the tenancy agreement.

Duties of property manager and consequences of violation of duties.

19. (*1*) The duties of the property manager shall include the following, namely:—

(*a*) to collect rent against receipt;

(*b*) to do essential repairs on behalf of the landlord;

(*c*) to inspect the premises from time to time;

(*d*) to give notices to tenant for,—

(*i*) proper maintenance of the premises;

(*ii*) delay in payment of rent;

(*iii*) revision of rent;

(*iv*) vacation of premises; and

(*v*) renewal of tenancy;

(*e*) to help in resolution of disputes among tenants and between the landlord and tenant; and

(*f*) any other matters relating to tenancy to be acted upon only on the instructions of the landlord.

(*2*) Where the property manager acts, in contravention of the provisions of sub-section (*1*) or against the instructions of the landlord, the Rent Authority may, on an application made to it by the landlord or tenant in that behalf, remove the property manager or impose such costs on the property manager so as to compensate any loss incurred by the landlord or tenant due to such contravention.

Withholding essential supply or service.

20. (*1*) No landlord or property manager shall, either by himself or through any other person, withhold any essential supply or service in the premises occupied by the tenant.

(*2*) In case of contravention of provisions of sub-section (*1*) and on application made by the tenant in this behalf, the Rent Authority after examining the matter, may pass an interim order directing the restoration of supply of essential services immediately on service of such order upon the landlord or property manager, pending the enquiry referred to in sub-section (*3*).

(*3*) The Rent Authority shall conduct an enquiry in respect of the application made by the tenant under sub-section (*2*), and complete the enquiry within one month of filing such application.

(*4*) Any such enquiry or its outcome as referred to in sub-section (*3*) shall not affect the terms of the tenancy agreement or the period of tenancy as mentioned in sections 4 and 5.

(*5*) The Rent Authority may, after giving an opportunity of being heard, award a compensation not exceeding two months' rent to be paid by the person responsible for withholding the essential supply, so as to compensate the loss incurred.

(*6*) The Rent Authority may levy a penalty of a sum not exceeding twice the monthly rent to the tenant, if it finds that the application was frivolous or vexatious.

(*7*) For the purposes of this section, the term "essential services" includes supply of water, electricity, piped cooking gas supply, lights in passages, lifts and on staircase, conservancy, parking, communication links, sanitary services and security fixtures and features.

CHAPTER V

EVICTION AND RECOVERY OF POSSESSION OF PREMISES BY LANDLORD

Eviction and recovery of possession of premises by landlord.

21. (*1*) A tenant shall not be evicted during the continuance of tenancy agreement unless otherwise agreed to in writing by the landlord and tenant, except in accordance with the provisions of sub-section (*2*) or in accordance with the provisions of section 22.

(*2*) The Rent Court may, on an application made to it by the landlord in such manner as may be prescribed, make an order for eviction and recovery of possession of the premises on one or more of the following grounds, namely:—

(*a*) that the tenant does not agree to pay the rent payable under sub-section (*1*) of section 8;

(*b*) that the tenant has not paid the arrears of rent and other charges payable in full as specified in sub-section (*1*) of section 13 for two consecutive months, including interest for delayed payment as may be specified in the tenancy agreement within a period of one month from the date of service of notice of demand, for payment of such arrears of rent and other charges payable to the landlord, in the manner provided in sub-section (*4*) of section 106 of the Transfer of Property Act, 1882; 4 of 1882.

(*c*) that the tenant has, after the commencement of this Regulation, parted with the possession of whole or any part of the premises without obtaining the written consent of the landlord;

(*d*) that the tenant has continued to misuse the premises even after receipt of notice from the landlord to desist from such misuse;

(*e*) where it is necessary for the landlord to carry out any repair or construction or rebuilding or addition or alteration or demolition in respect of the premises or any part thereof, which is not possible to be carried out without the premises being vacated:

Provided that after such repair, construction, rebuilding, addition or alteration, the tenant may be allowed to reoccupy the premises only when it has been mutually agreed to between the landlord and the tenant and a new tenancy agreement has been submitted with the Rent Authority and if the term of such agreement exceeds eleven months, then such agreement shall be registered under the provisions of the Registration Act, 1908:

16 of 1908.

Provided further that the tenant shall not be allowed to reoccupy the premises,—

(*i*) in the absence of submission of such mutual tenancy agreement with the Rent Authority; and

(*ii*) in cases where the tenant has been evicted under the orders of a Rent Court;

(*f*) that the premises or any part thereof is required by the landlord for carrying out any repairs, construction, rebuilding, additions, alterations or demolition, for change of its use as a consequence of change of land use by the competent authority;

(*g*) that the tenant has given written notice to vacate the premises let out on rent and in consequence of that notice, the landlord has contracted to sell the said premises or has taken any other step, as a result of which his interests would seriously suffer if he is not put in possession of that premises; and

(*h*) that the tenant has carried out any structural change or erected any permanent structure in the premises let out on rent without the written consent of the landlord.

(*3*) No order for eviction of the tenant on account of failure to pay the rent specified in clause (*b*) of sub-section (*2*) shall be made, if the tenant makes payment to the landlord or deposits with the Rent Court the arrears of rent and other charges payable, if any, including interest within one month from the date of service of the said demand notice upon him.

(*4*) Where the tenant fails to pay rent consecutively for two months subsequent to the grant of the relief specified in sub-section (*3*) in any one year, then the tenant shall not be entitled to such relief again.

(*5*) In any proceedings for eviction under clause (*e*) of sub-section (*2*), the Rent Court may allow eviction from only a part of the premises, if the landlord agrees for the same.

(*6*) For the purposes of this section, the expressions,—

(*i*) "competent authority" means any Authority which provides permission on matters relating to repair or redevelopment or demolition of building or permission for change in land use; and

(*ii*) "misuse the premises" means encroachment of additional space by the tenant or use of premises which causes public nuisance or causes damage to the property or is detrimental to the interest of the landlord or for immoral or illegal purposes.

Eviction and recovery of possession of premises in case of death of landlord.

22. (*1*) Notwithstanding anything contained in this Regulation or any other law for the time being in force in the Union territory of Lakshadweep, in case of death of the landlord, where there is a *bona fide* requirement of the premises let out on rent by the legal heirs of the landlord during the period of tenancy, such legal heirs may file an application in this behalf for eviction and recovery of possession of the said premises before the Rent Court in such form and manner, as may be prescribed.

(*2*) The Rent Court may, on an application made to it under sub-section (*1*), if it is satisfied that the legal heirs of the deceased landlord are in *bona fide* requirement of the premises let out on rent, pass necessary orders against the tenant for handing over vacant possession of the said premises to the legal heirs of the deceased landlord.

Enhancement of rent in case of refusal by tenant to vacate.

23. Where the tenant fails to vacate the premises let out on rent in accordance with the tenancy agreement on the expiration of the period of tenancy or termination of tenancy by an order or notice under the provisions of this Regulation, such tenant shall be liable to pay the landlord twice the monthly rent for the first two months and four times the monthly rent thereafter till the tenant continues to occupy the said premises.

Refund of advance rent by landlord.

24. (*1*) Where a landlord exercises the right of recovery of possession under sub-section (*2*) of section 21 or under section 22, and he had received any rent or any other payment in advance from the tenant, he shall before recovery of possession, refund to the tenant such amount after deducting the rent and other charges due to him.

(*2*) If the landlord fails to make any refund, he shall be liable to pay simple interest to the tenant at such rate as may be prescribed from time to time on the amount which he has omitted or failed to refund.

Payment of rent during eviction proceedings.

25. In any proceedings for recovery of possession on any ground other than that referred to in clause (*a*) or clause (*b*) of sub-section (*2*) of section 21, where the tenant contests the claim for eviction, the landlord may at any stage of the proceedings apply to the Rent Court to direct the tenant to pay him the rent payable, as under sub-section (*1*) of section 8 and the Rent Court may order the tenant to make such payment and all other charges due from the tenant along with penal charges, if any, due to delay in payment, in accordance with the provisions of this Regulation.

Permission to build additional structures.

26. (*1*) The tenant shall not carry out any structural change or erect any permanent structure in the premises let out on rent without the written consent of the landlord.

(*2*) In case of any additional structures which were made or erected in the premises by the tenant without the written consent of the landlord, it shall be the responsibility of such tenant to remove such additional structures.

(*3*) Where the landlord proposes to make any improvement in or construct any additional structure on any premises which has been let out to a tenant and the tenant refuses to allow the landlord to make such improvement or construct such additional structure, the landlord may make an application in this behalf to the Rent Court.

(*4*) On an application made by the landlord under sub-section (*3*), if the Rent Court is satisfied that the landlord is ready and willing to commence the work which is necessary, it may permit the landlord to do such work and may make such other order as it may deem fit:

Provided that such improvement or additional structure shall not decrease or diminish or deteriorate the accommodation or housing services in the premises which may cause undue hardship to the tenant.

Special provision regarding vacant land.

27. (*1*) Notwithstanding anything contained in section 21 or section 22, where any premises let out for rent comprises vacant land, upon which it is permissible under the laws for the time being in force in the Union territory of Lakshadweep, to erect any building whether for residential or for any other purpose, and the landlord who intends to erect such building is unable to obtain possession of the same from the tenant on the basis of the tenancy agreement, the landlord or, in case of death of the landlord, his legal heirs, may file an application in this behalf, in such form and manner as may be prescribed, before the Rent Court.

(*2*) The Rent Court may, on receipt of the application referred to in sub-section (*1*), if it is satisfied that the landlord is or, as the case may be, his legal heirs are ready and willing to commence the work and that the severance of the vacant land from the rest of the premises shall not cause undue hardship to the tenant,—

(*a*) direct such severance after such enquiry as it may deem fit;

(*b*) place the landlord in possession of the vacant land;

(*c*) determine the rent payable by the tenant in respect of the rest of the premises; and

(*d*) make such other orders as it may deem fit in the circumstances of the case.

28. Notwithstanding anything contained in any other law for the time being in force in the Union territory of Lakshadweep, where the interest of a landlord or in case of death of the landlord, of his legal heirs in any premises is determined for any reason whatsoever and any order is made by the Rent Court under this Regulation for the recovery of possession of such premises, such order shall, subject to the provisions of sub-section (*3*) of section 21, be binding on all occupants who may be in occupation of the premises and vacant possession thereof shall be given by all such occupants to the landlord or to the legal heirs of the landlord. Vacant possession to landlord.

29. Notwithstanding anything contained in any other law for the time being in force in the Union territory of Lakshadweep, a tenant may give up possession of the premises on giving such written notice as is required under the tenancy agreement and in the absence of any stipulation relating to such notice, the tenant shall give notice to the landlord at least one month before giving up possession of the premises. Provisions regarding notice of giving up possession by tenant.

CHAPTER VI

RENT AUTHORITIES, THEIR POWERS AND APPEALS

30. The District Collector or the District Magistrate shall, with the previous approval of the Administrator, appoint an officer, not below the rank of Deputy Collector, to be the Rent Authority within his jurisdiction. Rent Authority.

31. The Rent Authority shall have all the powers as are vested in the Rent Court under this Regulation and the procedure as laid down in sections 35 and 36 shall also be applicable to it. Powers and procedure of Rent Authority.

32. Any person aggrieved by the order of the Rent Authority may prefer an appeal to the Rent Court having territorial jurisdiction within a period of thirty days from the date of the order of the Rent Authority: Appeals.

Provided that the Rent Court may entertain the appeal after expiry of the said period of thirty days if it is satisfied that the appellant was prevented by a sufficient cause from preferring the appeal in time.

CHAPTER VII

RENT COURTS AND RENT TRIBUNALS

33. The District Collector or the District Magistrate shall, with the previous approval of the Administrator, appoint Additional Collector or Additional District Magistrate or an officer of equivalent rank well versed in quasi-judicial functions, to be the Rent Court for the purposes of this Regulation, within his jurisdiction. Rent Court.

34. The Administrator may, in consultation with the jurisdictional High Court, by notification, appoint District Judge or Additional District Judge as the Rent Tribunal in each District. Rent Tribunal.

35. (*1*) Save as provided in this section, nothing contained in the Code of Civil Procedure, 1908 shall apply to the Rent Courts and the Rent Tribunals, which shall be guided by the principles of natural justice and shall have power to regulate their own procedure in the following manner, namely:— Procedure to be followed in Rent Court and Rent Tribunal.

5 of 1908.

(*a*) the landlord or the tenant may file an appeal before the Rent Court or the Rent Tribunal accompanied by affidavit and documents, if any;

(*b*) the Rent Court or the Rent Tribunal shall then issue notice to the opposite party, accompanied by copies of application or appeal, affidavit and documents;

(*c*) the opposite party shall file a reply accompanied by affidavit and documents, if any, after serving a copy of the same to the applicant;

(*d*) the applicant may file a rejoinder, if any, after serving the copy to the opposite party; and

(*e*) the Rent Court or the Rent Tribunal shall fix a date of hearing and may hold such summary inquiry as it deems necessary.

(*2*) The Rent Court or as the case may be, the Rent Tribunal shall endeavour to dispose the case as expeditiously as possible, not exceeding a period of sixty days from the date of receipt of the appeal:

Provided that where any such appeal could not be disposed of within the said period of sixty days, the Rent Court or the Rent Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

(*3*) In every appeal, before the Rent Court or the Rent Tribunal, the evidence of a witness shall be given by an affidavit:

Provided that the Rent Court or the Rent Tribunal may, where it appears to it that it is necessary in the interest of justice to call a witness for examination or cross-examination, order attendance of such witness to be present for examination or cross-examination.

(*4*) The provisions of the Code of Civil Procedure, 1908 regarding service of summons shall be applicable *mutatis mutandis* for service of notice by the Rent Court or the Rent Tribunal. 5 of 1908.

(*5*) Every appeal before the Rent Court or the Rent Tribunal shall be in such form and manner as may be prescribed.

(*6*) The Rent Authority or the Rent Court or the Rent Tribunal shall not allow more than three adjournments at the request of a party throughout the proceedings and in case of reasonable and sufficient cause to do so, it shall record the reasons for the same in writing and order the party requesting adjournment to pay a reasonable cost.

(*7*) Every application under clauses (*a*), (*b*), (*e*), (*f*) and (*g*) of sub-section (*2*) of section 21 or under section 22 shall be decided within ninety days from the date of filing of such application in the Rent Court.

(*8*) The Rent Court shall decide every application filed under clauses (*c*) and (*d*) of sub-section (*2*) of section 21 within a period of thirty days from the date of filing of such application.

Powers of Rent Court and Rent Tribunal.

36. (*1*) The Rent Court and the Rent Tribunal shall, while discharging their functions under this Regulation, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for the purposes of,— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) issuing commissions for examination of the witnesses or documents;

(*d*) issuing commission for local investigation;

(*e*) receiving evidence on affidavits;

(*f*) dismissing an appeal for default or deciding it *ex parte*;

(*g*) setting aside any order of dismissal of any appeal for default or any other order passed by it *ex parte*;

(*h*) execution of its orders and decisions under this Regulation without reference to any civil court;

(*i*) reviewing its orders and decisions;

(*j*) revision of orders and decisions of the Rent Authority and the Rent Court; and

(*k*) any other matter, which may be prescribed.

(*2*) Any proceedings before the Rent Court or the Rent Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, and the Rent Court and the Rent Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(*3*) For the purposes of holding any inquiry or discharging any duty under this Regulation, the Rent Court may,—

(*a*) after giving not less than twenty-four hours' notice in writing, enter and inspect or authorise any officer, subordinate to it, to enter and inspect, any premises at any time between sunrise and sunset; and

(*b*) by written order, require any person to produce for its inspection such books or documents relevant to the inquiry, at such time and at such place as may be specified in the order.

(*4*) The Rent Court may, if it thinks fit, appoint one or more persons having special knowledge of the matter under consideration as an assessor or valuer to advise it in the proceeding before it.

(*5*) Any clerical or arithmetical mistake in any order passed by the Rent Court or any other error arising out of any accidental omission may, at any time, be corrected by the Rent Court on an application received by it in this behalf from any of the parties or otherwise.

(*6*) An order made by a Rent Court or an order passed in appeal or revision or review under this Chapter shall be executable by the Rent Court as a decree of a civil court and for this purpose, the Rent Court shall have the same powers of a civil court.

(*7*) The Rent Court may set aside any order passed *ex parte*, if the aggrieved party files an application and satisfies it that notice was not duly served or that he was prevented by any sufficient cause from appearing when the case was taken up for hearing.

(*8*) Save as otherwise expressly provided in this Regulation, every order made by the Rent Court shall, subject to decision in appeal, be final and shall not be called in question in any original suit, application or execution proceedings.

Appeal to Rent Tribunal.

37. (*1*) Any person aggrieved by an order passed by the Rent Court, may prefer an appeal along with a certified copy of such order to the jurisdictional Rent Tribunal within the local limits of which the premises is situated, within a period of thirty days from the date of that order:

Provided that the Rent Tribunal may entertain the appeal after expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by a sufficient cause from preferring the appeal in time.

(*2*) The Rent Tribunal, upon filing an appeal under sub-section (*1*) shall serve notice, along with a copy of the appeal to the respondent and fix a hearing not later than thirty days from the date of service of notice of such appeal on the respondent and the same shall be disposed of within a period of sixty days from such date of service.

(*3*) Where the Rent Tribunal considers it necessary in the interest of arriving at a just and proper decision, it may allow documents at any stage of the proceedings in appeal:

Provided that no such document shall be allowed more than once during the hearing.

(*4*) The Rent Tribunal may, in its discretion, pass such interlocutory order during the pendency of the appeal, as it may deem fit.

(*5*) While deciding the appeal, the Rent Tribunal may, after recording reasons therefor, confirm, set aside or modify the order passed by a Rent Court.

Execution of order.

38. (*1*) The Rent Court shall, on an application filed by any party, execute an order of a Rent Court or a Rent Tribunal or any other order made under this Regulation, in such manner as may be prescribed, by—

(*a*) delivering possession of the premises to the person in whose favour the decision has been made;

(*b*) attaching one or more bank accounts of the opposite party for the purpose of recovering the amount specified in such order; and

(*c*) appointing any advocate or any other competent person including officers of the Rent Court or local administration or local body for the execution of such order.

(*2*) The Rent Court may seek assistance from the local Government or local body or the local police during the execution of the final orders:

Provided that no applicant shall obtain police help unless he pays such costs as may be decided by the Rent Court.

(*3*) The Rent Court shall conduct the execution proceedings, in relation to its order or an order of a Rent Tribunal or any other order passed under this Regulation, in a summary manner and dispose of the application for execution made under this section within a period of thirty days from the date of service of notice on opposite party.

CHAPTER VIII

MISCELLANEOUS

Officers and other employees of Rent Authority, Rent Court and Rent Tribunal.

39. (*1*) The Administrator may, in consultation with the Rent Authority or the Rent Court or the Rent Tribunal, determine the nature and categories of officers and other employees as it considers necessary and appoint such officers and other employees for the efficient discharge of their functions under this Regulation.

(*2*) The method of appointment of officers and employees and the terms and conditions of their service shall be such as may be prescribed.

Jurisdiction of civil courts barred in respect of certain matters.

40. (*1*) Save as otherwise provided in this Regulation, no civil court shall entertain any suit or proceeding in so far as it relates to the provisions of this Regulation.

(*2*) The jurisdiction of the Rent Court shall be limited to tenancy agreement submitted to it as specified in the First Schedule and shall not extend to the question of title or ownership of the premises.

Court fees.

41. (*1*) The provisions of the Court Fees Act, 1870 shall apply in respect of applications or appeals to be presented before the Rent Authority or the Rent Court or the Rent Tribunal, as the case may be. 7 of 1870.

(*2*) For the purposes of computation of court fees, the application for recovery of possession made to the Rent Court and the memorandum of appeals presented before the Rent Tribunal, shall be deemed to be a suit between the landlord and the tenant.

(*3*) The court fees for the application filed before the Rent Authority shall be same as that of an interlocutory application presented in a civil court.

Members, etc., to be public servants.

42. Every member of the Rent Authority, the Rent Court and the Rent Tribunal appointed under this Regulation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

43. No suit, prosecution or other legal proceeding shall lie against any person, the Rent Authority, the Rent Court or the Rent Tribunal in respect of anything which is in good faith done or intended to be done in pursuance of this Regulation.

Regulation in addition to and not in derogation of any other law.

44. Save as otherwise provided, the provisions of this Regulation shall be in addition to and not in derogation of any other law for the time being in force in the Union territory of Lakshadweep.

45. (*1*) The Administrator may, subject to the condition of previous publication, make rules not inconsistent with the provisions of this Regulation for carrying out the purposes of this Regulation. Power to make rules.

(*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 form and manner for submission of documents under sub-section (*4*) of section 4;

(*b*) the manner of providing of unique identification number and uploading details of the tenancy agreement by the Rent Authority and with such documents under sub-section (*5*) of section 4;

(*c*) the method of payment of rent, deposits and other charges and the mode of verification of the same by the authority under sub-section (*2*) of section 8;

(*d*) the manner of payment of rent and other charges and the manner of deposit of rent and other charges, if the landlord refuses to accept the rent and other charges under sub-section (*1*) of section 14;

(*e*) the manner of depositing of rent by the tenant with the Rent Authority under sub-section (*2*) of section 14;

(*f*) the manner of making an application to the Rent Court by the landlord under sub-section (*2*) of section 21;

(*g*) the form and manner of filing an application by the legal heirs of the deceased landlord for eviction and recovery of the possession under sub-section (*1*) of section 22;

(*h*) the rate of interest to be payable by the landlord to the tenant in case such landlord fails to make any refund under sub-section (*2*) of section 24;

(*i*) the form and manner of filing an application by the landlord or his legal heirs in case the landlord is unable to obtain the possession from tenant for erection of buildings under sub-section (*1*) of section 27;

(*j*) the form and manner of filing an appeal before the Rent Court under sub-section (*5*) of section 35;

(*k*) the powers to be exercised by the Rent Court on any other matter under clause (*k*) of sub-section (*1*) of section 36;

(*l*) the manner of execution of an order issued by a Rent Court or a Rent Tribunal under sub-section (*1*) of section 38;

(*m*) the method of appointment of officers and employees to the Rent Authority, the Rent Court and the Rent Tribunal and the terms and conditions of their service under sub-section (*2*) of section 39; and

(*n*) any other matters which is required to be, or may be, prescribed or in respect of which provision is to be made, by rules.

46. Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree for making any modification in the rule or both Houses agree that the rule should not be made, the 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. Laying of rules.

Power to remove difficulties.

47. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette, not inconsistent with the provisions of this Regulation, remove the difficulty.

(*2*) No order as referred to in sub-section (*1*) shall be made after the expiry of a period of two years from the date of commencement of this Regulation.

(*3*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE FIRST SCHEDULE

[*See* section 4(*1*)]

FORM FOR INFORMATION OF TENANCY

To

The Rent Authority _____

_____

_____ (Address)

1.	Name and address of the landlord	:	_____
2.	Name and address of the Property Manager (if any)	:	_____
3.	Name(s) and address of the tenant, including e-mail and contact details	:	_____
4.	Description of previous tenancy, if any	:	_____
5.	Description of premises let out to the tenant including appurtenant land, if any	:	_____
6.	Date from which possession is given to the tenant	:	_____
7.	Rent payable as in sub-section (*1*) of section 8	:	_____
8.	Furniture and other equipment provided to the tenant	:	_____
9.	Other charges payable—	:	
	(*a*) electricity	:	_____
	(*b*) water	:	_____
	(*c*) extra furnishing, fittings and fixtures, and	:	_____
	(*d*) other services	:	_____
10.	Attach rent or lease or tenancy agreement	:	_____
11.	Duration of tenancy (Period for which let out)	:	_____
12.	Permanent Account Number (PAN) of landlord	:	_____
13.	Aadhaar number of landlord	:	_____
14.	Mobile Number and e-mail id of landlord (if available)	:	_____
15.	Permanent Account Number (PAN) of tenant	:	_____
16.	Aadhaar number of tenant	:	_____

17. Mobile Number and e-mail id of tenant : _____

18. Permanent Account Number (PAN) of Property Manager (if any) : _____

19. Aadhaar number of Property Manager (if any) : _____

20. Mobile Number and e-mail id of Property Manager (if any) : _____

Name and signature of landlord

Photograph of landlord

Name and signature of tenant

Photograph of tenant

Enclosed:

1. Tenancy Agreement.
2. Self-attested copies of PAN and Aadhaar of landlord.
3. Self-attested copies of PAN and Aadhaar of tenant.

THE SECOND SCHEDULE

[*See* section 15*(1)*]

DIVISION OF MAINTENANCE RESPONSIBILITY BETWEEN THE LANDLORD AND THE TENANTS

Unless otherwise agreed in the tenancy agreement, the landlord shall be responsible for repairs relating to matters falling under Part A and the tenant shall be responsible for matters falling under Part B.

PART A

Responsibilities of the Landlord

1. Structural repairs except those necessitated by damage caused by the tenant.
2. Whitewashing of walls and painting of doors and windows.
3. Changing and plumbing pipes when necessary.
4. Internal and external electrical wiring and related maintenance when necessary.

PART B

Periodic repairs to be got done by the tenant.

1. Changing of tap washers and taps.
2. Drain cleaning.
3. Water closet repairs.
4. Wash Basin repairs.
5. Bath tub repairs.
6. Geyser repairs.
7. Circuit breaker repairs.
8. Switches and socket repairs.
9. Repairs and replacement of electrical equipment except major internal and external wiring changes.
10. Kitchen fixtures repairs.
11. Replacement of knobs and locks of doors, cupboard, windows, etc.
12. Replacement of fly-nets.
13. Replacement of glass panels in windows, doors, etc.
14. Maintenance of gardens and open spaces let out to or used by the tenant.

DROUPADI MURMU,
President.

S.K.G. RAHATE,
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 30*th September,* 2024/*Asvina* 8, 1946 *(Saka)*

THE DADRA AND NAGAR HAVELI AND DAMAN AND DIU CO-OPERATIVE SOCIETIES REGULATION, 2024

No. 1 of 2024

Promulgated by the President in the Seventy-fifth Year of the Republic of India.

A Regulation for registration, incorporation and management of Co-operative Societies in the Union territory of Dadra and Nagar Haveli and Daman and Diu and to repeal the Maharashtra Co-operative Societies Act, 1960 *as applicable to the erstwhile Union territory of Daman and Diu and the Gujarat Co-operative Societies Act,* 1961 *as applicable to the erstwhile Union territory of Dadra and Nagar Haveli and for matters connected therewith or incidental thereto.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Dadra and Nagar Haveli and Daman and Diu Co-operative Societies Regulation, 2024.

(*2*) It extends to the whole of the Union territory of the Dadra and Nagar Haveli and Daman and Diu.

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

Definitions.

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

(*a*) "Administration" means the Administration of the Union territory of Dadra and Nagar Haveli and Daman and Diu;

(*b*) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli and Daman and Diu, appointed by the President under article 239 of the Constitution;

(*c*) "auditor" means a certified auditor authorised and appointed by the Registrar to audit the accounts of the society.

Explanation.—For the purposes of this clause, the expression "certified auditor" means a person who is authorised by the Registrar under section 90;

(*d*) "authorised person" means any person duly authorised by the Registrar to take action under the provisions of this Regulation;

(*e*) "Board" means the Board of Directors or the governing body of a co-operative society, by whatever name called, to which the superintendence, direction and control of the management of the affairs of a society has been entrusted;

(*f*) "bye-laws" means the registered bye-laws for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu, and includes amendment of such bye laws;

(*g*) "central bank" means a co-operative bank, the objects of which include the creation of funds to be loaned to other societies, but does not include the urban co-operative bank;

(*h*) "Chief Executive Officer" means a Chief Executive Officer or a Manager or a Secretary or any other paid employee of a society appointed under section 70;

(*i*) "Committee" means the Managing Committee or other governing body of a society to which the direction and control of the management of the affairs of a society is entrusted;

(*j*) "company" means a company as defined in the Companies Act, 2013 and includes a banking company, any board, corporation or other corporate body, constituted or established by any Central Act, State Act or Provincial Act for the purpose of development of any industry; 18 of 2013.

(*k*) "co-operative bank" means a society registered under this Regulation and carrying on the business of banking as defined in clause (*b*) of sub-section (*1*) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(*l*) "co-operative election authority" means an authority constituted by the Administrator under section 74;

(*m*) "co-operative information officer" means an officer appointed by a society under sub-section (*3*) of section 37;

(*n*) "co-operative society" means a society registered or deemed to be registered under the regulations and rules or any other law relating to co-operative societies for the time being in force in the Union territory of Dadra and Nagar Haveli and Daman and Diu;

(*o*) "custodian" means the custodian of a society to be appointed by the Registrar under section 72;

(*p*) "Deposit Insurance Corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961; 47 of 1961.

(*q*) "dividend" means the amount paid, out of the profit of a society, to a member in proportion to the shares held by such member;

(*r*) "federal society" means a society—

(*i*) of which not less than five members are themselves societies; and

(*ii*) in which the voting rights are so regulated that the members which are societies have not less than four-fifths of the total number of votes in the general meeting of such society;

9 of 1932.

(*s*) "firm" means a firm registered under the Indian Partnership Act, 1932;

(*t*) "General Body" means the individuals or institutions having membership of respective societies;

(*u*) "legal heir" means any person, male or female, who is entitled to succeed to the property of an intestate as per the relevant personal succession law for the time being in force in the Union territory;

(*v*) "Liquidator" means a person appointed as Liquidator under section 115;

(*w*) "member" means a person joining in an application for the registration of a co-operative society which is subsequently registered or a person duly admitted to membership of a society after registration and includes a nominal, associate or sympathiser member;

(*x*) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;

61 of 1981.

(*y*) "notification" means the notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(*z*) "officer" means a person elected or appointed by a society to any office of such society according to its bye-laws and includes a Chairperson, Vice-chairperson, President, Vice-President, Managing Director, General Manager, Manager, Secretary, Treasurer, Member of the Committee, and any other person elected or appointed under this Regulation, the rules or the bye-laws, to give directions in regard to the business of such society;

(*za*) "office bearer" means a President, Vice-President, Secretary or Treasurer of a co-operative society and includes any other person to be elected by the Board of any co-operative society;

(*zb*) "official assignee" means a person or body of persons appointed under sub-section (*2*) of section 22;

(*zc*) "Official Gazette" means the Official Gazette of the Union territory of Dadra and Nagar Haveli and Daman and Diu;

(*zd*) "prescribed" means prescribed by rules made by the Administrator under this Regulation;

(*ze*) "rebate" means any payment made in cash or kind, out of the profits of a society, to a member or any other person, on the basis of his contribution to the business of the society;

(*zf*) "Registrar" means a person to be appointed as the Registrar of co-operative societies under this Regulation, and includes—

(*i*) to the extent of the powers of the Registrar conferred on any other person under this Regulation;

(*ii*) an Additional Registrar, Joint Registrar, Deputy Registrar and Assistant Registrar;

(*zg*) "Reserve Bank" means the Reserve Bank of India constituted under sub-section (*1*) of section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.

(*zh*) "reserve fund" means a fund to be maintained by the society under section 59;

(*zi*) "rules" means the rules made under this Regulation;

(*zj*) "Schedule" means the Schedule annexed to this Regulation;

(*zk*) "society" means a co-operative society registered, or deemed to be registered, under this Regulation;

(*zl*) "society with limited liability" means a society having the liability of its members limited by its bye-laws;

(*zm*) "Tribunal" means the Union territory Co-operative Tribunal constituted under section 132;

(*zn*) "Union territory" means the Union territory of Dadra and Nagar Haveli and Daman and Diu.

CHAPTER II

REGISTRAR AND REGISTRATION

Registrar and officers and their powers.

3. (*1*) For carrying out the purposes of this Regulation, the Administrator shall appoint a person to be called the Registrar of co-operative societies for the Union territory.

(*2*) To assist the Registrar in his functions under this Regulation, the Administrator may appoint such number of Additional Registrars, Joint Registrars, Deputy Registrars, Assistant Registrars and other persons with such designations as it may think fit.

(*3*) The Administrator may, by general or special order in writing and for the reasons mentioned therein, confer on a person or persons appointed under sub-section (*2*) all or any of the powers of the Registrar under this Regulation.

(*4*) Every person appointed under sub-section (*2*) shall work under the general guidance, superintendence and control of the Registrar.

Societies which may be registered.

4. A society established for,—

(*i*) promotion of the economic interests or general welfare of its members, or of the public, in accordance with such co-operative principles as specified in the Schedule; or

(*ii*) facilitating the operations of any such society,

may be registered under this Regulation:

Provided that, no society shall be registered, if it is likely to be economically unsound, or the registration of which may have an adverse effect upon any other society, or it is opposed to, or its working is likely to be in contravention of public policy or which may have an adverse effect on development of the co-operative movement, or the registration of which may be contrary to the policy directives which the Union territory Administration may, from time to time, issue.

Registration with limited liability.

5. A society to be registered under this Regulation may be registered with limited liability.

Explanation.—For the purposes of this section, the expression "limited liability" shall denote the same as is referred to in the Companies Act, 2013. 18 of 2013.

Conditions of registration.

6. (*1*) No society, other than a federal society, shall be registered under this Regulation, unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic liability of a society and development of the co-operative movement, determine from time to time for a class of societies (each of such persons being a member of a different family), who are qualified to be members under this Regulation, and who reside in the area of operation of such society:

Provided that the Registrar may specify the norms and conditions for registration of societies or class of societies.

(*2*) No federal society shall be registered, unless it has at least five societies as its members.

(*3*) Nothing in this Regulation shall be deemed to affect the registration of any society made before the commencement of this Regulation.

(*4*) The word "limited" shall be placed at the end of the name of every society which is registered or deemed to be registered under this Regulation.

Explanation.— For the purposes of this section, the expression "member of a family" means a wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother, sister, half-brother, half-sister and wife of brother or half-brother.

Power to exempt societies from conditions as to registration.

7. Notwithstanding anything contained in this Regulation, the Administrator may, by special order in writing in each case and for the reasons mentioned therein, exempt subject to such conditions, if any, as it may impose, any society from any of the requirements of this Regulation as to registration of such society.

Application for registration.

8. (*1*) For the purposes of registration of society, an application shall be made to the Registrar in the prescribed form and shall be accompanied by four copies of the proposed bye-laws of the society and the person by whom, or on whose behalf, such application is made, shall furnish such information in regard to the society, as the Registrar may require.

(*2*) The application shall be signed—

(*a*) in the case of a society other than a federal society, by at least ten persons (each of such persons being a member of a different family) who are qualified under this Regulation; and

(*b*) in the case of a federal society, by at least five societies.

(*3*) No signature to an application on behalf of a society shall be valid unless the person signing it is a member of the Committee of such society, and is authorised by such Committee by resolution to sign on its behalf the application for registration of the society and its bye-laws; and a copy of such resolution is appended to the application.

Registration and provisional registration.

9. (*1*) On receipt of an application for registration from a society,—

(*a*) if the Registrar is satisfied that the society has complied with the provisions of this Regulation and the rules as to registration and that its bye-laws are not contrary to this Regulation and the rules, he shall register the society and its bye-laws; and

(*b*) without prejudice to the provisions of clause (*a*), the Registrar may register a society if the aggregate value of the paid-up capital and provision of reserves alongwith liquidity, exposure and other prudential norms specified in the bye-laws of the proposed society in the business of thrift and credit are in accordance with such guidelines as may be prescribed:

Provided that the societies registered before the commencement of this Regulation shall meet such norms within a period of five years from the date of commencement of this Regulation:

Provided further that if the liquidity, exposure, prudential and other parameters of the credit society do not meet such norms within the period mentioned above, the Registrar shall have powers to issue such directions as it deems appropriate to such society to take relevant action:

Provided also that in the case of bank, the aggregate value of the paid-up capital and provision of reserves alongwith liquidity norms provided in the bye-laws shall be such as may be laid down by the Reserve Bank from time to time;

(*c*) if the Registrar is of the opinion that the application complies with the requirements of section 8, but that its bye-laws are not in conformity with the provisions of this Regulation and the rules made thereunder,

he may provisionally register the society and by an order in writing permit the society to perform such functions subject to such conditions as he may specify in the order and may also by an order in writing direct the society to amend, within the period prescribed in this behalf, its bye-laws so as to bring them in conformity with this Regulation and the rules made thereunder.

(*2*) When a society has been provisionally registered, the Registrar shall, on its compliance with the order made under clause (*b*) of sub-section (*1*), finally register it and its bye-laws and on its failure to comply with the order, cancel its provisional registration:

Provided that the provisional registration of a society shall not be cancelled unless such society has been given an opportunity of being heard in the matter.

(*3*) A provisionally registered society shall not be deemed to be a society registered under this Regulation.

(*4*) On the registration of a society, the Registrar shall issue to it a certificate of registration signed by him within a period of fifteen days from the date of registration.

(*5*) A certificate of registration issued under sub-section (*4*) shall be the conclusive evidence that the society mentioned therein is duly registered, unless it is proved that the registration has been cancelled.

(*6*) If the Registrar refuses to register the society, he shall forthwith communicate his decision with reasons therefor, to the person who has signed first on the application.

(*7*) The application for registration of a society may be disposed of within a period of three months from the date of its receipt.

Register of societies.

10. The Registrar shall maintain a register in the prescribed form of all societies registered or deemed to be registered under this Regulation.

Power of Registrar to decide certain questions.

11. For the purposes of the formation or registration or continuance of a society or the admission of a person as a member of a society under this Regulation, when any question arises whether, a person is an agriculturist or non-agriculturist, or whether any person is a resident in an island or group of islands, or whether two or more islands shall be considered to form a group, or whether any person belongs to any particular tribe, class or occupation, such question shall be decided by the Registrar.

Classification of societies.

12. The Registrar may classify all societies into such classes and in such manner as he thinks fit and the classification thereof shall be final on the societies.

Amendment of bye-laws of society.

13. (*1*) No amendment of the bye-laws of a society shall be valid until registered under this Regulation.

(*2*) For the purposes of registration of an amendment of the bye-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of a society, shall be forwarded to the Registrar.

(*3*) If the Registrar is satisfied that the amendment so forwarded is not contrary to this Regulation or the rules, he may register the amendment:

Provided that no order refusing to register the amendment shall be passed except after giving the society an opportunity of being heard in the matter:

Provided further that the application for registration of amendment of bye-laws of a society shall be disposed of within a period of two months from the date of its receipt.

(*4*) When the Registrar registers an amendment of the bye-laws of a society, he shall issue to the society, the copy of the amendment certified by him within a period of fifteen days from the date of registration of the amendment, which shall be conclusive evidence of its registration.

(*5*) Where the Registrar refuses to register an amendment of the bye-laws of a society, he shall communicate the order of refusal, together with his reasons therefor within a period of fifteen days, to the society.

Power to direct amendment of bye-laws.

14. (*1*) If it appears to the Registrar that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society or any bye-laws of the society are inconsistent with the provisions of this Regulation or rules made thereunder and that amendment is necessary in such bye-laws, he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

(*2*) If the society fails to make the amendment within the time so specified, the Registrar after giving the society an opportunity of being heard and with the prior approval of the Administrator, may register the amendment, and shall thereupon issue to the society a copy thereof certified by him.

(*3*) With effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly and the bye-laws as amended shall be binding on the society and its members.

Change of name.

15. (*1*) Subject to the provisions of this Regulation and the rules made thereunder, a society may, by resolution passed at a general meeting, and with the approval of the Registrar, change its name but such change shall not affect any right or obligation of the society, or of any of its members, or of any of the persons who have ceased to be members and any legal proceedings pending before any person, authority or court may be continued by or against the society, under its new name.

(*2*) When a society changes its name, the Registrar shall enter the new name in its place in the register of societies, and shall also amend the certificate of registration accordingly.

Change of liability.

16. (*1*) Subject to the provisions of this Regulation and the rules made thereunder, a society may, by passing a resolution and by amending its bye-laws, change the form or extent of its liability.

(*2*) When a society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding anything in any bye-laws or contract to the contrary, any member or creditor shall, during a period of thirty days from the date of service of such notice upon him, have the option of withdrawing his investment in its shares, and his deposits and loans, and of demanding the payment of his other dues, if any:

Provided that conversion of society from limited to unlimited liability shall not be permitted in any circumstances.

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

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

(*a*) all members and creditors have assented, or deemed to have assented, thereto as aforesaid; or

(*b*) all claims of members and creditors exercising the option, under sub-section (*2*) have been complied *in toto*.

Amalgamation, transfer, division or conversion of societies.

17. (*1*) Subject to the provisions of this Regulation and the rules made thereunder and the previous sanction of the Registrar, a society may, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide—

(*a*) to amalgamate with another society or a society registered under the Multi-State Co-operative Societies Act 2002; 39 of 2002.

(*b*) to transfer its assets and liabilities, in whole or in part, to any other society;

(*c*) to divide itself into two or more societies;

(*d*) to convert itself into another class of society; or

(*e*) to change its objects.

(*2*) Where the amalgamation, transfer, division or conversion referred to in sub-section (*1*) involves a transfer of the liabilities of a society to any other society, the Registrar shall not sanction the resolution of the society unless he is satisfied that—

(*i*) the society, after passing such resolution, has given notice thereof in writing to all its members, creditors and other persons whose interests are likely to be affected (hereafter, in this section referred to as "other interested persons"), giving them the option to exercise within one month from the date of the receipt of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or of withdrawing their investments in its shares, their deposits and loans and demanding payment of their other dues, if any;

(*ii*) all the members and creditors and other interested persons have assented to the decision, or are deemed to have assented thereto by having failed to exercise the option within the period specified in clause (*i*); and

(*iii*) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been complied *in toto*.

(*3*) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be. 4 of 1882. 16 of 1908.

(*4*) The amalgamation, transfer, division or conversion made under this section shall not affect any right or obligation of the societies so amalgamated, or of the society so divided or converted, or of the transferee, or render defective, any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated or divided or converted and accordingly such legal proceedings may be continued or commenced by or against the amalgamated society, the converted society, the new societies or the transferee, as the case may be.

Power to direct amalgamation and re-organisation of societies in public interest, etc.

18. (*1*) Where the Registrar is satisfied that it is essential in the public interest or in the interest of co-operative movement, or for the purpose of securing proper management of any society that two or more societies should be amalgamated or that any society should be re-organised, then, notwithstanding anything contained in section 17 and subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified in this behalf by the Administrator, by order published in the Official Gazette, provide for the amalgamation of these societies into a single society or, as the case may be, for the re-organisation of that society, with such constitution, property rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order:

Provided that in case of a co-operative society carrying on the business of banking, the amalgamation and re-organisation, shall be subject to the guidelines issued by the Reserve Bank in this regard from time to time.

(*2*) The order referred to in sub-section (*1*) may also provide for—

(*a*) the constitution of the Committee of Management or any other Committees of the new amalgamated or re-organised society;

(*b*) the persons who shall be, or continue to be, the officers of such society; and

(*c*) the period after which such Committee or Committees may be re-constituted.

(*3*) No order shall be made under this section unless,—

(*a*) a copy of the draft of the proposed order has been sent to the society or each of the societies concerned;

(*b*) the Registrar has considered suggestions and objections if any received either from the society or from any member or class of members thereof or from any creditor or class of creditors within such period (not being less than one month from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, and has, if necessary, modified the same in the light of such suggestions and objections.

(*4*) The order referred to in sub-section (*1*) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation or re-organisation.

(*5*) Every member of the societies so amalgamated, shall be deemed to be a member of the new amalgamated society, and every member of the society so re-organised shall be deemed to be a member of the new re-organised society and such members shall have all rights, privileges and liabilities of the members of the concerned new societies:

Provided that any member of the new society so amalgamated, or re-organised may, within such period and in such manner as may be prescribed, resign his membership of the new society and on such resignation, he shall be entitled to withdraw his share and any other dues and interest in the society.

(*6*) On the issue of an order under sub-section (*1*) in respect of any societies or society, notwithstanding anything contained in any other law for the time being in force in the Union territory, all the assets, rights and liabilities of the amalgamating societies, or, as the case may be, the original society which is re-organised shall stand transferred to, and vest in, the new amalgamated society, or, as the case may be, the new re-organised society.

(*7*) The provisions of sub-sections (*3*) and (*4*) of section 17 and section 19 shall apply in relation to the amalgamation or re-organisation of the societies under this section as if—

(*i*) the order of amalgamation was a resolution of societies concerned with amalgamation; and

(*ii*) the original society was re-organised under section 17.

Cancellation of registration of amalgamated, divided or converted societies.

19. Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society, as the case may be, shall be cancelled on the date of registration of the new society or societies so formed.

Re-construction of societies.

20. Where a compromise or arrangement is proposed—

(*a*) between a society and its creditors; or

(*b*) between a society and its members,

the Registrar may, on the application of the society or of any member or of any creditor of the society, or in the case of a society which is being wound up, of the Liquidator, order reconstruction of the society in such manner as may be prescribed.

Cancellation of registration.

21. (*1*) The Registrar shall make an order cancelling the registration of a society, if it transfers the whole of its assets and liabilities to another society, or amalgamates with another society, or divides itself into two or more societies, or if its affairs are wound up or it has not commenced business within a reasonable time of its registration or has ceased to function:

Provided that the registration of a society shall not be cancelled, unless such society has been given an opportunity of being heard in the matter.

(*2*) An order made under sub-section (*1*) shall be published in the Official Gazette.

(*3*) The society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

De-registration of societies.

22. (*1*) If the Registrar is satisfied that any society is registered on mis-representation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, or any primary agricultural co-operative credit society using the word "bank", "banking", "banker" or any other derivative of the word "bank" in its name, he may, after giving an opportunity of being heard to the society, de-register the society.

(*2*) When a society is de-registered under the provisions of sub-section (*1*), the Registrar may, notwithstanding anything contained in this Regulation or any other law for the time being in force in the Union territory, make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require.

(*3*) Subject to the provisions of this Regulation and the rules made thereunder, the Official Assignee shall realise the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(*4*) The Official Assignee shall be paid such remuneration and allowances as may be prescribed and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

Partnership of societies.

23. (*1*) Any two or more societies may, with the prior approval of the Registrar, by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or businesses:

Provided that each member of each society has had clear ten days written notice of the resolution, and the date of the meeting.

9 of 1932.
18 of 2013.

(*2*) Nothing contained in the Indian Partnership Act, 1932 and Companies Act, 2013 shall apply to such partnership.

Collaboration by societies.

24. (*1*) Any society or societies may, with the prior approval of the Administrator and subject to such terms and conditions as the Administrator may impose, and in such manner as may be prescribed, enter into collaboration with any undertaking or any other undertaking approved by the Administrator for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise.

(*2*) Before approving any such scheme of collaboration by any society or societies under sub-section (*1*), the Administrator shall have due regard to the following matters, namely:—

(*a*) that the scheme is economically viable;

(*b*) that it can be implemented without, in any way, eroding the co-operative character of the society or the societies concerned; and

(*c*) that the scheme is in furtherance of the interests of the members of the society or societies concerned, or is in the public interest, and in the interest of the co-operative movement in general.

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES

Person who may become member.

25. (*1*) Subject to the provisions of section 28, no person shall be admitted as a member of a society unless such person is,—

9 of 1872.

(*a*) an individual, who is competent to contract under the provisions of the Indian Contract Act, 1872;

18 of 2013.

(*b*) a firm, company, any Government company as defined in clause (*45*) of section 2 of the Companies Act, 2013, or any other body corporate constituted under any law for the time being in force in the Union territory;

(*c*) a society registered, or deemed to be registered, under this Regulation;

(*d*) the Central Government;

(*e*) the Administrator;

(*f*) a local authority;

(*g*) a public trust registered or deemed to have been registered under any other law for the time being in force in the Union territory;

(*h*) the depositor or the financial service user;

(*i*) a group of the individuals eligible under clause (*a*), whether incorporated or not and whether established or not by or under any law for the time being in force in the Union territory:

Provided that the provisions of clause (*a*) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or a college:

Provided further that subject to such terms and conditions as may be laid down by the Administrator by general or special order in writing, a firm or company may be admitted as a member only of a society which is a federal or urban society or which conducts or intends to conduct an industrial undertaking:

Provided also that any firm or company, which is immediately before the commencement of this Regulation a member of a society deemed to be registered under this Regulation, shall have, subject to the other provisions of this Regulation, the right to continue to be such member on and after such commencement.

Explanation.—For the purposes of this section, the expression an "urban society" means a society the business of which mainly falls within the limits of a municipal corporation, municipality, cantonment or notified area committee.

(*2*) Every person seeking admission as a member of a society, if duly qualified for membership of such society under the provisions of this Regulation, the rules and the bye-laws of the society may make an application to the society for membership and the society shall take decision on the application and shall communicate the decision within a period of three months from the date of the receipt of the application.

(*3*) If the society does not communicate any decision to the applicant within three months from the date of receipt of such application, the applicant shall be deemed to have been admitted as a member of the society.

(*4*) If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

(*5*) Notwithstanding anything contained in sub-section (*1*), the Administrator may, having regard to the fact that the interest of any person or class of persons engaged in or carrying on any profession, business or employment conflicts or is likely to conflict with the objects of any society or class of societies, by general or special order published in the Official Gazette, declare that such person or such class of persons shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent, of any society or class of societies, so long as such person or persons are engaged in or carry on that profession, business, or employment, and the question whether a person is or is not so engaged in or carrying on any profession, business or employment or whether a person belongs or does not belong to such class of person as declared under this sub-section and has or has not incurred a disqualification under this sub-section shall be decided by the Registrar under section 11.

(*6*) Where the Registrar has decided under section 11 that a person has incurred a disqualification, he may, after conducting enquiry, by order, remove such person from the membership of the society and such person shall cease to be a member of the society.

Removal from membership in certain circumstances.

26. (*1*) Where a person becomes a member of any society on his making a declaration as required by the bye-laws of the society or otherwise and such declaration is found to be false, then such person shall be disqualified to continue as a member of the society.

(*2*) Where a person continues as a member of the society notwithstanding the disqualification incurred by him under sub-section (*5*) of section 25 or under sub-section (*1*), he shall be removed from the society by the Registrar:

Provided that the Registrar shall, before making an order of removal give the person an opportunity of being heard.

Open membership.

27. (*1*) No society shall without a sufficient cause, refuse admission to membership to any person duly qualified under the provisions of this Regulation and its bye-laws.

(*2*) Where a society refuses to issue or accept the application for membership from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with payment in respect of membership, if any, to the Registrar, who shall forward the application and the amount, if any, so paid, to the society concerned within a period of thirty days from the date of receipt of such application and the amount and thereupon, if the society fails to communicate any decision to the applicant within a period of three months from the date of receipt of such application and the amount by the society, the applicant shall be deemed to have become a member of such society.

(*3*) If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving him an opportunity of being heard.

(*4*) Any person aggrieved by the decision of a society, refusing him admission to its membership, may prefer an appeal to the Registrar within a period of two months from the date of the decision of the society and every such appeal, as far as possible, be disposed of by the Registrar within a period of three months from the date of its receipt and the decision of the Registrar in appeal shall be final.

Nominal, associate and sympathiser member.

28. (*1*) Notwithstanding anything contained in section 25, a society of such class as may be prescribed may admit any person as a nominal, associate, or sympathiser member:

Provided that the total number of associate and sympathiser members in a society shall not exceed ten per cent. of the total number of members thereof.

(*2*) A nominal, associate or sympathiser member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society:

Provided that subject to the provisions of sub-section (*7*) of section 32, a nominal, associate or sympathiser member shall have such rights and privileges of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society:

Provided further that the nominal or associate or sympathiser member may be issued non-voting shares which may not confer any interest in the management of the society including right to vote, to be elected as a member of the Managing Committee or participate in the general body meetings:

Provided also that in case of co-operative bank, such shares shall be issued in accordance with the instructions issued by the Reserve Bank in this regard from time to time.

Cessation of membership.

29. A person shall cease to be a member of a society on his resignation from the membership thereof being tendered in writing to the society and accepted by the society or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion from the society:

Provided that, the resignation of a person from the membership of a society, if such member is not in debt to the society or is not a surety for an unpaid debt due to the society, shall unless it is accepted earlier be deemed to have been accepted on the expiry of one month from the date of tendering his resignation in writing to the society.

No rights of membership to be exercised till due payments are made.

30. A member shall be entitled to exercise such rights as provided in this Regulation and rules made thereunder and bye-laws:

Provided that, no member shall exercise the rights, until he has made such payment to the society in respect of membership, or acquired such interest in the society, as may be prescribed and specified under the bye-laws of the society, from time to time:

Provided further that, in case of increase in minimum contribution of member in share capital to exercise right of membership, the society shall give due notice of demand to the members and reasonable period to comply with.

Duties of member.

31. It shall be the duty of every member of a society,—

(*a*) to attend at least, one general body meeting within a consecutive period of five years:

Provided that, nothing in this clause shall apply to the member whose absence has been condoned by the general body of the society;

(*b*) to utilise minimum level of services at least once in a period of five consecutive years as specified in the bye-laws of the society:

Provided that a member who does not attend at least one meeting of the general body and does not utilise minimum level of services at least once in a period of five consecutive years, as specified in the bye-laws of such society shall be classified as a non-active member:

Provided further that when a society classifies a member as a non-active member, the society shall communicate such classification in such manner as may be prescribed to the concerned member within a period of thirty days from the date of close of the financial year:

Provided also that a non-active member who does not attend at least one meeting of the general body and does not utilise minimum level of services as specified in the bye-laws, in next five years from the date of classification as a non-active member, shall have no right to vote:

Provided also that a member classified as a non-active member shall, on fulfilment of the eligibility criteria as provided in this section be entitled to be re-classified as an active member:

Provided also that, if a question of a member being active or non-active arises, an appeal shall lie to the Registrar within a period of sixty days from the date of communication of such classification and his decision shall be final.

Voting powers of member.

32. (*1*) No member of any society shall have more than one vote and the right to vote shall be exercised personally, and not by proxy:

Provided that in the case of an equality of votes, the Chairperson shall have a casting vote.

(*2*) Where a share of a society is held jointly by more than one person, each such person shall have, in the absence of preceding person or persons, a right to vote:

Provided that such person shall be present and not be a minor:

Provided further that where the manner of voting is by ballot, all the joint holders of the share may appoint one of them to vote on their behalf in the affairs of the society.

(*3*) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of that other society, and accordingly such member shall have the right to vote on behalf of the first society:

Provided that the first society shall not appoint any of its members who is also its paid employee.

(*4*) A company or any other body corporate constituted under any law for the time being in force in the Union territory which has invested any part of its funds in the shares of a society may appoint any one of its directors or officers to vote on its behalf in the affairs of such society and accordingly such director or officer shall have the right to vote on behalf of the company or the body corporate, as the case may be.

(*5*) Where a firm has invested any part of its funds in the shares of a society, any of its partners appointed by the firm shall be entitled to vote in the affairs of the society on behalf of the firm.

(*6*) A local authority or public trust which has invested any part of its funds in the shares of a society may appoint any of its members or trustees to vote on its behalf in the affairs of that society and accordingly, such person shall have the right to vote on behalf of the local authority or the public trust, as the case may be.

(*7*) No nominal or sympathiser member shall have the right to vote and shall not be eligible to be a member of a Committee or being appointed as a representative of the society on any other society.

(*8*) The person who has committed a default and remains as such defaulter for a period of one year from the due date of repayment of such loan or interest or instalment shall not be entitled to vote as a member of a society till all repayments are made.

(*9*) No person shall exercise the right to vote at an election of a member of a Committee in a financial year, unless he is a member of the society for the whole of the financial year preceding the financial year in which the election is being held:

Provided that no member society of a federal society shall exercise the right to vote at an election of a member of a Committee unless such society has its last accounts audited in class A, B or C.

(*10*) Nothing in sub-section (*9*) shall apply to the first election of a Committee to be held immediately after the registration of a society.

(*11*) The voting rights of individual members of a federal society shall be such as may be regulated by the rules and bye-laws of the society.

Restrictions on holding of shares.

33. No member of any society, other than the Administrator of a society shall hold more than such portion, not exceeding one-fifth of the total share capital of the society:

Provided that the Administrator may, by notification, specify in respect of any class of societies, a higher maximum than one-fifth of the share capital.

Restrictions on transfer of shares or interest.

34. (*1*) Subject to the provisions of section 33 and sub-section (*2*), a transfer of, or charge on, the share or interest of a member in the capital of a society shall be subject to such conditions as may be prescribed.

(*2*) A member shall not transfer any share held by him, or his interest in the capital or property of any society, or any part thereof, unless,—

(*a*) he has held such share or interest for not less than one year;

(*b*) the transfer or charge is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the society; and

(*c*) the Committee has approved such transfer.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), where a member is allowed to resign, or is expelled, or ceases to be a member on account of his being disqualified by this Regulation or by the rules made thereunder or by the bye-laws of the society, the society may acquire the share or interest of such member in the share capital by paying for it at the value determined in the manner prescribed:

Provided that the total payment of share capital of a society in any financial year for such purposes does not exceed ten per cent. of the paid-up share capital of the society on the last day of the immediately preceding financial year.

Explanation.—For the purposes of this sub-section, the expression "financial year" means the year ending on the 31st day of March or, in the case of any society or class of societies the accounts of which are with the previous sanction of the Registrar balanced on any other day, the year ending on such day.

(*4*) Where the Administrator is a member of a society, the restrictions contained in this section shall not apply and that Administrator may, notwithstanding anything contained in this Regulation, withdraw from the society its share capital at any time, after giving to the society notice thereof of not less than three months.

Transfer of interest on death of member.

35. (*1*) On the death of a member of a society, the society shall subject to the provisions of sub-section (*2*), transfer his share or interest in the society to a person or persons nominated by such member in accordance with the rules or, in the absence of such nomination to such person as may appear to the Committee to be the heir or legal representative of such member.

(*2*) No such transfer shall be made unless such nominee, heir or legal representative, as the case may be, is duly admitted as a member of the society.

(*3*) Notwithstanding anything contained in sub-section (*2*), any such nominee, heir or legal representative, as the case may be, may require the society to pay to him the amount equivalent to the value of the share or interest of the deceased member, in such manner as may be prescribed.

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

(*5*) All transfers and payments duly made by a society in accordance with the provisions of this section, shall be valid and effectual against any demand made upon the society by any other person.

(*6*) Nothing in the foregoing provisions of this section or section 25 shall be construed to prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise, any share or interest of a deceased member of a society, but his liability in consequence of such acquisition shall be limited to his interest in the shares of the society and the unpaid dividends as also the loan, stock, bonds, if any, and the interest earned on them which is unpaid and he shall not have the right of voting.

(*7*) A person under any such disability referred to in sub-section (*6*) shall, on his disability ceasing, furnish to the society a declaration of his willingness to become a member and on receipt of such declaration, the society, notwithstanding anything contained in this section may, and if it is a co-operative housing society, admit him as a member, if he is not otherwise disqualified and a person so admitted shall become entitled to all the rights and privileges of a member subject to liabilities like any other member of the society.

Share or interest not liable to attachment.

36. The share or interest of a member in the capital of a society, or in the loan stock issued by a housing society, or in the funds raised by a society from its members by way of savings deposits shall not be liable to attachment or sale under any decree or order of a court for or in respect of any debt or liability incurred by the member and accordingly, neither a Receiver under the Insolvency and Bankruptcy Code, 2016, nor any such person or authority under any corresponding law for the time being in force in the Union territory, shall be entitled to or have any claim on, such share or interest.

31 of 2016.

Rights of members to see books, etc.

37. (*1*) Every member of a society shall be entitled to inspect, free of cost, at the society's office during office hours, or any time fixed for the purpose by the society, the Regulation, the rules, and the bye-laws, the last audited annual balance sheet, annual audit report, the profit and loss account, a list of the members of the Committee, a register of members, the minutes of general meetings, and those portions of the books and records in which his transactions with the society have been recorded.

(*2*) A society shall furnish to a member, on request in writing and on payment of such fees as may be prescribed therefore, a copy of any of the documents mentioned in sub-section (*1*).

(*3*) A society shall appoint any officer or officers as it deems fit as Co-operative Information Officer, for the purpose of discharging the functions as provided under sub-sections (*1*) and (*2*).

(*4*) The Co-operative Information Officer shall, within a period of thirty days from the date of receipt of application, either provide the information or reject the application specifying the reason therefor.

(*5*) Any member of the society whose application has been rejected may prefer an appeal to the Co-operative Ombudsman within a period of one month from the date of such rejection and his decision shall be final.

Liability of person who has ceased to be member.

38. (*1*) Where a person has ceased to be a member of a society under section 29,—

(*a*) his liability in respect of any debt due by him to the society and in respect of any outstanding demand owing to the society by him shall continue as if he had not ceased to be a member; and

(*b*) his liability for the debts of the society as they stood immediately before the date of such cessation shall, save as otherwise provided in sub-section (*2*), continue for a period of three years from such date, as if he had not ceased to be a member:

Provided that the liability shall be attached to the estate of such person, if such cessation was due to his death or such person dies after his ceasing to be a member.

(*2*) Where a society is ordered to be wound up under any provisions of this Regulation, then the liability of a person under clause (*b*) of sub-section (*1*), who has ceased to be a member thereof within three years immediately preceding the date of order of winding up, shall continue, until the entire liquidation proceedings are completed.

Insolvency of members.

39. Notwithstanding anything contained in the Insolvency and Bankruptcy Code, 2016, or any corresponding law for the time being in force in the Union territory, the dues of a society from a member, in insolvency proceedings against him, shall rank in order of priority next to his dues to the Administration or to a local authority. 31 of 2016.

Expulsion of members.

40. (*1*) A society may, by resolution passed by three-fourths majority of all the members present and voting at a general meeting of members held for the purpose, expel a member for acts which are detrimental to the society:

Provided that no resolution shall be,—

(*i*) valid, unless the member concerned is given an opportunity of representing his case to the general body;

(*ii*) effective, unless it is submitted to the Registrar for his approval and approved by him:

Provided further that the approval or disapproval of the Registrar shall be communicated to the society within a period of three months from the date of such submission, and in absence of such communication, the resolution shall be effective.

(*2*) No member of a society who has been expelled under sub-section (*1*) shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of two years from the date of such expulsion:

Provided that the Registrar may, in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.

CHAPTER IV

INCORPORATION, DUTIES AND PRIVILEGES OF SOCIETIES

Incorporation of society.

41. A society on its registration shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to acquire, hold and dispose of property, both moveable and immoveable, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all such things as are necessary for the purpose for which it is incorporated.

Address of society.

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

Register of members.

43. (*1*) Every society shall keep a register of members, and enter therein the following particulars, namely:—

(*a*) the name, address and occupation of each member;

(*b*) in the case of a society having share capital, the share held by each member;

(*c*) the date on which each person was admitted as a member;

(*d*) the date on which any person ceased to be a member; and

(*e*) such other particulars as may be prescribed:

Provided that where a society has by or under this Regulation, permitted a member to transfer his share or interest on death to any person, the register shall also show against the member concerned the name of the person entitled to the share or interest of the member, and the date on which the nomination was recorded.

(*2*) The register shall be *prima facie* evidence of the date on which any person was admitted to membership, and of the date on which he ceased to be a member.

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

44. Every society shall keep, at the registered address of the society, a copy of this Regulation, the rules and bye-laws, and a list of members open to inspection to the public, free of cost, during office hours or any hours fixed by the society therefor.

Admissibility of copy of entry as evidence.

45. (*1*) A copy of any entry in any book, register or list, regularly kept in the course of business and in the possession of a society shall, if duly certified in such manner as may be prescribed, be admissible in evidence of the existence of the entry, the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matter.

(*2*) In the case of such societies as the Administrator may by general or special order in writing direct, no officer of a society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which may be proved under sub-section (*1*) or to appear as a witness to prove the matters, transactions and accounts therein recorded, except by order of the court or a Judge made for special cause.

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

16 of 1908.

46. Nothing contained in clauses (*b*) and (*c*) of sub-section (*1*) of section 17 of the Registration Act, 1908 shall, apply—

(*a*) to any instrument relating to shares in a society not being a housing society notwithstanding that the assets of the society consist in whole or in part of immovable property; or

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

(*c*) to any endorsement upon, or transfer of, any debenture issued by any society.

Power to exempt from taxation.

47. The Administrator may, by notification and for the reasons specified therein, exempt any society or class of societies from—

(*a*) the stamp duty with which, under any law relating to stamp duty for the time being in force, instruments executed by or on behalf of a society or by an officer or member thereof, and relating to the business of the society, or any class of such instruments, or awards of the Registrar or his nominee or Board of nominees under this Regulation, are respectively chargeable;

(*b*) any fee payable by or on behalf of a society under the law relating to the registration of documents and to court-fees, for the time being in force; and

(*c*) any other tax or fee or duty (or any portion thereof) payable by or on behalf of a society under any law for the time being in force in the Union territory, which the Administrator is competent to levy:

Provided that no exemption shall be given in respect of any duty or tax for which the Administrator is not competent to levy.

Restrictions on borrowing.

48. (*1*) A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the bye-laws of the society:

Provided that the total amount of deposits and loans received during any financial year shall not exceed such multiples as may be determined by the Administrator of the sum of subscribed share capital and accumulated reserves minus accumulated losses.

(*2*) If in the opinion of the Registrar, it is necessary so to do for ensuring safety of the funds obtained under sub-section (*1*), for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and bye-laws, the Registrar may, by general or special order in writing, impose additional conditions on any society or class of societies, subject to which and the extent up to which such society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.

Restrictions on giving loans.

49. (*1*) No society shall give a loan to any person other than a member, or on the security of its own shares, or on the security of any person who is not a member:

Provided that subject to such rules as may be made in this behalf, a society may give loans to another society.

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

(*3*) Notwithstanding anything contained in this Regulation, no person or group of persons other than a member or members shall be eligible to borrow from or make deposit in a Primary Agricultural Credit Co-operative Society.

(*4*) If in the opinion of the Administrator, it is necessary or expedient so to do in the interest of the society or societies concerned, the Administrator may, by general or special order in writing, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property:

Provided that the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules and bye-laws, by general or special order in writing, regulate further the extent, conditions and manner of making loans by any society or class of societies to its members or other societies.

Restriction on other transactions with non-members.

50. Save as provided in this Regulation, the transactions of a society with persons other than members, shall be subject to such restrictions, if any, as may be prescribed.

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

51. In respect of any debt due to a society by any member thereof, the society shall have a charge upon the share or interest of such member in the capital of the society, upon the deposits of such member with the society and upon any dividend, rebate or profits payable to such member and the society may set off any sum credited or payable to such member in or towards the payment of any such debt:

Provided that no co-operative bank shall have a charge upon any sum invested with it by a society out of the provident fund referred to in section 64, and no co-operative bank shall be entitled to set off any such sum towards any debts due from the society.

Prior claim of society.

52. (*1*) Notwithstanding anything contained in any other law for the time being in force in the Union territory, but subject to any prior claim of the Administration in respect of land revenue or any money recoverable as land revenue and subject to the provisions of sections 60 and 61 of the Code of Civil Procedure, 1908,— 5 of 1908.

(*a*) any debt or outstanding demand, owing to a society by any member or a person who has ceased to be a member shall be a first charge upon—

(*i*) the crops or other agricultural produce raised in whole or in part whether with or without a loan taken from the society by him;

(*ii*) cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or workshop, godown or place of business, supplied to, or purchased by him in whole or in part, from any loan whether in money or goods made to him by the society; and

(*iii*) any movable property which has been hypothecated, pledged or otherwise mortgaged by him with the society, and remaining in his custody;

(*b*) any outstanding demands or dues payable to a society by any member or a person who has ceased to be a member, in respect of rent, shares, loans or purchase, money or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society:

Provided that the prior claim of the Administration in respect of dues other than land revenue, shall be restricted for the purpose of this sub-section to the assets created by a member out of the funds in respect of which the Administration has a claim.

(*2*) No property or interest in property, which is subject to a charge under sub-section (*1*) shall be transferred in any manner without the previous permission of the society and such transfer shall be subject to such conditions, if any, as the society may impose.

(*3*) Any transfer made in contravention of sub-section (*2*) shall be void.

(*4*) Notwithstanding anything contained in sub-sections (*2*) and (*3*), a society, while disposal of the produce of its members, may provide in its bye-laws, or may otherwise contract with its members,—

(*a*) that every such member shall dispose of his produce through the society; and

(*b*) that any member, who is found guilty of a breach of the bye-laws or of any such contract, shall reimburse the society for any resultant loss, determined in such manner as may be provided in the bye-laws.

Charge on immovable property of members borrowing from certain societies.

53. (*1*) Notwithstanding anything contained in this Regulation or in any other law for the time being in force in the Union territory,—

(*a*) any person who makes an application to a society of which he is a member, for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the prescribed form, which shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application, and for all future advances, if any, required by him which the society may make to him as such member, subject to such maximum as may be determined by the society, together with interest on such amount of the loan and advances;

(*b*) any person who has taken a loan from a society of which he is a member, before the date of the coming into force of this Regulation, and who owns any land or has interest in land as a tenant, and who has not already made such a declaration before the aforesaid date shall, as soon as possible thereafter, make a declaration in the form and to the effect referred to in clause (*a*) and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society;

(*c*) a declaration made under clause (*a*) or clause (*b*) may be varied at any time by a member, with the consent of the society in favour of which such charge is created;

(*d*) no member shall alienate the whole or any part of the land or interest therein, specified in the declaration made under clause (*a*) or clause (*b*) until the whole amount borrowed by the member together with interest thereon, is repaid in full:

Provided that it shall be lawful for a member to execute a mortgage bond in favour of the Administration in respect of such land or any part thereof, under the law for the time being in force in the Union territory, for the supply of water from a canal to such land:

Provided further that if a part of the amount borrowed by a member is paid, the society may, on an application from the member, release from the charge created under the declaration made under clause (*a*) or clause (*b*) such part of the movable or immovable property specified in the declaration, as it may deem proper, with due regard to the adequacy of the security for the balance of the amount remaining due from or outstanding against the member;

(*e*) any alienation made in contravention of the provisions of clause (*d*) shall be void;

(*f*) subject to the prior claims of the Administration in respect of land revenue or any money recoverable as land revenue, and to the charge, if any created under an award made under the law for the time being in force in any part of the Union territory:

Provided that notwithstanding anything contained in the Land Revenue Code or any other law for the time being in force in the Union territory, the Record of Rights maintained thereunder shall also include the particulars of every charge on land or interest created under a declaration under clause (*a*) or clause (*b*).

(*2*) For the purposes of this section, the expression "society" means—

(*i*) any society, the majority of which are agriculturists and the primary object of which is to obtain credit for its members; or

(*ii*) any society, or any class of societies, specified in this behalf by the Administration by a general or special order.

Deduction from salary to meet society's claim in certain cases.

54. (*1*) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement, and to pay to the society the amount so deducted in satisfaction of any debt or other demand of the society against the member.

(*2*) On the execution of the agreement referred to in sub-section (*1*), the employer shall, if by a requisition in writing so required by the society and so long as the society does not inform that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement, notwithstanding anything to the contrary contained in the relevant law for the time being in force in the Union territory and pay the amount so deducted to the society, within a period of fourteen days from the date on which such deduction is made as if it were a part of the wages payable by him as required under the said Act on the day on which he makes payment and in making such deduction and payment, it shall not be open to the employer to question the validity or otherwise of such debt or demand.

(*3*) If, after receipt of a requisition made under sub-section (*2*), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned, or makes default in remitting the amount deducted to the society, such employer shall be personally liable for the payment thereof and the amount shall be recoverable on behalf of the society from him as an arrear of land revenue on a certificate being issued by the Registrar after holding such inquiry as he deems fit, and the amount so due shall rank in priority in respect of such liability of the employer as wages in arrears and a certificate so issued by the Registrar shall not be questioned in any court.

(*4*) Nothing contained in this section shall apply to persons employed in any railway within the meaning of the Constitution and in mines and oil fields.

CHAPTER V

AID TO SOCIETIES

Direct partnership of Administration in societies.

55. (*1*) The Administration may subscribe directly to the share capital of a society with limited liability.

(*2*) The share capital subscribed by the Administration under sub-section (*1*) shall not be returned to it by a society, except with the previous approval of the Administration.

Other forms of aid to societies.

56. Notwithstanding anything contained in any law for the time being in force in the Union territory, but subject to such conditions as the Administration may, by general or special order, specify in this behalf, it may,—

(*a*) give loans to a society;

(*b*) guarantee the payment of the principal of debentures issued by a society, or of interest thereon, or both, or the repayment of the share capital of a society to its members, or the payment of dividends thereon at such rates as may be specified by the Administration;

(*c*) guarantee the repayment of the principal of and the payment of interest on, means given by a co-operative bank to a society;

(*d*) guarantee the repayment of the principal of and payment of interest on, loans and advances given by the Reserve Bank, National Bank for Agriculture and Rural Development or the Industrial Finance Corporation of India, or any other authority constituted under any other law for the time being in force in the Union territory; or

(*e*) provide financial assistance, in any other form including subsidies, to a society.

CHAPTER VI

PROPERTY AND FUNDS OF SOCIETIES

Fund not to be divided.

57. (*1*) No part of the funds or assets of a society, other than the dividend equalisation fund, if any, and the net profits thereof, shall be paid by way of rebate or dividend or otherwise distributed, to its members:

Provided that in the case of a member, who is also a salaried servant of the society, payment on such scale as may be laid down by the bye-laws may be made to him for work done as such servant.

(*2*) No honorarium shall be paid out of the funds and assets of a society other than the net profits and such honorarium shall not exceed the prescribed limit.

Appropriation of profits.

58. (*1*) A society earning profit, shall calculate its annual net profits by deducting from the gross profits for the year, all accrued interest which is overdue for more than three months, establishment charges, contributions, if any, towards the provident fund and gratuity fund of its employees, interest payable on loan and deposits, audit fees, working expenses including repairs, rents, taxes and depreciation, and after providing for or writing off bad debts and losses not adjusted against any fund created out of profits.

(*2*) A society may, however, add to the net profits for the year, interest accrued in the preceding years, but actually recovered during the year and the net profits thus arrived at together with the amount of profits brought forward from the previous year shall be available for appropriation.

(*3*) A society may appropriate its profits to its reserve fund or any other fund created by it to payment of dividends to members on their shares, to contribution to the educational fund as the Administrator may, by notification, specify to the payment of rebate on the basis of support received from members and persons who are not members to its business and subject to the prescribed conditions to payment of honoraria, and to any other purpose which may be specified in the rules or bye-laws:

Provided that no part of the profits shall be appropriated, except with the approval of the same in an annual general meeting and in conformity with the provisions of this Regulation, rules and bye-laws made thereunder.

Reserve fund.

59. (*1*) Every society which does, or may, derive a profit from its transactions, shall maintain a reserve fund.

(*2*) At least one-fourth of the net profits of the society each year, shall be carried to the reserve fund and such reserve fund may be used in the business of the society or may, subject to the provisions of section 63, be invested, as the Administrator may by general or special order in writing direct, or may, with the previous sanction of the Administrator, be used in part for public purpose likely to promote the objects of this Regulation, or for such other purpose of the Union territory or of local interest:

Provided that if the Registrar is satisfied that the financial condition of the society is such that it is unable to carry to its reserve fund an amount up to the aforesaid limit of one-fourth of its net profits, he may by order in writing, for such period as he may specify in the order, fix for the society a limit lower than the aforesaid limit but not lower than one-tenth of its net profits.

(*3*) Where the reserve fund of a society exceeds its authorised share capital, then, notwithstanding anything contained in sub-section (*1*), the society may, with the prior approval of the Registrar carry to its reserve fund each year an amount which may be less than one-fourth but not less than one-tenth of its net profit.

Restrictions on dividend.

60. No society shall pay dividend to its members at a rate exceeding fifteen per cent. except with the prior approval of the Registrar.

Contribution to education fund.

61. (*1*) Every society which declares, out of the current year's profit, dividend to its members, shall contribute towards the education fund at such rate as may be prescribed.

(*2*) No society, liable to contribute towards the education fund, shall pay dividend to its members, unless the said contribution is made to the Registrar within a period of sixty days from the date on which its accounts are adopted by the general body of members at its annual general meeting.

(*3*) An officer who wilfully fails to comply with the provisions of this section, shall be personally liable for making good the amount to the Registrar.

Contribution to public purpose.

62. After providing for the reserve fund and the education fund, a society may set aside a sum not exceeding twenty per cent. of its net profits, and utilise from time to time, with the approval of the Registrar, whole or part of such sum in contributing to any purpose as may be prescribed, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose.

6 of 1890.

Investment of funds.

63. A society may invest or deposit its fund,—

(*a*) in a Central Bank or the State Co-operative Bank;

(*b*) in the State Bank of India or in any nationalised bank;

(*c*) in the Postal Savings Bank;

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

2 of 1882.

(*e*) in shares, or security bonds, or debentures, issued by any other society with limited liability;

(*f*) in any land or building;

(g) in Employee's Provident Fund; or

(h) in such other manner as may be determined by Administration,

with the prior approval of the Administrator subject to such terms and conditions as may be prescribed in this behalf:

Provided that in case of a co-operative society carrying on the business of banking, the investments therein shall be in accordance with the guidelines issued by the Reserve Bank in this regard from time to time.

Explanation.—For the purposes of this section, the expression "nationalised bank" means a corresponding new bank constituted under sub-section (*1*) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. 5 of 1970. 40 of 1980.

Employees Provident Fund.

64. (*1*) Any society may establish for its employees a provident fund, into which, shall be paid the contributions made by its employees and the society and such provident fund shall not be used in the business of the society, nor shall it form part of the assets of the society, but shall be invested under the provisions of section 63 and shall be administered in the prescribed manner.

(*2*) Notwithstanding anything contained in sub-section (*1*), a provident fund established by a society to which the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, is applicable, shall be governed by that Act. 19 of 1952.

Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities.

65. (*1*) No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under this Regulation.

(*2*) If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.

(*3*) If any person incurs expenditure in violation of sub-section (*1*), the Registrar shall direct the person to repay the amount to the society within one month and where such person fails to repay the amount as directed, such amount shall, on a certificate issued by the Registrar, be recoverable as arrears of land revenue.

(*4*) The person against whom action is taken by the Registrar under sub-section (*3*) shall be disqualified to continue to be the officer of any society or to be officer of any society at any next election including any next bye-election held immediately after the expiration of a period of one month during which such person has failed to pay the amount referred to in sub-section (*3*).

CHAPTER VII

MANAGEMENT OF SOCIETIES

Final authority of society.

66. Subject to the provisions in this Regulation and the rules made thereunder, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the bye-laws:

Provided that where the bye-laws of a society provide for the election of delegates of such members, the final authority may vest in the delegates of such members elected in the prescribed manner, and assembled in the general meeting.

Committee, qualifications and disqualifications of members of Committee.

67. (*1*) The management of every society shall vest in a Committee constituted under this Regulation, which shall exercise such powers and perform such duties as may be conferred or imposed on it by this Regulation, the rules and the bye-laws:

Provided that in case of co-operative society carrying on the business of banking, the fit and proper criteria framed by the Reserve Bank shall be followed.

(*2*) Save as otherwise provided, the Managing Committee of a society, which is not an apex society, shall consist of, such number of elected members not exceeding twenty-one.

Explanation.—For the purposes of this sub-section, the expression "apex society" means a society,—

(*a*) the area of operation of which extends to the whole of the Union territory;

(*b*) the main object of which is to promote the principal objects of the societies affiliated to it as members and to provide for the facilities and services to them; and

(*c*) which has been classified as an apex society by the Registrar.

(*3*) There shall be reserved one seat for the Scheduled Castes or the Scheduled Tribes or Other Backward Classes and two seats for women in the Managing Committee of every society consisting of individuals as members and having members from such class or category of persons as may be prescribed:

Provided that one seat may be reserved for the persons who are small farmers and marginal farmers.

(*4*) Every member of a society who is entitled to vote shall be eligible for appointment as a member of a Committee thereof, if—

(*a*) he is continuously a member of the society for a period not less than three years and continues to be such member;

(*b*) he is not in default in respect of any loan taken by him from any co-operative society, co-operative bank or any other financial institution;

(*c*) he has any interest directly or indirectly in any subsisting contract made with the society or in any property sold or purchased by the society or any other transaction of the society except in any investment made in or any loan taken from the society;

(*d*) he is not otherwise disqualified for being appointed as such member;

(*e*) he is not held responsible under section 87;

(*f*) no order for recovery of costs is made against him by a magistrate under section 97;

(*g*) no order is made against him under sections 65 and 99;

(*h*) he is not found guilty of any of the offences mentioned under section 156 or any offence under section 314 of the Bharatiya Nyaya Sanhita, 2023, in respect of the property of any society.

45 of 2023.

(*5*) A member of the Committee who incurs any of the disqualifications specified above shall vacate the office, and if he does not vacate such office, he shall be removed by the Registrar as such member:

Provided that the Registrar shall before issuing the order of removal, give the person concerned an opportunity of being heard.

(*6*) Notwithstanding anything contained in sub-sections (*4*) and (*5*),—

(*a*) in case of societies dispensing with credit, no person who carries on the business of money lending, shall be eligible for appointment as a member of the Managing Committee of the society;

(*b*) a member of a society, who carries on business of the kind carried on by the societies of which he is the member, shall not be eligible to be the member of any Committee of that society without the sanction of the Registrar.

(*7*) Where any person becomes a member of a Committee of a society in contravention of sub-section (*6*), he shall be removed from office as a member of such Committee by the Registrar:

Provided that the Registrar shall, before issuing the order of removal, give the person concerned an opportunity of being heard.

(*8*) The term of the elected members of the Managing Committee and its office bearers shall be five years from the date of election for all co-operative societies including co-operative bank and federal societies:

Provided that the Managing Committee shall fill up a casual vacancy in the Committee by nomination out of the same class or categories of members in respect of which the casual vacancy has arisen within sixty days from the date of such vacancy, if the remaining term of office of the Managing Committee is less than half of its original term.

(*9*) The elected members of the Managing Committee and its office bearers shall cease to hold the office on the date of expiry of their term.

(*10*) The office bearers of the Managing Committee of the societies shall be eligible for re-election.

(*11*) The society shall co-opt persons having experience in the field of banking, management, finance or specialisation in any other field relating to the objects and activities undertaken by the society as the members of the Managing Committee:

Provided that the number of such co-opted members shall not exceed two in addition to the twenty-one members as specified in sub-section (*2*).

(*12*) The co-opted members as aforesaid shall not have the right to vote in any election of the society in their capacity as such members or to be eligible to be elected as office bearers of the Managing Committee.

(*13*) In case, where there are functional directors of a society, they shall also be members of the Managing Committee and such members shall be excluded for the purpose of counting the total number of members of such Managing Committee.

Explanation.—For the purposes of this sub-section, the expression "functional director" means and includes a Managing Director or a Chief Executive Officer, by whatever designation called, or any *ex officio* member or

any of the Head of the Department of the concerned society, nominated by the Committee.

(*14*) No Committee member of a society shall, as a Committee member, be present in the discussion of, or vote on, any contract or arrangement entered into, or to be entered into, by or on behalf of such society, if he or his relative is directly or indirectly concerned or interested in such contract or arrangement and no relative of any of the sitting Managing Committee members of the society shall be recruited as employee including the Chief Executive Officer of that society.

Explanation.—For the purposes of this sub-section, the term "relative" with reference to an individual, includes—

(*a*) spouse;

(*b*) father (including step father);

(*c*) mother (including step mother);

(*d*) son (including step son);

(*e*) son's wife;

(*f*) daughter (including step daughter);

(*g*) daughter's husband;

(*h*) father's father;

(*i*) father's mother;

(*j*) mother's father;

(*k*) mother's mother;

(*l*) son's son;

(*m*) son's son's wife;

(*n*) son's daughter;

(*o*) son's daughter's husband;

(*p*) daughter's son;

(*q*) daughter's son's wife;

(*r*) daughter's daughter;

(*s*) daughter's daughter's husband;

(*t*) brother (including step brother);

(*u*) brother's wife;

(*v*) sister (including step sister);

(*w*) sister's husband; and

(*x*) Hindu undivided family.

(*15*) Any member of the Managing Committee who violates the provision of sub-section (*14*), shall be disqualified for being a member of the Managing Committee and deemed to have vacated his office from the date of such meeting of the Managing Committee as is referred to in the said sub-section and such proceedings shall be deemed to be void.

Powers and functions of Committee.

68. (*1*) The Committee may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Regulation.

(*2*) Without prejudice to the generality of the foregoing powers, such powers shall include the following, namely:—

(*a*) to admit members;

(*b*) to interpret the organisational objectives and set up specific goals to be achieved towards these objectives;

(*c*) to make periodic appraisal of operations;

(*d*) to appoint and remove Chief Executive Officer and such other employees of the society as are not required to be appointed by the Chief Executive Officer:

Provided that the Committee shall frame fair and transparent policy for recruitment of Chief Executive Officer or any other employee;

(*e*) to make provisions for regulating the appointment of employees of the society and the scales of pay, allowances and other conditions of service of, including disciplinary action against such employees;

(*f*) to place the annual report, annual financial statements, annual plan and budget for the approval of the general body;

(*g*) to consider audit and compliance report and place the same before the general body;

(*h*) to acquire or dispose of immovable property;

(*i*) to review membership in other co-operative society;

(*j*) to approve annual and supplementary budget;

(*k*) to raise funds;

(*l*) to sanction loans to the members and determine the security to be taken;

(*m*) to take measures relating to the recovery of loans; and

(*n*) to take such other measures or to do such other acts as may be prescribed or required under this Regulation, rules or the bye-laws or as may be delegated by the general body of the society.

Meetings of Committee.

69. (*1*) The Chief Executive Officer shall convene the meetings of the Managing Committee at the instance of the Chairperson or President of the society:

Provided that where such Chairperson or President fails to direct the Chief Executive Officer to convene the meeting of the Board within the quarter, such Chief Executive Officer shall convene the meeting on the basis of requisition of the Vice-Chairperson or Vice-President or any other Member of the Committee:

Provided further that notwithstanding anything contained in the first proviso, the Chief Executive Officer may also convene the meeting on the basis of requisition from at least fifty per cent. of Members of the Committee.

(*2*) The total number of meetings of the Committee in a year and the venue of meetings shall be such as may be specified in the bye-laws:

Provided that the Committee shall meet at least once in every quarter.

(*3*) The Chairperson or President, if for any reason, is unable to attend a meeting of the Committee, the Vice-Chairperson or Vice-President and in the absence of both, any other Member of the Committee chosen by the Members of the Committee present from amongst themselves at the meeting, shall preside over the meeting.

(*4*) The quorum for a meeting of the Managing Committee of a society shall be one-half of its total number of Committee members.

Chief Executive Officer.

70. (*1*) There shall be a Chief Executive Officer, by whatever designation called, of every society to be appointed by the Committee and he shall be a full-time employee of such society.

(*2*) No society shall appoint or continue the employment of any person as the Chief Executive officer who—

(*a*) is below the age of twenty-one years or has attained the age of seventy years:

Provided that any person above the age of seventy years may be appointed by a special resolution passed by three-fourths majority of the Committee members, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;

(*b*) is an undischarged insolvent or has any time been adjudged as an insolvent;

(*c*) has at any time been convicted by a court of an offence and sentenced for a period of more than six months; or

(*d*) does not meet the criteria for "fit and proper", as determined by the Registrar in case of credit societies or in case of non-credit societies, does not meet the criteria as the Registrar may prescribe in terms of educational qualifications and relevant experience.

(*3*) The Chief Executive Officer shall be a member of the Managing Committee and of such other Committees or Sub-Committees as may be constituted.

(*4*) Where the Central Government or the Administration holds fifty-one per cent. or more equity share capital or of total shares of the society, the salary and allowances payable to and other terms and conditions of service including pension, gratuity and other retirement benefits of the Chief Executive Officer shall be such as may be prescribed.

Power and functions of Chief Executive Officer.

71. The Chief Executive Officer shall, under the general superintendence, direction and control of the Committee, exercise and discharge the following powers and functions, namely:—

(*a*) day-to-day management of the business of the society;

(*b*) operate the account of the society and be responsible for making arrangements for safe custody of cash;

(*c*) sign the documents for and on behalf of the society;

(*d*) make arrangements for the proper maintenance of various books and records of the society and for the correct preparation, timely submission of periodical statements and returns in accordance with the provisions of this Regulation, the rules and the bye-laws;

(*e*) convene meetings of the general body of the society, the Managing Committee and the other Committees or sub-Committees and maintain proper records of such meetings;

(*f*) make appointments to the posts in the society in accordance with the bye-laws;

(*g*) assist the Committee in the formulation of policies, objectives and planning;

(*h*) furnish to the Committee periodical information necessary for appraising the operations and functions of the society;

(*i*) appoint the person to sue or be sued on behalf of the society;

(*j*) present the draft annual report and the financial statement for the approval of the Committee within thirty days of closure of the financial year; and

(*k*) perform such other functions, and exercise such other powers, as may be specified in the bye-laws of the society, or delegated by the Committee or general body.

Appointment of custodian in certain circumstances.

72. (*1*) Where in respect of any society—

(*i*) a new Committee of Management is, for any reason whatsoever, not elected before the expiry of the term of office of members of a Committee of Management of such society;

(*ii*) a new Committee has been elected and not functioning within a period of fifteen days (not being a Committee referred to in section 85);

(*iii*) there is a stalemate in the constitution of the Committee, and if such Committee has ceased to function, a vacuum is created in the Management;

(*iv*) any Committee is prevented from entering upon office;

(*v*) a new Committee has failed to enter upon office on the date on which the term of office of the existing Committee expired; or

(*vi*) where more than one group of persons in a society is claiming to be elected as the Committee members and proceedings in respect thereof have been filed,

the Registrar shall, by an order in writing, appoint a person or a Committee of persons to be the custodian of the society to manage the affairs of the society for a period of one year or until a new Committee of Management is elected or, as the case may be, starts functioning:

Provided that before making such order, the Registrar shall display a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period:

Provided further that it shall not be necessary to display such notice in any case where Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to display such notice.

(*2*) The custodian shall arrange to hold election of such society within a period of one year and the Committee shall be constituted before the expiration of that period.

(*3*) The custodian so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have powers to exercise all or any of the functions of the Committee and take all such actions as may be required in the interest of the society.

(*4*) All acts done or purported to be done by the custodian during the period when the affairs of the society are carried on by such custodian, shall be binding on the new Committee of Management.

Motion of no-confidence.

73. (*1*) A President, Vice-President, Chairperson, Vice-Chairperson, Secretary, Treasurer or any other officer by whatever designation called, who holds office by virtue of his election to that office, shall cease to be the President, Vice-President, Chairperson, Vice-Chairperson, Secretary, Treasurer or such officer, as the case may be, if a motion of no-confidence is carried at a meeting of the Committee by the majority of not less than two-third of the total number of members present at the meeting and voting, and such office shall thereupon be deemed to be vacant.

(*2*) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the Committee who are entitled to vote, shall be delivered to the Registrar in respect of a Committee of a society which has the Registrar as its member and also in any other cases to the Registrar:

Provided that no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (*1*) has entered upon his office.

(*3*) The Registrar upon whom the requisition has been made under sub-section (*2*), shall convene a special meeting of the Committee within a period of thirty days from the date of receipt of such requisition.

(*4*) The meeting shall be presided over by such officer as authorised by the Registrar and the officer shall, when presiding over such meeting, have the same powers as the President or Chairperson when presiding over such meeting, but shall not have the right to vote:

Provided that the voting shall be by secret ballot.

(*5*) The meeting called under this section shall not for any reason, be adjourned.

(*6*) If a motion of no-confidence is rejected, no fresh motion of no-confidence shall be brought within a period of six months from the date of rejection of such motion.

Co-operative Election Authority.

74. (*1*) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a society shall vest in the authority to be called the "Co-operative Election Authority", as may be constituted by the Administrator in that behalf.

(*2*) Every general election of the members of the Committee and election of the office-bearers of a society including any casual vacancy, to the extent applicable, shall be held in accordance with the procedure prescribed.

(*3*) The Co-operative Election Authority shall consist of a Co-operative Election Officer, appointed by the Administrator from officers of the Union territory who fulfills such qualifications and experience as may be prescribed.

(*4*) The Administrator may appoint any employee of the Union territory, not below the rank of Superintendent as Secretary to the Co-operative Election Authority.

(*5*) The Administrator may, after consultation with the Co-operative Election Officer, provide such number of officers and employees for his office, to assist him in performing his functions under this Regulation.

(*6*) The Administrator may, when requested by the Co-operative Election Officer, make available to the Co-operative Election Authority such staff as may be necessary for discharge of the functions conferred on the Co-operative Election Authority by sub-section (*1*).

(*7*) Notwithstanding anything contained in any law for the time being in force in the Union territory, the election of the Committee of each society shall be conducted by the Co-operative Election Authority one month before the expiry of the term of the existing Committee so as to ensure that the newly elected members of the Committee assume office immediately on the expiry of the office of the members of the outgoing Committee.

(*8*) The Co-operative Election Authority shall hold the elections of the society or class of societies as per the procedure, guidelines and the manner, including using the latest technology and expertise, as may be prescribed:

Provided that the Administrator may, considering the objects of the society, class of societies, area of operation and norms of business and for proper management and interest of members, may by general or special order in writing, classify the societies in such manner as may be prescribed.

(*9*) The Co-operative Election Authority shall conduct elections to the Committee and also to office of President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected as per the bye-laws of the society, within fifteen days from the date of constitution of the Committee after a general election.

(*10*) There shall be an Election Fund maintained by the Co-operative Election Authority and every society shall deposit in advance, the estimated amount of expenditure on its election, as may be prescribed and required by the Co-operative Election Authority towards the Election Fund.

(*11*) The Co-operative Election Authority shall incur the necessary expenses, for the conduct of the elections of the societies, including the election of the office bearers, from the said Fund contributed by the concerned society.

(*12*) The expenses of holding of any election, including the payment of travelling allowances, daily allowances and remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be incurred from the said Fund and the expenditure shall be made in the manner prescribed and the Registrar shall, on requisition by the Co-operative Election Authority, recover expenses of holding election from any such society or class of societies in such manner as may be prescribed:

Provided that if any society fails to pay the election expenses, the Registrar may issue the recovery certificate for recovery of the amount due and such amount shall be recovered as arrears of land revenue.

(*13*) The Committee of every co-operative society shall,—

(*a*) inform the Registrar of co-operative societies about the expiry of its term of office at least six months before the date of expiry of such term;

(*b*) inform any casual vacancy occurred in the Committee or its office bearers within fifteen days of the occurrence of such vacancy;

(*c*) furnish such books, records and information as the Co-operative Election Authority may require as per the calendar specified by it; and

(*d*) provide all necessary help, assistance and co-operation for the smooth preparation of electoral rolls for the conduct of elections.

Power of Administrator to postpone election.

75. Where due to scarcity, drought, flood, fire or any other natural calamity or rainy season or any election programme of the Council of the States or House of the People or a local authority, coinciding with the election programme of any society or class of societies, in the opinion of the Administrator, it is not in the public interest to hold elections to any society or class of societies, the Administrator may, notwithstanding anything contained in this Regulation or the rules or bye-laws made thereunder, or any other law for the time being in force in the Union territory, for reasons to be recorded in writing, by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time, which period may further be extended so, however, that, the total period shall not exceed one year in the aggregate.

Election to more than one seat on Committee of society.

76. If a person is elected to more than one seat on the Committee then, unless, within a period of seven days from the date of declaration of the result of the election he resigns all but one of the seats by writing under his hand addressed to the Election Officer, or as the case may be, the officer authorised by the Co-operative Election Authority in this regard, all the seats shall become vacant and on receipt of such resignation or on the seats becoming so vacant the Election Officer, or as the case may be, the officer authorised by the Co-operative Election Authority in this regard shall cause to hold the election for filling the vacancy.

Duty to arrange for election before expiry of term.

77. (*1*) It shall be the duty of the Committee to inform the Co-operative Election Authority, for holding of election, before expiry of its term.

(*2*) Where there is a wilful failure on the part of the Committee to inform the Co-operative Election Authority as required under sub-section (*1*) for holding of election, and for any reason whatsoever and election of the members of the Committee could not be held before the expiry of its term, then the members thereof shall cease to hold their office and in such a situation, the Registrar shall take action as contemplated under section 72.

(*3*) On taking action under sub-section (*2*), the custodian so appointed shall inform the Co-operative Election Authority for holding of the election with immediate effect and assist to make necessary arrangement for holding such election within the period specified.

Handing over records and property to new Chairperson on election.

78. (*1*) On the election of a new Committee, the retiring Chairperson in whose place the new Chairperson is elected shall hand over charge of the office of the Committee and all papers and property, if any, of the society in possession of the Committee or any officer thereof, to the new Chairperson of the Committee.

(*2*) If the retiring Chairperson fails or refuses to hand over charge or to hand over the papers and property of the society as aforesaid, the Registrar, or any person empowered by him in this behalf, may by order in writing direct him to forthwith hand over such charge and property and the Registrar may, on the retiring Chairperson's failure to comply with such direction, make order for seizing the records and property and handing them over to the new Chairperson, in the manner provided in section 89.

Restriction on rates of sitting fees and travelling and daily allowances of members of Committee.

79. Notwithstanding anything contained in the bye-laws of a society—

(*i*) no society shall prescribe nor a member of a Committee thereof shall be entitled to sitting fees, and travelling and daily allowances while touring on public business, at rates exceeding such rates as may be prescribed; and

(*ii*) a member of a Committee of a society shall, in relation to touring on public business be subject to such conditions and limitations as may be prescribed and different rates, conditions and limitations may be prescribed in relation to members of Committees of different societies or class of societies.

Explanation.—For the purposes of this section, the expression "touring on public business" includes—

(*a*) a journey for attending any meeting of the Committee;

(*b*) a journey in connection with the performance of any other functions of the Committee;

(*c*) a journey for attending any conference sponsored by—

(*i*) the Central Government;

(*ii*) the State Government;

(*iii*) the Administration;

(*iv*) any co-operative institution; or

(*v*) such other institutions recognised by the Administration in this behalf.

Removal of officer.

80. (*1*) If, in the opinion of the Registrar, any officer makes persistent default or is negligent in performance of the duties imposed on him by this Regulation or the rules or the bye-laws made thereunder or does anything which is prejudicial to the interests of the society or where he stands disqualified by or under this Regulation, the Registrar may, after giving the officer an opportunity of being heard, by order remove such officer and direct the society to elect or appoint a person or a qualified member in the vacancy caused by such removal and the officer so elected or appointed shall hold office so long only as the officer in whose place he is elected or appointed would have held if the vacancy had not occurred.

(*2*) The Registrar may, by order, direct that the officer so removed shall be disqualified to hold or to contest election for any office in the society from which he is removed and in any other society for a period not exceeding six years from the date of the order and such officer shall stand disqualified accordingly.

Annual general meeting.

81. (*1*) Every society shall convene the general meeting of its members within a period of six months of closure of the financial year to transact the business as provided under this Regulation:

Provided that if such meeting is not called by the society within such period, the Registrar or any person authorised by him in that behalf may in the prescribed manner, call such meeting which shall be deemed to be a general meeting duly called by the society.

(*2*) At every annual general meeting of a society, the Committee shall lay before the society a balance sheet and profit and loss account for the year in such manner as may be prescribed.

Explanation.—For the purposes of this section, it is hereby clarified that, in the case of a society not carrying on business for profit, an income and expenditure account shall be placed before the society at the annual general meeting instead of profit and loss account; and all references to profit and loss account, and to "profit" or loss in this Regulation, shall be construed in relation to such society as references respectively to the "excess of income over expenditure" and "excess of expenditure over income".

(*3*) There shall be attached to every balance sheet laid before the society in general meeting, a report by its Committee, with respect to—

(*a*) the state of the society's affairs;

(*b*) the amounts, if any, which it proposes to carry to any reserve either in such balance sheet, or any specific balance sheet; and

(*c*) the amounts, if any, which it recommends for payment by way of dividend, bonus, or honoraria to honorary workers.

(*4*) The Committee's report shall also deal in any changes in the nature of the society's business which have occurred during the year for which the accounts are drawn up and such report shall be signed by its Chairperson, or any other member authorised to sign on behalf of the Committee.

(*5*) At every annual general meeting, the balance sheet, the profit and loss account, the auditor's report and the Committee's report, shall be placed for adoption, and such other business shall be transacted as may be laid down in the bye-laws and of which due notice has been given.

(*6*) Where any officer of the society, whose duty was to call a general meeting within the period specified in sub-section (*1*) or to comply with sub-sections (*2*), (*3*) or (*4*) fails without reasonable cause to call such meeting or to comply with such sub-sections, then—

(*i*) if such officer is a servant of the society, the Registrar may by an order in writing impose on him such penalty as is referred to in section 127; and

(*ii*) if such officer is not a servant of the society, the Registrar may by an order in writing impose such liability as is referred to in section 127.

Special general meeting.

82. (*1*) A special general meeting may be called at any time by the Committee, within one month—

(*i*) on a requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the bye-laws for the purpose, whichever is lower;

(*ii*) on a requisition from the Registrar; or

(*iii*) in the case of a society, which is a member of a federal society, on a requisition from the Committee of such federal society.

(*2*) Where any officer or a member of the Committee, whose duty was to call such meeting, without reasonable excuse, fails to call such meeting, the Registrar may by order declare such officer or member disqualified for being a member of the Committee for such period not exceeding six years, as he may specify in such order and if the officer is an employee of the society, he may impose on him a penalty not exceeding ten thousand rupees:

Provided that before making an order under this sub-section, the Registrar shall give, or cause to be given, an opportunity to the person concerned of showing cause against the action proposed to be taken against him.

(*3*) If a special general meeting of a society is not called in accordance with the requisition referred to in sub-section (*1*), the Registrar or any person authorised by him in that behalf, shall have power to call such meeting, which shall be deemed to be a meeting duly called by the Committee.

(*4*) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (*3*) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for refusal or failure to convene the meeting.

Acts of societies, etc., not to be invalidated by certain defects.

83. (*1*) No act or proceeding of a society or a Committee or any officer, done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason of some defect subsequently discovered in the organisation of the society or in the constitution of the Committee or in the appointment or election of an officer or on the ground that such officer was disqualified from his office.

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

(*3*) The Registrar shall decide whether any act was done in good faith in pursuance of the business of the society and his decision thereon shall be final.

Power to appoint nominee of Administration.

84. (*1*) Where the Administration has subscribed to the share capital of a society, directly or through another society, or has guaranteed the repayment of the principal and payment of interest on, debentures issued or loans raised by a society, the Administration shall, notwithstanding anything contained in the bye-laws of such society, have the right to nominate three representatives on the Committee of such society, in such manner as may be determined by the Administration from time to time.

(*2*) The members so nominated shall hold office during the pleasure of the Administration, or for such period as may be specified in the order by which they are appointed, and any such member on assuming office shall have all rights, duties, responsibilities and liabilities, as if, he were a member of the Committee duly elected.

(*3*) Where the Administration is of the opinion that having regard to the public interest involved in the operation of a society it is necessary or expedient so to do, it may nominate its representatives on the Committee of such society, as if, the Administration had subscribed to the share capital of the society and the provisions of sub-sections (*1*) and (*2*) shall, so far as may be apply to such nomination.

Explanation.—For the purposes of this section, it is hereby clarified that any nomination of the Registrar or his nominee on the Committee of a society under the bye-laws of such society shall not be construed as nomination of the representative on that Committee in exercise of the right of the Administration under this section.

Extension of term of nominated Committee or appointment of custodian.

85. (*1*) Where on the expiry of the term of office of the members of any Committee of Management nominated by the Administrator, or the Registrar, the Administrator or, as the case may be, the Registrar is of the opinion that it is necessary or expedient so to do, it or he may, by an order published in the Official Gazette,—

(*a*) extend the term of office of the members of the said Committee of the Management; or

(*b*) appoint a person or a Committee of persons to be the custodian of the society for such period not exceeding two years in the aggregate or until a new Committee of Management is elected, whichever is earlier.

(*2*) The custodian so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to time, give, have powers to exercise all or any of the functions of the Committee, and take all such actions as may be required in the interests of the society.

Supersession of a Committee and appointment of a Committee or Special Officer.

86. (*1*) If, in respect of a Committee of a society having the Registrar as its member, the Administrator and in respect of a Committee of a society which does not have the Registrar as its member, the Registrar, is of the opinion that—

(*i*) the Committee persistently makes default;

(*ii*) the Committee is negligent in the performance of its duties imposed on it by or under this Regulation or the rules made thereunder or the bye-laws; or

(*iii*) the Committee has committed any act prejudicial to the interest of the society or its members,

the Administrator or, as the case may be, the Registrar, after giving the Committee an opportunity of being heard, within fifteen days from the date of issue of notice, by an order in writing, supersede the Committee and appoint—

(*a*) a Committee, consisting of one or more members of the society, not being the members of the Committee superseded under this sub-section; or

(*b*) a special officer from amongst the officers of the Administration,

to manage the affairs of the society for a period not exceeding one year as may be specified in the order, which period may, at the discretion of the Administrator or the Registrar, as the case may be, be extended from time to time, so, however, the term of the Committee or the special officer shall be, two years in aggregate.

(*2*) Before passing an order under sub-section (*1*), the Administrator or the Registrar, as the case may be, shall consult the co-operative financing institution, if such society is indebted to it.

(*3*) The Committee or special officer so appointed shall, subject to such instructions and control of the Administrator or the Registrar, as the case may be, have power to exercise all or any of the functions of the Committee or of any officer of the society, and take all such action as may be required in the interests of the society.

(*4*) The Committee or special officer appointed under sub-section (*1*) shall arrange to hold the election of the Committee of the society at such time as directed by the Administrator or the Registrar, as the case may be, but not later than the period as specified in sub-section (*1*).

(*5*) All acts done or purported to be done by the Committee or special officer during the period during which the affairs of the society are carried on by the Committee or special officer appointed under sub-section (*1*), shall be binding on the new Committee.

(*6*) The remuneration of members of the Committee or special officer appointed under sub-section (*1*) shall be such as may be prescribed and the same shall be paid from the fund of the society.

(*7*) The members of the Committee which has been superseded under sub-section (*1*), shall not be eligible to become a member of the Committee of any society for a period of six years from the date of supersession of such Committee.

Registrar's power to enforce performance of obligation.

87. (*1*) It shall be the duty of every society to keep the prescribed books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place, all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and such records to the Registrar as the Registrar may by order direct from time to time and the officer or officers of the society shall be bound to comply with the order within the period specified therein.

(*2*) Where any society is required to take any action under this Regulation, the rules or the bye-laws made thereunder, or in compliance with an order made under sub-section (*1*) and such action is not taken—

(*a*) within the time provided in this Regulation, the rules or the bye-laws, or the order, as the case may be; or

(*b*) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing,

the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society and such expense shall be recoverable from the society, as if it were an arrear of land revenue.

(*3*) Where the Registrar takes action under sub-section (*2*), he may call upon any officer of the society whom he considers to be responsible for not complying with the provisions of this Regulation, the rules or the bye-laws made thereunder, or the order made under sub-section (*1*), and, after giving him an opportunity of being heard, may require him to pay to the society the expenses paid or payable by it to the Administration as a result of his failure to take action, and to pay to from the assets of the society, such sum not exceeding one hundred rupees for each day until the directions of the Registrar are carried out.

Power of Administration to give directions in public interest, etc.

88. (*1*) If the Administrator, on receipt of a report from the Registrar or otherwise, is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by the Administration or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the Administration may issue directions to them from time to time, and all societies or the society concerned, as the case may be, shall be bound to comply with such directions.

(*2*) The Administrator may modify or cancel any directions issued under sub-section (*1*), and in modifying or cancelling such directions, it may impose such conditions as it may deem fit.

(*3*) Where the Administrator is satisfied that any person was responsible for complying with directions or modified directions issued to a society under sub-sections (*1*) and (*2*) and he has failed, without any good reason or justification, to comply with the directions, the Administrator may by order,—

(*a*) if the person is a member of the Committee of the society, declare him to be disqualified to continue as such member for a period of six years from the date of the order;

(*b*) if the person is an employee of the society, direct the Committee to remove such person from employment of the society forthwith, and if any member or members of the Committee, without any good reason or justification, fail to comply with this order, declare them disqualified as provided in clause (*a*):

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated:

Provided further that, such federal society shall communicate its opinion to the Administrator within a period of forty-five days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to take action under this section and the Administrator shall be at liberty to proceed further and take action accordingly.

(*4*) Any order made by the Administrator under this section shall be final.

Explanation.—For the removal of doubts, it is hereby clarified that the above provisions shall only be applicable where there is a Central Government's or Administration's shareholding or loan or financial assistance or any guarantee by the Central Government or Administration, to the society.

Registrar's power to seize records, etc.

89. (*1*) Where the Registrar is satisfied that the books and records of a society are likely to be suppressed, tampered with or destroyed or the funds and property of a society are likely to be mis-appropriated or mis-applied or the officer or the person in possession unreasonably refuses to give possession of the books, records, funds and property, he may issue an order in writing directing the person duly authorised by him to seize and take possession of such books, records, funds and property of the society, and the officer of the society responsible for the custody of such books, records, funds and property or person in possession of the same shall give delivery thereof forthwith to the person so authorised.

(*2*) If the officer of the society or person in possession does not give the delivery, then, without prejudice to any other action that may be taken against such officer, person or society under the provisions of this Regulation, the Registrar or the person authorised by him may apply to the Executive Magistrate within whose jurisdiction the society is functioning for seizing and taking the possession of such books, records, funds and property of the society.

(*3*) On receipt of an application under sub-section (*2*), the Magistrate may authorise any police officer not below the rank of a Sub-Inspector to enter and search any place where the books, records, funds and property are kept or likely to be kept and to seize them and hand over possession thereof to the Registrar or the person authorised by him, as the case may be.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SUPERVISION

Audit.

90. (*1*) The Registrar shall audit, or cause to be audited by a person possessing prescribed qualifications and authorised by the Registrar by general or special order in writing in this behalf, the accounts of every society at least once in each year and the person so authorised shall be an auditor for the purposes of this Regulation:

Provided that in case of a co-operative society carrying on the business of banking, the guidelines and audit as provided by the Reserve Bank from time to time shall be followed:

Provided further that the co-operative banks shall obtain permission from the Reserve Bank for the appointment, re-appointment and termination of auditors as per the provisions of the Banking Regulation Act, 1949.

10 of 1949.

(*2*) The auditor shall for the purpose of audit, at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession or responsible for the custody of such books, accounts, documents, papers, securities, cash or other properties to be produced at the headquarters of the society or any branch thereof.

(*3*) If, it appears to the Registrar on an application or otherwise that it is necessary or expedient to get any account of the society re-audited, the Registrar may, by an order, provide for re-audit and the provisions of this Regulation applicable to the audit of accounts of the society shall apply to such re-audit.

(*4*) The Registrar shall, by an order, provide for a special audit of any society on its own motion or on the basis of the recommendation of the Reserve Bank or, as the case may be, the National Bank and the provisions relating to audit of accounts of the society under this section shall apply to such special audit.

(*5*) For auditing the accounts of a society under this section, every society shall be liable to pay to the auditor such amount of audit fee as may be prescribed for different categories or class of societies.

(*6*) The Registrar may, in consultation with the National Bank specify prudential norms including capital to risk weighted assets ratio for Primary Agricultural Credit Co-operative Societies:

Provided that in the case of a co-operative society carrying on the business of banking, the guidelines on prudential norms issued by Reserve Bank from time to time shall apply.

(*7*) The Administrator may, by rules, provide for the form and manner in which and the period within which the accounts of the society or the class of societies shall be prepared and submitted for the purpose of online audit.

(*8*) The auditor's report shall contain,—

(*i*) all particulars of the defects or the irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor or the auditing firm shall investigate and report the *modus operandi*, the entrustment and amount involved;

(*ii*) the accounting irregularities and their implications on the financial statements shall be indicated in detail in the report with the corresponding effects on the profit and loss;

(*iii*) irregularities or violations observed or reported, the responsibilities for such irregularities or violations.

(*9*) If, it is brought to the notice of the Registrar that the audit report submitted by the auditor does not disclose the true and correct picture of the accounts, the Registrar or the authorised person may carry out or cause to be carried out a test audit of accounts of such society and such test audit shall include the examination of such items as may be prescribed, and specified by the Registrar in such order.

(*10*) If, during the course of audit of any society, the auditor is satisfied that some books of accounts or other documents contain any incriminatory evidence against past or present officer or employee of the society, the auditor shall immediately report the matter to the Registrar and with previous permission of the Registrar, may impound the books or documents and give a receipt thereof to the society.

(*11*) The auditor shall submit his report within a period of one week from its completion to the society and to the Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation given to him by the society the said

accounts give all information required by or under this Regulation and present the true and correct picture of the financial transactions of the society:

Provided that where the auditor has come to a conclusion in his audit report that any person, is guilty of any offence relating to the accounts or any other offences, he shall file a specific report to the Registrar within a period of fifteen days from the date of submission of his audit report and the auditor concerned shall, after obtaining written permission of the Registrar, file a First Information Report of the offence and the auditor, who fails to file First Information Report, shall be liable for disqualification and his name removed from the panel of auditors and shall also be liable to any other action as the Registrar may think fit:

Provided further that when it is brought to the notice of the Registrar that, the auditor has failed to initiate action, the Registrar shall cause a First Information Report to be filed by a person authorised by him in that behalf:

Provided also that on conclusion of his audit, if the auditor finds that there are apparent instances of financial irregularities resulting into losses to the society caused by any member of the Committee or officers of the society or by any other person, he shall prepare a special report and submit the same to the Registrar along with his audit report; and failure to file such Special Report, would amount to negligence on his part and he shall be disqualified for appointment as an auditor or any other action, as the Registrar may think fit.

Rectification of defects or irregularities in accounts and inspection report of society.

91. If, the result of the audit under section 90 and inspection under sections 93 and 94 discloses any defects in the working of the society, the society shall within a period of two months from the date of the audit and inspection report, clarify to the Registrar as regards the defects or the irregularities so pointed out in audit and inspection report, and if clarification in respect of any defect or irregularity is not accepted, take steps to rectify the defects and remedy irregularities within such period as may be specified by the Registrar and shall report to the Registrar, failing which the Registrar shall have power to impose a penalty of such amount not exceeding ten thousand rupees and where society concerned is a member of a federal society, such order shall be made after consulting the federal society.

Inquiry by Registrar.

92. (*1*) The Registrar may, of his own motion, or—

(*a*) on the requisition of a society duly authorised by rules made in this behalf to make such requisition, in respect of any of its members, such member being itself a society;

(*b*) on the application of a majority of the Committee of a society; or

(*c*) on the application of one-third of the members of a society,

shall hold such an inquiry himself, or by a person duly authorised by him in writing in this behalf, hold an inquiry into the constitution, working and financial conditions of a society.

(*2*) Every officer, member and previous member of the society in respect of whom an inquiry is held, and any other person who is in possession of information, books and papers relating to the society, shall on being so required furnish such information as is in his possession, and produce all books and papers relating to the society which are in his custody or power, and otherwise give to the officer holding the inquiry all assistance in connection with the inquiry which he may reasonably give.

(*3*) If, any person referred to in sub-section (*2*) refuses to produce to the Registrar or any person authorised by him under sub-section (*1*), any book or

paper which it is his duty under sub-section (*2*) to produce or to answer any question which is put to him by the Registrar or the person authorised by him in pursuance of sub-section (*2*), the Registrar or the person authorised by him may certify the refusal and the Registrar may impose on the defaulter a penalty of an amount not exceeding five thousand rupees and before imposing such penalty, the Registrar shall give, or cause to be given an opportunity to the defaulter, of showing cause against the action proposed to be taken against him.

(*4*) If, at any stage of the inquiry under this section, the Registrar is satisfied that in the interest of the members of the society, it is necessary to take over all books and papers relating to the society during the period of inquiry, he may make an order in writing to that effect and direct the society to hand over all books and papers relating to the society to such officer as may be specified in the order and the Registrar may also issue a direction to the society to refrain from doing such acts or engaging in such activities as may be specified in the direction.

(*5*) The society shall be bound to comply with any direction issued to it under sub-section (*4*).

(*6*) The books and papers taken over under sub-section (*4*) shall be returned to the society on the completion of the inquiry.

(*7*) When an inquiry is held under this section, the Registrar shall communicate the result of the inquiry—

(*i*) in case the Administration has subscribed directly to the share capital of the society, to such society or to any officer appointed by it in this behalf;

(*ii*) to the federal co-operative society concerned; and

(*iii*) to the society concerned.

(*8*) The Registrar may, by an order and for the reasons mentioned therein, withdraw the responsibility of inquiry from the officer to whom it is entrusted, and to hold the inquiry himself or entrust it to any other person as he deems fit.

Inspection of books of indebted society.

93. (*1*) On the application of a creditor of a society who,—

(*a*) satisfies the Registrar that there is a debt which is due, and that he has demanded payment thereof and has not received satisfaction within reasonable time; and

(*b*) deposits with the Registrar such sum as the Registrar may require as security for the costs of any inspection of the books of the society,

the Registrar may, if he thinks it necessary or expedient, inspect or direct a person authorised by him by order in writing in this behalf to inspect the books of the society.

(*2*) The Registrar shall communicate the result of any such inspection to the applicant, and to the society whose books have been inspected.

(*3*) The Registrar may, by an order and for the reasons mentioned therein, withdraw any inspection from the officer to whom it is entrusted, and to carry out the inspection himself or entrust it to any other person as he deems fit.

Inspection of books by Registrar or financing bank or federal society.

94. (*1*) The Registrar or the person authorised by him in this behalf shall have the right to inspect the books of any society and shall have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the society.

(*2*) Every person who is or has at any time been an officer or employee of the society and every member and previous member of the society shall furnish such information in regard to such transactions and working of the society as the Registrar or the person authorised by him may require.

(*3*) Where a society is indebted to any co-operative financing bank, such bank shall have the right to inspect the books of that society and the inspection may be made either by an officer of the bank authorised by the Committee of such bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection.

(*4*) The officer or member so inspecting shall at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns, as may be necessary, to ascertain the financial condition of the society and the safety of the sums lent to it by the bank.

(*5*) Where a society is a member of a federal society recognised by the Administration under section 101, such federal society shall have the right to inspect the books of that society and the inspection may be made either by an officer of the federal society authorised by the Committee of such federal society or by a paid employee of such federal society certified by the Registrar as competent to undertake such inspection.

(*6*) The officer or employee referred to in sub-section (*5*), shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the society and may also call for such information, statements, and returns as may be necessary.

Suspension of officer or servant of society.

95. (*1*) Where, in the course of an audit under section 90 or an inquiry under section 92 or an inspection under section 93 or section 94, it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if he is of opinion that there is a *prima facie* evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interest of the society, direct the Committee of the society pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him:

Provided that no paid officer or servant shall be suspended, unless such officer or servant has been given an opportunity of hearing in the matter.

(*2*) On receipt of a direction from the Registrar under sub-section (*1*), the Committee of the society shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(*3*) The Registrar may direct the Committee to extend from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.

(*4*) If the Committee fails to comply with the direction issued under sub-section (*1*), the Registrar may make an order placing such paid officer or servant under suspension from such date and for such period as he may specify in the order and thereupon the paid officer or servant, as the case may be, shall be under suspension.

Cost of inquiry and inspection.

96. (*1*) Where an inquiry is held under section 92 or an inspection is made under section 94, the Registrar may apportion the costs, or such part of the costs, as he may think just, between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society and pass such order within a period of six months from the date of submission of inquiry report:

Provided that—

(*a*) no order of apportionment of the costs shall be made under this section, unless the society or persons or the legal representative of the deceased person liable to pay the costs thereunder, has or have been heard, or have had a reasonable opportunity of being heard;

(*b*) the Registrar shall state in writing the grounds on which the costs are apportioned.

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

Mode of recovery of sums imposed as penalty or awarded as costs.

97. Any sum imposed as penalty under sections 81, 82, 91 or section 92 or awarded by way of costs under section 96 may, on an application by the Registrar or a person authorised by him in that behalf to a Magistrate having jurisdiction in the place where the person from whom the penalty or costs are recoverable resides or carries his business, be recovered by the Magistrate as if it were a fine imposed by himself and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Registrar to bring defects disclosed in inquiry or inspection to notice of society.

98. (*1*) If, the result of any inquiry held under section 92 or inspection made under section 93 or 94, discloses any defect in the constitution, working or financial condition or the books of a society, the Registrar may bring such defects to the notice of the society and the Registrar may also make an order directing the society or its officers to take such action as may be specified in the order to remedy the defects, within the time specified therein.

(*2*) The society concerned may make an appeal against an order made by the Registrar under sub-section (*1*) to the Administrator within a period of two months from the date of the communication of the order to the society.

(*3*) The Administrator may, in deciding the appeal, annul, reverse, modify or confirm the order of the Registrar.

(*4*) Where the society fails to rectify the defects as directed by the Registrar and where no appeal has been made to the Administrator under sub-section (*2*) or where on the appeal so made the Administrator has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the cost from the officers of the society who, in his opinion, have failed to rectify the defects.

Power of Registrar to assess damages against delinquent, promoter, etc.

99. (*1*) Where, in the course of or as a result of an audit under section 90, or an inquiry under section 92 or an inspection under section 93 or section 94, or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 92, or the person authorised to inspect the books under section 93 or 94 or the Liquidator under section 117, that any person who has taken any part in the organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of commencement of

such audit or date of order for inquiry, inspection or winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may investigate the conduct of such person or persons and after framing charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine:

Provided that the proceedings under this sub-section, shall be completed by the authorised person within a period of two years from the date of issue of order by the Registrar:

Provided further that the Registrar may, after recording the reasons therefor, extend the said period for a maximum period of six months:

Provided also that the Administrator may, on the report of the Registrar or *suo motu*, for the reasons to be recorded in writing, extend the said period as may be required, from time to time, to complete the proceedings under this sub-section.

(*2*) The Registrar or the person authorised under sub-section (*1*) in making any order under this section, may provide therein for the payment of the costs or any part thereof of such investigation, as he thinks just, and he may direct that such costs or any part thereof shall be recovered from the person against whom the order has been issued.

Explanation.—For the removal of doubts, it is hereby clarified that the provisions of this section shall apply, notwithstanding that the act is one for which the person concerned may be criminally responsible.

Power to enforce attendance, etc.

100. The Registrar or the person authorised by him, when acting under sections 92, 93, 94 or section 99 shall have the power to summon and enforce the attendance of any person to give evidence or to compel the production of any documents or other material object by the same means and in the same manner as is provided in the case of a civil suit under the Code of Civil Procedure, 1908.

5 of 1908.

Constitution or recognition of federal society to supervise working of societies.

101. (*1*) The Administration may constitute Committees or recognise one or more co-operative federal societies in such manner as may be prescribed and subject to such conditions as the Administration may determine, for the supervision of a society or a class of societies and may frame rules for making grants to such Committee or federal society.

(*2*) The Administration may, by general or special order in writing, require a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupment of expenditure which the Administration or any person authorised or a Committee in that behalf has incurred or is likely to incur, in respect of the supervision of societies.

(*3*) A society to which sub-section (*2*) is applicable shall pay to such authority such fee within such period as may be prescribed and, if it fails to pay such fee within the period, the authority may recover it as if it were an arrear of land revenue.

CHAPTER IX

PROCEDURE FOR DECIDING DISPUTES

Disputes.

102. (*1*) Notwithstanding anything contained in any other law for the time being in force in the Union territory, any dispute touching the constitution, management, business, election of the Committee or its officers or conduct of general meetings of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, to the Registrar, if the parties thereto are amongst the following, namely:—

(*a*) a society, its Committee, any past Committee, any past or present officer, any past or present agent, any past or present servant or nominee, legal heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society;

(*b*) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society;

(*c*) a person, other than a member of the society, who has been granted a loan by the society, or with whom the society has or had transactions under the provisions of section 50, and any person claiming through such a person;

(*d*) a surety of a member, past member or a deceased member, or a person other than a member who has been granted a loan by the society under section 50, whether such a surety is or is not a member of the society;

(*e*) any other society, official assignee or the Liquidator of such a society.

(*2*) When any question arises a matter referred to for decision is a dispute or not, under sub-section (*1*), the question shall be considered by the Registrar, whose decision shall be final.

Explanation.—For the purposes of this sub-section, it is hereby clarified that—

(*a*) the expression "dispute" shall include—

(*i*) a claim by a society for any debt or demand due to it from a member, past member or the nominee, legal heir or legal representative of a deceased member, whether such a debt or demand be admitted or not;

(*ii*) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not;

(*iii*) a claim by a society for any loss caused to it by a member, past member, or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its Committee, past or present whether such loss be admitted or not;

(*iv*) a refusal or failure by a member, a past member or a nominee, legal heir or legal representative of a deceased member, to deliver possession to a society of land or any other asset resumed by it for breach of conditions of the assignment;

(*b*) the expression "agent" includes, in the case of a housing society, an architect, engineer or contractor engaged by the society.

36 of 1963.

Limitation.

103. (*1*) Notwithstanding anything contained in the Limitation Act, 1963, but subject to the specific provisions made in this Regulation, the period of limitation in the case of a dispute referred to the Registrar under section 102 shall—

(*a*) when the dispute relates to the recovery of any sum, including interest thereon due to a society by a member thereof, be computed from the date on which such member dies or ceases to be a member of the society;

(*b*) when the dispute is between a society or its Committee, and any past Committee, any past or present officer, or past or present agent, or past or present servant or the nominee, heir or legal representative of a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(*c*) when the dispute is in respect of any matter relating to the constitution, management or business of a society which has been ordered to be wound up under section 114, or in respect of which a nominated Committee or special officer has been appointed under section 87, be six years from the date of the order issued under section 114, or section 87, as the case may be;

(*d*) when the dispute is in respect of an election of any office bearer of a society, be two months from the date of the declaration of the result of such election.

(*2*) The period of limitation in the case of any dispute other than those mentioned in sub-section (*1*) which are required to be referred to the Registrar under section 106 shall be regulated by the provisions of the Limitation Act, 1963, as if the dispute were a suit, and the Registrar a civil court.

36 of 1963.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the Registrar may admit dispute after the expiry of the period of limitation, if the applicant satisfies him that he had sufficient cause for not referring the dispute within such period, and the dispute so admitted shall not be barred on the ground that the period of limitation had expired.

Settlement of disputes.

104. (*1*) If the Registrar is satisfied that any matter, referred to him is a dispute, within the meaning of section 102, the Registrar shall, subject to the rules to be made in this behalf, decide the dispute himself, or refer it for disposal to a nominee, or a board of nominees, appointed by the Registrar:

Provided that no person who is connected with a dispute or with the society at any stage or has previously inspected the society or audited its accounts shall be appointed as a nominee or as a member of the board of nominees to settle the dispute.

(*2*) Where any dispute is referred under sub-section (*1*) for decision to the Registrar's nominee or board of nominees, the Registrar may at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee, or board of nominees, and may decide the dispute himself, or refer it again for decision to any other nominee, or board of nominees, appointed by him.

(*3*) Notwithstanding anything contained in section 102, the Registrar may, if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated question of law or fact, until the question has been tried by a regular suit instituted by one of the parties or by the society, and, if any such suit is not instituted within a period of two months from the Registrar's order suspending proceedings, the Registrar shall take action as is provided in sub-section (*1*).

Procedure for settlement of disputes and power of Registrar, his nominee or board of nominees.

105. (*1*) The Registrar or his nominee or board of nominees, hearing a dispute under section 102 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, and to compel the production of documents by the same means and as far as possible in the same manner as provided in the case of a civil suit under the Code of Civil Procedure, 1908. 5 of 1908.

(*2*) Except where a dispute involves complicated question of law or fact, no legal practitioner in his capacity as a legal practitioner or as a person holding a power of attorney shall be permitted to appear on behalf of any party at the hearing of a dispute.

Explanation.—For the purposes of this sub-section, the expressions—

(*i*) "attorney" means the attorney as referred to in the Advocates Act, 1961. 25 of 1961.

(*ii*) "legal practitioner" shall have the same meaning as assigned to it in clause (*i*) of sub-section (*1*) of section 2 of the Advocates Act, 1961; 25 of 1961.

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

(*4*) 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 his nominee or board of nominees 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.

(*5*) The Registrar or his nominee or board of nominees may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Registrar, his nominee or board of nominees to be just, order that the name of any party, joined whether as a plaintiff or defendant be struck out, and that the name of any person who ought to have been joined as plaintiff or defendant, or whose presence may be necessary in order to enable the Registrar, his nominee or board of nominees to effectually and completely adjudicate upon and settle all the questions involved in the dispute, be added.

(*6*) 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 all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Registrar, his nominee or board of nominees.

(*7*) Notwithstanding anything contained in sub-sections (*1*) to (*6*), the following disputes or class of disputes, if the plaintiff so desires, shall be decided summarily by the Registrar, or his nominee or board of nominees, in such manner as may be prescribed, namely:—

(*a*) any dispute for recovery of debt upon Promissory Note, *Hundi*, Bill of Exchange or bond, with or without interest, whether agreed upon under such instrument or under the bye-laws;

(*b*) any dispute for recovery of a fixed sum of money or, the nature of debt with or without interest, arising on a written contract;

(*c*) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing;

(*d*) any dispute for recovery of dues payable by a member of a housing society towards contribution for construction of the house or any dispute in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electrical charges, maintenance and upkeep charges or charges for other services rendered by the society and the interest on such arrears, payable under the written agreement or under the bye-laws.

(*8*) The defendant shall not be entitled to defend the dispute unless he obtains leave from the Registrar, his nominee or board of nominees, in such manner as may be prescribed.

(*9*) The Registrar or his nominee or board of nominees may grant the leave under sub-section (*8*) on such conditions, as he or it thinks fit.

(*10*) The Registrar or his nominee or board of nominees shall not refuse the leave to defend the dispute unless he or it is satisfied that the facts disclosed by the defendant do not indicate that he has substantial defence to raise or that the defence intended to be put up by him is frivolous or vexatious.

(*11*) Where the defendant fails to obtain such leave or fails to appear or defend the dispute in pursuance of such leave, the averments made in the plaint and documents produced therewith shall be deemed to have been admitted by the defendant:

Provided that the Registrar or his nominee or board of nominees in his or its discretion may require any fact so admitted to be proved otherwise than by such admission.

(*12*) Where the conditions on which leave to defend is granted are not complied with by the defendant, the Registrar or his nominee or board of nominees, may pass an award against him, as if he has not been granted such leave.

(*13*) The Registrar or his nominee or board of nominees, may under special circumstances set aside the award, passed by him or it and if necessary, stay or set aside the execution, and may grant leave to the defendant to appear and defend the dispute, if it seems reasonable so to do and, on such terms, as he or it thinks fit.

Attachment before award.

106. (*1*) Where a dispute has been referred to the Registrar or his nominee or board of nominees under section 104 or under section 117, or where the Registrar or the person authorised under section 99 hears a person against whom charges are framed under that section, the Registrar or his nominee or board of nominees, or as the case may be, the person so authorised under section 99, if satisfied on enquiry or otherwise that a party to such dispute or against whom proceedings are pending under section 99 with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made—

(*a*) is about to dispose of 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,

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

(*2*) Where a direction to attach property is issued under sub-section (*1*), the Registrar or his nominee or board of nominees or the person authorised under section 99 shall issue a notice calling upon the person whose property is so attached to furnish such security within such period as may be specified in the notice and if the person fails to provide the security so demanded, the Registrar or his nominee or board of nominees or, as the case may be, the person authorised under section 99 may confirm the order and, after the decision in the dispute or the completion of the proceedings referred to in sub-section (*1*) may direct the disposal of the property so attached towards the claim, if awarded.

(*3*) The 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 prior to such attachment against the person whose property is so attached from applying for the sale of the property under attachment in execution of such decree.

Decision of Registrar or his nominee or board of nominees.

107. (*1*) When a dispute is referred to the Registrar for decision, he or his nominee or board of nominees may, after giving an opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings and the fees and expenses payable to the Registrar or his nominee or board of nominees, and such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed by the Registrar, for deciding the dispute and shall, subject to appeal or review or revision, be binding on the parties to the dispute.

(*2*) The Registrar, his nominee or the board of nominees may, before hearing the parties, require any party or parties to such dispute to deposit such sum as may, in his or its opinion, be considered reasonable to meet the expenses including the payment of fees, that may be payable to the Registrar, his nominee or the board of nominees, in pursuance of the award to be made under sub-section (*1*).

(*3*) The Registrar may, having regard to the nature of the cause of action or subject matter of dispute, the nature of relief that may be claimed in a dispute and such other matters, specify by a general or special order, the scale of fees and expenses that may be made payable to him or his nominee or the board of nominees, by or under an award made under sub-section (*1*).

Appeal to tribunal.

108. (*1*) Any party aggrieved by any decision of the Registrar or his nominee or board of nominees as the case may be, under section 107 or in an order passed under section 106 may, within a period of two months from the date of the decision or order, appeal to the Tribunal:

Provided that the Tribunal may entertain any appeal after the expiry of two months, if it is satisfied that there was a sufficient cause for not filing it within that period.

(*2*) The form and the manner of making an appeal to the Tribunal shall be such as may be prescribed.

Money how recovered.

109. Every order passed by the Registrar or a person authorised by him under section 99, or by the Registrar, his nominee or board of nominees under section 106 or 107, every order passed by a Liquidator under section 117, every order passed by the Administrator in appeal against orders passed under section 136, and every order passed in revision under section 138, shall, if not carried out—

(*a*) on a certificate signed by the Registrar or a Liquidator, be deemed to be a decree of a civil court, as defined in clause (*2*) of section 2 of the Code of Civil Procedure, 1908 and shall be executed in the same manner as a decree of such court; or

5 of 1908.

(*b*) be executed according to the provisions of the Land Revenue Code or any corresponding law for the time being in force in the Union territory for the recovery of arrears of land revenue:

Provided that any application for the recovery in such manner of any such sum shall be made to the Collector, and shall be accompanied by a certificate signed by the Registrar, or by any Assistant Registrar to whom the said power has been delegated by the Registrar within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

Transfer of property made after issue of certificate void against society.

110. Any transfer or delivery of, or encumbrance or charge on property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 109 shall be null and void as against the society on whose application the said certificate was issued.

Transfer of property which cannot be sold.

111. (*1*) When in execution of an order sought to be executed under section 109 any property cannot be sold for want of buyers, if such property is in occupancy of the defaulter, or of some person in his behalf, or of some person claiming a title created by the defaulter, subsequent to the issue of the certificate of the Registrar, Liquidator or the Assistant Registrar, under clause (*a*) or clause (*b*) of section 109, the court or the Collector or the Registrar, as the case may be, may direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order in such manner as may be prescribed.

(*2*) Where property is transferred to the society under sub-section (*1*), or is sold under the provisions of section 109, the court, the Collector or the Registrar, as the case may be, may, in accordance with the rules, place the society or the purchaser, in possession of the property transferred or sold.

(*3*) Subject to the rules 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 Collector or the Registrar, as the case may be, and the said society subject to the general or special orders of the Administrator, the Collector or the Registrar may delegate to an officer, not below the rank of an Assistant or Deputy Collector or an Assistant Registrar, powers exercisable by the Collector or the Registrar under this section.

Recovery of crop loans.

112. (*1*) Notwithstanding anything contained in sections 102, 104 and 109, on an application made by a society undertaking the financing of crops and seasonal finance as defined under any law for the time being in force in the Union territory, or undertaking medium term finance for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops, seasonal finance or medium term finance and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

Explanation.—For the purposes of this sub-section, the expression "medium term finance" means advancing of loans for any purpose of production relating to agriculture, fishery, animal husbandry, poultry, dairy and industry, being repayable otherwise than in the manner specified in the definitions of the expressions "financing of crops" and "seasonal finance" under any law for the time being in force in the Union territory.

(*2*) If a society fails to make an application under sub-section (*1*), and such society is a member of any co-operative financing bank, such co-operative financing bank may direct such society to take such action, and if that society fails to take action in pursuance of such direction, the co-operative financing bank may itself make an application under sub-section (*1*) on behalf of the society.

(*3*) Where the Registrar is satisfied that a society or the co-operative financing bank to which such society is affiliated has failed to make an application under sub-section (*1*) or, as the case may be, under sub-section (*2*) in respect of such arrears, the Registrar may, of his own motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as such arrears, and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

(*4*) A certificate granted by the Registrar under sub-section (*1*) or sub-section (*3*) shall be final and a conclusive proof of the arrears stated to be due therein, which shall be recoverable according to the provisions of the Land Revenue Code or any other law for the time being in force in the Union territory and of the rules made thereunder for the recovery of land revenue.

(*5*) It shall be lawful for the Collector and the Registrar to take precautionary measures specified under Land Revenue Code or any other law for the time being in force in the Union territory, 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.

CHAPTER X

REDRESSAL OF COMPLAINTS

Co-operative Ombudsman.

113. (*1*) The Administrator shall appoint, one or more Co-operative Ombudsman with territorial jurisdiction for inquiring into the complaints made by any member of the society regarding their deposits, equitable benefits of society's functioning or any other issue affecting the individual rights of the concerned member, in such manner as may be prescribed.

(*2*) The Co-operative Ombudsman shall, on receipt of a complaint, complete the process of inquiry and adjudicate within a period of three months from the date of receipt of the complaint and may issue necessary directions to the society during the course of inquiry and the society shall be bound to comply with the same within a period of one month from the date of issuance of such directions.

(*3*) Being aggrieved by the directions of the Co-operative Ombudsman, the society may file an appeal in such manner as may be prescribed, within a period of one month before the Registrar who shall decide the appeal within a period of forty-five days from the receipt of the appeal and the decision of the Registrar shall be final:

Provided that the Registrar may entertain the appeal after the expiry of the said period of one month, if he is satisfied that the society was prevented by sufficient cause from preferring the appeal in time.

(*4*) The Co-operative Ombudsman shall submit periodic reports to the Registrar.

(*5*) The Co-operative Ombudsman while conducting the inquiry under sub-section (*1*), shall exercise the same powers as are vested in a civil court under the Code of Civil Procedure, 1908,— 5 of 1908.

(*a*) for summoning and enforcing the attendance of persons;

(*b*) examining them on oath;

(*c*) discovery and production of books of account and other documents; and

(*d*) any other matter as may be prescribed.

CHAPTER XI

LIQUIDATION

114. (*1*) Except as otherwise provided in sub-section (*2*), if the Registrar,— Winding up.

(*a*) after an inquiry has been held under section 92, or an inspection has been made under section 93 or section 94 on the report of the auditor;

(*b*) on receipt of an application made upon a resolution carried by three-fourths of the members of a society present at a special general meeting called for the purpose; or

(*c*) of his own motion, in the case of a society which—

(*i*) has not commenced working;

(*ii*) has ceased working;

(*iii*) possesses shares or member's deposits not exceeding five thousand rupees;

(*iv*) has ceased to comply with any conditions as to registration and management as provided in this Regulation or the rules or the bye-laws,

is of the opinion that a society ought to be wound up, he may make an interim order directing it to be wound up.

(*2*) Notwithstanding anything contained in sub-section (*1*), in case where the members of the society, after having discharged liabilities towards the debt and assets of the society, upon a resolution carried by three-fourths majority of the members of the society present at a special general meeting called for the purpose, *suo motu*, resolve to wind up the society and convey such resolution to the Registrar and the Registrar shall, after disposing of the surplus assets in accordance with the provisions of section 122, cancel the registration of such society under section 21.

(*3*) Where an interim order is made on a ground specified in clause (*a*) or sub-clause (*iv*) of clause (*c*) of sub-section (*1*), a copy thereof shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a period of one month from the date of issue of such order.

(*4*) The Registrar, after giving an opportunity to the society of being heard, shall make a final order, vacating or confirming the interim order.

115. (*1*) When an interim or final order is made under section 114 for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the Liquidator of the society and fix his remuneration. Appointment of Liquidator.

(*2*) Where an interim order is made, the officers of the society shall hand over to the Liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society and, shall have no access to any of them.

(*3*) When a final order is made confirming the interim order, the officers of the society—

(*a*) shall hand over to the Liquidator the custody and control of any property, effects and actionable claims and any books, records, and other documents pertaining to the business of the society which for any reason are not handed over to the Liquidator under sub-section (*2*) at the time when an interim order was made;

(*b*) shall vacate their offices and while winding up order remains in force, the general body of the society shall not exercise any powers.

(*4*) The Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 117 and the Registrar may remove him from his office and appoint another in his place, without assigning any reason.

(*5*) The whole of the assets of the society shall on the appointment of the Liquidator vest in him and notwithstanding anything contained in any law for the time being in force in the Union territory, if any immovable property is held by him on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effected and no court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

(*6*) In the event of the interim order being vacated, the Liquidator shall hand over the property, effects, actionable claims, books, records and other documents of the society to the officers who had delivered the same to him and the acts done, and the proceedings taken by the Liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been vacated under section 114 be continued by the officers of the society.

Explanation.—For the purposes of this section and section 117, the expression "actionable claims" means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest by existent, accruing, conditional or contingent.

Appeal against order of winding up.

116. (*1*) The Committee or any member of the society may, within a period of two months from the date of the communication of the order made under section 114 for winding up, appeal, if the order is made by the Registrar or Additional Registrar or Joint Registrar to the Administrator, or if the order is made by any other person on whom the powers of the Registrar are conferred, to the Registrar:

Provided that no appeal shall lie against an order issued under sub-clauses (*i*), (*ii*) or (*iii*) of clause (*c*) of sub-section (*1*) of section 114:

Provided further that no appeal shall lie against an order passed by the Registrar.

(*2*) No appeal under this section shall be entertained from a member unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

Powers of Liquidator.

117. Subject to the rules and the general supervision, control and direction of the Registrar, the Liquidator shall have the power,—

(*a*) to institute and defend suits and other legal proceedings, civil or criminal, on behalf of the society, in the name of his office;

(*b*) to carry on the business of the society, as may be necessary for the beneficial winding up of the same;

(*c*) to sell the movable and immovable property and actionable claims of the society by public auction or private contract, with power to transfer the whole or part thereof to any person or body corporate, or sell the same in parcels;

(*d*) to raise any money required on the security of the assets of the society;

(*e*) to investigate all claims against the society and, subject to the provisions of this Regulation, to decide questions of priority arising out of such claims, and to pay any class or classes of creditor in full or rateable according to the amount of such debts, the surplus being applied in payment of interest from the date of liquidation at a rate to be approved by the Registrar, but not exceeding the contract rates;

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

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

(*h*) to determine, from time to time, after giving an opportunity to answer the claim, the contribution to be made or remaining to be made by the members or past members or by the estate, nominees, legal heirs or legal representatives of deceased members, or by any officer, past officer or the estate or nominees, legal heirs or legal representatives of a deceased officer to the assets of the society, such contribution being inclusive of debts due from such members or officers;

(*i*) to make applications under section 109;

(*j*) to get disputes referred to the Registrar or his nominee or board of nominees;

(*k*) to determine by what persons and in what proportion the costs of the liquidation shall be borne;

(*l*) to fix the time or times within which the creditors shall prove their debts and claims or be included for the benefits of any distribution made before those debts or claims are proved;

(*m*) to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and in the same manner as provided in the case of a civil court under the Code of Civil Procedure,1908; 5 of 1908.

(*n*) to do all acts, and to execute in the name and on behalf of the society, all deeds, receipts and other documents, as may be necessary to such winding up;

(*o*) to take such action as may be necessary under section 20, with the prior approval of the Registrar, if there is reason to believe that the society may be reconstructed.

Effect of winding up.

118. (*1*) After the expiry of the period for appeal under section 116 against the order made under sub-section (*3*) of section 114, or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all creditors and the contributories of the society, as if it has been made on the joint petition of creditors and contributories.

(*2*) When a winding up order becomes effective, the Liquidator shall proceed to realise the assets of the society, by sale or otherwise, and no dispute shall be commenced, or if pending at the date of the winding up order, be proceeded with, against the society, except with leave of the Registrar and subject to such terms as the Registrar may impose and the Registrar may of his own motion, however, entertain or dispose of any dispute by or against the society.

Bar on suit in winding up and dissolution matters.

119. Save as expressly provided in this Regulation, no civil court shall have jurisdiction on any matter connected with the winding up or dissolution of a society under this Regulation, and when a winding up order has been made, no suit or other legal proceedings shall lie or be proceeded with against the society or the Liquidator, except by leave of the Registrar, and subject to such terms as he may impose:

Provided that where the winding up order is cancelled, the provisions of this section shall cease to operate so far as the liability of the society and of the members thereof to be sued is concerned, but they shall continue to apply to the person who acted as Liquidator.

Audit of Liquidator's accounts.

120. (*1*) The Liquidator shall, during his tenure of office, at such times as may be prescribed, but not less than twice each year, present to the Registrar an account in the prescribed form of his receipt and payments as Liquidator and the Registrar shall cause the accounts to be audited in such manner as he thinks fit and for the purpose of audit, the Liquidator shall furnish the Registrar with such vouchers and information as he, or the person appointed by him, may require.

(*2*) The Liquidator shall cause a summary of audited accounts to be prepared, and send a copy of such summary to every contributory.

(*3*) The Liquidator shall pay such fees as the Registrar may direct, for the audit of the accounts of books kept by him in such manner as may be prescribed.

(*4*) The Liquidator shall be held liable for any irregularities which might be discovered in the course or as a result of audit in respect of transactions subsequent to his taking charge of the affairs of the society, and may be proceeded against, as if, it were an act against which action may be taken under section 99:

Provided that no such action shall be taken unless the irregularities have caused or are likely to cause loss to the society, and have occurred due to gross negligence or want on omission by the Liquidator, in carrying out the duties and functions.

Termination of liquidation proceedings.

121. (*1*) The winding up proceedings of a society shall be closed within five years from the date of the order of the winding up, unless the period is extended by the Registrar:

Provided that the Registrar shall not grant any extension for a period exceeding one year at a time and five years in the aggregate, and shall, immediately after the expiry of ten years from the date of the order for winding up of the society, the liquidation proceedings shall be deemed to have been terminated, and pass an order terminating the liquidation proceedings.

Explanation.—For the purposes of this section, it is hereby clarified that in the case of a society which is under liquidation at the date of the commencement of this Regulation, an order for the winding up of the society shall be deemed to have been passed for the purpose of this section on the said date.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator and the final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and also state how the winding up has been conducted and the property and claims of the society have been disposed of, and include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount, if any, standing to the credit of the society, after paying off its liabilities including the share or interest of members, and suggest how the surplus may be utilised.

(*3*) The Registrar, on receipt of the final report from the Liquidator, shall direct him to convene a general meeting of the members of the society for recording the report.

Disposal of surplus assets.

122. Any surplus assets, shown in the final report of the Liquidator, shall not be divided, amongst its members but shall be devoted to any object or objects provided in the bye-laws of the society, if they specify that such a surplus shall be utilised for the particular purpose and where the society has no such bye-law, the surplus shall vest in the Registrar, who shall hold it in trust and shall transfer it to the reserve fund of a new society registered with a similar object, and serving more or less an area which the society to which the surplus belonged was serving:

Provided that where no such society exists or is registered within three years of the cancellation of the registration of the society whose surplus is vested in the Registrar, the Registrar may distribute the surplus in the manner he thinks best, among any or all of the following, namely:—

(*a*) an object of public utility and of local interest as may be recommended by the members in general meeting held under section 121 or where the society has ceased to function and its record is not available or none of its members is forth coming, as the Registrar thinks proper;

(*b*) a federal society with similar objects to which the cancelled society was eligible for affiliation; and

(*c*) any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890 or any other law for time being in force in the Union territory. 6 of 1890.

CHAPTER XII

INSURED CO-OPERATIVE BANK

Order for winding up, reconstruction, supersession of Committee etc., of insured co-operative bank not to be made without sanction or requisition of Reserve Bank.

123. Notwithstanding anything contained in this Regulation, in the case of an insured co-operative bank,—

(*a*) an order for winding up or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation) of the bank may be made only with the prior approval in writing of the Reserve Bank;

(*b*) an order for winding up the bank shall be made by the Registrar if so required by the Reserve Bank in the circumstances referred to in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force in the Union territory; 47 of 1961.

(*c*) notwithstanding anything contained in this Regulation or the rules made thereunder, the Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank including supersession and winding up of the co-operative bank and shall appoint a special officer or a Liquidator as the case may be within a period of one month of being so advised by the Reserve Bank;

(*d*) if so required by the Reserve Bank in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank, an order shall be made by the Registrar for supersession of the Committee and the appointment of a special officer in place thereof for such period or periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank, and the special officer so appointed shall, after the expiry of his term of office, continue in office until the day immediately preceding the date of the first meeting of the new Committee of such bank;

(*e*) an order for winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or reorganisation) or an order for the supersession of the Committee of the bank and the appointment of a special officer in place thereof made with the previous sanction in writing or on the requisition of the Reserve Bank shall be final and shall not be liable to be called in question in any court; and

(*f*) the Liquidator or such bank or the transferee bank, as the case may be, shall be under an obligation to pay the Deposit Insurance Corporation established under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for time being in force in the Union territory, in the circumstances, to the extent and in the manner referred to in section 21 of that Act. 47 of 1961.

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

(*i*) "insured co-operative bank" means a society which is an insured bank under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force in the Union territory;

47 of 1961.

(*ii*) "transferee bank" in relation to an insured co-operative bank means a co-operative bank—

(*I*) with which such insured co-operative bank is amalgamated;

(*II*) to which the assets and liabilities of such insured co-operative bank are transferred; or

(*III*) into which such insured co-operative bank is divided or converted under sub-section (*1*) of section 17.

Application of provisions of Act 10 of 1949 and its overriding effect.

124. The provisions of this Regulation shall be in addition to and not in derogation of the provisions of the Banking Regulation Act, 1949 or any law for the time being in force in the Union territory:

Provided that in case of any conflict between the provisions of this Regulation and the provisions of the Banking Regulation Act, 1949, the provisions of the latter along with the rules, regulations, directions or instructions issued thereunder by the Reserve Bank from time to time shall apply.

Committee of co-operative bank to ensure certain things.

125. A Committee of co-operative bank shall ensure that—

(*a*) the information is furnished every month to the Registrar in such form as may be prescribed, regarding the loans taken from the bank by each Committee member, members of the family and companies with which he is associated, in any manner;

(*b*) the bank is registered as an insured bank under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 or any other law for the time being in force in the Union territory;

47 of 1961.

(*c*) the defects in the working of the bank are rectified and financial irregularities disclosed in the course of audit of the bank or otherwise remedied;

(*d*) the action to recover loans given by the bank is taken within one year from the date when repayment of the same has become due;

(*e*) no financial loss is caused to the bank and any debt due to the bank which is not recovered within a period of one year from the date when it has become due shall be recovered;

(*f*) civil and criminal proceedings against a person who, in the opinion of the Committee, has misappropriated any fund of the bank are initiated;

(*g*) the provisions of sections 18 and 24 of the Banking Regulation Act, 1949, as applicable to co-operative societies and section 63 of this Regulation are complied with, and, if in its opinion any of the said provisions are contravened, such contravention shall forthwith be reported to the Registrar.

10 of 1949.

CHAPTER XIII

OFFENCES AND PENALTIES

Prohibition of use of word "co-operative".

126. (*1*) No person, other than a society registered, or deemed to be registered, under this Regulation, and a person or his successor in interest of any name or title under word which he traded or carried on business at the date on which this Regulation comes into force, shall without the prior sanction of the Administrator, function, trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language, forms part.

(*2*) Any person contravening the provisions of the foregoing sub-section shall on conviction, be liable for penalty which may extend to twenty-five thousand rupees.

Penalty for contravention of section 81.

127. For contravention of the provisions of section 81, an officer—

(*i*) who is a servant of a society, shall be liable to pay a penalty not exceeding ten thousand rupees;

(*ii*) who is not a servant of the society, the Registrar may by an order in writing declare such officer to be disqualified for being an officer or a member of the Committee of the society or for being elected or appointed to any office of the society, for such period not exceeding six years as he may specify in the order:

Provided that before making an order under this section, the Registrar shall give or cause to be given, an opportunity to the officer to show cause against the act proposed to be taken against him.

Offences.

128. (*1*) It shall be an offence under this Regulation, if—

(*a*) any person makes a declaration referred to in section 26 which he knows or has reason to believe to be false;

(*b*) the officer or officers authorised under sub-section (*3*) of section 37 fail to discharge the functions as provided in the said section;

(*c*) any member of a society transfers any property or interest in property in contravention of sub-section (*2*) of section 52 or any person knowingly acquires or abets the acquisition of, such property;

(*d*) any employer or director, manager, secretary or other officer or agent acting on behalf of such employer without sufficient cause, fails to comply with sub-section (*2*) of section 54;

(*e*) a Committee of a society or an officer or member thereof fails to invest funds of such society in the manner required under section 63;

(*f*) any person, collecting share money for a society in formation, does not within a reasonable period deposit the same in the State Co-operative Bank, or a Central Co-operative Bank, or in any Nationalised Bank, or a postal savings bank;

(*g*) any person, collecting the share money for a society in formation, makes use of the funds so raised for conducting any business or trading in the name of a society to be registered or otherwise;

(*h*) any person before, during or after the election of members of the Managing Committee or office bearers, adopts corrupt practice;

(*i*) a retiring Chairperson to whom a direction has been issued under sub-section (*2*) of section 78, fails to comply with such direction;

(*j*) a Committee of a society or a member thereof fails to comply with the provisions of section 79;

(*k*) a Committee of a society or an officer or a member thereof, fails to comply with the provisions of sub-sections (*2*), (*3*) or (*5*) of section 81;

(*l*) any officer or member of a society who is in possession of information, books and records, fails to furnish such information or produce books and papers, or give assistance to a person appointed or authorised by the Administrator or the Registrar under sections 22,72, 74, 85, 86, 90, 92, 93, 94, 105 or 115;

(*m*) any officer of a society fails to hand over the custody of books, records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under sections 22,72, 85, 86 or 115;

(*n*) a Committee of a society or any officer or a member thereof fails without any reasonable excuse to comply with orders made under section 87 or to give any notice, or to send any return or document, do or allow to be done anything, which the Committee, officer or member is by this Regulation required to give, send, do or allow to be done;

(*o*) a Committee of a society or an officer or member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Regulation by the Registrar or other person duly authorised by him in writing in this behalf;

(*p*) a Committee of a society, or any officer or member thereof, wilfully makes a false return, or furnishes, false information, or fails to maintain proper accounts;

(*q*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under provisions of this Regulation;

(*r*) an officer or a society fails to comply with the order made by the Registrar under section 89;

(*s*) an officer, member, agent or servant of a society fails to comply with the requirements of sub-section (*2*) of section 90;

(*t*) an officer or a member of a society wilfully fails to comply with any decision, award or order passed under section 107;

(*u*) a member of a society fraudulently disposes of property over which the society has a prior claim, or a member or officer or employee or any person disposes of his property by sale, transfer, mortgage, gift or otherwise, with the fraudulent intention of evading the dues of the society;

(*v*) an officer of a society wilfully recommends or sanctions for his personal use or benefit or for use or benefit of a person in whom he is interested, a loan in the name of any other person;

(*w*) an officer or member of a society destroys, mutilates, tampers with, or otherwise alters, falsifies or secretes or is privy to the destruction, mutilation, alteration, falsification or secreting of any books, papers or securities or makes, or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the society;

(*x*) a Committee of co-operative bank fails to comply with all or any of the clauses of section 125.

(*2*) Where an offence under this Regulation has been committed by a Committee of a society, or Committee of co-operative bank, every person who at the time the offence was committed, was a member of such Committee, 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 as provided in this Regulation, 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.

Punishment for contravention of section 125.

129. Every employer or officer, member, agent or servant of Committee of co-operative bank, who contravenes the provisions of section 125 shall, on conviction, be punished,—

(*i*) under clause (*a*) of that section, with fine which may extend to fifty thousand rupees;

(*ii*) under clause (*b*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both;

(*iii*) under clause (*c*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both;

(*iv*) under clause (*d*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees or with both;

(*v*) under clause (*e*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both;

(*vi*) under clause (*f*) of that section, with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both;

(*vii*) under clause (*g*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

Punishment for offences under section 128.

130. (*1*) Every employer or officer, member, agent or servant of a society, or any other person, who commits an offence under section 128 shall, be punished,—

(*a*) under clause (*a*) of that section, with simple imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or both;

(*b*) under clause (*b*) of that section, with penalty which may extend to twenty-five thousand rupees;

(*c*) under clause (*c*) of that section with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both;

(*d*) under clause (*d*) of that section with imprisonment for a term which may extend to one month or with fine which may extend to fifty thousand rupees or with both;

(*e*) under clause (*e*) of that section with penalty which may extend to fifty thousand rupees;

(*f*) under clause (*f*) of that section with penalty which may extend to fifty thousand rupees;

(*g*) under clause (*g*) of that section with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both;

(*h*) under clause (*h*) of that section with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both;

(*i*) under clause (*i*) of that section, with simple imprisonment which may extend to one month or with fine which may extend to twenty-five thousand rupees or with both;

(*j*) under clause (*j*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both;

(*k*) under clause (*k*) of that section, with penalty which may extend to twenty-five thousand five hundred rupees;

(*l*) under clause (*l*) of that section, with imprisonment for a term which may extend to three months or with fine which may extend to twenty-five thousand rupees or with both;

(*m*) under clause (*m*) of that section, with penalty which may extend to twenty-five thousand rupees;

(*n*) under clause (*n*) of that section, with penalty which may extend to twenty-five thousand rupees;

(*o*) under clause (*o*) of that section, with imprisonment for a term which may extend to one month or with fine which may extend to twenty-five thousand rupees or with both;

(*p*) under clause (*p*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both;

(*q*) under clause (*q*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both;

(*r*) under clause (*r*) of that section, with imprisonment for a term which may extend to one year or with fine which may extend to twenty-five thousand rupees or with both;

(*s*) under clause (*s*) of that section, with penalty which may extend to twenty-five thousand rupees;

(*t*) under clause (*t*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees or with both;

(*u*) under clause (*u*) of that section, with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both;

(*v*) under clause (*v*) of that section, with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both;

(*w*) under clause (*w*) of that section, with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

(*2*) No prosecution for an offence under section 128 shall be instituted in respect of the same facts on which a penalty has been imposed by the Registrar under any provisions of this Regulation.

(*3*) The penalties under this Regulation shall be imposed by the Registrar and the manner of imposing such penalties shall be such as may be prescribed.

Cognizance of offences.

131. (*1*) No court inferior to that of a Judicial Magistrate of first class shall try any offence for which imprisonment is provided as one of the modes of punishment with fine.

(*2*) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023 it shall be lawful for the Judicial Magistrate of first class to pass a sentence or fine on any person convicted of an offence under section 147 as provided under sections 148 and 149, in excess of his powers under section 26 of that Code. 46 of 2023.

(*3*) No prosecution under this Regulation shall be initiated, except with the previous sanction of the Registrar.

CHAPTER XIV

APPEALS, REVIEW AND REVISION

Constitution of Co-operative Tribunal.

132. (*1*) The Administrator shall constitute a Tribunal to be called the Co-operative Tribunal to exercise the functions conferred on it or under this Regulation.

(*2*) The Tribunal shall consist of a President and such number of other members as the Administrator may, from time to time, consider necessary.

(*3*) The qualifications, experience, terms and conditions for appointment of the President and other members shall be such as may be prescribed.

(*4*) The Administrator may terminate the appointment of any member of the Tribunal before the expiry of the term of his office, if such member—

(*a*) is adjudged as an insolvent;

(*b*) engages during his term of office in any paid employment outside the duties of his office unless such employment is authorised by the Administrator;

(*c*) is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Administration or participates in any way in the profit thereof or in any benefit or emoluments arising there from otherwise than as a member;

(*d*) has become physically or mentally incapable of acting as a Member:

Provided that the Member shall not be removed from his office on the grounds specified under clauses (*b*) or (*c*), except by an order made by the Administrator after an inquiry made by the Judge of the concerned High Court having jurisdiction in such manner as may be prescribed; or

(*e*) is convicted of an offence involving moral turpitude.

(*5*) Any vacancy in the membership of the Tribunal shall be filled by the Administrator.

(*6*) The powers and functions of the Tribunal may be exercised and discharged by the Benches constituted by the President from amongst the members of the Tribunal including himself and such Benches shall consist of two or more members.

(*7*) Where a matter is heard by three members the opinion of the majority shall prevail, and the decision shall be in accordance with the opinion of the majority and where a matter is heard by an even number of members, and the members are equally divided, if the President be one of the members, the opinion of the President shall prevail and in other cases the matter shall be referred for hearing to the President and shall be decided in accordance with his decision:

Provided that any interlocutory application may be heard by one or more members who may be present.

(*8*) Subject to the previous sanction of the Administrator, the Tribunal shall frame regulations consistent with the provisions of this Regulation and rules made thereunder, for regulating its procedure and the disposal of its business which shall be published in the Official Gazette.

Proceedings of Tribunal.

133. (*1*) The Tribunal may call for and examine the record of any proceeding 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 appears to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem appropriate.

(*2*) Where an appeal is made to the Tribunal under section 109, it may make such interlocutory order spending the decision of the appeal as may appear to it to be just and convenient, or such orders as may be necessary for the ends of justice, or to prevent the abuse of the process of the Tribunal.

(*3*) An order passed in appeal under sub-section (*1*) or in review under section 134, by the Tribunal, shall be final and conclusive and shall not be called in question in any civil or revenue court.

(*4*) The Tribunal hearing an appeal under this Regulation shall exercise all the powers conferred upon an appellate court by section 99 and Order XLI in the First Schedule to the Code of Civil Procedure, 1908.

5 of 1908.

Review of orders of Tribunal.

134. (*1*) The Tribunal may, either on the application of the Registrar, or any interested party, review its own order in such case and pass in reference thereto such order as it thinks appropriate:

Provided that no application made by the interested party shall be entertained, unless the Tribunal is satisfied that there has been discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the order was made, or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reasons:

Provided further that no such order shall be varied or revised, unless notice has been given to the interested parties to appear and be heard in support of such order.

(*2*) An application for review under sub-section (*1*) by any party shall be made within a period of ninety days from the date of communication of the order of the Tribunal.

Tribunal to have powers of civil court.

135. (*1*) In exercising the powers conferred on the Tribunal by or under this Regulation, it shall have the same powers as are vested in a civil court in respect of—

(*a*) proof of facts by affidavit;

(*b*) summoning and enforcing the attendance of any person and examining him on oath;

(*c*) compelling the production of documents;

(*d*) issuing commissions for the examination of witnesses; and

(*e*) any other matter which may be prescribed.

(*2*) In the case of any such affidavit, any officer appointed by the Tribunal in this behalf may administer the oath to the deponent.

Appeals.

136. (*1*) An appeal against an order or decision under sections 4, 9, 11, 13, 17, 20, 22, 40, and 86 shall lie,—

(*a*) if made or sanctioned or approved by the Registrar or an Additional Registrar or Joint Registrar on whom powers of the Registrar are conferred, to the Administrator;

(*b*) if made or sanctioned by any person other than the Registrar or a Deputy Registrar or Assistant Registrar on whom the powers of the Registrar are conferred, to the Registrar.

(*2*) An appeal against an order of a Liquidator under section 117 shall lie—

(*a*) to the Administrator if the order was made with the sanction or approval of the Registrar; and

(*b*) to the Registrar in any other case.

(*3*) An appeal against an order or decision under sections 87, 96, 99 and any order passed by the Registrar for paying compensation to a society, and any other order for which an appeal to the Tribunal has been provided under this Regulation, shall lie to the Tribunal.

(*4*) An appeal under sub-sections (*1*), (*2*) or (*3*) shall be filed within two months of the date of the communication of the order or decision.

(*5*) The procedure to be followed in presenting and disposing of appeals under this section or under any other provisions of this Regulation shall be such as may be prescribed.

(*6*) Save as otherwise provided in this Regulation, no appeal shall lie against any order, decision or award passed in accordance with this Regulation and every such order, decision or award shall be final, and where provisions for any appeal has been provided, any order passed in appeal shall be final and no further appeal shall lie against it.

Extension of period of limitation of appellate authority in certain cases.

137. In all cases in which it is provided that an appeal may be filed under this Regulation against any decision or order within a specified period, the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

Power of Administrator and Registrar to call for proceedings of subordinate officers to pass orders thereon.

138. The Administrator and the Registrar may call for and examine the record of any inquiry or the proceedings of any other matter of any officer subordinate to them, except those referred to in sub-section (*1*) of section 133, for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed, and the regularity of the proceedings of such officer and in any case, it appears to the Administrator or the Registrar, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Administrator or the Registrar, as the case may be, may after giving persons affected thereby an opportunity of being heard, pass such order thereon as he may deem appropriate.

CHAPTER XV

MISCELLANEOUS

Power of Administrator to give directions for e-tender process.

139. The Administrator may, by general or special order, direct any society or any class of society not to render contract in relation to such matters concerning such society or the class of any society and to make purchases for such amount by following the e-tender process.

Recovery of sums due to Administration.

140. (*1*) Unless otherwise provided by this Regulation, all sums due from a society or from an officer or member or previous member or a deceased member of a society, to the Administration, may be recovered as arrears of land revenue.

(*2*) The sums due from a society to the Administration and recoverable under sub-section (*1*) may be recovered—

(*i*) from the property of the society;

(*ii*) in the case of a society of which the liability of the members is limited, from the members or past members or from their estate if they have died, subject to the limit of their liability;

(*iii*) in the case of societies with unlimited liability, from the members or past members or their estate, if they have died.

(*3*) The liability under this section shall in all cases be subject to the provisions of section 38.

Filing of returns.

141. Every year within six months of the closure of the accounting year, every society shall file the following returns with the Registrar, namely:—

(*a*) annual report of the activities;

(*b*) audited statements of accounts;

(*c*) plan for surplus disposal as approved by the general body;

(*d*) list of amendments to the bye-laws of the society;

(*e*) declaration regarding date of holding of general body meeting and conduct of elections where due;

(*f*) any other information required by the Registrar in pursuance of any of the provisions of this Regulation.

Filing of applications, documents, inspections, etc., in electronic form.

142. (*1*) Notwithstanding anything to the contrary contained in this Regulation, and without prejudice to the provisions of the Information Technology Act, 2000, the Administrator may, from such date as may be notified, require that—

18 of 2000.

(*a*) such applications, returns, reports, statement of accounts, or any other particulars or document as may be required to be filed or delivered under this Regulation or the rules made thereunder, shall be filed in the electronic form and authenticated;

(*b*) such document, notice, any communication, or information, as may be required to be served or delivered under this Regulation, shall be served or delivered in the electronic form and authenticated;

(*c*) such applications, returns, reports, statement of accounts, registers, bye-laws or any other particulars or documents and returns filed under this Regulation or the rules made thereunder shall be maintained by the Registrar in the electronic form and registered or authenticated, as the case may be;

(*d*) such inspection of bye-laws, returns, reports, statement of accounts or any other particulars or documents maintained in the electronic form, as is otherwise available for inspection under this Regulation or the rules made thereunder, may be made by any person through the electronic form; and

(*e*) such fees, charges, or other sums payable under this Regulation or the rules made thereunder shall be paid through the digital mode, in such manner as may be prescribed.

(*2*) The Registrar shall—

(*a*) issue certificate of registration;

(*b*) register the amendment of bye-laws;

(*c*) register change of registered office;

(*d*) register any document;

(*e*) issue any certificate;

(*f*) issue notice; and

(*g*) receive such communication, as may be required to be registered or issued or recorded or received under this Regulation or the rules made thereunder or perform duties or discharge functions or exercise powers under this Regulation or the rules made thereunder or do any act which is by this Regulation directed to be performed or discharged or exercised or done by the Registrar, in the electronic form in such manner as may be prescribed.

Explanation.— For the purposes of this section, the expression "electronic form" shall have the same meaning as assigned to it in clause (*r*) of sub-section (*1*) of section 2 of the Information Technology Act, 2000. 21 of 2000.

Competency of a member to transfer land or interest therein to society.

143. Notwithstanding anything contained in the Transfer of Property Act, 1882 and the Registration Act 1908, it shall be lawful for a member of a Co-operative Farming Society to transfer to the society any land held by him or the whole or part of his interest in any land by an agreement in such manner as may be prescribed. 4 of 1882. 16 of 1908.

Registrar's powers to recover certain sums by attachment and sale of property.

144. (*1*) The Registrar or any subordinate officer empowered by him in this behalf may, subject to such rules as may be made by the Administrator but without prejudice to any other mode of recovery provided by or under this Regulation, recover—

(*a*) any amount due under a decree or order of a civil court, obtained by a society;

(*b*) any amount due under a decision, award or order of the Registrar, his nominee or the board of nominees or Liquidator or Tribunal;

(*c*) any sum awarded by way of costs under this Regulation;

(*d*) any sum ordered to be paid under this Regulation as a contribution to the assets of the society,

together with interest, if any, due on such amount or sum and the costs of recovering the same, by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.

(*2*) The Registrar or the officer empowered by him shall be deemed when exercising the powers under sub-section (*1*) or when passing any order on any application made to him for such recovery, to be a civil court for the purposes of article 182 in the First Schedule to the Limitation Act, 1963. 36 of 1963.

Power to exempt societies from provisions of Regulation.

145. (*1*) The Administrator may, by general or special order, to be published in the Official Gazette, and for the reasons to be recorded in writing, exempt any society or class of societies from any of the provisions of this Regulation, or may direct that such provisions shall apply to such societies with such modifications not affecting the substance thereof as may be specified in the order:

Provided that no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

(*2*) Nothing contained in this section shall be applicable to matters related to banking.

Delegation of powers of Administrator and Registrar.

146. The Administrator may, by notification, and subject to such conditions, as it may think fit to impose, delegate—

(*a*) any power exercisable by him under this Regulation except the power under sub-section (*1*) of section 136 and section 152 thereof to the Registrar;

(*b*) all or any of the powers of the Registrar under this Regulation to any Committee constituted or to any co-operative federal society recognised under section 101 or to an officer of such society or to any panchayat constituted under any law relating to panchayats for the time being in force in the Union territory.

Branches, etc., of societies outside Union territory.

147. (*1*) No society shall open a branch or a place of business outside the Union territory, and no co-operative society registered under any law in any other State shall open a branch or a place of business in the Union territory without the permission of the Registrar.

(*2*) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the Union territory under sub-section (*1*) or which has a branch or a place of business in the Union territory before the commencement of this Regulation, shall, within three months from the date of the opening of such branch or place of business or from the date of the commencement of this Regulation, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these be not in English a certified translation thereof in English or Hindi and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Regulation in addition to those which may be submitted to the Registrar of that State where such society is registered.

(*3*) The provisions of sub-sections (*1*) and (*2*) shall not apply to co-operative societies to which the provisions of the Multi-State Co-operative Societies Act, 2002 applies:

39 of 2002.

Provided that in case of a co-operative society carrying on the business of banking, the guidelines on the subject issued by Reserve Bank from time to time shall be followed.

(*4*) Nothing contained in sub-section (*1*) shall affect a society which has a branch or a place of business outside the Union territory at the commencement of this Regulation.

Registrar and other officers to be public servants.

148. The Registrar, any person exercising the powers of the Registrar, an official assignee under section 22, a custodian under section 72, co-operative election officer under section 74, a person authorised to audit the accounts of a society under section 90, or to hold an inquiry under section 92, or to make an inspection under sections 93 or 94, and a person appointed as a special officer under sections 86 or 123, or as a nominee or board of nominees under section 104, or as a Liquidator under section 115, and all members of the Tribunal shall be deemed to be public servants within the meaning of clause 28 of section 2 of the Bharatiya Nyaya Sanhita, 2023.

45 of 2023.

Protection of action taken in good faith.

149. No suit, prosecution or other legal proceeding shall lie against the Registrar or any person subordinate to him or acting on his authority or any officer under this Regulation in respect of anything done or intended to be done in good faith in pursuance of this Regulation or rules made thereunder.

Bar on Jurisdiction of courts.

150. (*1*) Save as expressly provided in this Regulation, no civil or revenue court shall have any jurisdiction in respect of—

(*a*) the registration of a society or its bye-laws, or the amendment of its bye-laws, or the dissolution of the Committee of a society, or the management of the society on dissolution thereof;

(*b*) any dispute required to be referred to the Registrar or his nominee or board of nominees, for decision; or

(*c*) any matter concerned with the winding up and dissolution of a society.

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

(*3*) All orders, decisions or awards passed in accordance with the provisions of this Regulation or the rules made thereunder, shall, subject to the provisions for appeal or revision, be final and no such order, decision or award shall be liable to be challenged, set aside, modified, revised or declared void in any court upon the merits, or upon any other ground whatsoever except for want of jurisdiction.

Notice necessary in suits.

151. Save as otherwise provided in this Regulation, no suit shall be instituted against a society, or any of its officers, in respect of any Regulation touching 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.

Power to make rules and its laying before Parliament.

152. (*1*) The Administrator may, by notification and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Regulation to carry out the purposes of this Regulation.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters enumerated in respective sections of this Regulation.

(*3*) Every rule made by the Administrator under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the 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.

Companies Act not to apply.

153. The provisions of the Companies Act, 2013, shall not apply to societies registered, or deemed to be registered under this Regulation. 18 of 2013.

Power to remove difficulties.

154. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Regulation as may appear to him to be necessary or expedient for the removal of that difficulty:

Provided that no such order shall be made under this section after the expiry of one year from the date of commencement of this Regulation.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

155. (*1*) The Gujarat Cooperative Societies Act, 1961 as extended to the Union territory of Dadra and Nagar Haveli by order of the Central Government and the Maharashtra Co-operative Societies Act, 1960 as extended to the Union territory of Daman and Diu by order of Central Government (hereafter in this Chapter referred to as the said Acts) are hereby repealed: X of 1962. XXIV of 1961.

Provided that such repeal shall not affect—

(*i*) the previous operation of the said Acts so repealed, or anything duly done or suffered thereunder;

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

(*iii*) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Acts so repealed; or

(*iv*) any investigation, proceedings, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, proceedings, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if the said Acts had not been repealed.

(*2*) All societies registered or deemed to be registered under the said Acts the registration of which was in force immediately before the commencement of this Regulation, shall on such commencement to be deemed to be registered under this Regulation; and all proceedings pending immediately before such commencement before any Registrar, Arbitrator, Liquidator or Tribunal or other officer, authority or person under the provisions of the said Acts shall stand transferred where necessary, to the Registrar, Arbitrator, Liquidator or Tribunal or other corresponding officer, authority or person under this Regulation, and if no such officer, authority or person exists or if there be a doubt as to the corresponding officer, authority or person to such officer, authority or person as the Administrator may designate and shall be continued and disposed of by such officer, authority or person in accordance with the provisions of this Regulation.

(*3*) Any reference to the said Acts or to any provisions thereof or to any officer, authority or person entrusted with any functions thereunder, in any law for the time being in force in the Union territory or in any instrument or document shall be construed, where necessary, as a reference to this Regulation or its relevant provisions or the corresponding officer, authority or person functioning under this Regulation, and the corresponding officer, authority or person, as the case may be, shall have and exercise the functions under such law instrument or document.

(*4*) The mention of particular matters referred to in sub-section (*1*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

THE SCHEDULE
[*See* section 4(*i*)]

Co-operative Principles

1. Voluntary and Open Membership

Co-operatives are voluntary organisations, open to all persons capable of using their services and willing to accept the responsibilities of membership, without discrimination on bases of gender, social inequality, racial, political ideologies or religious consideration.

2. Democratic Member Control

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and decision making. Elected representatives of these co-operatives are responsible and accountable to their members.

3. Member's Economic Participation

Members contribute equitable and control the capital of their co-operative democratically. At least a part of the surplus arising out of the economic results would be the common property of the co-operatives. The remaining surplus could be utilised benefiting the members in proportion to their share in the co-operative.

4. Autonomy and Independence

Co-operatives are autonomous, self-help organisations controlled by their members. If co-operatives enter into agreement with other organisations including Government or raise capital from external sources, they do so on terms that ensure their democratic control by members and maintenance of co-operative autonomy.

5. Education, Training and Information

Co-operatives provide education and training to their members, elected representatives and employees so that they can contribute effectively to the development of their co-operatives. They also make the general public, particularly young people and leaders aware of the nature and benefits of cooperation.

6. Cooperation among Co-operatives

Co-operatives serve their members most effectively and strengthen the co-operative movement, by working together through available local, regional, national and international structures.

7. Concern for community

While focussing on the needs of their members, co-operatives work for the sustainable development of communities through policies accepted by their members.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2*nd June,* 2025/*Jyaistha* 12, 1947 *(Saka)*

THE UNION TERRITORY OF LADAKH RESERVATION (AMENDMENT) REGULATION, 2025

NO. 1 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Jammu and Kashmir Reservation Act, 2004 *in its application to the Union territory of Ladakh.*

In exercise of the powers conferred by article 240 of the Constitution read with sub-section (*2*) of section 58 of the Jammu and Kashmir Reorganisation Act, 2019, the President is pleased to promulgate the following Regulation made by her:— 34 of 2019.

1. (*1*) This Regulation may be called the Union territory of Ladakh Reservation (Amendment) Regulation, 2025. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Ladakh.

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

Amendment of section 3.

2. In the Jammu and Kashmir Reservation Act, 2004 (hereinafter referred to as the principal Act), in section 3, in sub-section (*1*), for the first proviso, the following proviso shall be substituted, namely:— XIV of 2004.

"Provided that the total percentage of reservation shall in no case exceed 85%, excluding reservation for Economically Weaker Sections:".

Amendment of section 5.

3. In the principal Act, in section 5,—

(*a*) in sub-section (*1*), the second proviso shall be omitted;

(*b*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Nothing contained in this section shall apply to Economically Weaker Sections and filling up of vacancies for such Sections shall be in such manner as may be prescribed.".

Amendment of section 6.

4. In the principal Act, in section 6, for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the total percentage of reservation shall in no case exceed 85% of the available vacancies, excluding reservation for Economically Weaker Sections:".

Amendment of section 9.

5. In the principal Act, in section 9, in sub-section (*1*), for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the total percentage of reservation shall in no case exceed 85%, excluding reservation for Economically Weaker Sections:".

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2*nd June,* 2025/*Jyaistha* 12, 1947 *(Saka)*

THE LADAKH AUTONOMOUS HILL DEVELOPMENT COUNCILS (AMENDMENT) REGULATION, 2025

NO. 2 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Ladakh Autonomous Hill Development Councils Act, 1997.

In exercise of the powers conferred by article 240 of the Constitution read with sub-section (*2*) of section 58 of the Jammu and Kashmir Reorganisation Act, 2019, the President is pleased to promulgate the following Regulation made by her:— 34 of 2019.

1. (*1*) This Regulation may be called the Ladakh Autonomous Hill Development Councils (Amendment) Regulation, 2025. Short title and commencement.

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

Amendment of Act XXXI of 1997.

2. In section 4 of the Ladakh Autonomous Hill Development Councils Act, 1997, after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*1A*) Not less than one-third of the total number of seats in the Council shall be reserved for women and such seats may be allotted by rotation to different territorial constituencies.

(*1B*) The rotation of constituencies reserved for women referred to in sub-section (*1A*) shall be made on the basis of serial number allotted to each constituencies by notification in the Official Gazette.".

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2*nd June,* 2025/*Jyaistha* 12, 1947 *(Saka)*

THE LADAKH OFFICIAL LANGUAGES REGULATION, 2025

No. 3 of 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation to provide for the languages to be used for the official purposes of the Union territory of Ladakh and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution read with sub-section (*2*) of section 58 of the Jammu and Kashmir Reorganisation Act, 2019, the President is pleased to promulgate the following Regulation made by her:— 34 of 2019.

1. (*1*) This Regulation may be called the Ladakh Official Languages Regulation, 2025. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Ladakh.

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

Definitions.

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

(*a*) "Administrator" means the Administrator of the Union territory of Ladakh appointed by the President under article 239 of the Constitution;

(*b*) "Union territory" means the Union territory of Ladakh.

Official languages of Union territory.

3. With effect from such date as the Administrator may, by notification in the Official Gazette, appoint in this behalf, the English, Hindi, Urdu, Bhoti and Purgi languages shall be the official languages to be used for all or any of the official purposes of the Union territory:

Provided that the English language shall continue to be used for all the official purposes of the Union territory for which it was being used before the date of commencement of this Regulation.

Promotion and development of other languages.

4. (*1*) The Administrator may take such necessary steps as may be provided by rules to be made by him to strengthen the institutional mechanisms for the promotion and development of other languages in the Union territory and the establishment of the Academy of Art, Culture and languages.

(*2*) The institutional mechanisms referred to in sub-section (*1*) shall make special efforts for the promotion and development of other native languages of Ladakh: Shina (Dardic), Brokskat (Dardic), Balti and Ladakhi.

(*3*) Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament.

Regulation in addition to and not in derogation of any other law.

5. Save as otherwise provided, the provisions of this Regulation shall be in addition to and not in derogation of any other law for the time being in force in the Union territory.

Power to remove difficulties.

6. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Regulation, as may appear to it to be necessary or expedient, for removing difficulty:

Provided that no order shall be made after the expiry of a period of two years from the date of commencement of this Regulation.

(*2*) Every order made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2*nd June,* 2025/*Jyaistha* 12, 1947 *(Saka)*

THE LADAKH CIVIL SERVICES DECENTRALIZATION AND RECRUITMENT (AMENDMENT) REGULATION, 2025

NO. 4 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Jammu and Kashmir Civil Services Decentralization and Recruitment Act, 2010 *in its application to the Union territory of Ladakh.*

In exercise of the powers conferred by article 240 of the Constitution read with sub-section (*2*) of section 58 of the Jammu and Kashmir Reorganisation Act, 2019, the President is pleased to promulgate the following Regulation made by her:— 34 of 2019.

1. (*1*) This Regulation may be called the Ladakh Civil Services Decentralization and Recruitment (Amendment) Regulation, 2025. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Ladakh.

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

Construction of reference of certain expressions by certain other expressions.

2. Throughout the Jammu and Kashmir Civil Services Decentralization and Recruitment Act, 2010 (hereinafter referred to as the principal Act),— XVI of 2010.

(*a*) for the words "State of Jammu and Kashmir", wherever they occur, the words "Union territory of Ladakh" shall be substituted;

(*b*) for the words "Jammu and Kashmir", wherever they occur, the word "Ladakh" shall be substituted;

(*c*) for the word "Government", wherever it occurs, the word "Administration" shall be substituted;

(*d*) for the words "Government Gazette", wherever they occur, the words "Official Gazette of the Union territory of Ladakh" shall be substituted;

(*e*) for the words "State Cadre", wherever they occur, the words "Union territory Cadre" shall be substituted;

(*f*) the words ", Divisional", "or Divisional", "Divisional or", "or Division" and "or the Division", wherever they occur, shall be omitted;

(*g*) for the words "permanent resident of the State", wherever they occur, the words "domicile of the Union territory of Ladakh" shall be substituted.

Substitution of new section for section 2.

3. For section 2 of the principal Act, the following section shall be substituted, namely:—

Definitions.

'2. In this Regulation, unless the context otherwise requires,—

(*a*) "Administration" means the Administration of the Union territory of Ladakh;

(*b*) "Appellate Authority" means the Authority who is empowered to hear the appeals against the decision of the Competent Authority;

(*c*) "Competent Authority" means the Authority who is empowered to issue a domicile certificate;

(*d*) "District Cadre" means the cadre of a department in a district comprising all the posts whether executive, ministerial or technical, the basic pay of which does not exceed the basic pay for the post of Senior Assistant, but does not include the posts falling under the Union territory Cadre;

(*e*) "domicile" means the domicile as defined in section 3A of this Regulation;

(*f*) "domicile certificate" means the domicile certificate referred to in section 3B of this Regulation;

(*g*) "notification" means a notification published in the Official Gazette of the Union territory of Ladakh and the expression "notify" shall be construed accordingly;

(*h*) "prescribed" means prescribed by rules made by the Administration of the Union territory of Ladakh;

(*i*) "Union territory" means the Union territory of Ladakh;

(*j*) "Union territory Cadre" means the sanctioned strength of all Gazetted and non-Gazetted posts borne, on the establishment of the headquarter offices of all the departments having jurisdiction over the

entire Union territory, but does not include the posts borne on the District Cadre.'.

4. For section 3 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 3.

"3. The provisions of this Regulation shall apply to all the Gazetted and non-Gazetted posts borne on the establishment of any Department or Service of the Administration or a company under the control of Administration: Applications of this Regulation.

Provided that the provisions of this Regulation shall not apply to—

(*i*) the posts for which any special procedure is laid down under any law of the Union territory; and

(*ii*) such other posts as may be excluded from the operation of this Regulation by the notification issued by the Administration in this behalf from time to time.".

5. After section 3 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 3A and 3B.

"3A**.** (*1*) Any person who fulfils the following conditions shall be domicile of the Union territory for the purposes of appointment to any post under the Union territory or under a local or other authority (other than cantonment Board) within the Union territory, namely:— Domicile for purpose of appointment in any service to Union territory.

(*a*) who has resided for a period of fifteen years in the Union territory; or

(*b*) who has studied for a period of seven years and appeared in class 10th or 12th examination in an educational institution located in the Union territory.

(*2*) Notwithstanding anything contained in sub-section (*1*), the following persons shall be domicile under sub-section (*1*), namely:—

(*a*) children of those Central Government Officials, All India Services Officers, Officials of Public Sector Undertaking and Autonomous body of Central Government, Public Sector Banks, Officials of Statutory bodies, Officials of the Central Universities and recognised Research institutes of Central Government who shall have served in the Union territory for a total period of ten years;

(*b*) the children of parents who fulfils any of the conditions specified in sub-section (*1*); or

(*c*) the children of such residents of Union territory who resides outside the Union territory in connection with their employment or business or other professional or vocational reasons, but their parents fulfil any of the conditions specified in sub-section (*1*).

(*3*) Notwithstanding anything contained in sub-section (*1*), the spouse of a domicile shall also be deemed to be a domicile for the purposes of sub-section (*1*).

3B**.** (*1*) The Tehsildar within his territorial jurisdiction shall be the Competent Authority for issuance of domicile certificate: Issuance of domicile certificate.

Provided that the Administration of the Union territory may notify any other officer to be the Competent Authority for issuance of domicile certificate.

(*2*) The applicant may apply in such form and manner as may be prescribed to the Competent Authority who shall after due verification issue such certificate in such form as may be determined by the Competent Authority.

(*3*) Any person aggrieved by the decision of the Competent Authority may file an appeal before the concerned Deputy Commissioner who shall be the Appellate Authority for deciding the appeal, after providing an opportunity of being heard to the parties, within a period of sixty days from the date of receipt of appeal:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by a sufficient cause from preferring the appeal in the given time.".

Amendment of section 4.

6. In section 4 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), the posts borne on temporary organisations created for specified works or projects, other than the work charged establishment shall be treated as posts in the Union territory Cadre concerned for purposes of recruitment only.".

Amendment of section 5.

7. In section 5 of the principal Act,—

(*i*) for the words "State Service Selection Board", occurring at both the places, the words "Ladakh Subordinate Services Staff Selection Board" shall be substituted;

(*ii*) in sub-section (*1*), the proviso shall be omitted.

Omission of section 7.

8. Section 7 of the principal Act shall be omitted.

Omission of section 10.

9. Section 10 of the principal Act shall be omitted.

Amendment of section 11.

10. In section 11 of the principal Act,—

(*i*) for the word "Divisional", the word "District" shall be substituted;

(*ii*) sub-section (*2*) shall be omitted.

Insertion of new section 13A.

11. After section 13 of the principal Act, the following section shall be inserted, namely:—

Application of other laws not barred.

"13A**.** The provisions of this Regulation shall be in addition to and not in derogation of any other law relating to recruitment for the time being in force in the Union territory of Ladakh.".

Substitution of new section for section 14.

12. For section 14 of the principal Act, the following section shall be substituted, namely:—

Power to remove difficulties.

"14**.** (*1*) lf any difficulty arises in giving effect to the provisions of this Regulation, the Administration may by order published in the Official Gazette of Union territory of Ladakh, make such provisions not inconsistent with the provisions of this Regulation as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Regulation.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.".

13. For section 15 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 15.

"15. (*1*) The Administration may, by notification, make rules not inconsistent with the provisions of this Regulation for carrying out the purposes of this Regulation. Power to make rules.

(*2*) Any rule made under this Regulation shall, as soon as may be after it is made, be laid before each House of Parliament.".

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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PART II — Section 1
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 10*th November,* 2025/*Kartika* 19, 1947 *(Saka)*

THE ANDAMAN AND NICOBAR ISLANDS CO-OPERATIVE SOCIETIES (AMENDMENT) REGULATION, 2025

No. 5 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Andaman and Nicobar Islands Co-operative Societies Regulation, 1973.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Co-operative Societies (Amendment) Regulation, 2025.

(*2*) It extends to the whole of the Union territory of the Andaman and Nicobar Islands.

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

Substitution of new section for section 6.

2. For section 6 of the Andaman and Nicobar Islands Co-operative Societies Regulation, 1973 (hereinafter referred to as the principal Regulation), the following section shall be substituted, namely:— Reg. 3 of 1973.

Restriction on holding of shares.

"6. No member of a co-operative society, other than the Government, shall hold more than one-fifth of the total subscribed share capital of such society.".

Amendment of section 41.

3. In section 41 of the principal Regulation, for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that the rate of dividend, to be declared by the society, shall be decided in the General Body meeting, subject to allocation of reserve fund under this section and the Co-operative Education Fund under section 43.".

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

UPLOADED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110002
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असाधारण
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 17*th November,* 2025/*Kartika* 26, 1947 *(Saka)*

THE LAKSHADWEEP REGISTRATION OF SOCIETIES REGULATION, 2025

No. 6 of 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation to consolidate the law relating to the registration and regulation of societies in the Union territory of Lakshadweep for promotion of art, fine arts, charity, craft, culture, education, literature, philosophy, political education, religion, sports, science, any public or charitable purpose and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

CHAPTER I

Preliminary

1. (*1*) This Regulation may be called the Lakshadweep Registration of Societies Regulation, 2025. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Lakshadweep.

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

Definitions.

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

(*a*) "Administrator" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;

(*b*) "bye-laws" means the bye-laws of a society;

(*c*) "defunct society" means a society which is not carrying on any business or operation or has not filed its annual or other returns with the Registrar continuously for such period, as may be notified;

(*d*) "document" includes register of members, books of account, returns, annual returns, other statutory registers, summons, notice, requisition, order, other legal processes, whether issued or kept in pursuance of this Regulation or any other law for the time being in force in the Union territory of Lakshadweep;

(*e*) "elected member" means a member of a society who is duly elected as an office bearer of the Governing Body;

(*f*) "financial year" means the period commencing from the 1st day of April of a year and ending with the 31st day of March of the following year;

(*g*) "General Body" means the body of all members of a society;

(*h*) "Governing Body" means the Executive Committee or the Managing Committee constituted or elected by the members of the General Body and responsible for the management of day-to-day affairs of the society;

(*i*) "Government" means the Administration of the Union territory of Lakshadweep headed by the Administrator;

(*j*) "major" means a person who has completed the age of eighteen years;

(*k*) "member" means a person who fulfils the eligibility criteria for becoming a member of a society, as specified in this Regulation and has been admitted as a member of the society in accordance with its bye-laws;

(*l*) "Memorandum" means the Memorandum of Association of a society in accordance with the provisions of this Regulation;

(*m*) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(*n*) "office bearer" includes the President, Vice-President, Secretary, Joint Secretary, Manager, Treasurer or any other member of the Governing Body empowered under the bye-laws to give directions in regard to the conduct of the business of a society;

(*o*) "Official Gazette" means the Official Gazette of the Union territory of the Lakshadweep;

(*p*) "prescribed" means prescribed by rules made by the Administrator under this Regulation;

(*q*) "public notice" means a notice published in at least one or two newspapers widely circulating in the area, of which one shall be in vernacular language and the other shall be duly displayed on the notice board of the office of the Registrar;

(*r*) "Registrar" means the Registrar of societies appointed under sub-section (*2*) of section 4;

(*s*) "Registrar General" means the Registrar General appointed by the Government under sub-section (*1*) of section 4;

(*t*) "society" means a society duly registered under the provisions of this Regulation;

(*u*) "special resolution" means a resolution passed in a meeting of the General Body, in which at least forty per cent. of the members entitled to vote are present and the resolution is approved by three-fifths of the members so present and voting;

(*v*) "State Aided Society" means a Society which is in receipt of any recurring grant or financial aid from the Government or a local body or any of its entities to manage its facilities or institutions established in accordance with the objectives set out in its Memorandum or bye-laws and shall include a society where any one or more of its institution is receiving aid;

(*w*) "Union territory" means the Union territory of Lakshadweep.

CHAPTER II

AIMS AND OBJECTS OF SOCIETY

Aims and objects.

3. Any seven or more persons associated for—

(*i*) any literary, scientific or charitable purpose, including charitable societies, military orphan funds or societies established at several presidencies of India;

(*ii*) societies established for the promotion of science, literature or fine arts;

(*iii*) instruction;

(*iv*) the diffusion of useful knowledge or political education;

(*v*) the foundation or maintenance of libraries or reading rooms for general use among members or open to the public;

(*vi*) public museums and galleries of paintings and other works of art;

(*vii*) collections of natural history, mechanical and philosophical inventions;

(*viii*) instruments or designs;

(*ix*) the promotion of conservation and sustainable use of natural resources such as land, water, forests and wildlife; and

(*x*) the formation of welfare of associations of flats, tenements, condominiums or floor space owners,

by subscribing their names to a Memorandum and filing the same with the Registrar, form themselves into a society under this Regulation.

CHAPTER III

AUTHORITIES OF SOCIETY

Registrar General, other officers and their powers.

4. (*1*) The Administrator may, by an order published in the Official Gazette, appoint an officer, not below the rank of Joint Secretary to the Government of India as the Registrar General, who shall exercise such powers and perform such duties and functions, as are conferred upon him by or under this Regulation.

(*2*) The Registrar General may, by an order, appoint an officer of the Government at such level or cadre, as may be prescribed, as Registrar and other officers as Additional Registrar or Joint Registrar or Deputy Registrar or Assistant Registrar to assist the Registrar in the discharge of his functions and empower them to exercise such powers and perform such duties and functions, as may be assigned to them, from time to time.

(*3*) The officers appointed under this section shall exercise powers, discharge duties and perform functions under the overall administrative control and superintendence of the Government.

CHAPTER IV

REGISTRATION OF SOCIETY

Application for registration of society and society not to be registered with identical names.

5. (*1*) An application in such form, accompanied by such fee, containing such particulars, in accordance with such procedure, as may be prescribed for getting approval of the name of the society as well as for its registration, shall be filed with the Registrar, in whose jurisdiction the registered office of the society is situated, along with the Memorandum and the bye-laws prepared in accordance with the provisions of this Regulation:

Provided that if the proposed name is identical with that by which any other existing society has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public, the Registrar shall refuse to register the name.

(*2*) No society shall be registered with a name which contravenes the provisions of the Emblems and Names (Prevention of the Improper Use) Act, 1950. 12 of 1950.

(*3*) No society shall be registered without the previous approval of the Government in writing, with a name which contains any of the following expressions, namely:—

(*i*) Co-operative or Land Development;

(*ii*) Reserve Bank;

(*iii*) Union or State or National or International or Universal or any word expressing or implying the sanction, approval or patronage of the Central Government or any State Government or Union territory Administration;

(*iv*) Municipal or Panchayat or Chartered; and

(*v*) Investigation Bureau or any word which suggests or is calculated to suggest connection with any municipality, statutory, investigating or intelligence agency or other local authority.

Certificate of registration.

6. (*1*) After scrutiny of the documents presented before the Registrar, if he is satisfied that the applicant has complied with all the provisions of this Regulation and the rules made thereunder, he shall enter the particulars of the society registered, in a register maintained by him in physical or electronic form and issue a certificate of registration in such form and manner as may be prescribed.

Explanation.—For the purposes of this sub-section, the expression "electronic form" shall have the same meaning as assigned to it in clause (*r*) of sub-section (*1*) of section 2 of the Information Technology Act, 2000. 21 of 2000.

(*2*) If the Registrar refuses to register a society, he shall state the reasons therefor and communicate the same to the applicant, within such period as may be prescribed in this behalf.

(*3*) Every society registered shall be assigned a distinct registration number.

(*4*) Every existing society shall apply in such form as may be prescribed to the Registrar for obtaining a new registration number within a period of one year or such further period, as may be notified by the Government and if the new number is not applied within one year, then number shall be applied along with such fee, as may be prescribed, within a period of six months and if the society fails to move an application for new number within such extended period, the registration may be cancelled.

(*5*) A certificate of registration shall be the conclusive proof that the society therein mentioned is duly registered unless proved otherwise.

(*6*) Every society registered under this Regulation shall prominently display its name along with registration number outside its registered office or any other place where it is carrying on its business or operations, and shall have a seal with its name engraved thereon and the name of society, registration number and its registered office shall be mentioned in all documents executed in its favour or on its behalf.

(*7*) Every society registered under this Regulation shall be a legal entity, by the name in which it has been registered, having perpetual succession and a common seal, with the power, subject to the provisions of this Regulation, to acquire, hold and dispose of property, both movable and immovable, and to contract and to institute and defend suits and other legal proceedings and to do all other things necessary for the furtherance of the aims of the society for which it has been registered.

Change of name and address.

7. (*1*) Every society shall have a registered office to which all communications and notices shall be addressed.

(*2*) The information about every change in the name and address of the society shall be communicated to the Registrar within a period of thirty days from the date of change, who shall record the same in the certificate of registration and the register of societies.

(*3*) A change of name shall not affect the rights and liabilities of the society or any legal proceedings by or against it.

CHAPTER V

MEMBERSHIP

Eligibility conditions for becoming member.

8. A person shall be eligible to become a member of society, if he—

(*i*) is a major on the date of admission;

(*ii*) subscribes to the aims and objects of the society;

(*iii*) has deposited the membership fee as provided in the bye-laws; and

(*iv*) is not an insolvent or of unsound mind or have not been convicted of an offence involving moral turpitude, punishable with imprisonment of one year or more.

Register of members.

9. (*1*) Every society shall maintain a register of its members at its registered office and shall enter therein the particulars of admission or removal of member within fifteen days of the admission or removal or the cessation of any membership, as the case may be, in such manner as may be prescribed.

(*2*) A copy of the register of members maintained by the society, if not filed at the time of registration, shall be filed with the Registrar within a period of sixty days from the date of registration.

(*3*) The society shall file an updated list of members, duly certified by the authorised officer of the society, separately showing the inclusions and deletions, if any, every year within a period of sixty days of the close of the financial year in the office of the Registrar, in such manner as may be prescribed.

(*4*) The register of members shall be kept open at the registered office of the society and remain accessible to any officer of the office of Registrar, Registrar General or any member of the society during the business hours.

(*5*) Every person admitted as a member on the date of notification of elections, subject to his not being in arrears of membership fees or annual subscription, for a period as may be prescribed, shall have the right to exercise his vote in person.

(*6*) Every member shall have the right to inspect the books of account, books containing the minutes of proceedings of meetings on any working day during business hours after giving reasonable notice.

Cessation of membership.

10. A member admitted to a society shall cease to be so in the following circumstances, namely:—

(*i*) upon submission and acceptance of his resignation;

(*ii*) if he ceases to fulfil the eligibility conditions for being admitted as a member as mentioned under section 8;

(*iii*) upon his failure to pay membership fee or annual subscription fee continuously for such period, as may be determined by the Registrar General; or

(*iv*) upon the death of a member:

Provided that in case of a housing society or a resident welfare association registered as a society for the operation, management and maintenance of facilities for the residents or civic amenities of any defined area, the nominee or the legal heir shall be enrolled as a member subject to fulfilment of qualifications as laid down in the bye-laws and the provisions of this Regulation:

Provided further that a partnership firm, whether registered or not, or a body corporate of whatever description, shall not be eligible to be a member of a society:

Provided also that there shall not be any bar for a partner as defined in section 4 of the Indian Partnership Act, 1932 or a member or shareholder of a body corporate to become a member in his individual capacity. 9 of 1932.

CHAPTER VI

MEMORANDUM AND BYE-LAWS OF SOCIETY

Memorandum.

11. (*1*) The Memorandum shall state,—

(*i*) the name of the society;

(*ii*) the aims and objects of the society;

(*iii*) the names, addresses and occupations of the members of the first Governing Body to whom the management of its affairs is entrusted under the bye-laws; and

(*iv*) the place and the island in which the registered office of the society is situated.

(*2*) The Memorandum and bye-laws, certified to be a true copy by not less than three members shall be filed with the Registrar at the time of registration of society.

Amendment in Memorandum and bye-laws.

12. (*1*) A society may, by a special resolution, amend the provisions of its Memorandum with respect to,—

(*i*) change in the name of society; or

(*ii*) change in the aims and objects of the society as permissible under this Regulation.

(*2*) A society may amend its bye-laws by a special resolution.

(*3*) Any special resolution passed under sub-section (*1*) or sub-section (*2*) shall be filed with the Registrar within thirty days from the date of approval thereof and the Registrar may, if he is satisfied that the same is in accordance with the provisions of this Regulation and the rules made thereunder, register such change and any such change shall have no effect until it has been so registered.

(*4*) If the Registrar refuses to register a change in the Memorandum or the bye-laws under sub-section (*3*), he shall communicate the reasons therefor in writing within a period of sixty days of filing of the special resolution by the society, and the special resolution passed by the society in that case shall have no effect:

Provided that if the Registrar fails to communicate the reasons within sixty days, the special resolution shall be deemed to have been registered by him.

(*5*) Notwithstanding anything contained in this Regulation or the rules made thereunder, if the Registrar considers that an amendment of the Memorandum or bye-laws is necessary or desirable to bring the same in conformity with the provisions of this Regulation or rules made thereunder, he may, by an order in writing, direct the society to make such amendment within such time, as may be specified, in such order and the same shall be final and binding on the society and its members.

CHAPTER VII

GENERAL BODY AND GOVERNING BODY

General Body.

13. (*1*) The total number of persons admitted as members of a society in accordance with the provisions of this Regulation shall constitute its General Body.

(*2*) Every society shall provide in its bye-laws the composition of its General Body, its powers, functions and duties, the periodicity of and the quorum for the meetings, the manner of recording of its proceedings and all other matters relating to the affairs of such General Body.

(*3*) The quorum for the meeting of the General Body shall not be less than forty per cent. of the total members entitled to vote and present in person, subject to a minimum of four members.

(*4*) Every member shall have one vote and shall cast his vote in person or digitally.

Meetings of General Body.

14. (*1*) An annual general meeting of the General Body, may be held as and when required:

Provided that at least one meeting of the General Body shall be held in every financial year in which the annual accounts of the society, duly audited, shall be placed before the members for approval.

(*2*) A clear notice of fourteen days of every meeting shall be given to the members of the General Body, as the case may be, before the date appointed for the meeting and a copy of such notice along with the business to be transacted during the general meeting shall also be endorsed to the Registrar.

Governing Body, office bearers and powers, functions and duties.

15. (*1*) The members of the General Body shall elect the Governing Body (by whatever name called), consisting of not less than three and not exceeding twenty-one members.

(*2*) The office bearers shall comprise of the President, Secretary and Treasurer as a minimum, and other office bearers, as provided under the bye-laws.

(*3*) The society shall file the list of the elected office bearers with the Registrar within a period of thirty days of holding of the elections for the Governing Body.

(*4*) The tenure of the Governing Body shall not exceed three years and the matters pertaining to re-election of any office bearer shall be regulated in accordance with the bye-laws.

(*5*) Every society shall maintain a register showing the names, addresses and occupation of the persons elected as office bearers and shall file the same with the Registrar,—

(*i*) a copy of the register within a period of thirty days from the date of election of the office bearers;

(*ii*) a notice of every change in the office bearer within a period of thirty days from the date of such change; and

(*iii*) the details of the office bearers along with the annual return.

(*6*) The constitution of the Governing Body elected for the first time or thereafter, shall be valid upon approval thereof by the Registrar and its tenure shall commence from the date of such approval.

(*7*) The Registrar shall communicate its approval of constitution of the Governing Body and other matters within a period of thirty days from the date of receipt of such application for approval, failing which it shall be deemed to be approved.

Meeting of Governing Body.

16. (*1*) The meetings of the Governing Body may be held as and when required:

Provided that the Governing Body shall meet once every quarter and hold at least four meetings in a financial year.

(*2*) A clear notice of three days of every such meeting shall be given by the Secretary of the Governing Body to the office bearers before the date appointed for the meeting:

Provided that the Governing Body may meet at shorter notice, wherever so required, with the consent of at least fifty per cent. of its members.

Record of proceedings.

17. (*1*) The society shall maintain record of the minutes of proceedings of every meeting of the General Body and Governing Body in the proceedings book separately maintained for this purpose and such minutes shall be signed by the President and Secretary of the society.

(*2*) In case the minutes of the meeting are not signed by the President for any reasons, whatsoever, the Governing Body may authorise any of the office bearer to sign such minutes.

(*3*) The minutes of every meeting of the Governing Body or the General Body, as the case may be, shall be placed for confirmation in the succeeding meeting of such body.

(*4*) Any resolution passed by the Governing Body or the General Body during any of its meetings which is not consistent with the provisions of this Regulation or the rules made thereunder or the bye-laws, shall be invalid.

(*5*) No act or proceedings of a society or any of its office bearer shall be deemed to be invalid merely on the ground of any vacancy or defect in the constitution of the society.

Supply of balance-sheet or statement of accounts.

18. Every society shall supply a copy of the balance-sheet or a statement of accounts together with the auditor's report to every member of the General Body along with the notice of the annual general meeting, if these documents have not been already placed on the website of the society.

CHAPTER VIII

PROPERTY AND FUNDS OF SOCIETIES

Acquisition of movable and immovable property.

19. A society registered under this Regulation may acquire movable or immovable property on free-hold or lease basis, from out of its funds or donations or grants or loans obtained, in accordance with its bye-laws.

Property how vested.

20. All property, movable and immovable belonging to a society, whether acquired before or after its registration, if not vested in the trustees, shall vest in the society, and any such property may be referred to as the property of such society in any legal proceedings:

Provided that in case of a housing society or a resident welfare association registered as a society for the operation, management and maintenance of facilities for the residents or civic amenities of any defined area, the property may vest in the members or their successor-in-interest who have contributed for acquisition of such property:

Provided further that where a society accepts a gift or donation of money or property of any other kind from any person or institution for a specific purpose, it shall use the money or such property gifted or donated or any part thereof only for the purpose for which it has been so gifted or donated and for no other purpose.

Restrictions on sale or transfer of immovable property.

21. (*1*) A society registered under this Regulation shall be competent to sell, transfer or alienate any of its immovable properties subject to the following, namely:—

(*a*) in case the immovable property is acquired from the Government or any of its instrumentalities or a municipal body or District panchayat or gram panchayat or any other authority, with the prior permission of that Government in writing;

(*b*) in case the immovable property is acquired by means of a conditional gift or conditional donation from any source, in accordance with such conditions, subject to the prior permission of donor or his authorised representative, and in case the donor is not alive and has left no such authorised representative, with the prior permission of the Registrar in writing;

(*c*) any other immovable property acquired by the society from and out of its own resources or funds or borrowings, with the prior permission of the General Body, by a special resolution.

(*2*) The Governing Body shall determine the reserve price of any such immovable asset, which shall not be less than the applicable collector rates, before its disposal, so as to ensure that it is not sold or transferred at an undervalued consideration.

(*3*) The proceeds from the transfer or sale of any immovable property of the society, conducted in accordance with the provisions of this section, shall be immediately deposited in the account of the society.

(*4*) Where any office bearer of the Governing Body contravenes the provisions of sub-sections (*1*), (*2*) and (*3*), the Registrar shall be competent to take any or all of the following actions, namely:—

(*i*) where the amount of consideration is not deposited in the account of the society within three working days, direct such office bearer to pay interest out of his own pocket at the rate of twenty-four per cent. for the period it remained in his possession but such period shall in no case be more than thirty days;

(*ii*) where the immovable asset has been sold or transferred at an undervalued price, recover the difference assessed on the basis of collector rates from the erring office bearer and deposit the same in the society's account; and

(*iii*) where the immovable asset has been disposed of without the permission as required under sub-section (*1*) or without complying with the conditions applicable, recover the amount, along with any additional amount as assessed on the basis of collector rates, from the concerned office bearer and deposit the same with the allotting authority.

(*5*) Where the recovery of any amount is involved from any person in the course of enforcement of sub-section (*4*), and the persons concerned do not deposit the said amount within the period allowed, the Registrar shall be competent to recover such amount as arrears of land revenue.

(*6*) Nothing under this section shall absolve the office bearer from criminal action.

Investment of funds.

22. Every society, to such extent and under such conditions, as may be permitted under its bye-laws invest or deposit any portion of its funds not immediately required,—

(*i*) in immovable properties;

(*ii*) in securities of the Government or in National Savings Certificates or other securities of the Government of India;

(*iii*) in the Post Office Savings Banks Account; or

(*iv*) in a special account opened by the society for the purpose in—

(*a*) a Scheduled Bank as authorised or notified by the Reserve Bank of India;

(*b*) a Co-operative Bank situated in the Union territory; or

(*c*) such other mode of investment as may be notified.

CHAPTER IX

ACCOUNTS, AUDIT AND FILING OF DOCUMENTS

Books of account.

23. (*1*) Every society shall keep proper books of account such as cash book, ledger, and the like as required by income-tax laws or the books as per standards laid down by the Institute of Chartered Accountants of India, at its head office or such other places as may be determined by the Registrar General with respect to,—

(*i*) all sums of money received and expended by the society; and

(*ii*) the assets and liabilities of the society.

(*2*) The accounts, returns and registers shall be verified and signed by at least two office bearers, authorised by the Governing Body.

(*3*) The books of account shall be open to inspection during the business hours by the Registrar General, Registrar or any officer authorised by them.

Audit.

24. (*1*) Every society shall get its annual accounts audited from an auditor who is a member of the Institute of Chartered Accountants of India, constituted under the Chartered Accountants Act, 1949 or the auditor of the Union territory, Co-operative Department. 38 of 1949.

(*2*) The auditor shall not be a member of the Governing Body or family member of any of the office bearer.

Annual and other returns.

25. (*1*) Every society shall file the following returns in the prescribed form, with the Registrar within thirty days of holding the annual general meeting,—

(*i*) a list of the members duly certified by the President and the Secretary, as on the 31st March of the year, separately showing the deletions and additions during the previous year;

(*ii*) a list of the office bearers along with their names, addresses and occupations separately showing the deletions and additions during the previous year, if any;

(*iii*) an annual report on the working of the society by the Governing Body duly certified by the President and Secretary;

(*iv*) a copy each of the balance-sheet, receipt expenditure statement and the auditor's report duly certified by the auditor; and

(*v*) a copy of the special resolution, if any passed.

(*2*) Any society which is required to submit any statement or returns specified in section 23 within the time specified and fails to do so, the Registrar may depute an officer to prepare the necessary statement or return:

Provided that in such cases, it shall be competent for the Registrar to determine, with reference to the time involved in the work and the emoluments of the officer deputed to do it, the charges which the society concerned shall pay to the Registrar General or Registrar and to direct its recovery from the society.

CHAPTER X

AMALGAMATION AND DIVISION

Amalgamation or division of societies.

26. (*1*) Any two or more societies, after passing special resolutions for amalgamating with each other, shall move an application along with copy of resolutions, in such form as may be prescribed for obtaining approval of the Registrar and after getting the approval, shall amalgamate together as one society.

(*2*) Any society, after passing special resolution for division of a society, shall move an application in such form as may be prescribed along with the copy of resolution, for obtaining approval of the Registrar and after getting the approval, shall stand divided.

(*3*) The resolution shall contain proposals for the division of the assets and liabilities of the society among the new societies, relationship of the parent society with the divided societies, if any, and may specify the areas of operation of and the members who may constitute each of the new societies:

Provided that before division, the society shall settle all the claims and liabilities or divide the assets and liabilities amongst the societies on *pro-rata* basis.

(*4*) No amalgamation or division of a society under sub-section (*1*) or sub-section (*2*), as the case may be, shall have any effect until and unless the new society or societies is duly registered.

(*5*) Upon the registration of the new amalgamated society or the divided societies, as the case may be, the assets and liabilities of the original registered society or societies shall, subject to the provisions of this section, be transferred to and become the assets and liabilities of the new society or societies in the manner specified in the special resolution.

CHAPTER XI

INQUIRY AND SUPERSESSION OF GOVERNING BODY

Powers to call for information or explanation.

27. (*1*) The Registrar General or the Registrar may, by written order, require any society to furnish in writing such information or document or explanation as provided in the order within such time, not being less than two weeks from the date of receipt of such order.

(*2*) On receipt of the order referred to in sub-section (*1*), it shall be the duty of the society to furnish such information or documents or explanation.

Powers to seize records, etc.

28. (*1*) Where the Registrar General or the Registrar is satisfied that,—

(*i*) the records, registers or the books of account are likely to be tampered with or destroyed and the funds and the property are likely to be misappropriated or misapplied;

(*ii*) the Governing Body is reconstituted at a general meeting and the outgoing members of the Governing Body refused, to hand over charge of the records and property of the society to those entitled to receive such charge; or

(*iii*) the office bearers, where the elections of the Governing Body have not been held by the due date, are likely to misuse such documents, funds, records or are reluctant to hand over the records to an *ad-hoc* Committee or the administrator appointed for managing the affairs of the society, as an interim measure,

he may issue an order directing a person duly authorised by him in writing to seize and take possession of such documents, funds, records and property whereupon the office bearers responsible for custody of such documents, record, funds and property shall give delivery thereof to the person so authorised.

Explanation.—For the purposes of this clause, the expression "due date" means to the date on which the term of a Governing Body of a society expires and by which the elections of the successor body should be completed.

(*2*) In order to secure compliance of the order under sub-section (*1*), the Registrar may take or cause to be taken such steps and use or cause to be used such minimum force, including recourse to police force, as may deem appropriate.

Power to inquire.

29. (*1*) Where on the information received or gathered under section 27 or on the application of a majority of the office bearers or on the application of not less than one-third of the members of the General Body, as the case may be, or, if so moved by the Government or District Collector or the Registrar General or Registrar is of the opinion that the affairs of a society are being so conducted as to defeat the aims and objects of the society or its Governing Body is guilty of mismanaging its affairs or of any breach of fiduciary or other like obligations or to defraud its creditors, he may, either himself or by any person authorised by him in that behalf, hold an inquiry into the affairs of the society.

(*2*) An application to the Registrar General or Registrar under sub-section (*1*) shall be supported by such evidence, as he may require for the purpose of showing that the applicant has good reason for applying for an inquiry.

(*3*) The Registrar General or the Registrar may require the applicants to furnish such security as he thinks fit as the cost of the proposed inquiry before the inquiry is ordered.

(*4*) All expenses incidental or preliminary to the inquiry shall, where such inquiry is held,—

(*a*) on application, be defrayed by the applicants thereof or out of the assets of the society or by the members of the society, in such proportion as the Registrar may, by an order in writing direct; and

(*b*) on a reference from the District Collector of the Union territory or the Registrar be defrayed out of the assets of the society and shall be recoverable as arrears of land revenue.

(*5*) A person holding an inquiry shall have at all reasonable times, free access to all the documents and shall have power to call upon any office bearer to produce any of the document, as he may direct.

(*6*) It shall be the duty of all office bearers, who were or are holding office, to furnish to the District Collector or the Inquiry Officer with all the information or documents in their possession.

(*7*) A person holding an inquiry may summon and examine any person on oath who, he has reason to believe, has knowledge of any affairs of the society and may summon any person to produce any books of account or documents belonging to him or in his custody, if the person holding the inquiry has reason to believe that such books of account or documents contain any entries relating to transactions of the society.

(*8*) A person holding an inquiry may, if in his opinion it is necessary for the purpose of inquiry, seize any or all the documents:

Provided that any person from whose custody such documents are seized shall be entitled to a receipt thereof and make copies thereof.

(*9*) If the inquiry is held by a person, other than the Registrar then he shall send the report to the Registrar along with his recommendations:

Provided that if such inquiry is held by the Registrar himself, he shall forward the report to the Registrar General along with his recommendations.

(*10*) The inquiry report shall be communicated to the society and the applicants, if any.

Action on inquiry report.

30. The Registrar shall consider the inquiry report along with the recommendations of the person holding inquiry, if any, and take any of the following action, namely:—

(*i*) where no irregularities, whatsoever, of procedural or material nature, are found to have been committed by the Governing Body, he shall order closure of the inquiry along with information thereof to the society and complainants, if any;

(*ii*) where the irregularities or violations committed by the society are found to be of procedural nature, which are rectifiable, he shall direct the society to take recourse to such corrective measures within such time, as he may deem appropriate; or

(*iii*) where the irregularities or violations committed by the society are found to be of a serious or material nature, he shall pass any other appropriate order to meet the ends of justice.

Supersession of Governing Body and appointment of Officer.

31. (*1*) Where, based on inspection, inquiry or audit under this Regulation, the Registrar submits a report or recommendation indicating that the Governing Body or a society is not functioning in accordance with the provisions of this Regulation or is acting against the interest of its members, the Registrar shall forward such report or recommendation to the Registrar General.

(*2*) Upon receipt of the report, if the Registrar General is of the opinion that a *prima facie* case is made out for supersession of the Governing Body, he shall issue a show cause notice indicating the proposed action, consider the response of the society, and if so requested, provide an opportunity of hearing, before passing appropriate order.

(*3*) The Registrar General, after considering the reply, shall pass an order and may appoint an Officer to manage the affairs of the society with such directions as deemed appropriate and the orders passed by the Registrar General in this behalf shall be final.

(*4*) The Officer so appointed under sub-section (*2*), shall be a Group "B" Officer or of equivalent rank in the service of the Government or any statutory authority or such person who may have retired from a Group "B" or equivalent post from the Government or the Central Government or a statutory authority.

(*5*) Where a retired person is appointed as the Officer, the Registrar General may fix the honorarium or remuneration to be paid to the Officer during the course of his appointment at the prescribed rates and direct such expenditure to be defrayed from the funds of the society.

(*6*) The Officer appointed under sub-section (*3*) may hold office for a period which shall not exceed one year in the first instance, but whose term may be extended for such further period, as considered necessary, subject to the same not exceeding three years in total.

(*7*) On the appointment of the Officer, the Governing Body shall cease to exercise any powers and perform and discharge any functions or duties conferred or imposed on it under this Regulation or the bye-laws.

(*8*) The Officer shall exercise all the powers of the Governing Body and perform all such functions or duties during the course of his appointment as provided in the bye-laws, subject to any directions from the Registrar General.

(*9*) The Officer may, before the expiry of his term, take necessary action to hold the election of the Governing Body, if so required.

(*10*) If the Officer is, for reasons beyond his control, not able to hold the election of the Governing Body or fails to convene a meeting of the General Body, as the case may be, or in spite of such meeting having been convened, the General Body fails to elect the Governing Body, the Officer shall forthwith send a report to the Registrar who may pass such orders, as may be considered necessary or expedient, either extending the term of appointment of the Officer for a further period or, if satisfied that public interest so necessitates, for the dissolution of the society.

(*11*) The Registrar may, if he thinks appropriate, appoint a committee to advise and assist the Officer so appointed for exercise of the powers and discharge of the duties and functions conferred or imposed on him under this Regulation.

(*12*) Where an order of dissolution is passed under sub-section (*10*), further action shall be taken in accordance with the provisions of this Regulation.

(*13*) The members of the committee referred to in sub-section (*11*) shall have such qualifications, as may be prescribed and shall hold the office during the pleasure of the Registrar.

CHAPTER XII

SUSPENSION, CANCELLATION AND DISSOLUTION

Removal of defunct society and cancellation of registration.

32. (*1*) The Registrar, if he has reasonable cause to believe that a society is defunct and is not carrying on business or operations, shall issue a show cause notice to such society, at its registered office enquiring as to whether it is carrying on its business or operations and directing them to file such documents or returns, within a period of ninety days, from the date of issuance of notice.

(*2*) Where the defunct society responds to such notice within specified period and submits the requisite documents or informs along with evidence that it is carrying on business or operations, the Registrar shall, after due verification of records, pass an appropriate order.

(*3*) If the Registrar receives a reply from the defunct society to the effect that it is not carrying on any business or operations, he may direct the society to convene a meeting of its General Body and pass a special resolution for its dissolution after settling all its liabilities and thereafter apply for dissolution of the society, whereupon it shall be incumbent upon such society to carry out such directions, within specified period.

(*4*) Where the Registrar does not receive any reply within specified period, he shall cause a public notice to be issued stating that on the expiration of such period as may be specified in such notice, the registration of such defunct society shall be suspended.

(*5*) If no response is received from the defunct society, its member, creditor or claimant within the specified period, the Registrar shall order suspension of registration of such society and after passing of such order, the society shall not be competent to carry on any business.

(*6*) An order under sub-section (*5*) suspending the registration of the society shall be notified through a public notice for the information of general public.

(*7*) The society, member, creditor or claimant aggrieved with such suspension, may, within a period of three months from the date of order of suspension, submit a representation to the Registrar.

(*8*) The Registrar, on being satisfied that the society at the time of its suspension, was carrying on business or operations or otherwise and it is just and equitable that the name of the society be restored to the register, may revoke the suspension.

(*9*) The society whose registration is restored shall be deemed to have continued in existence, as if its registration had not been suspended.

(*10*) No claims, whatsoever, shall be valid and entertained against a society on expiry of a period of three months from the date of suspension of its registration.

(*11*) If no representation against the suspension order is received within a period of three months from the date of suspension of registration, the Registrar may, unless contrary is shown, strike off the name of the society from the register and cancel its registration.

Cancellation of registration of society with no assets and liabilities.

33. A society, which has no assets or liabilities to its account and is not desirous of carrying on with its business or operations, may, after passing a special resolution, apply for cancellation of its registration to the Registrar and the Registrar shall, after giving a public notice of not less than ninety days inviting objections, strike out its name from the register of societies, after considering objections, if any.

Cancellation of registration upon inquiry.

34. (*1*) The Registrar may, if he is satisfied,—

(*i*) that the society has contravened any of the provisions of this Regulation or the rules made thereunder;

(*ii*) that the society is insolvent;

(*iii*) that the business of any such society is conducted fraudulently or not in accordance with its bye-laws or the aims and objects specified in its Memorandum; or

(*iv*) that it is carrying on any unlawful activity or allowing unlawful activity to be carried on in the premises under its control,

he may order an inquiry to be conducted by any other officer authorised by him.

(*2*) On receipt of inquiry report, the Registrar may, give a show cause notice to the society specifying briefly the grounds of the proposed cancellation.

(*3*) A public notice inviting objections shall also be published after giving an opportunity to the society and after issuing public notice inviting objections, as to why the registration of the society be not cancelled and after considering the objections filed by society and public, the Registrar may cancel the registration.

Explanation.—For the removal of doubts, it is hereby clarified that, an activity shall be deemed to be unlawful if such activity is an offence punishable under any provision of law, for the time being in force in the Union territory.

Effect of cancellation of registration.

35. When the registration of a society is cancelled, the society shall forthwith cease to carry on its business, except in so far as it may be required for the beneficial winding up of its affairs, for which purpose it shall pass a special resolution and dissolve itself in the manner as provided in this Regulation:

Provided that the liability of office bearer shall continue and may be enforced as if the registration of society had not been cancelled.

Procedure on cancellation of registration.

36. (*1*) Where the registration of a society is cancelled, the Registrar shall—

(*i*) direct the society to complete the process of its dissolution by passing a special resolution, collect all its receivables and settle all its liabilities, provide the details of any of its assets left over after settlement of the liabilities and submit a proposal for transfer of its left-over assets to any other society in existence with identical aims and objects;

(*ii*) assess the credentials of a society to whom any such assets are proposed to be transferred by the society under clause (*i*) and may either approve such proposal or direct the society to place such assets at the disposal of the District Collector;

(*iii*) constitute a committee of members of such society to carry out the process of dissolution of the society where there is no Governing Body or General Body to carry out the directions under clause (*i*);

(*iv*) be competent to complete the dissolution of the affairs of the society of his own or by appointing any of his subordinates to do the needful where it is not found feasible to constitute a committee of members of such society and in such case the Registrar shall associate any two members from any other society in existence for this purpose.

(*2*) If on dissolution and after settlement of all the liabilities, a society is left with any movable or immovable assets, the Registrar shall, in the first instance, make efforts to transfer all such assets to any other society in existence with identical aims and objects in operation against a proper receipt, failing which, all such assets shall vest in the custody of the District Collector.

(*3*) Where any assets are placed at the disposal of the District Collector, he may either direct the transfer thereof to a society in operation with identical aims and objects or use such assets preferably for the same purpose or for any other public purpose.

Dissolution by special resolution.

37. (*1*) A society may resolve to dissolve itself by passing a special resolution in a meeting of the General Body convened for the purpose.

(*2*) On passing of the special resolution under sub-section (*1*), the Governing Body shall take all necessary steps for settlement of all claims and liabilities, as it may consider appropriate in accordance with its bye-laws and if there are no bye-laws, in accordance with the provisions of this Regulation.

(*3*) If any dispute arises amongst the members of the society, the Governing Body, or the special committee, regarding the winding up of the affairs of the society, it shall be referred to the Registrar for such directions, as he may consider appropriate:

Provided that the special resolution for dissolution of the society shall not be deemed to be a matter in dispute.

(*4*) If the Central Government or Government or any of its instrumentalities is a member of or a contributory to or otherwise interested in any society, such society shall not be dissolved without the consent of the Central Government or Government, as the case may be.

(*5*) After completion of all necessary formalities, the Governing Body shall send a report to the Registrar, mentioning about the surplus assets, if any.

(*6*) The Registrar shall thereupon cause a public notice issued at the expense of the society inviting objections for dissolution of society from any person interested in the affairs of such society within the period specified in the notice, which shall in no case be less than three months from the date of notice.

(*7*) If no objection is received from any claimant, creditor or member of the society within three months from the date of issue of such public notice, and after the surplus assets, if any, have been disposed of under section 39, the Registrar shall make an order confirming the dissolution and thereupon the society shall stand dissolved and the Registrar shall record the order of dissolution in the register maintained in his office and strike off the name of the society from such register.

(*8*) If any objection is received from any claimant or creditor or member or any other interested person within the period mentioned in sub-section (*7*), the Registrar shall not make an order confirming the dissolution of the society unless he is satisfied that the relevant claim or liability have been duly settled and the surplus assets, if any, have been disposed of as provided in this Regulation.

Dissolution and winding up by Registrar.

38. (*1*) Where the registration of a society is cancelled and it is found to be fit for dissolution under section 32 or where the Government consents to dissolve a society under section 37, the Registrar General or the Registrar, as the case may be, shall order dissolution of such society in accordance with the procedure specified in this Regulation.

(*2*) Upon dissolution of a society under sub-section (*1*), the Registrar General or the Registrar, as the case may be, shall take action for winding up the affairs of the dissolved society in accordance with the provisions contained in this Regulation.

Disposal of assets.

39. (*1*) Notwithstanding anything contained in section 36, after the settlement of claims and liabilities of society, where any surplus assets are left, such assets shall not be paid to or distributed amongst the members of the society, but shall be taken over and vest in the Government:

Provided that in case of a housing society or a resident welfare association is registered as a society, the operation, management and maintenance of facilities for the residents or civic amenities of any defined area, the successor-in-interest shall step in the shoes of original member, subject to fulfilment of qualifications as laid down in the bye-laws of the society and the provisions of this Regulation.

(*2*) The Government shall place such assets at the disposal of the District Collector, who may,—

(*i*) in the first instance identify any other society in operation with identical aims and objects and transfer such assets to such society;

(*ii*) use such assets, preferably for the purpose for which such assets were created; or

(*iii*) for any other public purpose, as deemed appropriate.

(*3*) The records of accounts shall be maintained for a period of three years from the date of dissolution and in case any matter pertaining to any such society is pending before any court, such records shall be maintained till the final disposal of such matter by the competent court.

CHAPTER XIII

OFFENCES AND PENALTIES

Penalties for non-compliance.

40. If a society fails to comply with any of the provisions of this Regulation or contravenes any of the provisions thereof, then the society in default shall be liable to penalty which may extend up to two thousand rupees, and in case of a continuing default or contravention, with penalty which may extend to one hundred rupees for each day during which such default or contravention continues.

Registrar to recover cost from society.

41. Where any society fails to rectify the defects directed by the Registrar and where no appeal has been made to the Registrar General under sub-section (*1*) of section 49 or where such appeal has been made and the Registrar General has not annulled, reversed or modified the order, the Registrar may take steps to have the defects rectified and may recover the cost, which were incurred for rectification of such defects from the officers of the society, who, in his opinion have failed to rectify the defects.

Penalty for falsifying any document.

42. If an office bearer or any employee of the society knowingly or intentionally makes or causes to be made any false entry in, or any omission from any register, account, balance-sheet, or other document, required to be maintained by a society under this Regulation, he shall be liable to penalty which may extend to five thousand rupees and may be removed from the membership of the society.

Penalty for furnishing false information or disobeying summons, requisition or other order or direction.

43. If any office bearer knowingly or intentionally makes a false return or furnishes false information or wilfully or without any reasonable reason, disobeys any summons, requisition, or other lawful order or direction issued under the provisions of this Regulation or withholds or fails to furnish any information lawfully required from him by the Registrar or Registrar General or person authorised in this behalf under the provisions of this Regulation, he shall be liable to penalty which may extend to five thousand rupees, and in the case of a continuing default or contravention, with penalty which may extend to two hundred rupees for each day during such default or contravention continues.

Crediting of penalties.

44. The penalties under this Chapter shall be imposed by the Registrar General or Registrar or any officer authorised in this behalf by the Registrar General or Registrar, and such sum of penalties shall be credited to the Consolidated Fund of India.

Recourse mechanism.

45. Any party aggrieved by the penalty imposed under sections 40, 42 and 43, shall have the following recourse, namely:—

(*i*) the society concerned may make an appeal, against any penalty imposed under sections 40, 42 and 43, to the Registrar General within a period of sixty days from the date of the imposition of such penalty;

(*ii*) the Registrar General may, in deciding the appeal, annul, reverse, modify or confirm the order of the Registrar; and

(*iii*) where the society fails to rectify the defects directed by the Registrar and where no appeal has been made to the Registrar General under clause (*i*) or where on the appeal so made, the Registrar General has not annulled, reversed or modified the order, the Registrar may himself take steps to have the defects rectified, and may recover the cost from the officers of the society who, in his opinion, have failed to rectify the defects.

Power of Registrar to condone delay in certain cases.

46. The Registrar may, upon an application in writing received from any society and on sufficient cause being shown, allow further time to such society to comply with any of the provisions of this Regulation on payment of such late fees, as may be prescribed.

CHAPTER XIV

MISCELLANEOUS

Legal representation and authority.

47. (*1*) The committee or any office bearer of the society authorised in this behalf by its bye-laws, may bring or defend any action or other legal proceedings touching or concerning any property or any right or claim of the society and may sue or be sued in its name.

(*2*) No suit or other legal proceedings shall abate due to any vacancy or change in the position of the President, the Secretary or any office bearer authorised under sub-section (*1*).

Enforcement of judgment.

48. The judgment which shall be delivered against any office bearer of the society, shall not be enforced against such office bearer or his property, either movable or immovable, but shall be enforced against the property of the society.

Appeal and review in case of matters, other than penalties.

49. (*1*) Any society or person aggrieved by an order of the Registrar may, prefer an appeal to the Registrar General within a period of sixty days from the date of issuance of such order.

(*2*) Any society or person aggrieved by an order of the Registrar General, may file an application in such form, as may be prescribed, before the Government within a period of sixty days from the date of issuance of such order.

(*3*) Any society or person who fails to file the aforesaid appeal or application, as the case may be, within the period of sixty days, and if the society or person has shown sufficient cause for not preferring the appeal or application within such period, such appeal or application may be entertained even after the expiry of the said period, but not later than another sixty days.

(*4*) The decision of the Government shall be final and binding on the parties.

(*5*) Every appeal or application referred to in this section shall be in such form and accompanied by such fee as may be prescribed.

(*6*) Notwithstanding anything contained in this section, an order passed by the Registrar or the Registrar General may be reviewed by such prescribed authority, on an application filed by the aggrieved party within a period of ninety days from the date of issuance of such order.

Registrar General and other officers to be public servants.

50. Every officer exercising or authorised to exercise powers under this Regulation or the rules made thereunder shall be deemed to be a public servant within the meaning of clause (*28*) of section 2 of the Bharatiya Nyaya Sanhita, 2023 and clause (*c*) of section 2 of the Prevention of Corruption Act, 1988.

45 of 2023.
49 of 1988.

Protection of action taken in good faith.

51. No suit, prosecution or other legal proceedings shall lie against the Registrar General or any officer or official subordinate to him or acting under his authority, in respect of anything done or intended to be done in good faith under this Regulation.

Acts or proceedings not to be invalidated by certain defects.

52. No act or proceedings of a society or any of its office bearer, shall be deemed to have been invalid merely by reason of any vacancy or defect in the organisation of the society.

Mode of service of notice or order.

53. Any notice, order or requisition meant for a society or for the Governing Body thereof to be issued by the Registrar or the Registrar General or any other person or body related to it, shall be served on the President or Secretary of the society, and such services shall be effectual as if the same had been served on every member.

Public document.

54. All documents filed by a society with the Registrar under this Regulation shall be deemed to be public documents within the meaning of section 74 of the Bharatiya Sakshya Adhiniyam, 2023.

47 of 2023.

E-governance.

55. The Government may, as soon as possible, introduce e-governance for effective and efficient administration of the provisions of this Regulation, and upon implementation of such a solution, all or part of the transactions, forms, payments, and other services under this Regulation, may be administered in the electronic or online mode.

Governance.

56. Save as otherwise provided in this Regulation, the provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith contained in any other laws of the Union territory, for the time being in force.

Bar of jurisdiction of civil courts.

57. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Registrar, the Registrar General, or any other authority empowered under this Regulation is required to determine; and no injunction shall be granted by any court or other authority in respect of any action taken in pursuance of any power conferred by or under this Regulation.

Settlement of disputes, distribution of surplus, fees and recovery of dues.

58. (*1*) Any dispute relating to membership, including admission, termination or rights of members, shall be decided by the Registrar or such authority as may be specified under the rules and the decision of the Registrar in this regard shall be binding, subject to appeal as provided under section 49.

(*2*) The utilisation or distribution of any surplus, dividend or profit among the members shall be subject to the conditions and limits as may be prescribed ensuing transparency and equitable benefit-sharing.

(*3*) The fees payable for registration, filing of documents, inspections, certifications or any other service rendered under this Regulation shall be such as may be prescribed.

(*4*) Any amount due to the Government, the Registrar or the society under this Regulation, including penalties or prescribed fees, shall be recoverable as arrears of land revenue in such manner, as may be prescribed.

Power to issue directions.

59. The Government shall issue such directions to any society, as it may deem appropriate, for the proper enforcement of the provisions of this Regulation and the rules made thereunder.

Power to make rules and laying.

60. (*1*) The Administrator may, by notification, make rules not inconsistent with the provisions of this Regulation, for carrying out the purposes of this Regulation.

(*2*) Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the 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.

Act to have overriding effect.

61. The provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force in the Union territory.

Removal of difficulties.

62. (*1*) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by an order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Regulation, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Regulation.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal and saving.

63. (*1*) The Societies Registration Act, 1860, in its application to the Union territory of Lakshadweep is hereby repealed. 21 of 1860.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Act (including any order, rule, regulation, instructions, certificate or bye-laws) in the exercise of any power conferred by or under the repealed Act shall be deemed to have been done or taken in the exercise of the powers conferred by corresponding provisions of this Regulation.

(*3*) Subject to sub-section (*4*) of section 6, any society registered at any place in the Union territory of Lakshadweep under the Societies Registration Act, 1860, shall be deemed to have been registered under this Regulation, and its principal office shall be deemed to be the registered office: 21 of 1860.

Provided that—

(*i*) the Memorandum and the bye-laws of any such society, to the extent they are inconsistent with any of the provisions of this Regulation and the rules made thereunder, shall be brought in conformity with the provisions of this Regulation within a period of two years from the date of commencement of this Regulation or within such further period as the Government may allow, and thereafter, to the extent of such repugnancy or inconsistency, be deemed to be void and of no effect;

(*ii*) any officer elected or appointed to and holding office immediately before the commencement of this Regulation shall continue to hold such office until the expiry of his term of office or until such office is lawfully terminated.

(*4*) Nothing under this Regulation shall affect any right, privilege, obligation, liability or punishment provided under the repealed Act:

Provided that any investigation or proceedings, including proceedings for dissolution, or the supersession of the Governing Body or appointment of an administrator commenced before the coming into force of this Regulation, shall be continued and conducted in accordance with the provisions contained in this Regulation.

(*5*) The mention of particular matters referred to in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

10 of 1897.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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असाधारण
EXTRAORDINARY
भाग II — खण्ड 1
PART II — Section 1
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सं॰ 44] नई दिल्ली, बुधवार, नवम्बर 19, 2025/कार्तिक 28, 1947 (शक)
No. 44] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE FACTORIES (ANDAMAN AND NICOBAR ISLANDS) AMENDMENT REGULATION, 2025

No. 7 of 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Factories Act, 1948*, in its application to the Union territory of Andaman and Nicobar Islands.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Factories (Andaman and Nicobar Islands) Amendment Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

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

Amendment of section 2.

2. In the Factories Act, 1948 (hereinafter referred to as the principal Act), in section 2,— 63 of 1948.

(*a*) in clause (*m*),—

(*i*) in sub-clause (*i*), for the words "ten or more workers", the words "twenty or more workers" shall be substituted;

(*ii*) in sub-clause (*ii*), for the words "twenty or more workers", the words "forty or more workers" shall be substituted;

(*b*) after clause (*p*), the following clause shall be inserted, namely:—

'(*pp*) "State Government" means the Administrator of the Union territory of Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution;'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*), in the long line, for the words "adult male worker", the words "adult worker" shall be substituted;

(*b*) in sub-section (*2*), the words "woman or" at both the places where they occur, shall be omitted.

Amendment of section 54.

4. In section 54 of the principal Act, for the words "nine hours", the words "ten hours" shall be substituted.

Amendment of section 55.

5. In section 55 of the principal Act,—

(*a*) in sub-section (*1*), for the words "five hours" at both the places where they occur, the words "six hours" shall be substituted;

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 56.

6. In section 56 of the principal Act,—

(*a*) for the words "ten and a half hours", the words "twelve hours" shall be substituted;

(*b*) the proviso shall be omitted.

Amendment of section 65.

7. In section 65 of the principal Act, in sub-section (*3*), in clause (*iv*), for the word "seventy-five", the words "one hundred and forty-four" shall be substituted.

Amendment of section 66.

8. In section 66 of the principal Act, in sub-section (*1*), in clause (*b*), for the proviso, the following provisos shall be substituted, namely:—

"Provided that women workers may, with their consent, be allowed to work even between the hours of 7 P.M. and 6 A.M. in any factory in which adequate safety and security measures or provisions for holidays, as may be prescribed, are provided by the employer:

Provided further that where the State Government considers that the employment of women in any particular hazardous or dangerous processes in an establishment is dangerous for their health and safety due to the operation carried out therein, the State Government may require the employer to provide adequate safeguards as may be prescribed, prior to the employment of women for such operation;".

Amendment of section 85.

9. In section 85 of the principal Act, in sub-section (*1*), in clause (*i*),—

(*a*) for the word "ten", the word "twenty" shall be substituted;

(*b*) for the word "twenty", the word "forty" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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असाधारण
EXTRAORDINARY
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PART II — Section 1
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सं॰ 45] नई दिल्ली, बुधवार, नवम्बर 19, 2025/कार्तिक 28, 1947 (शक)
No. 45] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE CONTRACT LABOUR (REGULATION AND ABOLITION) ANDAMAN AND NICOBAR ISLANDS (AMENDMENT) REGULATION, 2025

No. 8 of 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Contract Labour (*Regulation and Abolition*) *Act,* 1970*, in its application to the Union territory of Andaman and Nicobar Islands.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Contract Labour (Regulation and Abolition) Andaman and Nicobar Islands (Amendment) Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

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

Amendment of section 1.

2. In the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the principal Act), in section 1, in sub-section (*4*),— 37 of 1970.

(*a*) in clause (*a*), for the words "twenty or more workmen", the words "fifty or more workmen" shall be substituted;

(*b*) in clause (*b*), for the words "twenty or more workmen", the words "fifty or more workmen" shall be substituted;

(*c*) in the proviso, for the words "less than twenty", the words "less than fifty" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act, after clause (*g*), the following clause shall be inserted, namely:—

'(*gg*) "State Government" means the Administrator of the Union territory of Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution;'.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

UPLOADED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110002
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असाधारण
EXTRAORDINARY
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PART II — Section 1
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सं॰ 46] नई दिल्ली, बुधवार, नवम्बर 19, 2025/कार्तिक 28, 1947 (शक)
No. 46] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE INDUSTRIAL DISPUTES (ANDAMAN AND NICOBAR ISLANDS) AMENDMENT REGULATION, 2025

No. 9 of 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Industrial Disputes Act, 1947*, in its application to the Union territory of Andaman and Nicobar Islands.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Industrial Disputes (Andaman and Nicobar Islands) Amendment Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

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

Amendment of section 2.

2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2, after clause (*p*), the following clause shall be inserted, namely:— 14 of 1947.

'(*pp*) "State Government" means the Administrator of the Union territory of Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution;'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "in a public utility service", the words "in any industrial establishment or a public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words "No employer carrying on any public utility service", the words "No employer of any industrial establishment, or carrying on any public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*c*) in sub-section (*3*), for the words "public utility service" at both the places where they occur, the words "industrial establishment or public utility service" shall be substituted.

Amendment of section 25K.

4. In section 25K of the principal Act, in sub-section (*1*), for the words "one hundred workmen", the words "three hundred workmen" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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असाधारण
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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE ANDAMAN AND NICOBAR ISLANDS SHOPS AND ESTABLISHMENTS (AMENDMENT) REGULATION, 2025

No. 10 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation to amend the Andaman and Nicobar Islands Shops and Establishments Regulation, 2004.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Andaman and Nicobar Islands Shops and Establishments (Amendment) Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Andaman and Nicobar Islands.

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

Insertion of new section 1A.

2. In the Andaman and Nicobar Islands Shops and Establishments Regulation, 2004 (hereinafter referred to as the principal Regulation), after section 1, the following section shall be inserted, namely:— Reg. 1 of 2004.

Application.

"1A. This Regulation applies to all establishments in which twenty or more persons are employed or were employed on any day of the preceding twelve months.".

Amendment of section 3.

3. In section 3 of the principal Regulation, in sub-section (*1*), in clause (*d*), for the words "three persons", the words "twenty persons" shall be substituted.

Amendment of section 4.

4. In section 4 of the principal Regulation,—

(*a*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The employer of an establishment shall, within the period specified in sub-section (*6*), apply online to the Registering Officer for registration of the establishment in the prescribed form.";

(*b*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) On receipt of the application under sub-section (*2*) and on being satisfied about the correctness of the particulars contained therein, the Registering Officer shall register the establishment and upon registration, the employer shall generate the registration certificate from the web portal of the Labour Department on payment of such fees electronically, not exceeding the amount specified in column (*3*) of the Schedule, which the Administrator may, from time to time, by order, determine.";

(*c*) sub-section (*7*) shall be omitted.

Amendment of section 7.

5. In section 7 of the principal Regulation, in sub-section (*1*),—

(*a*) for the words "nine hours", the words "ten hours" shall be substituted;

(*b*) in the first proviso, for the words "ten hours", the words "twelve hours" shall be substituted;

(*c*) in the second proviso, for the words "fifty hours", the words "one hundred and forty-four hours" shall be substituted.

Amendment of section 8.

6. In section 8 of the principal Regulation, in sub-section (*1*), for the words "nine hours", the words "ten hours" shall be substituted.

Amendment of section 9.

7. In section 9 of the principal Regulation,—

(*a*) in clause (*a*), for the words "five hours", the words "six hours, unless he has had an interval for rest of at least half an hour" shall be substituted;

(*b*) in clause (*b*), for the word "before", the word "unless" shall be substituted.

Substitution of section 21.

8. For section 21 of the principal Regulation, the following section shall be substituted, namely:—

Prohibition of employment of women or young persons in certain cases.

"21. No woman or young person shall be required or permitted to work whether as an employee or otherwise in any establishment between the hours of 7 P.M. and 6 A.M.:

Provided that women workers may, with their consent, be allowed to work even between the hours of 7 P.M. and 6 A.M. in any establishment in which adequate safety and security measures or provisions for holidays, as may be prescribed, are provided by the employer:

Provided further that where the Administrator considers that the employment of women in any particular hazardous or dangerous processes in an establishment is dangerous for their health and safety due to the operation carried out therein, the Administrator may require the employer to provide adequate safeguards as may be prescribed, prior to the employment of women for such operation.”.

Amendment of section 34.

9. In section 34 of the principal Regulation, in sub-section (*2*), clauses (*d*) and (*e*) shall be omitted.

Substitution of new Schedule for Schedule.

10. For the Schedule to the principal Regulation, the following Schedule shall be substituted, namely:—

“THE SCHEDULE

[*See* section 4(*4*)]

FEES FOR REGISTRATION CERTIFICATE

Serial No.	Category of establishment	Fees for registration certificate in rupees
(1)	(2)	(3)
1.	Establishment having twenty or more but less than thirty employees	Rs. 1,000.
2.	Establishment having thirty or more employees but less than fifty employees	Rs. 1,500.
3.	Establishment having fifty or more employees	Rs. 2,000.”.

———

DROUPADI MURMU,
President.

———

DR. RAJIV MANI,
Secretary to the Govt. of India.

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असाधारण
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सं॰ 48] नई दिल्ली, बुधवार, नवम्बर 19, 2025/कार्तिक 28, 1947 (शक)
No. 48] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE CONTRACT LABOUR (REGULATION AND ABOLITION) DADRA AND NAGAR HAVELI AND DAMAN AND DIU (AMENDMENT) REGULATION, 2025

No. 11 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Contract Labour (*Regulation and Abolition*) *Act,* 1970*, in its application to the Union territory of Dadra and Nagar Haveli and Daman and Diu.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Contract Labour (Regulation and Abolition) Dadra and Nagar Haveli and Daman and Diu (Amendment) Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Dadra and Nagar Haveli and Daman and Diu.

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

Amendment of section 1.

2. In the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the principal Act), in section 1, in sub-section (*4*),— 37 of 1970.

(*a*) in clause (*a*), for the words "twenty or more workmen", the words "fifty or more workmen" shall be substituted;

(*b*) in clause (*b*), for the words "twenty or more workmen", the words "fifty or more workmen" shall be substituted;

(*c*) in the proviso, for the words "less than twenty", the words "less than fifty" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act, after clause (*g*), the following clause shall be inserted, namely:—

'(*gg*) "State Government" means the Administrator of the Union territory of Dadra and Nagar Haveli and Daman and Diu appointed by the President under article 239 of the Constitution;'.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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सं॰ 49] नई दिल्ली, बुधवार, नवम्बर 19, 2025/कार्तिक 28, 1947 (शक)
No. 49] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE FACTORIES (DADRA AND NAGAR HAVELI AND DAMAN AND DIU) AMENDMENT REGULATION, 2025

No. 12 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Factories Act, 1948*, in its application to the Union territory of Dadra and Nagar Haveli and Daman and Diu.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Factories (Dadra and Nagar Haveli and Daman and Diu) Amendment Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Dadra and Nagar Haveli and Daman and Diu.

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

Amendment of section 2.

2. In the Factories Act, 1948 (hereinafter referred to as the principal Act), in section 2,— 63 of 1948.

(*a*) in clause (*m*),—

(*i*) in sub-clause (*i*), for the words "ten or more workers", the words "twenty or more workers" shall be substituted;

(*ii*) in sub-clause (*ii*), for the words "twenty or more workers", the words "forty or more workers" shall be substituted.

(*b*) after clause (*p*), the following clause shall be inserted, namely:—

'(*pp*) "State Government" means the Administrator of the Union territory of Dadra and Nagar Haveli and Daman and Diu appointed by the President under article 239 of the Constitution.'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*), in the long line, for the words "adult male worker", the words "adult worker" shall be substituted;

(*b*) in sub-section (*2*), the words "woman or" at both the places where they occur, shall be omitted.

Amendment of section 54.

4. In section 54 of the principal Act, for the words "nine hours", the words "ten hours" shall be substituted.

Amendment of section 55.

5. In section 55 of the principal Act,—

(*a*) in sub-section (*1*), for the words "five hours" at both the places where they occur, the words "six hours" shall be substituted;

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 56.

6. In section 56 of the principal Act,—

(*a*) for the words "ten and a half hours", the words "twelve hours" shall be substituted;

(*b*) the proviso shall be omitted.

Amendment of section 65.

7. In section 65 of the principal Act, in sub-section (*3*), in clause (*iv*), for the word "seventy-five", the words "one hundred and forty-four" shall be substituted.

Amendment of section 66.

8. In section 66 of the principal Act, in sub-section (*1*), in clause (*b*), for the proviso, the following provisos shall be substituted, namely:—

"Provided that women workers may, with their consent, be allowed to work even between the hours of 7 P.M. and 6 A.M. in any factory in which adequate safety and security measures or provisions for holidays, as may be prescribed, are provided by the employer:

Provided further that where the State Government considers that the employment of women in any particular hazardous or dangerous processes in an establishment is dangerous for their health and safety due to the operation carried out therein, the State Government may require the employer to provide adequate safeguards as may be prescribed, prior to the employment of women for such operation.".

Amendment of section 85.

9. In section 85 of the principal Act, in sub-section (*1*), in clause (*i*),—

(*a*) for the word "ten", the word "twenty" shall be substituted;

(*b*) for the word "twenty", the word "forty" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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सं॰ 50] नई दिल्ली, बुधवार, नवम्बर 19, 2025/कार्तिक 28, 1947 (शक)
No. 50] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE INDUSTRIAL DISPUTES (DADRA AND NAGAR HAVELI AND DAMAN AND DIU) AMENDMENT REGULATION, 2025

No. 13 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Industrial Disputes Act, 1947*, in its application to the Union territory of Dadra and Nagar Haveli and Daman and Diu.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Industrial Disputes (Dadra and Nagar Haveli and Daman and Diu) Amendment Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Dadra and Nagar Haveli and Daman and Diu.

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

Amendment of section 2.

2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2, after clause (*p*), the following clause shall be inserted, namely:— 14 of 1947.

'(*pp*) "State Government" means the Administrator of the Union territory of Dadra and Nagar Haveli and Daman and Diu appointed by the President under article 239 of the Constitution;'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "in a public utility service", the words "in any industrial establishment or a public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words "No employer carrying on any public utility service", the words "No employer of any industrial establishment, or carrying on any public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*c*) in sub-section (*3*), for the words "public utility service" at both the places where they occur, the words "industrial establishment or public utility service" shall be substituted.

Amendment of section 25K.

4. In section 25K of the principal Act, in sub-section (*1*), for the words "one hundred workmen", the words "three hundred workmen" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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सं॰ 51] नई दिल्ली, बुधवार, नवम्बर 19, 2025/कार्तिक 28, 1947 (शक)
No. 51] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE DADRA AND NAGAR HAVELI AND DAMAN AND DIU SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) AMENDMENT REGULATION, 2025

No. 14 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation to amend the Gujarat Shops and Establishments (*Regulation of Employment and Conditions of Service*) *Act,* 2019 *as adapted to the Union Territory of Dadra and Nagar Haveli and Daman and Diu*.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Dadra and Nagar Haveli and Daman and Diu Shops and Establishments (Regulation of Employment and Conditions of Service) Amendment Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Dadra and Nagar Haveli and Daman and Diu.

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

Amendment of section 1.

2. In the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2019 as adapted to the Union Territory of Dadra and Nagar Haveli and Daman and Diu (hereinafter referred to as the principal Act), in section 1, in sub-section (*3*), for the words "ten or more workers", the words "twenty or more workers" shall be substituted.

Gujarat Act 4 of 2019.

Amendment of section 2.

3. In section 2 of the principal Act, after clause (*p*), the following clause shall be inserted, namely:—

'(*pp*) "State Government" means the Administrator of the Union territory of Dadra and Nagar Haveli and Daman and Diu appointed by the President under article 239 of the Constitution;'.

Amendment of section 12.

4. In section 12 of the principal Act,—

(*a*) for the words "nine hours", the words "ten hours" shall be substituted;

(*b*) for the words "five hours", the words "six hours" shall be substituted.

Amendment of section 13.

5. In section 13 of the principal Act, in sub-section (*2*), for the proviso, the following provisos shall be substituted, namely:—

"Provided that women workers may, with their consent, be allowed to work even between the hours of 9 P.M. and 6 A.M. in any establishment in which adequate safety and security measures or provisions for holidays, as may be prescribed, are provided by the employer:

Provided further that where the Administrator considers that the employment of women in any particular hazardous or dangerous processes in an establishment is dangerous for their health and safety due to the operation carried out therein, the Administrator may require the employer to provide adequate safeguards as may be prescribed, prior to the employment of women for such operation.".

Substitution of section 14.

6. For section 14 of the principal Act, the following section shall be substituted, namely:—

Hours of work.

"14. The working hours of a worker in any shop or establishment shall not exceed twelve hours in any day.".

Amendment of section 15.

7. In section 15 of the principal Act,—

(*a*) for the words "nine hours", the words "ten hours" shall be substituted;

(*b*) for the words "one hundred and twenty-five hours", the words "one hundred and forty-four hours" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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No. 52] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE FACTORIES (LADAKH) AMENDMENT REGULATION, 2025

No. 15 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Factories Act, 1948*, in its application to the Union territory of Ladakh.*

In exercise of the powers conferred by article 240 of the Constitution read with sub-section (*2*) of section 58 of the Jammu and Kashmir Reorganisation Act, 2019, the President is pleased to promulgate the following Regulation made by her:— 34 of 2019.

1. (*1*) This Regulation may be called the Factories (Ladakh) Amendment Regulation, 2025. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Ladakh.

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

Amendment of section 2.

2. In the Factories Act, 1948 (hereinafter referred to as the principal Act), in section 2, after clause (*p*), the following clause shall be inserted, namely:— 63 of 1948.

'(*pp*) "State Government" means the Administrator of the Union territory of Ladakh, appointed by the President under article 239 of the Constitution.'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*), in the long line, for the words "adult male worker", the words "adult worker" shall be substituted;

(*b*) in sub-section (*2*), the words "woman or" at both the places where they occur, shall be omitted.

Amendment of section 54.

4. In section 54 of the principal Act, for the words "nine hours", the words "ten hours" shall be substituted.

Amendment of section 55.

5. In section 55 of the principal Act,—

(*a*) in sub-section (*1*), for the words "five hours" at both the places where they occur, the words "six hours" shall be substituted;

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 56.

6. In section 56 of the principal Act,—

(*a*) for the words "ten and a half hours", the words "twelve hours" shall be substituted;

(*b*) the proviso shall be omitted.

Amendment of section 65.

7. In section 65 of the principal Act, in sub-section (*3*), in clause (*iv*), for the word "seventy-five", the words "one hundred and forty-four" shall be substituted.

Amendment of section 66.

8. In section 66 of the principal Act, in sub-section (*1*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.:

Provided that women workers may, with their consent, be allowed to work even between the hours of 7 P.M. and 6 A.M. in any factory in which adequate safety and security measures or provisions for holidays, as may be prescribed, are provided by the employer:

Provided further that where the State Government considers that the employment of women in any particular hazardous or dangerous processes in an establishment is dangerous for their health and safety due to the operation carried out therein, the State Government may require the employer to provide adequate safeguards as may be prescribed, prior to the employment of women for such operation;".

Amendment of section 85.

9. In section 85 of the principal Act, in sub-section (*1*), in clause (*i*),—

(*a*) for the word "ten", the word "twenty" shall be substituted;

(*b*) for the word "twenty", the word "forty" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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No. 53] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE INDUSTRIAL DISPUTES (LADAKH) AMENDMENT REGULATION, 2025

No. 16 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Industrial Disputes Act, 1947*, in its application to the Union territory of Ladakh.*

In exercise of the powers conferred by article 240 of the Constitution read with sub-section (*2*) of section 58 of the Jammu and Kashmir Reorganisation Act, 2019, the President is pleased to promulgate the following Regulation made by her:— 34 of 2019.

1. (*1*) This Regulation may be called the Industrial Disputes (Ladakh) Amendment Regulation, 2025. Short title, extent and commencement.

(*2*) It extends to the whole of the Union territory of Ladakh.

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

Amendment of section 2.

2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2, after clause (*p*), the following clause shall be inserted, namely:— 14 of 1947.

'(*pp*) "State Government" means the Administrator of the Union territory of Ladakh appointed by the President under article 239 of the Constitution;'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "in a public utility service", the words "in any industrial establishment or a public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words "No employer carrying on any public utility service", the words "No employer of any industrial establishment, or carrying on any public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*c*) in sub-section (*3*), for the words "public utility service", at both the places where they occur, the words "industrial establishment or public utility service" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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No. 54] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE CONTRACT LABOUR (REGULATION AND ABOLITION) LAKSHADWEEP (AMENDMENT) REGULATION, 2025

No. 17 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Contract Labour (*Regulation and Abolition*) *Act,* 1970*, in its application to the Union territory of Lakshadweep.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Contract Labour (Regulation and Abolition) Lakshadweep (Amendment) Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Lakshadweep.

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

Amendment of section 1.

2. In the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the principal Act), in section 1, in sub-section (*4*),— 37 of 1970.

(*a*) in clause (*a*), for the words "twenty or more workmen", the words "fifty or more workmen" shall be substituted;

(*b*) in clause (*b*), for the words "twenty or more workmen", the words "fifty or more workmen" shall be substituted;

(*c*) in the proviso, for the words "less than twenty", the words "less than fifty" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act, after clause (*g*), the following clause shall be inserted, namely:—

'(*gg*) "State Government" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;'.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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No. 55] NEW DELHI, WEDNESDAY, NOVEMBER 19, 2025/KARTIKA 28, 1947 (Saka)

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE FACTORIES (LAKSHADWEEP) AMENDMENT REGULATION, 2025

No. 18 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Factories Act, 1948*, in its application to the Union territory of Lakshadweep.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Factories (Lakshadweep) Amendment Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Lakshadweep.

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

Amendment of section 2.

2. In the Factories Act, 1948 (hereinafter referred to as the principal Act), in section 2,— 63 of 1948.

(*a*) in clause (*m*),—

(*i*) in sub-clause (*i*), for the words "ten or more workers", the words "twenty or more workers" shall be substituted;

(*ii*) in sub-clause (*ii*), for the words "twenty or more workers", the words "forty or more workers" shall be substituted;

(*b*) after clause (*p*), the following clause shall be inserted, namely:—

'(*pp*) "State Government" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*), in the long line, for the words "adult male worker", the words "adult worker" shall be substituted;

(*b*) in sub-section (*2*), the words "woman or" at both the places where they occur, shall be omitted.

Amendment of section 54.

4. In section 54 of the principal Act, for the words "nine hours", the words "ten hours" shall be substituted.

Amendment of section 55.

5. In section 55 of the principal Act,—

(*a*) in sub-section (*1*), for the words "five hours" at both the places where they occur, the words "six hours" shall be substituted;

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 56.

6. In section 56 of the principal Act,—

(*a*) for the words "ten and a half hours", the words "twelve hours" shall be substituted;

(*b*) the proviso shall be omitted.

Amendment of section 65.

7. In section 65 of the principal Act, in sub-section (*3*), in clause (*iv*), for the word "seventy-five", the words "one hundred and forty-four" shall be substituted.

Amendment of section 66.

8. In section 66 of the principal Act, in sub-section (*1*), in clause (*b*), for the proviso, the following provisos shall be substituted, namely:—

"Provided that women workers may, with their consent, be allowed to work even between the hours of 7 P.M. and 6 A.M. in any factory in which adequate safety and security measures or provisions for holidays, as may be prescribed, are provided by the employer:

Provided further that where the State Government considers that the employment of women in any particular hazardous or dangerous processes in an establishment is dangerous for their health and safety due to the operation carried out therein, the State Government may require the employer to provide adequate safeguards as may be prescribed, prior to the employment of women for such operation;".

Amendment of section 85.

9. In section 85 of the principal Act, in sub-section (*1*), in clause (*i*),—

(*a*) for the word "ten", the word "twenty" shall be substituted;

(*b*) for the word "twenty", the word "forty" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 19*th November,* 2025/*Kartika* 28, 1947 *(Saka)*

THE INDUSTRIAL DISPUTES (LAKSHADWEEP) AMENDMENT REGULATION, 2025

No. 19 OF 2025

Promulgated by the President in the Seventy-sixth Year of the Republic of India.

A Regulation further to amend the Industrial Disputes Act, 1947*, in its application to the Union territory of Lakshadweep.*

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by her:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Industrial Disputes (Lakshadweep) Amendment Regulation, 2025.

(*2*) It extends to the whole of the Union territory of Lakshadweep.

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

Amendment of section 2.

2. In the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), in section 2, after clause (*p*), the following clause shall be inserted, namely:— 14 of 1947.

'(*pp*) "State Government" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;'.

Amendment of section 22.

3. In section 22 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "in a public utility service", the words "in any industrial establishment or a public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words "No employer carrying on any public utility service", the words "No employer of any industrial establishment, or carrying on any public utility service" shall be substituted;

(*ii*) in clause (*a*), for the words "six weeks", the words "sixty days" shall be substituted;

(*c*) in sub-section (*3*), for the words "public utility service" at both the places where they occur, the words "industrial establishment or public utility service" shall be substituted.

Amendment of section 25K.

4. In section 25K of the principal Act, in sub-section (*1*), for the words "one hundred workmen", the words "three hundred workmen" shall be substituted.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.

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