

**GOVERNMENT OF HIMACHAL PRADESH
CO-OPERATION DEPARTMENT**



**THE HIMACHAL PRADESH
CO-OPERATIVE AGRICULTURE AND RURAL
DEVELOPMENT BANKS
ACT, 1979**

(Act No. 23 of 1979)

(Amended up-to-date and enforced w.e.f. 16-11-1987)

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THE HIMACHAL PRADESH CO-OPERATIVE AGRICULTURE AND RUAL DEVELOPMENT BANKS ACT, 1979

AN

ACT

To supplement the provisions of the Himachal Pradesh Co-operative Societies Act, 1968 (Act No. 3 of 1969) in order to facilitate the working of the Co-operative agriculture ad rural development banks in the State of Himachal Pradesh with a view to providing for the grant of long term loans to owners of land or other immovable property to carry out agricultural improvements, to acquire land for the formation of economic holdings and other like purposes to enable them to discharge their debits and thereby to promote thrift and self help among them.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the thirtieth Year of the Republic of India as follows :-

CHAPTER-I

PRELIMINARY

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|-----------|---|--|
| 1. | (1) The Act may be called the Himachal Pradesh Co-operative Agriculture and Rural Development Banks At, 1979. | Short title,
extent and
commence-
ment. |
| | (2) It extends to the whole of the State of Himachal Pradesh. | |
| | (3) It shall come into force on such date as the State Government may, by notification in the Official gazette, appoint. | |
| 2. | In this Act, unless the context otherwise requires :- | Definations |
| | (a) "Board" means the Board of Directors of the State Bank; | |
| | (aa) "Gehan" means a special charge on moveable or immoveable property, in favour of the Agriculture and Rural Development Bank of a Primary Agriculture and Rural Development Bank by a mere declaration in writing by the borrowers for securing the payments of money advanced, or to be advanced, by way of loan, which will have all the characteristics of a valid mortgages; and | |
| 8 of 1974 | (b) "Land" shall have the meaning assigned to it in clause (7) of section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972; | |
| 3 of 1969 | (c) "Agriculture and Rural Development Bank" means a Primary Agriculture and Rural Development Bank or State Bank registered or deemed to be registered under the Himachal Pradesh Cooperative Societies Act, 1968; | |
| | (d) "Primary Agriculture and Rural Development Bank" means a | |

Co-operative Agriculture Rural Development Bank registered under the Himachal Pradesh Co-operative Societies Act, 1968 and affiliated as a member to the State Bank.

- (dd) "Mortgage" means a security by way of mortgage for the payment of any definite and certain sum of money advanced or lent at the time, or previously due or owing, or forborne to be paid being payable or for the repayment of money to be thereafter lent, advanced or paid, or which may become due upon on current account. Together with any sum already advanced or due, or without, as the case may be, and includes any charge or lien on any property for securing money or money's worth.
- (e) "Official Gazette" means the Rajpatra, Himachal Pradesh.
- (f) "Prescribed" means prescribed by rules made under this Act;
- (g) "Registrar" means the person appointed by the State Government to be the Registrar, Co-operative Societies for the State of Himachal Pradesh or any person appointed by the State Government to assist the Registrar under section 3 of the Himachal Pradesh Co-operative Societies Act, 1968;
- (h) "State Government" means the Government of Himachal Pradesh;
- (i) "State Bank" means the Himachal Pradesh State Co-operative Agriculture and Rural Development Bank Ltd. established for the purpose of this Act;
- (j) "Stat" means the State of Himachal Pradesh;
- (k) "Trustee" means the trustee referred to in section 5 (i) of this Act;
- (l) "Collector" means the Collector of the District or such other officer not below the rank of the Assistant collector 1st Grade as may be specially empowered by the State Government to exercise the power of Commissioner under this Act; and
- (m) "Joint Hindu Family" consists of all persons lineally descended from the same common ancestor, and their wives and unmarried daughters.

CHAPTER-II

BANKS AND LOANS

3. The Agriculture and Rural Development Banks shall advance loans, other than short term loans only for the purpose hereinafter enumerated as purpose for which loans may be advanced, that is to say:-
 - (i) Land improvement and productive purposes :

- (ii) the erection, re-erection or repairing of houses for agricultural purposes;
- (iii) the purchase of or acquisition of title to agricultural land by tenants under any law for the time being in force in any part of the State;
- (iv) the liquidation of debts under any Act for the time being in force in nay part of the State.

Explanation 1. For the purposes of this section, short term loan means a loan for a duration of less than 18 months.

Explanation 2. Land improvement and productive purposes means any work, construction or activity which adds to the productivity of the land and, in particular, include the following, that is to say :-

- (a) construction and repair of wells (including tubewells), tanks and other works for the storage, supply or distribution of water for the purpose of agriculture, or for the use of men and cattle employed in agriculture;
- (b) renewal o reconstruction of any of the foregoing works, or alterations therein, or additions there to;
- (c) preparation of land for irrigation;
- (d) "drainage, reclamation form rivers or other waters, or protection from floods or from erosion or other damage by water of land used for agricultural purposes or waste land which is culturable;
- (e) building and similar improvements;
- (f) reclamation, clearance and enclosure or permanent improvement of land for agricultural purposes.
- (g) horticulture;
- (h) purchase of oil-engines, and electrical motors for any of the purposes mentioned herein;
- (i) purchase of tractors or other agricultural machinery and implements;
- (j) increases of the productive capacity of land by addition to it of special variety of soil;
- (k) construction of permanent farm house, cattle sheds and sheds for processing of agricultural produce at any state.
- (l) purchase of machinery for crushing sugarcane, manufacturing or khandsari or sugar and other like purposes;
- (m) purchase of land under the Himachal Pradesh Holding (Consolidation and Prevention of Fragmentation) Act, 1971;

- (n) such other purposes as the Board, may from time to time with the approval of Registrar, declare to the improvement of productive purpose for the purposes of this Act.
- Institution of Agriculture and Rural Development Banks
4. There shall be a State bank for the State of Himachal Pradesh, and as may Primary Agriculture and Rural Development Banks or Branches as may be deemed necessary.

(2) A reference to Land Mortgage Bank is any law, or instrument, for the time being in force in the State shall, with effect from the commencement of this Act, be construed as a reference to an Agriculture and Rural Development Banks within the meaning of this Act.

(3) With effect from the commencement of this Act, and until such time as the names of the land mortgage Banks and societies functioning in the State at the commencement of this Act are changed into Agriculture and Rural Development Banks all acts done by them or mortgage and other documents executed by them, or in their favour, and all suits and other proceedings filed by or against them shall be deemed to have been done, executed or filed, as the case may be, by or against them as Agriculture and Rural Development Bank.

CHAPTER-III

TRUSTEES

- Appointment of Trustee
5. (i) The Registrar or any other person appointed by the State Government in this behalf shall be the trustee for the purposes of securing the fulfillment of the obligations of the State Bank to the holders of debentures issued by the Board.
- (ii) The trustee shall be a corporation sole by the name of the trustee for the debentures in respect of which he is appointed, and shall have perpetual succession and common seal, and in his corporate name may sue and be sued.
- Vesting of property in trustee.
6. The Ghean created and mortgages executed and other assets deemed to have been transferred by the Primary Agriculture and Rural Development Bank under section 38 shall vest in the trustee, from the date of such transfer.
- Debenture holders to have first charge on mortgages etc.
7. The holders of the debentures shall have a floating charge on
- (i) all such ghean, mortgages, hypothecations and assets;
- (ii) the amount paid under such Gehan, mortgage, hypothecations and remaining in the hand of the State bank of the trustee; and
- (iii) the other properties of the State Bank.
- Powers and functions of the trustee.
8. The powers and functions of the trustee shall be governed by the provisions of the Act and by the instrument of trust executed between the State bank and the trustee, as modified from time to time by mutual agreement between the State Bank and the trustee.

CHAPTER-IV**DEBENTURES**

Issue of
debentures
by the
Board

9. (1) With the previous sanction of the trustee and the State Government, the State Bank may issue debentures of one or more denominations for such periods as it may deem expedient of the security of the Gehan or mortgage or hypothecation held or mortgages, charges or hypothecation partly held and partly to be acquired and other assets transferred or deemed under the provisions of section 38 to have been transferred by the Primary Agriculture and Rural Development Banks to the State Bank or on security of all or any other assets and properties of the State Bank and also against the Gehan or mortgages or hypothecation which are to be acquired or have been deemed to be acquired by the State Bank.

(2) Notwithstanding anything contained in sub-section (1), in respect of loans guaranteed by the Government and guaranteed to any person or to any body of person, whether incorporated or not or whether or not established by or under any law for the time being in force, if such a body is approved by the Government, the Board may, with the prior permission of the trustee, issue debentures, on the strength of such Government guarantee and without the security of Gehan, or mortgages or hypothecation and other assets, of one or more denominations, for such periods as it may deem expedient and subject to such conditions as the Government may think fit to impose.

10. Such debentures may contain a term fixing a period of not exceeding 30 years from the date of issue during which they shall be irredeemable, or reserving to the Board the right to call in at any time any of the debenture holder concerned, not less than three months' notice in writing.

11. The total amount due on debentures issued by the Board and outstanding at any time shall not exceed :-

- (a) where debentures are issued against Gehan, mortgages or hypothecation held, the aggregate of :-
 - (i) the amount due on the Gehan, mortgages, or hypothecation ;
 - (ii) the value of the properties and other assets transferred under section 38 by the Primary Agriculture and Rural Development Bank to the State and subsisting at such time; and
 - (iii) the amount paid under the Gehan, mortgages or hypothecation aforesaid and the unsecured amounts remaining in the hands of the State Bank or the trustee;

- (b) Where the debenture are issued otherwise than on Gehan, mortgages or hypothecation held, the total amount as calculated under clauses (a) increased by such portion of the amount obtained on the debentures as is not covered by a Gehan, mortgages or hypothecation.

11-A (1) Notwithstanding anything contained in the Himachal Pradesh Co-operative Societies Act, 1998, the Board may, with te prior approval of the Government and Subject to the regulation made under this Act, borrow money by issue of bonds :

Provided that the issue of the bonds shall be in conformity with such directions, restrictions as may be issued by the Reserve Bank of India or the National Bank of Agriculture and Rural Development from time to time.

(2) The bonds shall be in the form of promissory notes and shall be repayable on the expiry of such period or periods from the dat of issue thereof as may be approved by the Reserve Bank of India or the National Bank for Agriculture and Rural Development :

Provided that the Board may repay the amount due under the bonds at any time before the period or periods so fixed, after issuing a notice is such manner as the Board may direct in that behalf to the holders of the bonds.

(3) Notwithstanding anything contained in the Himachal Pradesh Co-operative Societies Act, 1968, the Board may borrow money by way of loans from the Government, the National Bank for Agriculture and Rural Development, the Reserve Bank of India or such other financial institutions as may be approved by the trustee.

Exemption from compulsory registration of instruments

(12) Change on movable or immovable property of the borrower for amounts borrowed (1) Not withstanding anything contained in Himachal Pradesh Co-operative Societies Act, 1968 or in any other law for the time being in force, any person owing any land or having interest in any land as tenant or occupier of owing other movable or immovable property who applies to a Agriculture and Rural Development Bank for a Loan, shall make a declaration in the prescribed form creating a Gehan or mortgage or hypothecation in favour of the Agriculture and Rural Development Bank land or other movable or immovable property or interest therein or nay movable property or movable assets to be acquired with the loan, specified in the declaration for the repayment of the loan or advance granted or to be granted to him by the Agriculture and Rural Development Bank, together with interest on such amount of the loan or advance ans expressly reserving in favour of the Agriculture and Rural Development Bank a right of sale without intervention of court, in case of default.

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(2) A declaration under-section (1) may be varied or cancelled at any time the member with the prior approval of the Agriculture and Rural Development Bank.

(3) Not land or other movable or immovable property or any movable property or movable assets to be acquired with the loan or advance in respect of which a declaration under sub-section (1) has been made and no part thereof or of the interest, in such land or movable or immovable property shall, without the consent of the Agriculture and Rural Development Bank, be sold or otherwise transferred until the entire amount of the loan or advance taken by the member from the Agriculture and Rural Development Bank, together with interest thereof, has been paid to the Bank, and any transaction made in contravention of the sub-section be null and void.

(4) Notwithstanding anything contained in the Registration Act, 1908 or any other law for the time being in force, it shall not be necessary to register any Gehan or mortgage or hypothecation created or executed in favour of the Agriculture and Rural Development Bank; provided the Agriculture and Rural Development Bank sends, within such time and in such manner as may be prescribed, a copy of the declaration of instrument where by the Gehan or mortgage or hypothecation has been created or executed for the purpose of securing repayment of the loan, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property to which the Gehan or mortgage or hypothecation relates is situated.

(5) On receipt of the copy of the declaration or instrument sent under sub-section (4), the Registering Officer shall file a copy or copies thereof, as the case may be, in book No. 1, referred to in section 51 of the Registration Act, 1908 and thereupon, such Gehan or mortgage or hypothecation shall be deemed to create an interest in the property to which the declaration or instrument relates and shall constitute notice to any one dealing with the said property.

(6) Any person who makes any false statement in a declaration under sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

12-A Application for loan from the Agriculture and Rural Development Bank to furnish declaration.

(1) Every person who applies for a loan from the Agriculture and Rural Development Bank shall make a declaration in the prescribed form before an officer specified by the Registrar in this behalf that the movable or immovable property on which the Gehan or mortgage or hypothecation created as security for

the loan is free from encumbrances, that he is in actual possession thereof and that he has the right to create the Gehan or mortgage or hypothecation, as the case may be, thereon in favour of the. Agriculture and Rural Development Bank.

- (2) Notwithstanding anything contained in any law for the time being in force, where declaration under sub-section (1) respect of any movable or immovable property is false or defective, the Agriculture and Rural Development Bank shall subject to the provisions of section 38; have a first charge on all other moveable and immovable properties of the applicant, and all such properties shall be deemed to have been included in the Gehan or mortgage or hypothecation executed by the applicant as security for the loan granted to him by the Agriculture and Rural Development Bank.
- (3) Any person, who makes a false declaration under sub-section (1) or make any statement which is false in any such declaration shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.
- (4) The amount of loan that may be sanctioned on the basis of a declaration made under sub-section (1) shall be subject to such limit as may be prescribed.

Guarantee by State Government of principal and interest on debentures issued under section 9

13. The principal of and interest on, the debentures issued under section 9 or bonds issued or loans raised under section 11-A, to such maximum amount as may be fixed by the Government from time to time shall carry the guarantee of the State Government subject to such conditions as they deem fit to impose.

Power of Board to make regulations

14. The Board may, subject to the approval of the trustee and of the State Government, make regulations not inconsistent with the provisions of this Chapter :-

- (i) for fixing the period of debentures and the rate of interest payable thereon;
- (ii) for calling in debentures after giving notice to debenture holders;
- (iii) for the issue of new debentures in place of debentures damaged or destroyed;
- (iv) for converting one class of debentures into another bearing a different rate of interest; and
- (v) generally for carrying out the provisions of this chapter.

Security for loans

14-A (1) Subject to the provisions. of this Act, the Agriculture and Rural Development Bank and the Primary Agriculture and Rural Development Bank may advance loans to individuals and institutions on the security of

lands and other fixed assets or of assets acquired by the loans borrowed which have been hypothecated to the Agriculture and Rural Development Bank or the Primary Agriculture and Rural Development Bank, as the case may be, on the basis of principles of valuation approved by the Registrar :

Provided that the Agriculture and Rural Development Bank and the Primary Agriculture and Rural Development Bank may, for such purposes and for such periods as may be specified by the Government by special or general order, advance loans without such security of land but on the specific guarantee of the Government for the repayment of the principal and payment of interest thereon :

Provided further that the Agriculture and Rural Development Bank and the Primary Agriculture and Rural Development may, with the previous approval of the Registrar and subject to such restrictions and limitations as may be prescribed, advance loans for such purposes and for such periods as may be determined by the Board.

(2) Notwithstanding anything contained in any other law for the time being in force, the Agriculture and Rural Development Bank or a Primary Agriculture and Rural Development Bank may, under any Land Development Scheme prepared and approved, under the provisions of the Himachal Pradesh Land Development Act, 1973 or under this Act, grant or advance loans to any person or a group of persons with or without security of land for carrying out the work specified in the scheme, subject to such terms and conditions as are agreed upon between the Government and the Agriculture and Rural Development Bank or the Primary Agriculture and Rural Development Bank, as the case may be.

(3) All loans and advances granted and all amounts payable to or recoverable by the Agriculture and Rural Development Bank or the Primary Agriculture and Rural Development Bank shall, in case of default of payment in addition to other remedies available to the Bank, be researchable in the same manner as if they are arrears of public revenue due on land.

(4) All loans and advances granted by the Agriculture and Rural Development Bank under this section shall be granted in conformity with the directions of instructions as may be issued by the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981.

14-B Where the Agriculture and Rural Development Bank as granted a loan for improvement of any land situated in any area of areas covered by any specific programme of agricultural development, to a person appearing to the Agriculture and Rural Development Bank to have title to the said land or to be in lawful possession thereof, and the money has been either in whole or in part utilized for such improvement, any person

acquiring title to such land on ground of superior title or on any other ground shall be liable to repay to the Agriculture and Rural Development Bank so much of the loans as has been utilized for the improvement of the land together with interest thereon.

Loan to persons having restricted rights of transfer.

14-C (1) Notwithstanding anything contained in any law, custom or usage, where the Agriculture and Rural Development Bank makes a loan or an advance to a member belonging to a Scheduled Caste or Scheduled Tribe or to any other person having restricted right of alienation over immovable property, it shall be competent to such member or person to create a Gehan or mortgag  or hypothecation on such property in favour of such Agriculture and Rural Development Bank as security for such loan.

(2) The Agriculture and Rural Development Bank shall, in the event of default by the member or person and without prejudice to any other remedy available to it either under a law or contract or otherwise, be entitled to take possession of such property and lease the same to any person belonging to the same caste or tribe as the member belongs in case the defaulter is member of a Scheduled Caste or Scheduled Tribe and in any other case to any person and appropriate the net receipts from the lease in repayment of the moneys due to it, and the member or person shall not be entitled to recover possession of such property until the amount due to the Agriculture and Rural Development Bank has been repaid in full.

CHAPTER-V

GRANT LOANS-MODE THEREOF

Mode of dealing with applications for loans.

15. (1) When an application for loan is made for any of the purposes mentioned in section 3, a public notice shall be given of the application in such a manner as may be prescribed calling upon all persons interested to present their objections if any, in person, at a time and place fixed therein. The State Government may, from time to time, prescribe the officer by whom such public notice shall be given and the manner in which the objection shall be heard and disposed of.

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

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

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

redeemed, purchased or offered as security for the loans under this Act.

(4) If any person interested, fails to appear to present this objections as required under sub-section (1) the questions at issue will be decided in his absence and sub person will have no claim whatsoever against the property for which the loan applied for will have no claim whatsoever against the property for which the loan applied for will be sanctioned till such time as the loan together with interest thereon or any other dues arising out of the loan are paid in full by the loanee.

(5) Notwithstanding anything contained in any other law for the time being in force in the State, the Agriculture and Rural Development Bank shall have the right to obtain free of charge copies of Farad, Jamabandi, Khasra Girdawari, 5 years sales statics and encumbrance certificate under section 57, prescribed in Appendix 'I' of Article II of the Indian Registration Act, 1908 on the lines to be specified by the Registrar. These copies shall, as far as possible be supplied by the concerned officers of the Revenue Department within 15 days from the date of request by the Agriculture and Rural Development Bank.

Order
granting
loan
conclusive
of certain
matters

16. A written order by the Agriculture and Rural Development Bank, or Committees authorized under the bye-laws of the Bank to make loans for all or any of the purpose specified in section 3, granting, either before or after the commencement of this Act, a loan to or with the consent of a person mentioned therein for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purposes specified therein, shall for the purposes of this Act be conclusive of the purposes of this Act be conclusive of the following matters, that is to say.

- (a) that the work described of the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 3.
- (b) that the person has at the date of the order a right to make such an improvement, or to incur expenditure for productive purpose, as the case may be; and
- (c) that the improvement is one benefitting the land specified and productive concerns the land offered in security, or any part thereof as may be relevant.

17. Notwithstanding any thing contained in any law for the time being in force in the State, where a Gehan created or mortgage or mortgage or hypothecation executed in favour of Agriculture and Rural Development Bank, is in respect of land in which a tenant purchaser or tenant has an interest, the Gehan created or mortgage or hypothecation executed may be against the security of such interest, and the rights of Agriculture and Rural Development Bank, shall not be affected by the

The
Agriculture
and Rural
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failure of the tenant to comply with the requirements of such law and the sale of the land and his interest wherein under such law shall be subject to the prior change of the Agriculture and Rural Development Bank.

Notwithstanding anything contained in any law for the time being in force a Gehan created or mortgage or hypothecation executed in favour of the Agriculture and Rural Development Bank or a Primary Agriculture and Rural Development Bank shall take precedence over any attachment or equitable mortgage over the properties where, after publication of a notice in the prescribed form, the claim or interest under such attachment or equitable mortgage has not been notified to such bank within the time prescribed in the said notice.

16 of 1908

18. Notwithstanding anything contained in the India Registration Act, 1908 it shall not be necessary to register mortgages (or leases) executed in favour of the Banks, provided that the Agriculture and Rural Development Bank concerned sends, within such time and in such as may be prescribed, a copy of the instrument whereby property is mortgaged or leased to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property mortgaged (or, as the case may be leased) is situate, and such Registering Officer shall file a copy or copies as the case may be, in his Book No. 1 prescribed under section 51 of the Indian Registration Act, 1908.

Registration of mortgage (or lease) in favour of Agriculture and Rural Development Bank.

16 of 1908

32 of 1956

19. Section Sot the Hindu Minority and Guardianship Act, 1956 shall apply to Gehan, mortgage or hypothecation executed in favour of the Agriculture and Rural Development Bank subject to modifications that reference to the Court therein shall be construed as reference to the Collector of the District in which the property to be involved is situated or his nominee and the appeal against the order of the Collector or his shall lie to the Commissioner.

Section 8 of Act XXXII of 1956 to apply to mortgages to Agriculture and Rural Development Banks subjects to modifications

4 of 1882

20. (1) Notwithstanding any thing contained in the Transfer of Property Act, 1882, or any other law for the time being in force, no mortgagor or property mortgaged to the Agriculture and Rural Development Bank shall except with the prior consent in writing to the Bank and subject to such terms and conditions as the Bank may impose, lease or create any tenancy rights on any such property.

Provided that, if the lease is given or the tenancy is created with the prior consent of the Bank, the rights of the Bank shall also be enforceable against the purchaser, the lessee or the tenant, as the case may be as if himself were a mortgagor.

(2) Where land, mortgaged with possession to the Agriculture and

Rural Development Bank, is in actual possession of tenant, the mortgagor or the Agriculture and Rural Development Bank shall give notice to the tenant to pay rent to the Agriculture and Rural Development Bank during the currency of the lease and the mortgage and on notice being given, the tenant shall be deemed to have attorned to the Agriculture and Rural Development Bank.

21. Notwithstanding that a Gehan created or mortgage or hypothecation executed in favour of the Agriculture and Rural Development Bank has been transferred, or is deemed under the provisions of section 38, to have been transferred, the the Agriculture and Rural Development Bank.

(a) All moneys due under the Gehan or mortgage or hypothecation shall, in the absence of any specific direction, to the contrary issued by the Board or the trustees and communicated to the person who created the Gehan or executed the mortgage or hypothecation, be payable to the Agriculture and Rural Development Bank and such payment shall be as valid as i the Gehan or mortgage or hypothecation had not been so transferred; and

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

22. Where any property which is subject to Gehan or mortgage or hypothecation in favour of the Agriculture and Rural Development Bank is wholly or partially destroyed or for any reason the security is rendered insufficient and the person who created the Ghean or executed the mortgage or hypothecation having been given a reasonable opportunity by the Board or the Committee of the Agriculture and Rural Development Bank, as the case may be, to provide further security enough to render the whole security sufficient, or to repay such portion of loan as may be determined by the Bank, has failed to provide such security, or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once; and the Board or the Committee, as the case may be shall be entitled to take action against the person who created the Gehan or executed the mortgage or hypothecation under this Act.

Explanation- Security shall be deemed Insufficient within the meaning of this section, unless the value of the property (including improvement made thereon) exceeds the amount for the time being due to the Agriculture and Rural Development Bank by such proportion as may be specified in the regulations made by the Board.

CHAPTER-VI

DISTRRAINT AND SALE OF PRODUCE

23. (1) If any installment payable a Gehan created or mortgage or hypothecation executed in favour of or transferred or deemed to be transferred under section 38 to the State Bank or any pad of such installment has remained unpaid for more than one month from the date on which it fell due, the Board may in addition to any other remedy available to the Bank apply to the Registrar, for the recovery of such installment or part thereof by distraint and sale of the produce of the land to which the Gehan or the mortgage or hypothecation relates. Including the standing crops thereon and other moveable property of the defaulters. Distraint when to be made

(2) On receipt of such application, the Registrar may notwithstanding anything contained in the Transfer of Property Act, 1882 or any other law for the time being in force, take action as is necessary to distraint and sell such produce;

Provide that no distraint shall be made after the expiry of twelve months from the date on which the installment falls due.

(3) The distress shall not be excessive, the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the cost of the sale. Any mistake, defect of irregularity in this respect shall not invalidate a distraint or sale made under this Act.

24. (1) Before or at the time when a distraint is made under section 23, the distrainer shall serve or cause to be served upon the defaulter written demand specifying the amount for which the distraint is made. Distraint how to be effected.

(2) The demand shall be dated and signed by the distrainer and shall be served upon the defaulter by the delivering a copy to him or to some adult male member of his family at his usual place of abode or to his authorised agent, or when such service cannot be effected, by affixing a copy of the demand on some conspicuous part of his abode and of his land.

25. (1) If within fifteen days from the date of service of the demand referred to in section 24, the defaulter does not pay the amount for which the distraint was effected, the distrainer may sell in auction the distrained property or such part thereof as may in his opinion be necessary to satisfy the demand together with the expenses of the distraint and cost of the sale. Sale of property distrained.

(2) From the proceeds of such sale, a deduction shall be made at a rate not exceeding 5 paise in a rupee on account of the costs of the sale.

(3) From the balance shall be deducted expenses incurred by the distrainer on account of the distraint.

(4) The remainder, if any, shall be applied to the discharge of the amount for which distraint was made.

(5) The surplus, if any, shall be delivered to the person whose property has been sold and he shall be given a receipt for the amount discharged from the proceeds of sale.

CHAPTER-VII

SALE OF MORTGAGED PROPERTY

26. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, where a gehan, mortgage or hypothecation has been created or executed in movable or immovable property in accordance with the provisions of sub-section (1) of section 12 in favour of the Agriculture and Rural Development Bank, or Primary Agriculture and Rural Development Bank, the Board or the Committee of such bank or any person authorized by the Board or such Committee shall, in case of default in the payment of sums due to the Bank, have power in addition to any other remedy available to the Agriculture and Rural Development Bank to bring to sale the property to which Gehan or mortgage or hypothecation relates without intervention of the Court.

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

(a) The Board or the Committed has previously authorised such sale in the exercise of the power conferred on it by sub-section (1), after hearing and deciding the objections, if any, of the person who created the Gehan or executed the mortgage or hypothecation or any other person having and interest in the security property.

(b) Notice in writing requiring payment of sums due to the Agriculture and Rural Development Bank or any part thereof, has been served upon.

- (i) the person creating or executing the Gehan or mortgage or hypothecation;
 - (ii) any person who has any interest or charge upon the property to which the Gehan or mortgage or hypothecation relates or any other right to redeem the same;
 - (iii) any surety for the payment of the sums due to the Agriculture and Rural Development Bank or any part thereof; and
 - (iv) any creditor of the person creating or executing the Gehan or mortgage, who has in a suit for the administration of his estate, obtained a decree for sale of property to which Gehan or mortgage or hypothecation relates;
- (c) There has been default in payment of such sums due to the

Agriculture and Rural Development Bank for a period of six months after service of the notice referred to in clause (b):

Provided that the objection to give such notice to the persons mentioned in sub-clauses (ii) and (iv) shall be confined to cases where the Board or the Committee has notice of such claims; and

(d) the Registrar, in case where the amount claimed by the State Bank is disputed, has certified that the amount claimed or lesser amount is due from the persons creating or executing the Gehan, mortgage or hypothecation.

27. (1) In exercise of the power of sale conferred by section 26, the Board or any person duly authorised by the Board, may apply to the sale officer appointed in that behalf under section 35 to sell the property to which the Gehan or mortgage or hypothecation relates or any part thereof and such officer shall, after giving notice in writing to all the persons referred to in section 26, sell such property in the manner prescribed subject to any previous charge on the basis of registered deed.

(2) The sale shall be by public auction and shall be held in the village where the property to which the Gehan, mortgage or hypothecation relates is situated or at the nearest place of public resort if the sale officer is of the opinion that the property is likely to be sold to better advantage there.

(3) The Registrar may set aside a sale on the application of the person creating or executing the Gehan mortgage or hypothecation or any other persons interested in the property to which the Gehan or mortgage or hypothecation relates presented to him within 30 days of the sale, if in his opinion there has been an illegality or material irregularity in conducting the sale.

(4) On the sale being set aside by the Registrar under sub-section (3) such sale shall be conducted in accordance with provisions of this chapter.

28. (1) When the property to which the Gehan or mortgage or hypothecation relates or he been sold under this Chapter, the person creating or executing the Gehan, mortgage or hypothecation or any person having right or interest therein affected by the sale, may, at any time, within thirty days from the date of sale, apply to the Board to have the sale set aside on his depositing at the office of the State Bank.

(a) the payment of the said Bank, the amount specified in the proclamation at sale together with subsequent interest and the cost, if any, incurred by the Bank in bringing the property to sale; and

(b) for payment to the purchaser a sum equal to two percent of the purchase money.

4 of 1882
Application
for sale and
manner of
sale

Application
to set aside
sale of
deposit on
confirmation
of sale in
default or on
dismissal for
such
application

(2) If such deposit is made, the Board shall make an order setting aside the sale.

(3) Where no applications is made under sub-section (1) or where such application is made and disallowed, the Board shall apply to the Registrar to make an order confirming the sale and on such office, confirming the sale, it shall become absolute.

29. (1) The proceeds of every sale under this Chapter shall be applied by the sale officer, first in payment of all costs, charges and expenses properly incurred by him as incidental to the sale or any attempted sale determined in the prescribed manner; secondly in payment of all interest due on account of the Gehan or mortgage or hypothecation in consequence whereof the property was sold; thirdly in payment of the principal money due on account of the Gehan or mortgage or hypothecation and lastly, the residue, if any, shall be paid to the person providing himself interested in the property sold. or. it there are more such persons than one, than to such persons according to their respective interests therein or upon their joint receipt.

Distribution
of the
proceeds of
sale

(2) (a) Any person dissatisfied with the decision of the sale officer in regard to the distribution of such residue may, within thirty days of the communication to him of such decision, institute a suit in a court to establish the right he claims.

(b) The sale officer shall not distribute such residue until thirty days have elapsed from communication of his decision to all the persons concerned, or if a suit has been instituted within the said period of thirty days by any such person, until the suit is disposed of or otherwise than in accordance with the decision of the court therein.

Explanation: In this sub-section court means the civil court which would have jurisdiction to entertain a suit to enforce the Gehan or mortgage or hypothecation and within the limits of whose jurisdiction the property sold is situated.

30. Where sate of property has become absolute, the sale officer shall grant a certificate specifying the property sold and the name of the person who at the time of the sale is declared to be purchaser. Such certificate shall bear date, the day on which the sale became absolute.

Certificate to
purchaser

31. (1) Where the Property sold is in the occupation of the person creating the Gehan or executing the mortgage or hypothecation or of some person on his behalf or of some person claiming under a title other than a lease for a period not exceeding five years created by the person creating the Gehan, or executing the mortgage or hypothecation subsequent to the Gehan, mortgage or hypothecation in favour of the State Bank and a certificate in respect thereof has been granted under section 30, the Collector shall. on the application of the purchaser, or any person, whom he

Delivery of
property of
purchaser

may appoint to receive delivery on his behalf, in possession of the property.
(2) Where the property sold is in the occupation of a tenant or other person entitle to occupy the same and certificate in respect thereof has been granted under section 30, the Collector shall on the application of the purchaser and after notice to such tenant or other person, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the person creating the Gehan or executing the mortgage or hypothecation has been transferred to the purchaser.

(3) In regard to the cases dealt within the sub-sections (1) and (2) the provision of rules 97 to 103 of order XXI of the First Schedule to the Code of Civil procedure, 1908 shall mutates mutants and so for as may be, apply.

32. Notwithstanding anything contained in any law for the time being in force, including law imposing a ceiling on agricultural holdings, it shall be lawful for the Agriculture and Rural Development Bank to purchaser any property sold under this Chapter, and the property so purchased shall be disposed of by such Bank by sale within such period as may be fixed by the Board.

33. (1) The Board may, on its own motion, or in the case of Gehan, mortgage or hypothecation executed in favour of the Agriculture and Rural Development Banks on the application of such banks and under circumstances in which the power of sale conferred by section 26 may be exercised, appoint in writing a receiver of the produce and income of the property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provision of sub-section (8) of section 69-A of the Transfer of Property Act, 1882.

(2) A receiver appointed under sub-section (1) may, for sufficient cause and on application made by the person who created the Gehan or executed the mortgage or hypothecation, case the case may be, removed by the Board.

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

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

Right of Agriculture and Rural Development Bank to purchase the property at sale
Appointment of receiver and his powers

Title of purchaser not to be impeached on the ground of irregularity etc.

34. When a sale purported to have been made in exercise of the power of sale given by section 26 has been: confirmed under sub-section (3) of section 28, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised but any person damaged by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the Agriculture and Rural Development Bank.

35. The State Government may appoint any officer to be an officer for the purpose of conducting sales under this Chapter.

Appointment of sale officers. Recovery of loans on certificate by Registrar.

36. (1) Without prejudice to any other remedy available to the Agricultural and Rural Development Bank for recoveries of arrears of any sum advanced by it to any of its members and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

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

(3) It shall be lawful for the Collector to take any precautionary measures provided in the law for the time being in force for the recovery of arrears of land revenue until the arrears due to the Agriculture and Rural Development Bank together with interest and any incidental charges incurred in the recovery of such arrears are paid or security of such arrears is furnished to the satisfaction of the Registrar.

(4) It shall be competent for the Registrar or a person authorised by him in this behalf to direct conditional attachment of the property of the person who created the charge or executed the mortgage or hypothecation until the arrears due to the Agriculture and Rural Development Bank together with interest and any incidental charges incurred in recovery of such arrears, are paid or security for payment of such arrears, is furnished to the satisfaction of the Registrar and the provisions of section 74 of Himachal Pradesh Co-operative Societies Act, 1968, shall apply mutatis mutandis to conditional attachment of any property made or to be made under this section.

Collector to make recoveries during certain period.

37. (1) During such period as the State Government may be general or special order notified in the Official Gazette, it shall be competent for the Collector, on application being made to him in that behalf by the Agriculture and Rural Development Bank, to recover all sums due to the Agriculture and Rural Development Bank (including the cost of such recovery).

(2) Any amount due to the Agriculture and Rural Development Bank shall be recoverable by the Collector or any officer specially authorised by the Collector in this behalf, in all or any at the following modes, namely:

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

CHAPTER-VIII MISCELLANEOUS

Gehan,
mortgage of
hypothecation
executed in
favour and
other assets
of the
Primary
Agriculture
and Rural
Development
Banks to
stand
transferred to
State Bank.

38. A Gehan created mortgage or hypothecation executed or deemed to have been created or executed in favour of, and all other assets transferred or deemed to have been transferred, to the Primary Agriculture and Rural Development Bank by the members thereof, shall with effect from date of such creation, execution or transfer, be deemed to have been transferred by such Primary Agriculture and Rural Development Bank to the State Bank.

Power of
Board or of
trustee to
direct
distrain and
sale of
produce and
the sale of the
property etc.

39. (1) The Board or trustee may direct the Committee of a Primary Agriculture and Rural Development Bank to take action against a defaulter under section 22 or section 23, or section 26 and if the Committee neglects or fails to do so, the Board or the trustee may take such action.

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

(b) Where such action is taken by the trustee, the provisions of this Act and of any rules or regulations made there under shall apply in respect thereto as if all references to the Agricultural and Rural Development Bank or to its committee in the said provisions were reference to the trustee.

Gehan, mortgage of hypothecation not to be questioned in insolvency proceedings.

40. Notwithstanding anything contained in the Insolvency Act, 1955, a Gehan created or mortgage or hypothecation executed in favour of the Agriculture and Rural development Bank shall not be called in question on the ground that It was not created or executed in good faith or for valuable consideration or on the ground that it was created or executed in order to give such bank a preference over the other creditors of the person who created the Gehan or executed the mortgage or hypothecation.

Priority of Gehan, mortgage and hypothecation

41. An amount payable under a Gehan created or mortgage or hypothecation executed in favour of the Agriculture and Rural Development Bank shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act, 1883 or any other law for the time being in force in the State, granted after the creation of the Gehan or the execution at the mortgage or hypothecation.

19 of 1883

42. (1) Where a Gehan is created or mortgage or hypothecation is executed in favour of the Agriculture and Rural Development bank for payment of prior debts of the person who created Gehan or executed the mortgage or hypothecation the bank may notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by notice in writing re . any person to whom any such debt is due to receive payment, such debt or part thereof from the Agriculture and Rural Development Bank at its registered office within such period as may be specified In e notice. If any such person fails to receive such notice or such payment such debt or part thereof, as the case may be, shall cease to carry from the expiration of the period specified in the notice except in cases where such person proves to the satisfaction of the Board or the committee or the Agriculture and Rural Development Bank, as the case may be, that the failure to receive notice or payment was due to cause beyond his control.

4 of 1882

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

43. (1) Subject to such restrictions, limitations and conditions as may be prescribed, the Registrar and persons subordinate to the Registrar, who are authorised by him in this behalf by general or special order in writing, or officers of Agriculture and Rural Development Bank which are registered or deemed to be registered under the Himachal Pradesh Cooperative Societies Act, 1968, as the State Government may, by notification in the Official Gazette, authorise in this behalf, shall have the same powers as are . in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely ;-

3 of 1969

5 of 180908

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

- (b) compelling the production of documents' and
- (c) issuing commissions for the examination of witnesses.

(2) Any of the officers or persons authorised by or under subsection (1) may require any person(s) present before him, to furnish any information or to produce any) document then and there in his (or their) possession or power.

(3) Any officer or person before whom any document is produced under sub-section (1) or sub-section (2) shall have power to take, or to authorise, the taking of, such copies of document of any entries therein as such officer or person may consider necessary. Copies so taken shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or entries, therein, as the case may be.

(4) (a) Any person who willfully or without reasonable excuse disobeys any summons, requisition or order issued under sub-section (1) or sub-section (2) shall be punishable with fine which may extend to fifty rupees and in the case of a continuing disobedience with an additional fine which may extend to five rupees for every day during which such disobedience continues after conviction for the last such disobedience.

(b) No court inferior to that of a Magistrate of the First Class shall try any offence punishable under clause (a).

(c) Every offence under clause (a) shall, for the purpose of the Code of Criminal Procedure, 1973, be deemed to be non-cognizable.

(d) No prosecution shall be instituted under clause (a) without the previous sanction of the Registrar, who will accord such sanction only after giving the party concerned an opportunity to be heard.

44. (1) Notwithstanding anything contained in the Indian Registration act, 1908 it shall not be necessary for any Director, Secretary or other officer of an Agriculture and Rural Development Bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

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

45. (1) Notwithstanding anything contained in any law for the time being in force, the Gehan created or mortgage or hypothecation in respect of loans by the Agriculture and Rural Development Banks, either before or after commencement of this Act by the manager of joint Hindu

Registration
of documents
executed on
behalf of
Agriculture
and Rural
Development
Bank.

Special
Provision for
Gehan
created or
mortgage or

family for the Improvement of agriculture land or other purposes enumerated in this Act shall be binding on every member of such joint Hindu family. hypothecation executed by managers of Joint Hindu family

(2) Where a Gehan created or mortgage or hypothecation executed in favour of the Agriculture and Rural Development Bank is called in question on the ground that it was created or executed by a person governed by a custom or the manager of a joint Hindu family for a purpose not binding on the reversioners and the members thereof, whether major or minor, the burden of proving the same shall, notwithstanding any law to the contrary, be on the party raising it.

46. The Primary Agriculture and Rural Development Bank or the Stare Bank may grant copies of any document obtained and kept by it in the course of its business or of any entries in such documents; and any cop so granted, shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

47. Whenever under the provisions of this Act any notice is required to be given to any person in writing, it snail be sufficient to send such notice by registered post at his last known address.

48: (1) At any sale of movable or immovable property held under the provisions of this Act in order to recover any money due to a Agriculture and Rural Development Bank, no Director, Secretary or officer of such (except on behalf of the bank of which he is Director, Secretary or e and no sale officer or other person having any duty to perform in connection with such sale, shall, either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property.

(2) Every person contravening the provision of the foregoing subsection (1) shall, on conviction, be punished with line which may extend to five hundred rupees.

(3) No prosecution tinder this section shall be lodged, except with the the previous sanction of Registrar.

49. The Board may, if it thinks fit, delegate all or any of its powers under sections 3, 16, 23, 24, 27, 33, 37, 39 and 42 to an executive committee constituted by it and consisting of two or more of its members.

A. Any employee of an Agriculture and Rural Development Bank engaged in the recovery of loans under the provisions of this Act or the rules r any person appointed as liquidator or arbitrator shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Proof of documents or entries in documents.

Service of notice under the Act.

Officer of the Agriculture and Rural Development Banks and sale officers not to bid at sale.

Delegation of certain powers to board.

Employee etc. to be public servants

Powers of Board to make regulations

50. Notwithstanding anything contained in the Himachal Pradesh Co-operative Societies Act, 1968, or the rules made thereunder, the Board shall have a general power of supervision over the Primary Agriculture and Rural Development Banks and may make regulations not in consistent with this Act or the rules made thereunder :-

- (a) for the inspection of the account books and proceedings of Primary Agriculture and Rural Development banks;
- (b) for the submission of returns and reports by Primary Agriculture and Rural Development Banks in respect of their transaction;
- (c) for the periodical settlement of accounts between Primary Agriculture and Rural Development Banks and the State Bank and for the payment of the amounts recovered by Primary Agriculture and Rural Development Banks and on Gehan or mortgage or hypothecation transferred, to the State Bank;
- (d) prescribing the form in which application to a Agriculture and Rural Development Bank for loans should be made and for the valuation of the properties offered as security for such loan;
- (e) prescribing the proportions by which the property, to which Gehan mortgage or hypothecation relates, should exceed the amount for the time being due on the Gehan or mortgage or hypothecation for security to be sufficiently within the meaning of Explanation under section 22;
- (f) for the maintenance and utilisation of guarantee funds;
- (g) for the investment of moneys realised from the person creating or executing Gehan or mortgage or hypothecation; and
- (h) generally for the purpose of safeguarding the interest of the parties concerned and for carrying out the purpose of the Act.

Development Banks.

51. The provisions of Chapters VI, VII and VIII shall apply mutatis mutandis to all Primary Agriculture and Rural Development Banks as they apply to the State Bank with the modification the reference thereof State Bank and Board shall be construed as reference to Primary Agriculture and Rural Development Banks and Committee respectively.

Provisions for guarantee fund to meet certain losses

52. (1) It shall be competent for the State Government to constitute one or more guarantee funds on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise as a result of loans being made by the Agriculture and Rural Development Bank on titles to immovable property subsequently found to be defective or for any other purpose under this act for which in the opinion of the State Government, it is necessary to provide for or create a separate guarantee fund.

(2) The State Bank and the Primary Agriculture and Rural Development Banks shall contribute to such funds at such rate as may be prescribed, and the maintenance and utilisation of such funds shall be governed by such regulations as may be made by the Board in this behalf.

Remission of fees.

53. No fee shall be chargeable in respect of registration of any instrument executed in favour of the Agriculture and Rural Development Bank by any of its officers or members, under any law for the time being in force in the State.

Registrar's power to permit and Co-operative Bank to function as any Agriculture and Rural Development Bank.

54. It shall be competent for the Registrar to permit any Co-operative Bank to function as an Agriculture and Rural Development bank under such terms and conditions and for such period as he may deem fit.

Power of State Government to make rules.

55. (1) The State Government may make rules to carry out the purposes this Act.

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

- (i) the manner of effecting distraint;
- (ii) the custody, preservation and the sale of distrained property; (iii) the investigation of claims by persons other than the defaulters, to any right or interest in the distrained property; and the postponement of the sale pending such Investigation;
- (vi) immediate sale of perishable articles;
- (v) the due proclamation and the conduct of sale; (vi) the deposit of the purchase money;
- (vii) the resale of the property, if the purchase money is not deposited;
- (viii) the recovery of expenses of the proclamation;
- (ix) the manner of giving public notice of the application of the loan;
- (x) the person competent to give public notice;
- (xi) the manner of hearing and disposing of objections in regard to application of loan;
- (xii) the rate at which the State Bank and Primary Agriculture and Rural Development Banks shall contribute to the guarantee fund;

(xiii) the form of declaration under section 12;

(xiv) the form of notice under sub-section (2) of section 7; and .

(xv) any other matter required or allowed by this act to be prescribed.

(3) All rules Made by the State Government under this section shall be laid before the' Legislative Assembly as soon as 'may be after they are made.

Repeal

56. The Punjab Co-operative Land Mortgage Bank Act. 1957, in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966, and the Punjab Co-operative Land 31 of 1966 Mortgage Banks Act. 1957, as in force in the areas which comprised in 26 of 1967, Himachal Pradesh immediately before the 1st November, 1966 are hereby repealed.

Savings

(57) The repeal of the Act by section 56 shall to affect :-

- (a) the previous operation of the said Acts or anything duly done or suffered thereunder; or -
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said act; or
- (d) any investigation, legal proceedings 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 such penalty, forfeiture or punishment may be imposed as if the said act had not been repealed.