

KERALA STATE CO-OPERATIVE AGRICULTURAL DEVELOPMENT BANKS ACT, 1984 (ACT 20 OF 1984)

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2. Definition.—In this Act, unless the context otherwise requires,— (a) "Agricultural Development Bank" means the Kerala Co-operative Central Land Mortgage Bank Limited, registered under section 10 of the Travancore-Cochin Co-operative Societies Act, 1951 (X of 1952), which shall hereafter be known as the "Kerala State Co-operative Agricultural Development Bank Limited" ; (b) "Board" means the board of directors of the Kerala State Co-operative Agricultural Development Bank Limited; (c) "Committee" in relation to a primary bank, means the board of directors or board of management or the committee of management or the governing body to which the management of its affairs is entrusted ; *Received the assent of the President on the 30th day of July, 1984 and published in the Kerala Gazette Extraordinary No. 764 dated the 29th August, 1984 (d) "co-operative society" means a co-operative society registered or

deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) ; (e) "Gehan" means a special charge on movable or im- movable property, In favour of the Agncultural Development Bank or a primary bank by a mere declaration in writing by the borrowers tor securing the payment of money advanced or to be advanced by way of loan, which Will have all the characteristics of a valid mortgage ; (f) "'prescribed" means preqcrld 'by rules made under this Act; • (g) "primary agricultÜral éredit society" means a co- operative society, majority of the members of which are agriculturists and the principal object of which the raising of funds for lending to its members primarily for agmculture and allied purposes, (h) '(pnmary bank" means a co-operative society registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), as a Primary Co-operative Agricultural Development Bank Limited and admitted as a member of the Agricultural Development Bank and meludes a co-operative society registered or deemed to be registered under the sard Act as a Primary Co-operative Land Mortgage Bank Limited and admitted 'as a member of the Kerala Co-operative Central Land Mortgage Bank Limited which shall hereafter be known as a. Primary Co-operative Agricultural Development Bank Limited ; (i) "Registrar" means the Registrar of Co-operative Socie- ties appointed under sub-section (1) of section 3 of the Kerala Co-operative Societies Act, 1969 (21 of .1969) ; (j) "State" means the State of Kerala, (k) "Trustee" means the Trustee referred to in section 5. CHAPTER u DEBENTURES Issue of debentures by Board.— (1) With the previous eanclnn of the Trustee, the Board may issue debentures of one or more denominations för such period as It may deem expedient on the security of Gehan or mortgage or hypothecation held or mortgages, charges or hypothecation partly held arid partly to be acquired or other assets taken by the Agricultural Development 133 Bank and its other assets and Gehan or mortgages or hypothecation transferred or deemed under the provisions of section 13 to have been transferred by the pnmary banks to the Agricultural Develop- ment Bank. (2) Notwithstanding anything contained in sub-section (1), In respect of loans guaranteed by the Government and granted to any person or to any body of persons, whether incorporated or not, and whether or not established by or under any law for the time , bejng m force, If such a body is approved by the Government, the Board may, With the previous 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 Govern- mept may think fit to impose. (3) The debentures Issued under sub-section (2) may contain a term fixing a period not exceeding thhtny 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 debentures In advance of the date fixed for redemption after giving the debenture holder concerned not less than three months' notice in Writing. (4) The total amount due on the debentures issued by the Board and outstanding at any time, shall not exceed the aggregate of the amounts due on the Gehan or mortgages or hypothecation and other assets and Government guarantee referred to In sub- section (2) and the. amounts paid thereunder and remaming the hands of the Board or of the Trustee at such time

4. Power to borrow money by issue of bönds OT by way of Notwithstanding anything contained in the Kerala Co- operative Societies Act, 1969 (21 of 1969), the Board may, with the prior approval of the Government and subject to the regulations made under this Act, borrow money by issue of bonds: Provided that the issue of the bonds shall be in conformity with such directions or instructions as may be issued by the Reserve Bank of India or the' National Bank for Agricultural and Rual Development from time to time.(2) The bonds shall be in the form of promissory notes and r shall be repayable on the expiry of such period or periods from the date of issue thereof as may be approved by the Reserve Bank of India or the National Bank for Agricultural 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 1 34 a notice in such manner as the Board may direct in that behalf to the holders of the bonds. (3) Notwithstanding anything contained In the Kerala Co- operative Societies Act, 1969 (21 of 1969), the Board may borrow money by way of loans from the Government, the National Bank tor Agricultural and Rural Development, the Reserve Bank of India or such 01 her financial institutions as may be approved by the Trustee

5. Appointment and powers and functions of Trustee.—fl) The Registrar or where the Government appoint any other person in this behalf, such person, shall be the Trustee for the purpose of fulfilling the obligations of the Agricultural Development Bank to the holders ot debentures *sued by the Board and for

the purposes of section 13. (2) The Gehan created and mortgages and hypothecation executed in favour of the Agricultural Development Bank and other Gchan, mortgages, hypothecation and assets transferred or deemed to have been transferred under the provisions of section 13 to the Agricultural Development Bank shall vest in the Trustee from the date of such creation, execution or transfer. (3) The holders of the debentures shall have a floating charge on all such Gehan, mortgages, hypothecation and assets, on the amounts paid under such .Gehan, mortgages, hypothecation and remaining in the hands of the Board or of the Trustee and on the other properties of the Agricultural Development Bank. (4) The powers and functions of the Trustee shall be governed by the instrument of trust efecuted by the Agricultural Development Bank and the Trustee, as modified from time to time by mutual agreement between the Board and the Trustee. (5) The Trustee shall be a corporation sole by the name of the 'ltrustee for the debentures and as such shall have perpetual succes- sion and a common seal and in his corporate name shall sue and be sued

6. Guarantee by Government on principal of amd qnterest on debentures, bonds amd loans.—The principal of, and the interest on. the debentures Issued under section 3 or bonds issued or loans raised ender section 4, to such maximum amount as may be fixed by the Government from time to time and subject to such conditions as they n lay deem fit to impose, shall carry the guarantee of the Governn tent. 135

7. Power of Board to make r.egüations for purposes of this Chapter.—The Board may, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Chapter— (a) for fixmg the period of debentures and the rate of Interest payable thereof; (b) for calling in debentures after giving notice to debenture holders ; (c) for the issue of new debenturcs in place of debentures dâmed (r destroyed; (d) for converting one class of debentures into a.nother class ot debentures bearing a different rate of interest; and (e) generally for carrying out, the provisions of this Chapter. CHAPTER lil LOANS 8. Powers of agricultural development banks to advance Loums.—Subject to the provisions of this Act and the rules made thereunder, It shall be competent for the Agricultural Development Bank and the primary banks to advance loans for the following purposes, namely (a) land improvement and productive purposes; Explanation.—Land Improvement and productive purposes, mean any work, construction or activity which adds to the pro- ductivity of the land and, in particular, includes the followmg, that IS to say,— (i) construction and repair of wells (surface wells, dug-cum- bore well}, tube wells and filter points) , tanks and other works for the exploitation of surface and ground water and storage, supply or distribution of water for the purposes of agriculture, or for the use of cattle employed in agriculture sand all types of Irrigation ; (ii) renewal or reconstruction of any of the foregoing wofks, or alteratiIDns therein, or additions thereto; (iii) preparation of land for irrigation; (iv) drainage, reclamation from rivers or other waters, or protection from floods or grom erosion or other damage by water, of land used for agricultural purposes OF waste land which is cultivable ; (v) bundmg, levelling, terracing and sfrnilar improvemen&; (vi) reclamation, clearance and enclosure or permanent im- provement of land for agricultural purpose; (vii) horticulture and plantations including forest plantations; (viii) purchase of 011 engines, pumping sets and electric motors for any of the purposes mentioned herein; (ix) purchase of tractors and •other agricultural machinery , (x) purchase of draught animals and bullock carts and other carts; (xi) increase of the productive capacity of land by addition to it of special variety of soil; (xii) construction or repair of permanent farm houses, cattle sheds and sheds för processmg of agricultural produce at any stage; (xiü) construction of stone-fence, barbed wiring fence or any other kü•ld of fence for production of land including eastern wall ; (XIV) purchase of land for consolidation of holdings; (xv) such other purposes as the Government may specify, from time to time, as land improvement and productive purposes for the purposes of this Chapter, by a special or general order; (b) development of dairy, poultry, . piggery, sheep, goat and other livestock and inland a.nd marine fishemes; (c) procurement of fishery requisites like fishing boats, mechanised or non-mechanised, fishing nets, twine, ropes and marine paint; (d) production of animal and poultry feed; (e) procurement and installation of equlpments and machi- nery for processing, marketing and transportation of all agricul- tural products including products of animal origin like milk, meat, fish, eggs and manure and construction of buildings for any such purpose ; (f). installation of gobar gas plants; (g) redemption of prior debts; (h) payment of purchase price by tenants for purchase of the right, title and interest of landlords under the Kerala Land Reforms Act, 1963 (1 of 1964), or compensation or other amount 137 payable for the purchase of rights of landlords under any law for the time bemg In

force; (i) any other purposes conducive to agricultural development as decided by the Board With the approval of the Registrar from time to time 9. Security for Subject to the provisions of this Act the Agricultural Development Bank and the primary banks 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 Agricultural Development Bank or the primary bank, as the case may be, on the basis of principles of valuation approved by the Registrar: Provided that the Agricultural Development Bank, and the primary banks 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 Agricultural Development Bank and the primary banks 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 Agricultural Development Bank or a primary bank may, under any land development scheme prepared and approved under the provisions of the Kerala Land Development Act, 1964 (17 of 1964), grant or advance loans to any person or 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 Agricultural Development Bank or the primary bank, as the case may be (3) All loans and advances granted and all amounts payable to or recoverable by, the Agricultural Development Bank or the primary banks shall in case of default of payment, in addition to other remedies available to the banks, be recoverable in the same manner as if they are arrears of public revenue due on land

10. Charge on movable or immovable property of borrower for amount borrowed —(1) Notwithstanding anything contained in the Co-operative Societies Act, 1969 (21 of 1969), or in any other law for the time being in force, but subject to any claim of the Government in respect of land revenue or amounts recoverable as land revenue, whether prior in time or subsequent, any person owning any land or having interest in any land as tenant or occupier or owning any other movable or immovable property who applies to a primary bank for a loan, shall make a declaration in the prescribed form creating a charge or mortgage or hypothecation in favour of the primary bank on the land or other movable or immovable property or interest therein or any 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 primary bank, together with interest on such amount of the loan or advance and expressly reserving in favour of the primary bank a right of sale without intervention of court, in case of default. (2) A declaration under sub-section (1) may be varied or cancelled at any time by the member with the prior approval of the primary bank. (3) No 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 interests in such land or movable or immovable property shall, without the consent of the primary bank, be sold or otherwise transferred until the entire amount of the loan or advance taken by the member from the primary bank, together with interest thereon has been paid to the bank, and any transaction made in contravention of this sub-section shall be null and void. (4) Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), or any other law for the time being in force, it shall not be necessary to register any charge or mortgage or hypothecation created or executed in favour of the Agricultural Development Bank or a primary bank, provided in the Agricultural Development Bank or the primary bank, as the case may be, sends, within such time and in such manner as may be prescribed, a copy of the declaration or instrument whereby the charge 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 charge or mortgage or hypothecation relates situate. (5) On receipt of the copy of the declaration or instrument sent under sub-section (4), the registering officer shall file a copy thereof, as the case may be, in Book No. I, referred to in section 51 of the Registration Act, 1908 (Central Act 16 of 1908), and thereupon, such charge 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

11. Applicant for loan from primary bank to furnish declaration —(1) Every person who applies for a loan from a primary bank shall make a declaration in the prescribed form before an officer specified by the Registrar in this behalf that the immovable property on which the Gehan or mortgage or hypothecation is 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 primary bank. (2) Notwithstanding anything contained in any law for the time being in force, where a declaration under sub-section (1) in respect of any movable or immovable property is false or defective, the primary bank shall, subject to the provisions of section 13, have a first charge on all other movable and immovable properties of the applicant, and all such properties shall be deemed* to have been included in the Gehan created or mortgage or hypothecation executed by the applicant as security for the loan granted to him by the primary bank. (3) Any person, who makes a false declaration under sub-section (1) or makes 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. -o 12 Priority of Gehan, mortgage and Any amount payable under a Gehan created or mortgage or hypothecation executed in favour of the Agricultural Development Bank or primary bank shall have priority over any claim of the Government arising from a loan under the Kerala Land Development Act, 1964 140 (17 of 1964), Or the Kerala Agriculturists' Loans Act, 1961 (27 of 1961), granted after the creation of the Gehan or the execution of the mortgage or hypothecation. (2) Notwithstanding anything contained in any law for the time being in force, a Gehan created or mortgage or hypothecation executed in favour of the Agricultural Development Bank or a primary 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. 13 Transfer and testing gehan, mortgage. and hypothecation With Agricultural Development Bank —A Gehan created or 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, a primary bank, shall With effect from such creation, execution or transfer or with effect from the date such deeming, as the case may be, be deemed to have been transferred by such primary bank to the Agricultural Development Bank

14. Money borrowed, for development of land.—Where a primary bank has granted a loan for improvement of any land situated in any area or areas covered by any specific programme of agricultural development, to a person appearing to the primary 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 utilised 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 primary bank so much of the loan as has been utilised for the improvement of the land together With interest thereon

15. Loans to persons having restricted rights of transfer.—(1) Notwithstanding anything contained in any law, custom or usage, where a primary 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 rights of alienation over immovable property; it shall be competent to such member or person to create a Gehan or mortgage or hypothecation on such property in favour of such primary bank as security for such loan. (2) The primary bank, shall, in the event of default by the member or person and without prejudice to any other remedy available to it either under 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 a 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 primary bank has been repaid in full

CHAPTER DISTRRAINT AND SALE OF PRODUCE 16. Distratnt when to be made.—(1) If any mstalment payable under a Gehan created or mortgage br hypothecation executed in labour of the Agricultural Development Bank or a primary bank or any part of such Instalment has remained unpaid for more than one months from the date on which It fell due, the Boatd or the ccnnrmmttee may, In addition to any other remedy available to It, apply to the Registrar or to any sale officer appointed by the Registrar under section 28 for the reccovery of such Instalment or pal c thereof by distrant and sale of the produce of the land to which the G'eharl or the mortgage or hypothecation relates, Includ- ing the standing crops thereon and other movable property of the defaulter. (2) On receipt of an application under sub-section (1), the sale officer may, notwithstanding anything contamed m the Kerala Co- operative Societies Act, 1969 (21 of 1969), take such action as necessary to distrain and sell the produce and other movable property: Provided that no distraint shall be made after the expiry of thirty-six months from the date on which the instalment fell due. (3) The distraint shall not be excessive and the value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale

17. Distraint how to be Before or at the time • when a distraint is made under sectibn 16, the distrainer shall serve or cause to be served upon the defaulter written demand specifying the amount for which the distraint IS made.(2) The demand shall be dated and signed by the distrainer• and shall be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his uæual/place of abode or • to his authorised agent, or when such sennce cannot bet 142 effected by affixing a copy of the demand on some conspicuous part of his abode and of the land to which the Gehan or mortgage (Y hypothecation relates 18. Salz of property If, within fifteen days from the date of service of the demand referred to in section 17, the defaulter does not pay the amount for • which the distraint was effected, the distrainer may sell m auction the distrained property or such part thereof as may, m his opinion, be necessary to satisfy the demand together with the expenses of the distraint and the costs of the sale. (2) From the proceeds of such sale, a deduction shall be made at such rate as may be fixed by the Registrar from time to time on account of the costs of the sale. (3) From the balance shall be deducted the expenses mcurred by the distrainer on account of the distraint. (4) The remainder, If any, shall be applied to the discharge of the amount for which the distrant 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 the sale

CHAPTER V SALE OF PROPERTY WITHOUT INTERVENTION OF COURT 19. Power of sale of property charged without intervention of court.—(1) Notwithstanding anything contained in the Kerala Co-operative Societies Act, 1969 (21 of 1969), or the Transfer of Property Act, 1882 (Central Act 4 of 1882), or in any other • law for the time being in force, where a Gehan or mortgage or hypothe- cation has been created or executed in movable or immovable property m accordance with the provisions of sub-section (1) of section 10 in favour of the Agricultural Development Bank or a primary Bank, the Board or committee of such bank or any person authorised by the Board or such committee shall, in case of def+ult in the payment of sums due to the bank, have power, in addition to any other remedy available to the primary bank to bring to sale the propérty to which the Gehan or mortgage or hypothecation relates without intervention of the court. 143 (No such power shall be exercised unless and until— (a) the Board or the committee has previously authorised such sale m the exercise of the power of sale conferred on It by sub-section (1) ; (b) registered notice requiring payment of Sums due to the pmmary bank, or any part thereof, has been served upon— (i) the person creating or executing the Gehan or mort- gage or hypothecation; (li) any person who has any mterest 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 primary ba.nk or any part thereof; and) any creditor- of the person creating 02 executing the Gehan or mortgage, who has, In a suit for the adnumstratlon of his estate, obtuned a decree tor sale of the property to wmcn the Gehan or mortgage or hypothecation relates; and (c) there has been default m payment of such sums due to the primary bank for a period öf two months after service of the notice referred to In clause (b) Provided that the obligation to grqe such notice to the persons mentioned In sub-clauses (n) and (IV) shall be cohfined to cases where the Board or the committee has notice of such ciarms

20. Apphcaccon for sale and manner of sale.— (1) For exer- cising the power of sale conferred by sub-section (1) 0k section 19, the Board or the Cornrmmttee or any person duly authorised by the Board or the

Committee, as the case may be, may apply to • the sale officer appointed in that behalf under section 28 to sell the property to which the Gehan or mortgage or hypothecation relates or any part thereof, and such officer shall, after giving notice as required by section 19, sell such property in the manner prescribed. • (2) The sale shall be by public auction and shall be held in the village where the property to which the Gehan or mortgage or hypothecation relates is situated or at the nearest public place if the sale officer is of opinion that the property is likely to sell to better advantage at such place

21. Application to set aside sale on deposit and confirmation of sale in default or on default.—When a property has been sold under this Chapter, any person having a right or interest therein affected by the sale may, at any time within thirty days from the date of the sale, apply to the sale officer concerned to have the sale set aside on his depositing With the sale officer— (a) for payment to the Agricultural Development Bank or the primary bank, as the case may be, the amount specified in the proclamation of sale together With subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale; and (b) for payment to the purchaser a sum equal to five per cent of the purchase money. (2) If such deposit is made, the sale officer may make an order setting aside the sale. (3) Where no application with deposit is made under sub-section (1) or where such application is made and disallowed, the sale officer may apply to the Registrar or any other officer empowered by him in this regard to make an order confirming the sale and, on the Registrar or such officer confirming the sale, it shall become absolute and the property shall be deemed to have vested in the purchaser from the time the property is sold. 2'z, Distribution of sale proceeds 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; secondly, in payment of all interest due on account of the Gehan or mortgage or hypothecation 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 proving himself interested in the property sold or, if there are more such persons than one, then to such persons, according to their respective interest therein or upon their joint receipt. (2) 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. (3) The sale officer shall not distribute such residue until thirty days have elapsed from the date of 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 and due notice thereof is given to before the payment, until the suit is disposed of or otherwise than in accordance With the decision of the court thereon. 145 (4) Any deficit occurring after the sale of the property may also be recovered in the manner provided in this Chapter from any other assets of the person who created the Gehan or executed the mortgage or hypothecation. Explanation.—In this section, "court" means the Civil court having 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

23. Certificate to purchaser —Where a sale of property has become absolute and the sale proceeds have been received in full by the sale officer, he shall grant a certificate to the purchaser in the prescribed form specifying the property sold, the sale price, the date of the sale, the name of the person who at the time of the sale is declared to be purchaser, and the date on which the sale became absolute, and upon the production of such certificate the Sub Registrar within whose jurisdiction the whole or any part of the property specified in the certificate is situated, shall enter the contents of such certificate in his register relating to Immovable property

24. Delivery of property to purchaser.— (1) Where the property sold is in the occupancy of the person who created the Gehan or executed the mortgage or hypothecation, as the case may be or of some person on his behalf or of some person claiming under a title, other than a lease, created by the person who created the Gehan or executed the mortgage or hypothecation subsequent to the Gehan or mortgage or hypothecation in favour of the Agricultural Development Bank or the primary bank, as the case may be, and a certificate in respect thereof has been granted under section 23, the Registrar shall, on the application of the purchaser, order delivery to be made by putting such purchaser or, any person appointed by the purchaser to receive delivery on his behalf, in possession of the property (2) Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under section 23, the Registrar shall, on the application of the purchaser and after giving

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 who created the Gehan or executed the mortgage or hypothecation has been transferred to the , purchaser. 3413258i851MC 146 (3) The provisions of rules 97 to 103 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall mutates mutandis, apply to the cases dealt With In sub-sections (1) and (2)

25. Right of Agricultural Development Bank or Primary Bank to purchase property at sale.—It shall be competent to the Agricultural Development Bank or a primary bank to purchase any property sold under this Chapter, but the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee

26. Appointment of receiver and powers.—(1) The Board may, on Its own motion or on the application of any branch of the Agricultural Development Bank or the committee of a primary bank under circumstances In which the power of sale conferred by section 19 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 expense of management Including his remuneration, If any, as may be fixed by the Board and to apply the balance in accordance with the provisions of sub-section (8) of section 69A of the Transfer of Property Act, 1882 (Central Act 4 of 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, as the case may be, be removed by the Board. (3) A vacancy in the office of the receiver may be filled up by the Board. (4) Nothing in this section shall empower the Board to appoint a receiver where the property to which the Gehan or mortgage or hypothecation relates IS already in the possession of a receiver appointed by a civil court; but the Board or the committee, as the case may be, may through the Managing Director in the case of the Agricultural Development Bank or the Secretary in the case of a primary bank, petition to such court to direct the receiver appointed by such court to apply any part or the whole of the surplus remaining in his hands after meeting expenses of his management, to the discharge of the amount due under the Gehan or the mortgage or hypothecation or part thereof, as the case may be

27. Title of purchaser not to be impeached on the ground of irregularity etc.—When a sale has been made in the professed exercise of the power of sale under section 19 and has been confirmed under sub-section (3) of section 21, the title of the purchaser shall not be Impeachable on the ground that no cause 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 damnified by an unauthorised or Improper or irregular exercise of the power shall have his remedy in damages against the Agricultural Development Bank or the concerned primary bank, as the case may be

28. Appointment of sale officer.—The Registrar may appoint sale officers for the purpose of conducting sales under this Act

CHAPTER VI MISCELLANEOUS 29. Powers of Agricultural Development Bank in case security property is insufficient.—Where any property which IS subject to Gehan or mortgage or hypothecation in favour of the Agricultural Development Bank or a primary bank IS rendered insufficient and the person who created the Gehan or executed the mortgage or hypothecation, having been given a reasonable opportunity, by the Board or the committee of the primary bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Board or the committee, has failed to provide such security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the 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 section 16 or section 19 for the recovery thereof. Explanation.—A security IS Insufficient within the meaning of this section if the value of the property falls below the amount for the time being due to the Agricultural Development Bank or the primary bank by such proportion as may be specified In the regulations of the Agricultural Development Bank or the bye-laws of the primary bank, as the case may be

30. Power of Board or Trustee to direct dtstratni and sale of produce and sale of mortgaged property etc.— (1) The Board or the Trustee may direct the commttee of a primary bank to take action against a defaulter under section 16 or section 19 or section 29 and If the committee neglects or falls to do so the Board or the Trustee may take such action. 148 (2) Where action IS taken by the Board under sub-section (1), the provisions of this Act and of any rules or regulations made thereunder shall apply In respect thereto as If all references to the primary bank and to Its committee m the said provisions were references to the Agricultural Development Bank and the Board, respectively. (3) Where action IS taken by the Trustee undex sub-section (1), the provisions of this Act and of any rules or regulations made thereunder shall apply In respect thereto as If all references to the primary bank or to its committee In the said provisions were references to the Trustee

31. Bank's nght to Improvements effected after Gehan OT mortgage or hypothecation — Notwithstanding anything contained in the Kerala Compensation for Tenants Improvements Act, 1958 (29 of 1958), the Improvements, if any, made subsecuent to the date of the Gehan or mortgage or' hypothecation in favour of the Agricultural Development Bank or a primary bank, by the lessee of the property to which the Gehan or mortgage or hypothecation relates, . shall be treated as accession to the property and shall be available to such bank for the realisation of the amount under the Gehan or mortgage or hypothecation

32. Deduction from sate proceeds of aqnculturat produce in certain cases —(1) Notwithstanding anythmg contamed m any law for the time being in force, an applicant for a loan from a primary bank may execute an agreement In favour of that bank providing that it shall be lawful for the marketing co-operative societies or the Commodity Boards through which the agricultural produce belonging to the applicant IS marketed, to deduct such amount as may be spécified in the agreement from the sale proceeds of such agricultural produce marketed through such co-operative societies or boards and to pay the amounts so deducted to such prjmary bank in satisfaction of any debt or other demand due by the applicant to that bank. Explanatcon —For the purpose of this section, "Commodity Boards" means the Coffee Board established under the Coffee Act, 1942 (Central Act 7 of 1942), the Tea Board established under the Tea Act, 1953 (Central Act 29 of 1953), the Rubber Board consti- tuted under the Rubber Act, 1947 (Central Act 24 of 1947), the Cardamom Board established under the Car:aamom Act, 1965 (Central Act 42 of 1965), and the Coconut Development Board established under the Coconut Development Board Act, 1979 (Central Act 5 of 1979). 149 (2) On execution of an agreement as provided .snb-secaõn (1), the marketing co-operative society or Commodity Board referred to m, that sub-section shall, on a requisition In writing by the primary bank and so long as such debt or demand or any part of it remams unpaid, make a deduction, In accordance With the requisition, from the sale proceeds of the agricultural produce belonging to the applicant and marketed through them and pay the amounts so deducted to the primary bank within seven days from the date of deduction. (3) Any payrment made by a marketmg co-opet ative se iciet' or Commodity Board under sub!section (2) shall be •valid and effectual against any demand upon such society or board by any person

33. Gehan or mortgage or hypothecation not to be questioned in insolvency proceedtngs — Notwithstanding anythmg contamed the Insolvency Act, 1955 (2 of 1956), a Gehan created or mortgage or hypothecation executed In favour of the Agricultural Develop. ment Bank or a primary bank, shall not be called m question on the ground that It was not created or executed l'n good faith for valuable consideration or on the ground that kt was created or executed order to give such bank a preference over the other creditors of the person who created the Gehan or executed the mortgage or hypothecation

34. Reght of AgrtculturaZ DeoeLopment Bank to pay prqor debts.—MWhere a Gehan is created or mortgage or hypothecation is executed In favour of the Agricultural Development Bank or a primary bank for payment of prior debts of the person who created the Gehan or executed the mortgage or hypothecation, such bank may, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, (Central Act 4 of 1882), by notice In writing, require aiy person to whom any stich debt IS due, to recon'. e payment of such debt or part thereof from the bank at Its registered office within such period as may be specified In the notice, and If any such person falls to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry Interest from the expiration of the perlod specified In the notice, except m cases where such' person proves to the satisfaction of the

Board or the committee of the primary bank, as the case may be, that the failure to receive notice or payment was due to causes beyond his control : 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 bank towards the debt, but such receipt shall not prejudice the right, if any, of such person to recover the balance claimed by him

35. Power to summon witnesses and requirement of documents.—(1) Subject to such restrictions, limitations and conditions as may be prescribed, the Registrar and officers subordinate to the Registrar who are authorised by him in this behalf by general or special order in writing, and such other officials engaged in the relief of rural indebtedness or officers of co-operative banks which are registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), as the Government may, by notification in the Gazette, authorise in this behalf shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit, in respect of the following matters, namely :— (a) enforcing the attendance of any person and examining him on oath or affirmation; (b) compelling the production of documents; and (c) Issuing commissions for the examination of witnesses (2) Any of the officers authorised by or under sub-section (1) may require any person present before him to furnish any information or to produce any document then and there in his possession or power, and relevant to the inquiry. (3) Any officer 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 the document or of any entries therein as such officer may consider necessary and the 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 the entries therein, as the case may be. (4) Any person who wilfully 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. 36.. Registration of documents executed on behalf of the Agricultural Development Bank or Primary Bank.— (1) Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908), it shall not be necessary for any Director, Managing Director, Secretary or other officer of the Agricultural Development Bank or of a primary bank to appear in person or by agent at any registration once any proceedings 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 who receives such instrument for registration may, if he thinks fit refer to such Director, Managing Director, Secretary or other officer for information respecting the same, and, on being satisfied of the execution thereof, shall re-examine the instrument

37. Power of Primary Bank to receive money and, grant valid discharges.—Notwithstanding that a Gehan created or mortgage or hypothecation executed in favour of a primary bank has been transferred, or is deemed under the provisions of section 13, to have been transferred, to the Agricultural Development Bank— (a) all moneys due under the Gehan or mortgages or hypothecation shall, in the absence of any specific direction to the contrary issued by the Board or the Trustee and communicated to the person who created the Gehan or executed the mortgage or hypothecation, be payable to the primary bank and such payment shall be as valid as if the Gehan or mortgage or hypothecation had not been so transferred; and (b) the primary bank shall, in the absence of any specific direction to the contrary issued by the Board or the Trustee and communicated to the primary bank, be entitled to sue on the Gehan or mortgage or hypothecation or take any other proceedings for the recovery of the moneys due under the Gehan or mortgage, or hypothecation

38. Proof of documents or entries in documents —The Agricultural Development Bank or any primary 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 copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document or the entries therein, as the case may be

39. Chapters IV and V to apply to Loans advanced by primary banks from funds got borrowed from Agricultural Development Bank.—The provisions of Chapters IV and V shall apply also to loans

advanced by primary banks from funds which have not been borrowed from the Agricultural Development Bank and to loans 152 taken over by the Kerala Co-operative Central Land Mortgage Bank from the Travancore Credit Bank

40. Service of notices under the Act.—Whenever under the provisions of this Act, notice is required to be given to any person in writing, it shall be sufficient to send such notice by registered post. 41 Sections 102, 103 and the rules under section 104 of the Transfer of Property Act, 1882 to apply to notices under the Act.—The provisions of sections 102 and 103 of the Transfer of Property Act, 1882 (Central Act 4 of 1882), and of any rules made by the High Court under section 104 of that Act, for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Act

42. Officers of bank not to be interested in sales—At any sale of movable or immovable property held under the provisions of this Act for the recovery of any money due to the Agricultural Development Bank or any primary bank, no Director, Managing Director, Secretary or other Officer of the Agricultural Development Bank or such primary bank, as the case may be (except on behalf of the bank of which he is a Director, Managing Director, Secretary or other Officer), and no sale officer or other person having any duty to perform in connection with such sale, shall, either directly or indirectly, bid for or acquire or attempt to acquire any interest in such property

43. Delegation of powers by Board.—The Board may, if it thinks fit, delegate all or any of its powers under sections 19, 20 and 26 to any executive committee constituted by it and consisting of two or more of its members

44. Starting of branch banks.—The Board may, from time to time, with the previous sanction of the Registrar, start branches or regional offices of the Agricultural Development Bank at such convenient centres as it thinks fit and carry on operations through them

45. Power of Board to admit members—(1) The Board may admit any primary bank or the Government as a member of the Agricultural Development Bank on application made in that behalf to that bank (2) The Board may also admit any Company or Corporation or any body of persons, whether Incorporated or not and whether or not established by or under any law, or a co-operative society 153 as a nominal or associate member of the Agricultural Development Bank on application made in that behalf to that bank Provided that the previous approval of the Government shall be obtained for the admission of any company or Corporation or body of persons. Explanation.—In this section "nominal or associate member" means a member who possesses only such privileges and rights of a member and who is subject only to such liabilities of a member as may be specified in the regulations made by the Board 46. Primary agricultural credit societies to be admitted as members of primary banks in certain cases. (1) Notwithstanding anything contained in this Act or in any rule made thereunder or in any other law for the time being in force, the Government may, in consultation with the Agricultural Development Bank, by general or special order in writing empower any primary agricultural credit society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) to perform all or any of the functions of a primary bank under this Act. (2) A primary agricultural credit society empowered under sub-section (1) shall, in respect of the functions so conferred on it, be deemed to be a primary bank under this Act provided that no such society shall have the right to be a member of the Agricultural Development Bank. (3) A primary agricultural credit society empowered under sub-section (1) shall be made a member of the primary bank within whose jurisdiction the primary agricultural credit society is functioning, and shall be given representation in the committee of such primary bank, in the manner prescribed

47. Transfer of assets and liabilities of the Kerala Co-operative Central Land Mortgage Bank and Primary Land Mortgage Banks Notwithstanding anything contained in any law for the time being in force, or in any contract, on and from the commencement of this Act, the entire assets and liabilities, rights, title, interest and obligations of the Kerala Co-operative Central Land Mortgage Bank and Primary Land Mortgage Banks shall stand transferred to and vested in the Agricultural Development Bank and its primary banks, as the case may be, and thereupon the Agricultural Bank, and its primary banks may enforce the mortgages vested in them as if the properties mortgaged to the Kerala Co-operative Central Land Mortgage Bank and its primary banks were mortgaged to the Agricultural Development Bank and its primary banks. 3413258185\Mc I .34 (2) The share holders, debenture holders and depositors of the

Kerala Co-operative Central Land Mortgage Bank and the primary land mortgage banks shall be deemed to be the share holders, debenture holders and depositors respectively of the Agricultural Development Bank and its primary banks, as the case may be, from the date of commencement of this Act and they shall enjoy all the rights and privileges of the share holders, debenture holders and depositors of the Agricultural Development Bank and its primary banks. (3) All contracts, deeds, bonds, agreements and other instruments of whatever nature subsisting or having effect on the date of commencement of this Act and to which the Kerala Co-operative Central Land Mortgage Bank or any primary land mortgage bank is a party shall from such date be of full force and effect against or in favour of the Agricultural Development Bank or the corresponding primary bank, as the case may be, and may be enforced as fully and effectually by the Agricultural Development Bank and the primary bank

48. Power of Board to make regulations—Notwithstanding anything contained in the Kerala Co-operative Societies Act, 1969 (21 of 1969), or the rules made thereunder, the Board shall have general power of supervision over the primary banks and may, with the approval of the Trustee, make regulations not inconsistent with this Act or the rules made thereunder— (a) for the inspection of the account books and proceedings of primary banks; (b) for the submission of returns and reports by primary banks in respect of their transactions, (c) for the periodical settlement of accounts between primary banks and the Agricultural Development Bank for the payment of the amounts recovered by primary banks on Gehan or mortgage or hypothecation transferred, or deemed under the provisions of section 13 to have been transferred to the Agricultural Development Bank; (d) prescribing the form in which application to primary banks for loans should be made and for the valuation of the properties offered as security for such loans, (e) for the investment of moneys realised from Gehan or mortgage or hypothecation; and (f) generally for the purpose of safeguarding the interest of the parties concerned and for carrying out the purposes of this Act. 153 49. Cognisance of offences.—(1) No Court shall take cognisance of any offence under this Act except with the previous sanction in writing of the Registrar, and no Court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act. (2) No sanction shall be given under sub-section (1) without giving the party concerned an opportunity of being heard

50. Power to make The Government may, by notification in the Gazette, make rules to carry out all or any of the purposes of this Act.(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely :— (a) the form of declaration under section 10; (b) the form of notice under section 12; (c) manner of effecting distraint; (d) custody, preservation and sale of distrained properties; (e) deduction from the sale proceeds under section 32; . (f) investigation of the claims by persons other than the defaulter to any right or interest in distrained properties and *for the postponement of the sale pending such investigation; (g) immediate sale of perishable articles; (h) fixing the rates of deduction on account of the cost of sale of distrained properties; (i) proclamation and conduct of sales, . (j) recovery of the expenses of proclamation and sale; (k) deposit of the purchase money; (l) the re-sale of the property if the purchase money is not deposited • (m) the representation of primary agricultural credit societies and individuals in the committees of primary banks; (n) the registration of claims in respect of property mortgaged to the Agricultural Development Bank or a primary bank; (o) any other matter required or allowed by this Act to be prescribed. 156 (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Legislative Assembly makes any modification in the rule or decides that the rules 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

51. Certain rights and liabilities of Cochin Co-operative Land Mortgage Bank to continue in that Bank.—Notwithstanding anything contained in this Act, all assets, rights and liabilities of the Cochin Co-operative Land Mortgage Bank Limited, subsisting at the commencement of this Act shall continue to be the assets, rights and liabilities of that bank and the provisions of the Cochin Co-operative Land Mortgage Banks Act XXV of 1911, shall apply with respect to such assets, rights and liabilities 52 Repeal and The Kerala Co-operative Land Mortgage Banks Act, 1960 (1 of 1960), is hereby repealed. (2) Notwithstanding such repeal, all appointments, rules, orders and transactions made, notifications and

notwew ssued, and suits and other proceedmgs instituted, under the Act hereby repealed shall, so far as may be, be deemed to have been respectively made, issued or Instituted under this Act. (3) The regulations made by the Board of Directors of the Kerala Co-operative Central Land Mortgage Bank Limited under the Act repealed by sub-section (1) shall, in so far as they are not inconsistent With the provisions of this Act and the rules made thereunder, continue In force until altered or rescinded under this Act. (4) The bye-laws made by any primary land mortgagé bank before the commencement of this Act shall, in so far as they are not mconsistent with the provisions of this Äct and the rules made thereunder. continue in force until altered or rescmded under this Act. (5) The Board of Directors of the Kerala Co-operative Central Land Mortgage Bank Limited and the committee of every primary land mortgage bank existing immediately before the com- mencement of this Act, shall subject to the provisions of the regulations or bye-laws, as the case may be, applicable thereto, continue to function as such till the expiry of its 'term in accordance with such regulations or bye-laws, as. the case may "e

