

## **CHIT FUNDS ACT, 1982**

**40 of 1982**

**[19th August, 1982]**

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A conventional chit' is an old indigenous Financial institution involving regular periodical subscriptions by a group of persons. It is, in law, a contract between the subscribers and the foreman which provides that the subscribers shall subscribe a certain sum by periodical instalments for a definite period. Each subscriber shall, in his turn, as determined by lot or by auction or in such other agreed manner be entitled to the prize amount. There will be as many periodical instalments as there are members. As there is a mutuality of interest among the small number of subscribers to each chit fund, it constitutes a convenient instrument combining savings and borrowings. 2. In the wider context of examining in depth the activities of the non-banking financial intermediaries (which term also includes institutions conducting chit funds or kuries), the Banking Commission (1972) had recommended inter alia, that it is essential to have a uniform chit fund legislation applicable to the whole country and as such either an all India Chit Funds Act may be enacted or a Model law may be prepared for adoption by all the States. The Commission also observed that it would be desirable to provide in the legislation that only public limited companies can run chit funds. 3. The recommendations of the Banking Commission were examined by Government. The Reserve Bank, at the instance of the Government, drafted a model Bill to regulate the conduct of chit funds for adoption by all the State Governments. The Reserve Bank also sent the draft Bill to the Study Group on non-Banking Companies constituted by it in June, 1974 under the Chairmanship of late Shri James S. Raj, the then Chairman of the Unit Trust of India. The Study Group was unanimously of the view that the Bill should be enacted as a Central legislation, as such a step, besides ensuring uniformity in the provisions applicable to chit fund institutions throughout the country, would also prevent such institutions from taking advantage either of the absence of any law governing chit funds in any State or exploit the benefit of any lacuna or relaxation in any State law by extending their activities in such States. The Group further recommended that the administration of the law should be left to the State Government concerned which in turn could seek

the advice and assistance of the Reserve Bank on policy matters. Further, there should be according to the Group no objection to chits being conducted by private limited companies also and on a limited scale even by unincorporated bodies such as, individuals, sole proprietorships and partnership firms. 4. The Bill has been finalised after taking into account the views of all the State Governments to whom a draft Bill was sent for comments. The scheme of the Bill and the provisions made therein largely follow the pattern of chit fund legislations in force in some of the States and includes certain new provisions such as minimum capital requirements for companies conducting chit business, prohibiting chit fund companies from doing any other business, placing a ceiling on the aggregate chit amounts of chits that are being conducted by chit fund institutions, providing for a self-contained machinery for the settlement of disputes between a foreman and the subscribers by means of arbitration, etc. The repeal of the existing State legislations on the subject has also been provided for in the Bill. 5. The "Notes on clauses" appended to the Bill explain in detail the provisions of the Bill. -Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1007.

## CHAPTER 1 PRELIMINARY

### **1. Short title, extent and commencement :-**

- (1) This Act may be called the Chit Funds Act,
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.

### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

- (a) "approved bank" means the State Bank of India constituted under S.3 of the State Bank of India Act, 1935, or a subsidiary bank constituted under S.3 of the State Bank of India (Subsidiary Banks) Act, 1959 or a corresponding new bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or a Regional Rural Bank established under Section 3 of the Regional Rural Banks Act, 1976 , or a

corresponding new bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or a banking company as defined under clause (c) of S.5 of the Banking Regulation Act, 1949, or a banking institution notified by the Central Government under section 51 of that Act or such other banking institution as the State Government may, in consultation with the Reserve Bank, approve for the purposes of this Act;

Sub-clause (a) defines "approved banks" as referring to commercial banks and such other banking institutions as the State Government may, in consultation with the Reserve Bank, approve for the purposes of the Bill. -Gaz. of Ind., 20-11-1980, Pt. II, S.2, Ext"p. 1009.

(b) "chit" means a transaction whether called chit, chit fund, chitty, kuri or by any other name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical instalments over a definite period and that each such subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to the prize amount,

Sub-clause (b) defines the term "chit". This definition is on the same lines as the definition of the expression "conventional chit" in the Prized Chits and Money Circulation Schemes(Banning) Act, 1978 (43 of 1978). - Gaz. of Ind., 20-11-1980, Pt. II, S.2, Ext" p. 1009.

(c) "chit agreement" means the document containing the articles of 'agreement between the foreman and the subscribers relating to the chit;

(d) "chit amount" means the sum total of the subscriptions payable by all the subscribers for any instalment of a chit without any deduction of discount or otherwise;

(e) "chit business" means the business of conducting a chit;

(f) "defaulting subscriber" means a subscriber who has defaulted in the payment of subscriptions due in accordance with the terms of the chit agreement;

(g) "discount" means the sum of money or the quantity of grain

which a prized subscriber is, under the terms of the chit agreement, required to forego and which is set apart under the said agreement to meet the expenses of running the chit or for distribution among the subscribers or for both;

Sub-clause (g) defines "discount" as the sum of money which a prized subscriber is required to forego under the terms of the chit agreement. - Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1009,

(h) "dividend" means the share of the subscriber in the amount of discount available under the chit agreement for rateable distribution among the subscribers at each instalment of the chit;

Sub-clause (h) defines "dividend" to mean the share of the subscriber in the amount of discount available under the chit agreement for rateable distribution among the subscribers at each instalment of the chit. - Gaz, of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1009.

(i) "draw" means the manner specified in the chit agreement for the purpose of ascertaining the prized subscriber at any instalment of the chit;

(j) "foreman" means the person who under the chit agreement is responsible for the conduct of the chit and includes any person discharging the functions of the foreman under section 39 ;

(k) "non-prized subscriber" does not include a defaulting subscriber;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "prize amount" means the difference between the chit amount and the discount, and in the case of a fraction of a ticket means the difference between the chit amount and the discount proportionate to the fraction of the ticket, and when the prize amount is payable otherwise than in cash, the value of the prize amount shall be the value at the time when it becomes payable;

(n) "prized subscriber" means a subscriber who has either received or is entitled to receive the prize amount; ,

(o) "Registrar" means the Registrar of Chits appointed under section 61 , and includes an Additional, a Joint, Deputy or an Assistant Registrar appointed under that section;

(p) "Reserve Bank" means the Reserve Bank of India constituted

under Reserve Bank of India Act, 1934 ;

(q) "State Government", in relation to a Union territory, means the administrator of that Union territory appointed by the President under Article 239 of the Constitution;

(r) "subscriber" includes a person who holds a fraction of a ticket and also a transferee of a ticket or fraction thereof by assignment in writing or by operation of law;

(s) "ticket" means the share of a subscriber in a chit.

**3. Act to override other laws, memorandum, articles, etc :-**

Save as otherwise expressly provided in this Act,-

(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in the memorandum or articles of association or bye-laws or in any agreement or resolution whether the same be registered, executed or passed, as the case may be, before or after the commencement of this Act; and

(b) any provision contained in the memorandum, articles, bye-laws, agreement or resolution aforesaid, shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.

Clause 3.- This clause provides that the provisions of the Bill shall have effect notwithstanding anything to the contrary contained in the provisions of any other law in force or in the memorandum and articles of association, or bye-laws, etc., and if any such provision is repugnant to the provisions of the Bill, it shall, to the extent of the repugnancy become or be void. - Gaz. of Ind" 20-11-1980, Pt. II, S. 2, Ext" p. 1009.

CHAPTER 2

REGISTRATION OF CHITS, COMMENCEMENT AND CONDUCT OF CHIT BUSINESS

**4. Prohibition of chits not sanctioned or registered under the Act :-**

(1) No chit shall be commenced or conducted without obtaining the previous sanction of the State Government within whose jurisdiction the chit is to be commenced or conducted or of such officer as may be empowered by that Government in this behalf, and unless the chit is registered in that State in accordance with the provisions of this Act: Provided that a sanction obtained under

this sub-section shall lapse if the chit is not registered within twelve months from the date of such sanction or within such further period or periods not exceeding six months in the aggregate as the State Government may, on application made to it in this behalf, allow.

(2) An application for the purpose of obtaining a sanction under sub-section (1) shall be made by the foreman in such form and in such manner as may be prescribed.

(3) The previous sanction referred to in sub-section (1) may be refused, if the foreman,-

(a) had been convicted of any offence under this Act or under any other Act regulating chit business and sentenced to imprisonment for any such offence; or

(b) had defaulted in the payment of fees or the filing of any statement or record required to be paid or filed under this Act or had violated any of the provisions of this Act or the rules made thereunder; or

(c) had been convicted of any offence involving moral turpitude and sentenced to imprisonment for any such offence unless a period of Five years has elapsed since his release: Provided that before refusing any such sanction, the foreman shall be given a reasonable opportunity of being heard.

(4) The order of the State Government, and, subject to the provisions of sub-section (5), the order of the officer empowered under sub-section ( 1 ), issuing or refusing previous sanction under this section shall be final.

(5) Any person aggrieved by the refusal to issue previous sanction by an officer empowered under sub-section (1) may appeal to the State Government within thirty days of the date of communication to him of such refusal and the decision of that Government on such appeal shall be final

.

Clause 4.- This clause provides that no chit shall be commenced or conducted without obtaining the previous sanction of the State Government within whose jurisdiction the chit is to be conducted and unless the chit is registered under the provisions of the Bill. It has also been provided that such sanction shall lapse if the chit is not registered before the expiry of six months from the date of

such sanction or within such further period of six months as the State Government may allow. -Gaz. of Ind" 20-11-1980, Pt. II, S.2,Ext., p, 1009.

**5. Prohibition of invitation for subscriptions except under certain conditions :-**

No person shall issue or cause to be issued any notice, circular, prospectus, proposal or other document inviting the public to subscribe for tickets in any chit unless such notice, circular, prospectus, proposal or document contains a statement that the previous sanction required under section 4 has been obtained and the particulars of such sanction.

Clause 5.- This clause prohibits the invitation for subscriptions to a chit by issuing a notice, circular, prospectus or j document unless such notice circular, prospectus or document contains a statement that the previous sanction referred to ! in clause .4 has been obtained and also the particulars of such sanction

**6. Form of chit agreement :-**

(1) Every chit agreement shall be in duplicate and shall be signed by each of the subscribers or by any person authorised by him in writing and the foreman and attested by at least two witnesses and it shall contain the following particulars, namely:-

(a) full name and residential address of every subscriber:

(b) the number of tickets including the fraction of a ticket held by each subscriber;

(c) the number of instalments, the amount payable for each ticket at every instalment and the ! interest or penalty, if any, payable on any default in the payment of such instalments;

(d) the probable date of commencement and the duration of the chit;

(e) the manner of ascertaining the prized subscriber at each instalment;

(f) the maximum amount of discount which the prized subscriber has to forego at any instalment;

(g) the mode and proportion in which the discount is distributable by way of dividend- foreman's commission or remuneration or expenses for running the chit, as the case may be;

- (h) the date, time and place at which the chit is to be drawn;
- (i) the instalment at which the foreman is to get the chit amount;
- (j) the name of the approved bank in which chit moneys shall be deposited by the foreman under the provisions of this Act;
- (k) where the foreman is an individual, the manner in which a chit shall be continued when such individual dies or becomes of unsound mind or is otherwise incapacitated;
- (l) the consequences to which a non-prized or prized subscriber or the foreman shall be liable in case of violation of any of the provisions of the chit agreement;
- (m) the conditions under which a subscriber shall be treated as a defaulting subscriber;
- (n) the nature and particulars of the security to be offered by the foreman;
- (o) the dates, on which and time during which the foreman shall, subject to the provisions contained in section 44 , allow inspection of chit records to non-prized and unpaid prized Subscribers;
- (p) the names of the nominees of each subscriber, that is to say, the names of the persons to whom the benefits accruing to the subscriber under the chit may be paid in the case of the death of the subscriber or when he is otherwise incapable of making an agreement;
- (q) any other particulars that may, from time to time, be prescribed.

(2) The duration of a chit shall not extend beyond a period of five years from the date of its commencement: Provided that the State Government may permit the duration of a chit up to a period of ten years if it is satisfied that it is necessary so to do, having regard to,-

- (a) the financial condition of the foreman;
- (b) his methods of operation;
- (c) the interest of prospective subscribers;
- (d) the requirement as to security; and
- (e) such other factors as the circumstances of the case may require.

(3) The amount of discount referred to in clause (f) of sub-section (1) shall not exceed <sup>1</sup> ["forty per cent."]. of the chit amount.

(4) Where the prized subscriber at any instalment of the chit is required to be determined by auction and more than one person offer the maximum discount, the prized subscriber shall be determined by lot.

Clause 6.- While the various particulars which are required to be specified in every chit agreement and the other formalities to be complied with have been specified in sub-clause ( 1 ) of this clause, it has been provided in sub-clause (2) that the duration of a chit shall not extend beyond a period of five years from the date of its commencement. However, the State Government concerned has been empowered to permit the duration of a chit up to a period of ten years on the existence of certain conditions specified in that sub-clause. Sub-clause (3) provides that the amount of discount in any chit shall not exceed thirty per cent. of the chit amount (that is, the sum-total of subscriptions payable by all the subscribers for any instalment of a unit without any deduction for discount or otherwise), -Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., pp. 1009, 1010.

1. In Sec. 6, sub-sec. (3), the words "thirty per cent." shall be substituted by Chit Funds (Amendment) Act, 2001. (10 of 2001) Gaz. of India, Exty., Part. II-Sec. 1. dated. 09/05/2001, Republished in the Guj. Gout. Gaz., Exty., Part. VI, No. 30, dated 20/09/2001. page 30-1.

## **7. Filing of chit agreement :-**

(1) Every chit agreement shall be filed in duplicate by the foreman with the Registrar.

(2) The registrar shall retain one copy of the chit agreement and return the duplicate to the foreman with an endorsement that the chit agreement has been registered: Provided that the Registrar may refuse to register the chit agreement on any one or more of the following grounds, namely :-

(a) that the security offered by the foreman under section 20 is insufficient;

(b) that the foreman had been convicted of any offence under this Act or under any other Act regulating chit business and sentenced to imprisonment for any such offence;

(c) that the foreman had defaulted in the payment of fees or the filing of any statement or record required to be paid or filed under this Act or had violated any of the provisions of this Act or the rules made thereunder;

(d) that the foreman had been convicted of any offence involving moral turpitude and sentenced to imprisonment for any such offence unless a period of five years has elapsed since his release: Provided further that before refusing to register a chit under the first proviso, the foreman shall be given a reasonable opportunity of being heard.

(3) Every endorsement made under sub-section (2) shall be conclusive evidence that the chit is duly registered under this Act and the registration of a chit shall lapse if the declaration by the foreman under sub-section (1) of section 9 is not filed within three months from the date of such endorsement or within such further period or periods not exceeding three months in the aggregate as the Registrar may, on application made to him in this behalf allow.

Clause 7. - Sub-clause ( 1 ) of this clause provides for the chit agreement being filed in duplicate by the foreman with the Registrar. Sub-clause (2) empowers the Registrar to retain one copy of the chit agreement and return the duplicate to the foreman with an endorsement that the chit agreement has been registered by him; and such an endorsement shall be conclusive evidence that the chit is duly registered under the provisions of the Bill. -Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext" p. 1010.

**8. Minimum Capital requirements for the Commencement, etc. of a chit and creation of a reserve fund by a Company :-**

(1) Notwithstanding anything contained Companies Act, 1956 , but subject to the provisions of this Act, a company shall not commence or carry on chit business unless it has a paid up capital of not less than rupees one lakh.

(2) Every company having a paid-up capital of less than rupees one lakh and carrying on chit business on the commencement of this Act, shall, before the expiry of a period of three years from such commencement, increase its paid-up capital to not less than rupees one lakh: Provided that the State Government may, if it considers it necessary in the public interest or for avoiding any hardship, extend the said period of three years in respect of any company by

such further period or periods not exceeding two years in the aggregate: Provided further that no such company shall commence any new chit the duration of which would extend beyond the said period of three years or such extended period or periods under the first proviso unless it increases its paid-up capital to not less than rupees one lakh.

(3) Every company carrying on chit business shall create and maintain a reserve fund and shall, out of the balance of profit of each year as disclosed in its profit and loss account and before any dividend on its shares is declared, transfer to such reserve fund, a sum equal to not less than ten per cent. of such profit.

(4) No company shall appropriate any sum or sums from the reserve fund except with the prior approval of the Registrar and, for the purpose of obtaining such approval, it shall make an application in the prescribed form to the Registrar explaining the circumstances relating to such appropriation.

Clause 8.- Sub-clause (1) of this clause provides that a company shall not conduct any chit or carry on any chit business unless its paid-up capital is not less than rupees one lakh. Sub-clause (2) requires the existing companies having a share capital of less than rupees one lakh to increase its paid-up capital to not less than rupees one lakh within a period of three years from the commencement of the proposed legislation. The State Government has, however, been empowered to extend the period of three years in respect of any company for such further period not exceeding two years in the aggregate. Sub-clause (3) provides that every company carrying on chit business shall create a reserve fund and transfer to such reserve fund a sum not less than twenty per cent of the balance of profit for each year as disclosed in its profit and loss account before declaring any dividend on its shares.- Gaz. of Ind., 20-11-1980, Pt, II, S. 2, Ext., p. 1010.

## **9. Commencement of chit :-**

(1) Every foreman shall, after all the tickets specified in the chit agreement are fully subscribed, file a declaration to that effect with the Registrar.

(2) As soon as may be after a declaration is filed under sub-section (1), the Registrar shall, after satisfying himself that all the requirements relating to sanction, registration of chit and other matters have been duly complied with, grant a certificate of

commencement to the foreman.

(3) No foreman shall commence any auction of the draw of any chit or appropriate any chit amount unless a certificate of commencement referred to in sub-section (2) is obtained by him.

Clause 9.- This clause provides that every foreman shall, after all the tickets specified in the chit agreement are fully subscribed, file a declaration to that effect with the Registrar. Sub-clause (2) empowers the Registrar to issue a certificate of commencement after the filing of such declaration and no foreman can commence any auction or draw unless such certificate is granted.- Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1010.

#### **10. Copies of chit agreement to be given to subscribers :-**

(1) A foreman shall as soon as may be after he has obtained the certificate of commencement under sub-section (2) of section 9 , but not later than the date of the first draw of the chit, furnish to every subscriber, a copy of the chit agreement certified to be a true copy.

(2) A foreman shall, within fifteen days after the close of the month in which the draw for the first instalment of the chit is held, file with the Registrar, a certificate to the effect that the provisions of sub-section (1) have been complied with,

Clause 10.- This clause requires every foreman to furnish a copy of the chit agreement to every subscriber after the foreman has obtained the certificate of commencement under clause 9 and before the first draw.- Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1010.

#### **11. Use of the words "chit", "chit fund", "chitty" or "kuri" :-**

(1) No person shall carry on chit business unless he uses as part of his name any of the words "chit", "chit fund", "chitty" or "kuri" and no person after other than a person carrying on chit business shall use as part of his name any such word.

(2) Where at the commencement of this Act-

(a) any person is carrying on chit business without using as part of his name any of the words specified in sub-section (1); or

(b) any person not carrying on chit business is using any such word as part of his name, he shall, within a period of one year from such

commencement, add as part of his name any such word or, as the case may be, delete such word from his name: Provided that the State Government may, if it considers it necessary in the public interest or for avoiding any hardship, extend the said period of one year by such further period or periods not exceeding one year in the aggregate,

Clause 11.- This clause prohibits the use of the word "chit", "chit fund", "chitty" or "kuri" by any person other than a person carrying on chit business and makes it obligatory on a person carrying on chit business to use as part of his name any one of such words.- Gaz. of Ind., 20-11-1980, Pt. II, S.2, Ext., p. 1010.

### **12. Prohibition of transacting business other than chit business by a company :-**

(1) Except with the general or special permission of the State Government, no company carrying on chit business shall conduct any other business.

(2) Where at the commencement of this Act, any company is carrying on any business in addition to chit business, it shall wind up such other business before the expiry of a period of three years from such commencement: Provided that the State Government may, if it considers it necessary in the public interest or for avoiding any hardship, extend the said period of three years by such further period or periods not exceeding two years in the aggregate.

Clause 12.- Sub-clause (1) provide that no company carrying on chit business shall conduct any other business except with the general or special permission of the State Government. Sub-clause (2) provides for the winding up of such other business before the expiry of a period of three years from the commencement of the proposed legislation or such extended period not exceeding two years.- Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext" p. 1010.

### **13. Aggregate amount of chits :-**

(1) No foreman, other than a Firm or other association of individuals or a company or co-operative society, shall commence or conduct chits, the aggregate chit amount of which at any time exceeds <sup>1</sup>["rupees one lakh"].

(2) Where the foreman is a firm or other association of individuals, aggregate chit amount of the chits conducted by the firm or other

association shall not at any time exceed,-

(a) where the number of partners of the firm or the individuals constituting the association is not less than four, a sum of rupees <sup>2</sup>["six lakhs"];

(b) in any other case, a sum calculated on the basis of <sup>3</sup> [rupees one lakh] with respect to each such partner or individual.

(3) Where the foreman is a company or co-operative society, the aggregate chit amount of the chits conducted by it shall not at any time exceed ten times the net owned funds of the company or the co-operative society, as the case may be.

Clause 13,- Under this clause, no foreman other than a firm or other association of individuals or a company can commence or conduct chits, the aggregate amount of which at any time exceeds ten thousand rupees. Where the foreman is a firm or other association of individuals, the aggregate chit amount shall not exceed rupees ten thousand for every partner or individual, as the case may be, subject to maximum of rupees forty thousand. Where the foreman is a company, the aggregate chit amount of the chits conducted by it shall not, at any time, exceed ten times the net assets of the company that is the total assets of the company less its total liabilities, bad and doubtful debts as also other intangible assets as disclosed by its last audited balance sheet).- Gaz. of Ind" 20-11-1980, Pt. U.S. 2, Ext., p. 1010.

1. In Sec. 13, sub-sec. (1), the words ""twenty-five thousand rupees" shall be substituted by Chit Funds (Amendment) Act, 2001. (10 of 2001) Gaz. of India, Exty., Part. II-Sec. 1. dated. 09/05/2001, Republished in the Guj. Gout. Gaz., Exty., Part. VI, No. 30, dated 20/09/2001.

2. In Sec. 13, sub-sec. (1), in clause (a) the words ""one lakha" shall be substituted by Chit Funds (Amendment) Act, 2001. (10 of 2001) Gaz. of India, Exty., Part. II-Sec. 1. dated. 09/05/2001, Republished in the Guj. Gout. Gaz., Exty., Part. VI, No. 30, dated 20/09/2001.

3. In Sec. 13, sub-sec. (1), in clause (b) the words "twenty-five thousand rupees" shall be substituted by Chit Funds (Amendment) Act, 2001. (10 of 2001) Gaz. of India, Exty., Part. II-Sec. 1. dated. 09/05/2001, Republished in the Guj. Gout. Gaz., Exty., Part. VI, No. 30, dated 20/09/2001.

#### **14. Utilisation of funds :-**

(1) No person carrying on chit business shall utilise the moneys

collected in respect of such business (other than commission or remuneration payable to such person or interest or penalty, if any, received from a defaulting subscriber), except for-

(a) carrying on chit business; or

(b) giving loans and advances to non-prized subscribers on the security of subscriptions paid by them; or

(c) investing in trustee securities within the meaning of S.20 of the Indian Trusts Act, 1882; or

(d) making deposits with approved banks mentioned in the chit agreement.

(2) Where any person carrying on chit business has utilised the moneys collected in respect of such business before the commencement of this Act, otherwise than for the purposes specified in sub-section (1), he shall secure that so much of such moneys as have not been realised before such commencement are realised before the expiry of a period of three years from such commencement: Provided that the State Government may, if it considers it necessary in the public interest or for avoiding any hardship, extend the said period of three years by such further period or periods not exceeding one year in the aggregate.

Clause 14.- This clause prohibits a person carrying on chit business from utilising the moneys collected in respect of such business except for the purposes mentioned therein, namely, for carrying on chit business, giving loans and advances to non-prized subscribers, etc. on the security of the subscriptions paid by them. investment in trustee securities, etc.. -Gaz. of Ind.,20-1 1-1980. Pt. II. S.2. Ext., p. 1011.

### **15. Alteration of chit agreement :-**

A chit agreement shall not be altered, added to or cancelled except with the consent in writing of the foreman and all the subscribers to the chit.

### **16. Date, time and place of conducting chits :-**

(1) Every draw in a chit shall be held on the date, at the time and place mentioned in the chit agreement and a notice therefor in such form and in such manner as may be prescribed shall be issued by the foreman to all the subscribers.

(2) Every such draw shall be conducted in accordance with the provisions of the chit agreement and in the presence of not less than two subscribers.

(3) Where any draw was not conducted on the ground that two subscribers required to be present at a draw under sub-section (2) were not present or on any other ground, the Registrar may, on his own motion or on an application made by the foreman or any of the subscribers, direct that the draw shall be conducted in his presence or in the presence of any person deputed by him.

### **17. Minutes of proceedings :-**

(1) The minutes of the proceedings of every draw shall be prepared and entered in a book to be kept for that purpose immediately after the closure of the draw and shall be signed by the foreman, the prized subscribers, if present, or their authorised agents, and at least two other subscribers who are present, and where a direction has been made under sub-section (3) of section 16 , also by the Registrar or the person deputed by him under that sub-section.

(2) The minutes referred to in sub-section (1) shall state clearly-

(a) the date and hour when proceedings began and ended and the place where the draw was held;

(b) the number of the instalment of the chit to which the proceedings relate;

(c) the names of the subscribers present;

(d) the person or persons who become entitled to the prize amount in the instalment;

(e) the amount of discount;

(f) full particulars regarding the disposal of the unpaid prize amount, if any, in respect of any previous instalment; and

(g) any other particulars that may be prescribed.

### **18. Copies of minutes to be filed with Registrar :-**

A true copy of the minutes of the proceedings of every draw certified as such by the foreman shall be filed by the foreman with the Registrar within twenty-one days from the date of the draw to which it relates.

### **19. Restriction on opening of new place of business :-**

(1) No person carrying on chit business shall open a new place of business without obtaining the prior approval of the Registrar within whose territorial jurisdiction his registered office or, as the case may be, the place or the principal place of business is situated.

(2) Before granting approval under sub-section (1), the Registrar shall consult the Registrar of the State within whose territorial jurisdiction the new place of business is proposed to be opened and shall also keep in view the financial condition and methods of operation of the foreman, the extent to which public interest will be served by the opening of the new place of business and such other matters as may be prescribed.

(3) Where a person carrying on chit business opens a new place of business in a State other than the State (hereinafter referred to as the State of origin) in which his registered office or the place or the principal place of his business is situated, the Registrar of the State in which such new place of business is opened may also exercise and perform any of the powers and functions which the Registrar of the State of origin may exercise and perform in respect of the chit business carried on at such new place of business.

(4) For the purposes of this section, "place of business" shall include any branch office, sub-office, or any place of business where the chit business may be conducted by such person.

### CHAPTER 3

#### RIGHTS AND DUTIES OF FOREMAN

### **20. Security to be given by foreman :-**

(1) For the proper conduct of the chit, every foreman shall, before applying for a previous sanction under section 4 , -

"(a)<sup>1</sup> deposit in the name of the Registrar, an amount equal to,

(i) fifty per cent. of the chit amount in cash in an approved bank; and

(ii) fifty per cent. of the chit amount in the form of bank guarantee from an approved bank; or".

(b) transfer Government securities of the face value or market value (whichever is less) of not less than one and a half times the chit amount in favour of the Registrar; or

(c) transfer in favour of the Registrar such other securities, being securities in which a trustee may invest money under S.20 of the Indian Trusts Act, 1882, of such value, as may be prescribed by the State Government from time to time; Provided that the value of the securities referred to in clause (c) shall not, in any case, be less than one and a half times the value of the chit amount.

(2) Where a foreman conducts more than one chit, he shall furnish security in accordance with the provisions of sub-section (1) in respect of each chit.

(3) The Registrar may, at any time during the currency of the chit, permit the substitution of the security: Provided that the face value or market value (whichever is less) of the substituted security shall not be less than the value of the security given by the foreman under sub-section (1).

(4) The security given by the foreman under sub-section (1), or any security substituted under sub-section (3), shall not be liable to be attached in execution of a decree or otherwise until the chit is terminated and the claims of all the subscribers are fully satisfied.

(5) Where the chit is terminated and the Registrar has satisfied himself that the claims of all the subscribers have been fully satisfied, he shall order the release of the security furnished by the foreman under sub-section (1), or the security substituted under sub-section (3), as the case may be, and in doing so, he shall follow such procedure as may be prescribed.

(6) Notwithstanding anything to the contrary contained in any other law for the time being in force, the security furnished under this section shall not be dealt with by the foreman during the currency of the chit to which it relates and any dealing by the foreman with thereto by way of transfer or other encumbrances shall be null and void.

Clause 20.- Specifies the various securities to be given by a foreman for the proper conduct of the chit. They are as follows:-

(a) deposit in an approved bank of an amount equal to the chit amount in the name of the Registrar; (b) transfer Government securities or other securities referred to in , in S.20 of the Indian Trusts Act, 1882 favour of the Registrar. The value of the Government securities should be not less than one-and-a-half times the value of the chit amount and the value of other securities would be specified by the State Government by rules which shall not be

less than one-and-a-half times the value of the chit amount. The security given may be substituted by another security of the same value and the security so furnished or substituted would not be released to the foreman until the chit is terminated and the claims of all the subscribers are fully satisfied. A foreman's rights include the right to take the chit amount at the first instalment without deduction of discount, to receive and realise all subscriptions from the subscribers and to distribute the prize amounts to the prized subscribers. The duties include the disbursement of the prize amounts to the prized subscribers on their furnishing sufficient security for the due payment of future subscriptions, deposit the undisbursed prize amount in approved banks before the next succeeding draw, etc.- Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext" p. 1011.

1. In Sec. 20, sub-sec. (1), in clause (a) shall be substituted by Chit Funds (Amendment) Act, 2001. (10 of 2001) Gaz. of India, Exty., Part. II-Sec. 1. dated. 09/05/2001, Republished in the Guj. Gout. Gaz., Exty., Part. VI, No. 30, dated 20/09/2001.

### **21. Rights of foreman :-**

1) The foreman shall be entitled,-

(a) in the absence of any provision in the chit agreement to the contrary, to obtain the chit amount at the first instalment without deduction of the discount specified in the chit agreement, subject to the condition that he shall subscribe to a ticket in the chit: Provided that in a case where the foreman has subscribed to more than one ticket, he shall not be eligible to obtain more than one chit amount in a chit without discount;

(b) to such amount not exceeding five per cent of the chit amount as may be fixed in the chit agreement, by way of commission, remuneration or for meeting the expenses of running the chit;

(c) to interest and penalty, if any; payable on any default in the payment of instalments and to such other amounts as may be payable to him under the provisions of the chit agreement;

(d) to receive and realise all subscriptions from the subscribers and to distribute the prize amounts to the prized subscribers;

(e) to demand sufficient security from any prized subscriber for the due payment of future subscriptions payable by him.

(f) to substitute subscribers in place of defaulting subscribers; and  
(g) to do all other acts that may be necessary for the due and proper conduct of the chit.

(2) Where any dispute arises with regard to the value of the property offered as security under clause (e) of sub-section (1), it shall be referred to the Registrar for arbitration under section 64 .

## **22. Duties of foreman :-**

(1) The foreman shall, on the prized subscriber furnishing sufficient security for the due payment of future subscriptions, be bound to pay him the prize amount: Provided that the prized subscriber shall be entitled to the payment of the prize amount without any security whatsoever if he agrees to the deduction therefrom of the amount of all future subscriptions and in such a case, the foreman shall pay the prize amount to the prized subscriber within seven days after the date of the draw or before the date of the next succeeding instalment, whichever is earlier: Provided further that where the prize amount has been paid to the prized subscriber under the first proviso, the amount deducted shall be deposited by the foreman in an approved bank mentioned in the chit agreement and he shall not withdraw the amount so deposited except for the payment of future subscriptions.

(2) If, owing to the default of the prized subscriber, the prize amount due in respect of any draw remains unpaid until the date of the next succeeding instalment, the foreman shall deposit the prize amount forthwith in a separate account in an approved bank mentioned in the chit agreement and intimate in writing the fact of such deposit and the reasons therefor to the prized subscriber and the Registrar:\_\_\_ Provided that where any prized subscriber does not collect the prize amount in respect of any instalment of a chit within a period of two months from the date of the draw, it shall be open to the foreman to hold another draw in respect of such instalment.

(3) Every payment of the prize amount or the amount of future subscriptions under sub- section (1), and the deposit of the prize amount under sub-section (2), shall be intimated to the subscribers at the next succeeding draw and the particulars of such payment or deposit shall be entered in the minutes of the proceedings of that draw.

(4) The foreman shall not appropriate to himself any amount in excess of what he is entitled to under clause (b) or clause (c) of sub-section (1) of section 21 ; Provided that where the foreman is himself a prized subscriber, he shall be entitled to appropriate to himself the prize amount subject to his complying with the provisions of section 31 : Provided further that the foreman may appropriate to himself the interest accruing on the amount deposited under the second proviso to sub-section (1).

(5) The foreman shall not admit any person as a subscriber to a chit, if, by such admission, the total number of tickets mentioned in the chit agreement is increased.

(6) The foreman shall distribute among the subscribers, in accordance with the chit agreement, the dividend either in cash, grain or by way of adjustment towards the subscriptions payable for the next instalment, if any.

**23. Books, records, etc., to be kept by foreman :-**

The foreman shall maintain in his registered office, or, as the case may be, in the place or the principal place of his business, of, where the foreman has any branch office, sub-office, or any place of business for the conduct of chit business in a State other than the State in which his registered office or the principal place of his business is situated, in such branch office, sub-office or place of business in respect of the business conducted in that State-

(a) a register containing-

(i) the names and full particulars of the subscribers in each chit together with the number of tickets held by each subscriber;

(ii) the dates on which the subscribers signed the chit agreement; and

(iii) in the case of an assignment of a ticket by a subscriber, the name and full address of the assignee with the date of assignment and the date on which the assignment had been recognised by the foreman;

(b) a book containing the minutes of the proceedings of each draw;

(c) a ledger containing-

(i) the amounts paid by the subscribers in each chit and the dates of such payments;

(ii) the amounts paid to the prized subscribers and the dates of such payments; and

(iii) in the case of any deposit in an approved bank mentioned in the chit agreement, the date and the amount of such deposit;

(d) a register in the prescribed form showing the amounts deposited in approved banks as required under the provisions of this Act in respect of all chits conducted by the foreman at his office; and

(e) such other registers and books in such form as may be prescribed by the State Government within whose jurisdiction the chit is conducted.

#### **24. Balance sheet :-**

Without prejudice to the provisions of Companies Act, 1956 . every foreman shall prepare and file with the Registrar within such time as may be prescribed, a balance sheet as on the last date of each calendar year, or, as the case may be, the financial year of the foreman, and a profit and loss account relating to the year of account, in the forms set out in Parts I and II of the Schedule, or as near thereto as circumstances admit, in respect of the chit business and audited by auditors qualified to act as auditors under Companies Act, 1956 , or by a chit auditor appointed under section 61 : Provided that where a balance sheet is audited by an auditor qualified to act as auditor under Companies Act, 1956 , a chit auditor appointed under section 61 shall have the right to audit the balance sheet at any time if so authorised by the Registrar in this behalf.

Clause 24.- This clause enjoins every foreman 'to prepare and file with the Registrar within such time as may be prescribed by rules a balance sheet and profit and loss account in the forms set out in the Schedule to the Bill.- Gaz. of Ind.,20-11-1980, Pt. II. S. 2. Ext.. p. 1012.

#### **25. Liability of foreman to subscribers :-**

(1) Every foreman shall be liable to account to the subscribers for the amount due to them.

(2) Where there are more than one foreman in a chit, each one of them jointly and severally and, if the foreman is a firm or other association of individuals, each one of the partners or individuals

thereof jointly and severally and, if the foreman is a company the company as such, shall be liable to the subscribers in respect of the obligations arising out of the chit.

-See under S. 26

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## **26. Withdrawal of foreman :-**

(1) No foreman, or where there are more than one foreman in a chit, none of them shall withdraw from the chit until its termination unless such withdrawal is assented to in writing by all the non-prized and unpaid prized subscribers and a copy of such assent has been filed with the Registrar under section 41 .

(2) The withdrawal from a chit of any one of the foreman shall not affect the security given by him under section 20 or section 31 .

Clauses 25 and 26. - While clause 25 lays down that the foreman shall be liable to account to the subscribers for the amounts due to them. clause 26 prohibits a foreman from withdrawing from the chit until its termination unless such withdrawal is assented to in writing by all the non-prized and unpaid prized subscribers.- Gaz. of Ind., 20-11-1980, Pt, II, S.2.Ext.,p.1012.

## CHAPTER 4

### RIGHTS AND DUTIES OF NON-PRIZED SUBSCRIBERS

## **27. Non-prized subscribers to pay subscriptions and obtain receipts :-**

Every non-prized subscriber shall pay his subscription due in respect of every instalment on the dates and times and at the places mentioned in the chit agreement and shall, on such payment, be entitled to obtain a receipt from the foreman.

Clause 27.- This clause provides for payment of subscriptions by every non-prized subscriber on the date, time and place mentioned in the chit agreement. -Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1012.

## **28. Removal of defaulting subscribers :-**

(1) A non-prized subscriber who defaults in paying his subscription in accordance with the terms of the chit agreement shall be liable to have his name removed from the list of subscribers and a written notice of such removal shall be given ' by the foreman to the

defaulting subscriber within fourteen days of the date of such removal: ' Provided that if the defaulter pays the defaulted instalment with interest at such rate as may be prescribed within seven days of the date of receipt of such notice, his name shall be re-entered in the list of such subscribers.

(2) Every such removal under sub-section (1) shall with the date thereof be entered in the relevant book maintained by the foreman.

(3) A true copy of the entry referred to in sub-section (2) shall be filed by the foreman with the Registrar within fourteen days from the date of removal.

(4) Any defaulting subscriber aggrieved by the removal of his name from the list of subscribers may, within seven days of the date of receipt of the notice of removal refer the matter to the Registrar for arbitration under section 64 .

### **29. Substitution of subscribers :-**

(1) A foreman may substitute in the list of subscribers any person (hereafter in' this Chapter referred to as the substituted subscriber) in place of the defaulting subscriber whose name has been removed under sub-section (1) of section 28 .

(2) Every substitution referred to in sub-section (1) shall, with the date thereof, be entered in the relevant book maintained by the foreman and a true copy of every such entry shall be filed by the foreman with the Registrar within fourteen days from the date of substitution.

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See under S. 30.

### **30. Amounts due to defaulting subscribers :-**

(1) A foreman shall, out of the amounts payable by and realized from the substituted subscriber towards the instalments relatable to the period before the date of the substitution (including the arrears due from the defaulting subscriber), deposit, before the date of the next succeeding instalment, in a separate identifiable account in an approved bank mentioned in the chit agreement, an amount equal to the contributions made by the defaulting subscriber less such deductions as may be provided for in the chit agreement, and shall inform the defaulting subscriber as well as the Registrar of the fact of such deposit and shall not withdraw the amount so deposited

except for payment to the defaulting subscriber.

(2) The amount so deposited under sub-section (1) shall be paid to the defaulting subscriber as and when he claims the amount and the amount so deposited shall not be withdrawn by the foreman for any purpose other than for such payment.

(3) The contributions of any defaulting subscriber who has not been substituted till the termination of the chit shall be paid to him within fifteen days from the date of termination of the chit subject to such deductions as may be provided for in the chit agreement.

Clause 29 and 30.- These clauses provide for the substitution of a new subscriber in place of a defaulting subscriber and the amounts payable to the defaulting subscriber. -Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1012.

#### CHAPTER 5

#### RIGHTS AND DUTIES OF PRIZED SUBSCRIBERS

#### **31. Prized subscriber to furnish security :-**

Every prized subscriber shall, if he has not offered to deduct the amount of all future subscriptions from the prize amount due to him, furnish and aforeman shall take, sufficient security for the due payment of all future subscriptions and, if the foreman is a prized subscriber, he shall give security for the due payment of all the future subscriptions to the satisfaction of the Registrar.

- See under S. 33.

#### **32. Prized subscriber to pay subscriptions regularly :-**

Every prized subscriber shall pay his subscriptions regularly on the dates and times and at the place mentioned in the chit agreement and, on his failure to do so, he shall be liable to make a consolidated payment of all the future subscriptions forthwith.

-See under S. 33.

#### **33. Foreman to demand future subscriptions by written notice :-**

(1) A foreman shall not be entitled to claim a consolidated payment from a defaulting prized subscriber under section 32 unless he makes a demand to that effect in writing.

(2) Where a dispute is raised under this Act by a foreman for a consolidated payment of future subscriptions from a defaulting

prized subscriber and if the subscriber pays to the foreman on or before the date to which the dispute is posted for hearing the arrears of subscriptions till that date together with the interest thereon at the rate provided for in the chit agreement and the cost of adjudication of the dispute, the Registrar or his nominee hearing the dispute shall, notwithstanding any contract to the contrary, make an order directing the subscriber to pay to the foreman the future subscriptions on or before the dates on which they fall due, and that, in case of any default of such payments by the subscriber, the foreman shall be at liberty to realize, in execution of that order, all future subscriptions and interest together with the costs, if any, less the amount, if any, already paid by the subscriber in respect thereof: Provided that if any such dispute is on a promissory note, no order shall be passed under this sub-section unless such promissory note expressly states that the amount due under the promissory note is towards the payment of subscriptions to the chit.

(3) Any person who holds any interest in the property furnished as security or part thereof, shall be entitled to make the payment under sub-section (2).

(4) All consolidated payments of future subscriptions realised by a foreman shall be deposited by him in an approved bank mentioned in the chit agreement before the date of the succeeding instalment and the amount so deposited shall not be withdrawn except for payment of future subscriptions.

(5) Where any property is obtained as security in lieu of the consolidated payment of future subscriptions, it shall remain as security for the due payment of future subscriptions.

clauses 31 to 33.- These clauses provide for the rights and duties of prized subscribers. The prized subscriber has to furnish security for payment of the prize amount and he has to pay the future subscriptions regularly. If he defaults ill the payment of subscriptions, the foreman is entitled to a consolidated payment of all future subscriptions by following the procedure specified in clause 33. -Gaz. of Ind" 20-11-1980, Pt. II, S. 2, Ext., p. 1012.

#### CHAPTER 6 TRANSFERS

### **34. Restrictions on transfer of rights of foreman :-**

(1) No transfer of the rights of a foreman to receive subscriptions from the prized subscribers shall be made without the previous sanction in writing of the Registrar.

(2) Any transfer of the rights of a foreman to receive subscription from the prized subscribers shall, if it is likely to defeat or delay this interests of a non-prized or unpaid prized subscriber, be voidable at the instance of such subscriber.

(3) When under sub-section (2), a transfer is disputed by a subscriber, the burden of proving that the foreman was in solvent circumstances at the time of the transfer and that the transfer docs not defeat or delay the interests of such subscriber is on the transferee.

Clause 34.- This clause prohibits the transfer the transfer of the rights of the foreman to receive subscriptions from the prized subscribers without the previous sanction in writing of the Registrar.-Gaz. of Ind" 20-11-1980, Pt. II. S. 2 Ext., p. 1012.

**35. Transfer of non-prized subscribers rights to be in writing :-**

Every transfer by a non-prized subscriber of his rights in the chit shall be in writing duly attested by at least two witnesses and shall be filed with the foreman.

-See under S. 37

**36. Recognition of transfer by foreman :-**

Every transfer under section 35 , shall, within a period of fourteen days from the date of receipt of the proposal for transfer by the foreman, be recognised by him unless the transferee is not solvent or the transfer was effected with a view to defeating the provisions of any law including this Act and the decision of the foreman to recognise the transfer or not shall forthwith be communicated to the parties concerned.

-See under S. 37

**37. Entry of Transfer :-**

Every transfer under section 34 or section 35 shall be entered by the foreman in the books of the chit forthwith, and a true copy of such entry shall be filed by the foreman with the Registrar within fourteen days from the date of making such entry.

Clauses 35 to 37.- These clauses provide for the procedure to be

followed for the transfer of rights of non-pnied subscribers. Such transfer shall be in writing and shall be filed with the foreman who shall recognise it if the transferee is solvent.- Gaz.-of Ind" 20-11-1980. Pt. IT S. 2, Ext., p. 1012.

#### CHAPTER 7

#### MEETINGS OF GENERAL BODY OF SUBSCRIBERS

### **38. Meetings of general body of subscribers :-**

(1) The foreman may, on his own motion, convene a special meeting of the general body of subscribers for considering any proposal to pass a special resolution.

(2) The foreman shall convene such a meeting on the requisition in writing of not less than twenty-five per cent of the number of non-prized and unpaid prized subscribers, and the meeting so convened shall be held within thirty days of the date of receipt of the requisition and if the foreman refuses or fails to call such a meeting within fourteen days of the date of receipt of such requisition, not less than twenty-five per cent. of the number of non-prized and unpaid prized subscribers may give notice of the fact to the Registrar.

(3) The Registrar shall, within twenty-one days of the receipt of the notice under sub-section

(2), convene or direct the convening of a special meeting of the general body of the subscribers and on receipt of such a direction, it shall be the duty of the foreman to comply with such direction.

(4) Notice of not less than fourteen days shall be given to all the subscribers of a meeting under this section specifying the object, date, hour and place of meeting and a copy of the special resolution shall also be sent along with the notice of the meeting.

#### CHAPTER 8

#### TERMINATION OF CHIT

### **39. Provisions for continuation of chit in certain cases :-**

(1) Where a foreman dies or becomes of unsound mind or is otherwise incapacitated, the chit may continue in accordance with the provisions of the chit agreement.

(2) Where a foreman is adjudicated an insolvent, or withdraws from the chit under section 26 , or fails to conduct the chit at any instalment or on any other date before the next succeeding

instalment as may have been agreed upon by a special resolution, any one or more of such subscribers authorised by such resolution may, in the absence of any provision in the chit agreement for the future conduct of the chit, take the place of the foreman and continue the chit or make other arrangements for the further conduct of the chit.

Clause 39.- This clause provides for the manner in which a chit has to be conducted if the foreman dies or becomes of unsound mind or is declared an insolvent, etc. It provides for the conduct of the chit by any one or more subscribers authorised by a special resolution in accordance with the provisions of the chit agreement. -Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., p. 1012.

#### **40. Termination of chits :-**

A chit shall be deemed to have terminated,-

(a) when the period specified therefor in the chit agreement has expired provided the payment of dues to all the subscribers has been completed; or

(b) when all the non-prized and unpaid prized subscribers and the foreman's consent in writing to the termination of the chit and a copy of such consent is filed with the Registrar as required under section 41 ; or

(c) where a foreman dies or becomes of unsound mind or is otherwise incapacitated and the chit is not continued in accordance with the provisions of the chit agreement: Provided that, in a case where the foreman is a firm, if a partner thereof dies or becomes of unsound mind or is otherwise incapacitated, the chit shall not be deemed to have terminated and the surviving partner or partners shall conduct the chit in the absence of any provisions to the contrary in the chit agreement.

-See under S. 41

#### **41. Copy of assent or consent to be filed with Registrar :-**

A true copy of every assent referred to in section 26 and of every consent referred to in clause (b) of section 40 with their dates shall be filed by the foreman or by the surviving partner or partners, as the case may be, with the Registrar within fourteen days from the date of such assent or consent.

Clauses 40 and 41.- These clauses lay down the circumstances in

which a chit shall be deemed to have terminated. The expiration of the period specified in the chit agreement, death or unsound mind of the foreman and the consent of all the subscribers to terminate the chit are some of the circumstances under which a chit shall be terminated, The consent of the subscribers is required to be filed with the Registrar under clause 41. -Gaz. of Ind., 20-11-1980, pt. II, S. 2, Ext., p. 1012.

**42. Refund of non-prized subscribers subscriptions :-**

Except in the cases referred to in clauses (a) and (b) of section 40 , -

(a) every non-prized subscriber shall, unless otherwise provided for in this Act or in the chit agreement, be entitled to get back his subscriptions at the termination of the chit without any deduction for dividend, if any, earned by him: Provided that, any person to whom the rights of a non-prized subscriber are transferred in accordance with the provisions of section 35 shall, in addition to his own subscriptions, be entitled to get back the subscriptions paid by such non-prized subscriber, subject to the conditions specified in this section;

(b) if a chit terminates on a date earlier than the date originally fixed in the chit agreement, the non-prized subscriber's claim shall be deemed to have arisen on the date on which he has notice thereof,

**43. Subscribers dues to be first charge on chit assets :-**

Any amount due to the subscriber from a foreman in relation to the chit business shall be a first-charge on the chit assets.

CHAPTER 9

INSPECTION OF DOCUMENTS

**44. Foreman to allow certain subscribers to Inspect chit records :-**

Every foreman shall, on payment of such fee not exceeding five rupees as may be specified in the chit agreement, allow the non-prized subscribers and unpaid prized subscribers reasonable facilities on all the dates of draw or on such other dates and within such hours as may be provided for in the chit agreement, for the inspection of security bonds and documents, receipts and other records taken from the prized subscribers or furnished by the foreman as a subscriber and all chit records, including books of accounts, pass books balance sheet and profit and loss accounts

and such other records as may show the actual financial position of the chit.

Clause 44.- This clause entitles a non-prized or unpaid prized subscriber to inspect the books and records of the foreman on payment of the prescribed fee not exceeding five rupees.- Gaz. of Ind.. 20-11-1980, Pt. U.S. 2, Exi., p. 1013.

**45. Preservation of chit records by foreman :-**

All the records pertaining to a chit shall be kept by the foreman for a period of eight years from the date of termination of chit.

**46. Inspection of chit books and records by Registrar :-**

(1) Without prejudice to the provisions of sections 209 and Section 209A of the Companies Act, 1956 , the Registrar or an officer authorised by the State Government in this behalf may inspect chit books and all the records of a chit during working hours on any working day at the premises of the foreman with or without giving notice and it shall be the duty of every foreman to produce to the Registrar or the officer so authorised, all such books and records as are in his custody or power and to furnish him with any statement or information relating to the chits as he may require from the foreman within such time as he may specify.

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(2) The Registrar or an officer authorised by the State Government in this behalf may, after giving seven days' notice in writing to the foreman, direct him to produce before him for inspection such chit books and records as he may require at the time and place mentioned in the notice.

(3) If on an inspection made under sub-section (1) or sub-section (2), any defects are found, the Registrar may bring such defects to the notice of the foreman and may also make an order directing the foreman to take such action as may be specified in the order to remedy the defects within the time specified therein.

(4) Every foreman shall be bound to comply with the directions contained in an order made under sub-section (3).

Clause 46.- This clause, inter alia, empowers the Registrar or an officer authorised by the State Government to inspect the chit books or records maintained by a foreman and also authorises the Registrar to direct the foreman to remedy any defects noticed

within the specified time. -Gaz. of Ind. 20-11-1980, Pt. II, S.2, Ext., p. 1013.

**47. Power of Reserve Bank to inspect chit books and records :-**

(1) Nothing in section 46 shall be deemed to affect the power of the Reserve Bank to inspect the books and records of any foreman under the provisions of Section 45N of the Reserve Bank of India Act, 1934 .

(2) The Reserve Bank may, if it considers necessary, forward a copy of its report or of any part of its report on the inspection of the books and records of a foreman to the foreman for taking necessary action.

(3) Every foreman shall, on receipt of the report or part thereof under sub-section (2), be bound to comply with the directions, if any, given by the Reserve Bank in this behalf and shall, if so required, submit periodical reports in regard to the action taken by him.

(4) The Reserve Bank may also forward a copy of the report on the inspection of the books and records of a foreman to the State Government within whose jurisdiction the registered office of the company, if the foreman is a company; or the place or the principal place of business of the foreman in any other case, is situated for such action as may be considered, necessary.

Clause 47.- This clause saves the power of the Reserve Bank under S.45N of the Reserve Bank of India Act to inspect the books and records of any foreman. It also, inter alia, empowers the Reserve Bank to give appropriate directions to the foreman on the basis of the inspection report. -Gaz. of Ind., 20-11-1980, Pt. II, S, 2, Ext., p. 1013.

CHAPTER 10

WINDING UP OF CHITS

**48. Circumstances under which chits may be wound up :-**

A chit may be wound up by the Registrar within whose territorial jurisdiction the chit has been registered, either on his own motion or on an application made by any non-prized or unpaid prized subscriber,-

(a) if the chit has terminated under clause (c) of section 40 ; or

- (b) if the foreman commits any such act in respect of the security specified in section 20 as is calculated to impair materially the nature of the security or the value thereof; or
- (c) if he fails to deposit any amount required to be deposited under any of the provisions of this Act; or
- (d) if it is proved to the satisfaction of the Registrar that the foreman is unable to pay the amounts due to the subscribers;
- (e) if the execution or other process issued on an order passed by the Registrar in favour of any subscriber in respect of amounts due to him from the foreman in relation to the chit business is returned unsatisfied in whole or in part; or
- (f) if it is proved that there has been a fraud or collusion on the part of the foreman in the matter of taking securities from any prized subscriber; or
- (g) if the foreman has appropriated the prize amount in his capacity as a subscriber without furnishing sufficient security for future subscriptions; or
- (h) if the Registrar is satisfied that the affairs of the chit are being conducted in a manner prejudicial to the interests of the subscribers; or
- (i) if it is just and equitable that the chit should be wound up.

Cluse 48 to 59.- These clauses provide for the winding up of chits and other connected matters. Clause 48 specifies the circumstances in which a chit may be wound up and clause 49 lays down the manner in which an application for the purpose may be presented by any non-prized or unpaid prized subscriber. Clause 50 prohibits the entertainment of the winding up petition of a chit by the Registrar if insolvency proceedings, or, as the case may be, proceeding, for dissolution or winding up, are pending against the foreman. Clause 53 empowers the Registrar to pass appropriate orders in the proceedings for the winding up of a chit and clause 54 provides for the vesting of all chit assets in the Registrar or a person appointed by him. Clause 56 requires the Registrar to make an entry in his book on the passing of an order of winding up of a chit and to notify in the Official Gazette that the winding up order has been made. Clause 58 empowers the Registrar to award compensation to the foreman where he is satisfied that the petition

for winding up is frivolous or vexatious. Clause 59 empowers any party aggrieved by the decision or order of the Registrar to prefer an appeal to the State Government within sixty days from the date of receipt of the order. - Gaz. of Ind., 20-11-1980, Pt. II, S. 2, Ext., P. 1013.

**49. Application for winding up :-**

An application for the winding up of a chit shall be made by a petition presented by any non-prized or unpaid prized subscriber to the Registrar signed and verified in the manner laid down by Code of Civil Procedure, 1908 , and shall contain such particulars as may be prescribed: Provided that no application for the winding up of a chit under clause (d) or clause (i) of section 48 shall lie unless such application is presented,-

(a) by non-prized and unpaid prized subscribers representing not less than twenty-five per cent. of the amount or, as the case may be, the value of the grain subscribed by all the non-prized and unpaid prized subscribers, if any; or

(b) with the previous sanction of the State Government within whose jurisdiction the chit is commenced or conducted.

- See under S. 48

**50. Bar to winding up proceedings :-**

Notwithstanding anything contained in section 48 and 49, no petition for the winding up of a chit shall be entertained by the Registrar,-

(a) if proceedings relating to insolvency are pending against the foreman; or

(b) where the foreman is a firm, if proceedings relating to insolvency are pending against all the partners or all the partners except one thereof, or proceedings for the dissolution of the firm are pending; or

(c) where the foreman is a company or co-operative society, if proceedings for the winding up of such company or co-operative society are pending.

- See under S. 48

**51. Commencement and effect of winding up order :-**

An order for the winding up of a chit shall operate in favour of all

the subscribers to whom amounts are due from the foreman and it shall be deemed to have commenced from the date of the presentation of the application for the winding up.

-- See under 3. 48

**52. Injunction order :-**

The Registrar may, on the application of the foreman or of any subscriber to whom amounts are due in respect of a chit at any time after the presentation of the application for the winding up of the chit under this Act and before the making of an order for the appointment of an interim receiver or for the winding up of the chit restrain any other proceedings instituted against the foreman for the realisation of amounts due from him on such terms as the Registrar thinks fit.

- See under S.48

**53. Powers of Registrar :-**

The Registrar may, after hearing an application under this Chapter, dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally or make an interim or any other order that he deems fit.

- See under S. 4..

**54. Vesting of chit assets in Registrar or other person :-**

On the making of an order for the winding up of a chit, all the chit assets pertaining to such chit shall vest in the Registrar or in any person appointed by him for distribution amongst the subscribers to whom amounts are due in respect of the chit.

-- See under S. 48

**55. Suits, etc., to be stayed on winding up order :-**

When a winding up order has been made or a receiver has been appointed, no suit or other legal proceedings shall be continued or commenced against the foreman by a subscriber for the realisation of amounts due to him in respect of the chit except with the leave of the Registrar winding up [the chit and on such terms as he may impose.

- See under S..48

**56. Notification of winding up order :-**

On the making of a winding up order, the Registrar shall make an

entry in his book relating to the chit and shall notify in the Official Gazette that the order has been made.

-See under S. 48

**57. Cessation of winding up proceedings on insolvency of foreman, etc., or the winding up of the company and transfer of such proceedings :-**

Where during the pendency of the proceedings for the winding up of a chit, the foreman is adjudicated an insolvent, or where the foreman is a firm, all the partners or all the partners except one thereof are adjudicated insolvents, or where the foreman is a company, the company has been ordered to be wound up by the Court, the winding up proceedings under the Chapter shall cease and the distribution of the chit assets shall, subject to the provisions of section 43 and Section 52 . be made by the insolvency court or the court winding up the company, as the case may be.

- See under S. 48

**58. Award of compensation to foreman :-**

(1) Where an application for the winding up of a chit is dismissed and the Registrar is satisfied that the petition is frivolous or vexatious, he may, on the application of the foreman, award against the petitioner such amount, not exceeding one thousand rupees, as he deems reasonable as compensation to the foreman for the expenses or injury caused to him by the presentation of the application and the proceedings thereon, and such amount may be realised as if the award were a decree of a Civil Court.

(2) On the making of an award under the sub-section (1), no suit for compensation in respect of an application for any winding up of the chit shall be entertained.

- See under S. 48

**59. Right to appeal :-**

The foreman or any subscriber or any other person aggrieved by a decision or order of the Registrar in any proceedings for the winding up of a chit may, within sixty days from the date of such decision or order, appeal to the State Government.

- See under S. 48

**60. Limitation :-**

(1) Where an order refusing to wind up a chit has been made under this Act, the chit shall be deemed to have been under suspension from the date of presentation of the application to the date of such order in respect of non-prized subscribers; and, notwithstanding anything contained in the chit agreement, no non-prized subscriber who was not a defaulter on the date of the presentation of the petition for winding up, shall be deemed to be a defaulter on the date of such order.

(2) Where an order refusing to wind up a chit has been made under this Act, in computing the period of limitation prescribed for any suit or other legal proceedings (other than a suit or application in respect of which the leave of the court has been obtained) which might have been brought or instituted, but for the presentation of the application for the winding up of the chit, the period from the date of the presentation of the application to the date of the order refusing to wind up a chit shall be excluded.

(3) Nothing contained in the Chapter shall affect the rights of a subscriber to proceed against the foreman personally for the balance, if any, of the amount due to him after the declaration of the final dividend in the proceedings for the winding up of the chit and in computing the period of limitation prescribed for any such proceedings, the period from the date of the presentation of the application for the winding up of the chit to the date of the declaration of the final dividend shall be excluded.

#### CHAPTER 11

#### APPOINTMENT OF OFFICERS AND LEVY OF FEES

### **61. Appointment of Registrar and other officers :-**

(1) The State Government may by notification in the Official Gazette, appoint a Registrar of Chits and as many Additional, Joint, Deputy and Assistant Registrars as may be necessary for the purpose of discharging the duties imposed upon the Registrar by or under this Act.

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2) The Registrar may appoint as many inspectors of chits and chit auditors as may be necessary for the purpose of discharging the duties imposed on the inspectors of chits or chit auditors by or under this Act.

(3) All inspectors of chits and chit auditors shall discharge the

duties imposed upon them by or under this Act under the general superintendence and control of the Registrar.

(4) If the Registrar is of the opinion that the accounts of any chit are not properly maintained and that such accounts should be audited, it shall be lawful for him to have such accounts audited by a chit auditor.

(5) It shall be the duty of the foreman of the chit whose accounts are to be audited by a chit auditor under sub-section (4) to produce before the chit auditor all accounts, books and other records relating to the chit, to furnish him with such information as may be required and afford him all such assistance and facilities as may be necessary and reasonable in regard to the audit of the accounts of the chit.

(6) The foreman shall pay to the chit auditor such fees as may be prescribed for the audit of the accounts of the chit under sub-section (4);

Provided that different scales of fees may be prescribed for different chits depending on the quantum of the chit amount.

Clause 61.- This clause empowers the State Government to appoint a Registrar of chits and other officers for discharging the functions conferred on the Registrar by or under the provisions of the Bill. - Gaz. of Ind., 20-11-1980, Pt. II.S. 2, Ext., P. 1013.

## **62. Inspection of documents in Registrars office :-**

The foreman of a chit or any subscriber in a chit or the heirs or legal representatives of any foreman or subscriber may, on payment of such fees as may be prescribed,-

(a) inspect the documents of the concerned chit kept by the Registrar; or

(b) obtain a certified copy or an extract of any such document or record.

## **63. Levy of fees :-**

(1) There shall be paid to the Registrar such fees as the State Government may, from time to time, prescribe for,-

(a) the issue of previous sanction under section 4 ;

(b) the filing of the chit agreement with the Registrar and the registration of the chit under section 7 ;

- (c) the filing of a declaration with the Registrar and the grant of a certificate of commencement under section 9 ;
  - (d) the filing of copies of documents under any of the provisions of this Act;
  - (e) the audit of the accounts of the foreman under section 61 ;
  - (f) the inspection of documents under section 62 ;
  - (g) the obtaining of certified copies or extracts of documents and records under section 62 ; and
  - (h) such other matters as may appear necessary to the State Government,
- (2) A table of fees prescribed under sub-section (1 ) shall be exhibited on a notice board in the office of the Registrar.

#### CHAPTER 12

#### DISPUTES AND ARBITRATION

#### **64. Disputes relating to chit business :-**

(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the management of a chit business shall be referred to by any of the parties to the dispute, to the Registrar for arbitration if each party thereto is one or the other of the following, namely:-

(a) a foreman, a prized subscriber or a non-prized subscriber, including a defaulting subscriber, past subscriber or a person claiming through a subscriber, or a deceased subscriber to a chit;

(b) a surety of a subscriber, past subscriber, or a deceased subscriber.

(i) a claim by or against a foreman for any debt or demand due to him from a subscriber, or due from him to a subscriber, past subscriber or the nominee, heir or legal representative of a deceased subscriber whether such debt or demand is admitted or not;

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a foreman and recovered from the surety owing to the default of the principal borrower, whether such sum or demand is admitted or not; and

(iii) a refusal or failure by subscriber, past subscriber or the

nominee heir or legal representative of a deceased subscriber to deliver possession to a foreman of land or any other asset resumed by him for breach of conditions of the assignment.

(2) Where any question arises as to whether any matter referred to for the award of the Registrar is a dispute or not for the purposes of sub-section (1), the same shall be decided by the Registrar whose decision thereon shall be final.

(3) No Civil Court shall have jurisdiction to entertain any suitor other proceedings in respect of any dispute referred to in sub-section (1).

Clauses 64 to 72.- These clauses provide for a self-contained machinery for the settlement of Disputes arising between the foreman and the subscribers, etc., to a chit. The intention is to provide for a machinery for the settlement of disputes which is cheap and expeditious. The provisions made in these clauses are on the lines of the machinery provided in the State co-operative laws for the settlement of disputes between a society and its members by arbitration. Clause 64 provides for the reference of any dispute touching the management of a chit business to the award of the Registrar. Clause 65 provides for special periods of limitation in respect of disputes and empowers the Registrar to condone delay in referring the dispute within the prescribed period. Clause 66 enables the Registrar to settle the dispute himself or to refer it for disposal to his nominee. This clause also empowers the Registrar to suspend the proceedings in regard to any dispute if the question at issue between the parties is one involving complicated questions of law and fact to be decided in a regular suit instituted by any one of the parties to the dispute. But if no suit is instituted within a period of two months from the order suspending the proceedings, the Registrar shall settle the dispute himself. Clause 67 seeks to confer on the Registrar certain powers of a Civil Court. Clause 68 empowers the Registrar or his nominee to order conditional attachment of the property of a party to the dispute and any attachment so made shall have the same effect as an attachment made by a competent Civil Court. Clause 69 enables the Registrar to make an award after giving a reasonable opportunity to the parties to the dispute of being heard. He is also empowered to give his award on the expenses incurred by the parties or fees and expenses payable to the Registrar or his nominee. It has also been provided that the award of the Registrar or his nominee shall be

final and binding on the parties to the dispute subject to an appeal being made to the State Government under clause 70. Clause 70 provides for the appeal to the State Government against an award of the Registrar or his nominee. Clause 71.- This clause provides that where any order passed by the Registrar or his nominee is for payment of money, such order, on the issue of a certificate by the Registrar, be deemed to be a decree of a Civil Court and executable as such or where no such certificate is given, the moneys specified therein will be recoverable as arrears of land revenue. -Gar. of Ind., 20-11-1980, Pt. II, S. 2, Ext" p. 1014.

#### **65. Period of limitation :-**

(1) Notwithstanding anything contained in Limitation Act, 1963 , but subject to the specific provisions contained in this Act, the period of limitation in the case of a dispute referred to the Registrar under section 64 , shall -

(a) if the dispute relates to the recovery of any sum, including interest thereon, due to a foreman from a deceased subscriber, be three years, computed from the date on which such subscriber dies or ceases to be a subscriber; or

(b) if the dispute is between a foreman and a subscriber or a past subscriber or the nominee, heir or legal representative of a deceased subscriber, and the dispute relates to any act or omission on the part of either party to the dispute, be three years from the date on which the act or omission with reference to which the dispute arose, took place.

(2) The period of limitation in the case of any dispute other than those referred to in sub-section (1) which are required to be referred to the Registrar under section 64 shall be regulated by the provisions of Limitation Act, 1963 , as if the dispute were a suit, and the Registrar, a Civil Court.

(3) Notwithstanding anything contained in sub-sections ( 1 ) and (2), the Registrar may admit a dispute after the expiry of the period of limitation specified therein, if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period.

- See under S. 6

#### **66. Settlement of disputes :-**

( 1 ) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 64 , he shall, subject to such rules as may be prescribed, settle the dispute himself, or refer it for disposal to a person appointed by him (hereafter in this Chapter referred to as the nominee).

(2) Where any dispute is referred under sub-section (1) for settlement to the nominee, the Registrar may, at any time for reasons to be recorded in writing, withdraw such dispute from the nominee and may settle the dispute himself, or refer it again for settlement to any other nominee appointed by him.

- See under S. 64

### **67. Procedure for settlement of disputes and powers of Registrar or nominee :-**

(1) The Registrar or the nominee hearing a dispute under section 66 , shall, in addition to the powers conferred on him under that section, have the same powers as are vested in a Civil Court while trying a suit under Code of Civil Procedure, 1908 , in respect of the following matters, namely:-

(a), summoning and enforcing the attendance of persons and examining them on oath:

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(2) Except with the permission of the Registrar or the nominee, no party shall be represented at the hearing of a dispute by a legal practitioner.

(3)

(a) If the Registrar or the nominee is satisfied that any person, whether he is a subscriber or not has acquired any interest in the property of a person who is a party to a dispute, he may order that the person who has acquired the interest in the property may

bejoined as a party to the dispute, and any decision, that may be given by the Registrar or the nominee on the dispute shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been referred in the name of a wrong person, or where all the necessary parties have not been included, the Registrar or the nominee may, if he is satisfied that it was due to a genuine mistake, order any other person to be substituted or added as parties to the dispute at any stage of hearing of the dispute on such terms as he thinks just;

(c) The Registrar or the nominee may, at any stage of the proceedings, either upon or without the application of either party and on such terms as may appear to the Registrar or the nominee to be just, order that the name of any party improperly joined be struck off;

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any such reliefs, but if he omits to claim any such relief, he shall not be entitled to claim that relief, except with the leave of the Registrar or the nominee.

**68. Attachment before Judgment and other interlocutory orders :-**

(1) Where a dispute has been referred under section 64 and the Registrar or the nominee hearing the dispute is satisfied on enquiry or otherwise that a party to such dispute, with intent to defeat or obstruct the execution of any award or the carrying out of any order that may be made,-

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

(b) is about to remove the whole or any part of the property from the jurisdiction of the Registrar, he may, unless adequate security is furnished, direct conditional attachment of the said property. and such attachment shall have the same effect as if it is made by a competent Civil Court.

(2) Where the Registrar or the nominee directs the attachment of any property under sub-section (1). he shall issue a notice calling upon the person whose property is so attached to furnish such security as he thinks adequate within a specified period, and if the

person fails to provide such Security, the Registrar or the nominee may confirm the order, and may after the decision in the dispute, direct the disposal of the property so attached towards the claim, if awarded.

(3) Any attachment made under this section shall not affect the rights subsisting prior to the attachment of the property, of persons who are not parties to the dispute, or bar any person holding a decree against the person whose property is so attached from applying for the sale of the property under the attachment of such decree.

(4) The Registrar or the nominee may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the award in a dispute referred to in sub-section (1) as may appear to be just and convenient.

- See under S. 64

**69. Decision of Registrar or nominee :-**

When a dispute is referred to arbitration under this Chapter, the Registrar or the nominee, may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings and the fees and expenses payable to the Registrar or the nominee, and such an award shall not be invalid merely on the ground that it was made after the expiry of the period, if any, fixed for the dispute by the Registrar, and shall, subject to appeal under section 70 , be final and binding on the parties to the dispute.

- See under S. 64

**70. Appeal against decision of Registrar or nominee :-**

Any party aggrieved by any order passed by the Registrar or the nominee or the award of the Registrar or the nominee under section 69 , may, within two months from the date of the order or award, appeal to the State Government.

- See under S. 64

**71. Money how recovered :-**

Every order passed by the Registrar or the nominee under section 68 or section 69 and every order passed by the State Government in appeal under section 70 -for payment of any money shall, if not

carried out,-

(a) on a certificate issued by the Registrar, be deemed to be a decree of a Civil Court, and shall be executed in the same manner as a decree of such Court; or

(b) be executed in accordance with the provisions of any law for the time being in force for the recovery of amounts as arrears of land revenue: Provided that no application for execution under clause (b) shall be made after the expiry of three years from the date fixed in the order, and if no such date is fixed, from the date of the order.

- See under S. 64

**72. Private transfer of property made after issue of certificate void against foreman :-**

Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate by the Registrar under section 71 shall be null and void against the foreman on whose application the said certificate was issued.

See under S. 64

CHAPTER 13  
MISCELLANEOUS

**73. Advisory role of Reserve Bank :-**

The Reserve Bank may tender to any State Government such advice on questions of policy with respect to this Act as it thinks fit either on its own motion, or on a request made by the Government.

Clause 73.- This clause confers an advisory role on the Reserve Bank of tendering advice to the State Government on its own motion or on a request made by a State Government on questions of policy regulating the business of chits. -Gaz. of Ind., 20-11-1980, Pi. II, S. 2, Ext p. 1014.

**74. Appeals :-**

(1) Any foreman aggrieved by the decision of the Registrar,-

[a] refusing to register the chit agreement under section 7 ;

[b] refusing to grant a certificate of commencement under sub-section (2) of Section 9 ;

[c] refusing to accept any security under sub-section (1) of section

20 or under section 31 ; or

[d] refusing to release the security charged under section 20 or section 31 , may, within thirty days of tht communication to him of such decision, appeal to the State Government or to such officer or authority ai may be empowered by notification in the Official Gazette by the State Government in that behalf.

(2) Any foreman or other person aggrieved by the order of the Registrar under sub-section (1) of section 34 may, within thirty days of the communication to him of such decision, appeal to the State Government or to such officer or authority as may be empowered by notification in the Official Gazette by the State Government in that behalf.

(3) The State Government or such officer or authority aforesaid may, after giving the appellant an opportunity of making his representation, pass such order on the appeal as it or he thinks fit and such order shall be final.

#### **75. Powers of Registrar to give extension of time for filing documents :-**

The Registrar may, in his discretion and upon an application in writing by a forerhan made within the period specified for the filing of documents, under sub-section (3) of section 28 , sub-section (2) of section 29 , section 37 or section 41 , allow the foreman further time not exceeding fifteen days to file copies of such documents.

#### **76. Penalties :-**

(1) Whoever contravenes or abet the contravention of any of the provisions of section 4 , Section 5 , Section 8 , Section 9 . Section 11 , Section 12 , Section 13 , Section 14 , Section 19 , Section 20 , Section 22 , Section 24 , Section 30 , Section 31 , sub-section (4) of section 33 , section 46 , Section 47 or sub-section (5) of section 61 shall, on conviction be punishable with imprisonment for a term which may extend to two years or with fine which may extend lo five thousand rupees or with both,

(2) Any foreman,-

[a] who fails to file any document required to be filed under this Act within the period specified therefor or within such further time as may be allowed; or

[b] who fails to comply with the requirements of the chit

agreement regarding the date, time and place at which the chit is to be drawn or who fails to comply with the requirements of any direction given under sub-section (3) of section 38 ; or

[c] who contravenes or fails to comply with any other requirement under this Act, shall, on conviction, be punishable with fine which may extend to three thousand rupees.

(3) Whoever wilfully makes a statement in any document required to be filed under this Act which is false in any material particular shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

**77. Penalty for second and subsequent convictions :-**

If any person convicted of an offence under sub-section (1) or sub-section (3) of section 76 is again convicted of an offence under any of the said sub-section he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to two years and shall also be liable to fine,

**78. Application of fine :-**

A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in. or towards payment of, the cost of the proceedings.

**79. Offences by companies :-**

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provide that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

(b) "director" in relation to a firm means a partner in the firm. 80. Cognizance of offences.- (1) All offences under section 11 shall be cognizable.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First class shall try an offence punishable under this Act.

Clause 79.- This clause provide that offences under clause 11 shall be cognizable and no court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the First class shall try an offence punishable under this Act. -Gaz. of Ind., 20-11-1980, Pt.II.S.2, Ext.. P. 1015

### **81. Power to compound offences :-**

(1) Subject to such conditions as may be prescribed, any officer empowered by the State Government in this behalf may, either before or after the institution of criminal proceedings under this Act, accept from the person who has committed or is reasonably suspected to have committed an offence under this Act, by way of composition of such offence, a sum of money not exceeding such amount as may be prescribed,

(2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

Clause 80.- This clause authorises any officer empowered by the State Government to compound an offence punishable under this Act on payment of such sums of money as may be specified by the State Government in the rules. -Gaz. of Ind" 20-11-1980, Pt.II. S.2, Ext., P-1015.

### **82. Power to enter and search any place and to seize any documents :-**

(1) If the Registrar or any other officer authorised by him in this behalf, has reason to suspect that any person conducts, or is responsible for the conduct of, a chit in any place in contravention

of the provisions of this Act, he may, for reasons to be recorded in writing and at any reasonable time, enter into and search such place, and may seize such books, registers, accounts or documents as may be necessary.

(2) The Registrar or officer authorised by him in this behalf, may apply for assistance to an officer in charge of a police station and take police officers to accompany and assist him in discharging his duties under sub-section (1).

(3) All searches under sub-section (1) shall be made in accordance with the provisions of Code of Criminal Procedure, 1973 .

Clause 81.- This clause empowers the Registrar or any officer authorised by him to enter and search any place and to seize any documents where he has reason to suspect that any person conducts a chit in contravention of the provisions of the Bill. -Gaz. of Ind" 20-11-1980, Pt. II, S.2, Ext., P. 1015.

**83. Officers to be public servants :-**

The Registrar and all officers appointed by the State Government to perform any functions under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 .

**84. Power to delegate :-**

The State Government may, by notification in the Official Gazette, direct that any power (other than the power to hear appeals or to make rules) exercisable by it under this Act or the rules made thereunder may be exercised also by any officer of the State Government subject to such terms and conditions, if any, as may be specified therein.

Clause 83 - This clause empowers the State Government to delegate any powers exercisable by it (except the power to hear appeals or to make rules) to any officer of the State Government subject to such terms and conditions as may be specified therein. - Gaz. of Ind" 20-11-1980, Pt. II, S.2, Ext., P.1015.

**85. Act not to apply to certain chits.- Nothing in this Act shall apply in respect of :-**

(a) any chit started before the commencement of this Act; or

(b) any chit the amount of which, or where two or more chits were started or conducted simultaneously by the same foreman, the

aggregate amount of which does not exceed one hundred rupees.

Clause 84.- This clause makes the provisions of the Bill inapplicable to any chit started before the commencement of the proposed legislation or to any chit the aggregate amount of which does not exceed one hundred rupees. -Gaz. of Ind. 20-11-1980, Pt. II, S.2, Ext., P.1015.

**86. Banks not to conduct chit business :-**

(1) Notwithstanding anything contained in this Act, no bank shall commence or carry on chit business after the commencement of this Act,

(2) Where a chit had been started by any bank before such commencement, such chit may be continued after such commencement until it is completed, and the provisions of the chit agreement and such laws, if any, as were applicable to it immediately before the commencement of this Act shall apply to such chit.

Clause 85.- This clause prohibits commercial and co-operative banks from commencing or conducting chit business after the commencement of the proposed legislation and also provides that any chit started by any bank before such commencement may be continued till its completion subject to the provisions of the chit agreement and the State laws applicable to it -- Gaz. of Ind" 20-11-1980. Pt. II, S.2,Ext.,P.1015.

**87. Power to exempt :-**

The State Government may, in consultation with the Reserve Bank, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt any person or class of persons or any chit or class of chits from all or any of the provisions of this Act.

Clause 86.- This clause empowers the State Government, in consultation with the Reserve Bank, to exempt any person or class of persons or any chit or class of chits from all or any of the provisions of the proposed legislation.-, Gaz. of Ind. 20-11-1980, Pt. II, S.2, Ext.. P. 1015.

**88. Protection of action taken under the Act :-**

No suit, prosecution or other legal proceeding shall lie against the State Government the Registrar or other officers of the State

Government or of the Reserve Bank or any of its officers exercising any powers or discharging any functions under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

**89. Power to make rules :-**

(1) The State Government may, in consultation with the Reserve Bank by notification in the official Gazette, make rules <sup>1</sup> for giving effect to the provision of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely :-

(a) the form and manner in which an application for obtaining the previous sanction may be made under sub-section (2) of section 4 ;

(b) the additional particulars that a chit agreement may contain under clause (q) of sub-section (1) of section 6 ;

(c) the particulars that may be included in the minutes of the proceedings of a draw under section 17 ;

(d) the method of valuation by the Registrar in a grain chit for the purpose of furnishing security under section 20 ,

(e) the procedure that may be followed by the Registrar in releasing the security furnished by the foreman under section 20 ;

(f) the registers and books and the form in which such registers and books may be maintained by the foreman under section 23 ;

(g) the time within which the balance-sheet and the profit and loss account in respect of chit business shall be filed under section 24 ;

(h) the rate at which interest shall be payable on the defaulted instalments by a defaulted subscriber under section 28 ,

(i) the particulars that may be included in an application for the winding up of chits under section 49 ;

(j) the procedure to be followed for the winding up of chits under Chapter X;

(k) the fees payable under section 63 ;

(l) the auditing of balance-sheet and the profit and loss accounts of chit business and the issue of audit certificates;

(m) the form and manner in which a dispute shall be referred to the Registrar under section 64 ;

(n) the procedure to be followed by the Registrar or his nominee for settling the disputes referred .to him under section 64 ;

(o) the matters referred to in clause (f) of sub-section (1) of section 67 ;

(p) the conditions subject to which and the amount on the payment of which composition of offences may be made under section 81 ;

(q) the form and manner in which an appeal may be preferred under this Act and the fees payable for such appeal;

(r) the issue and service of notices or other process under this Act;

(s) the procedure for, and the manner of, receiving any sum payable under this Act;

(t) any other matter which if required to be or may be prescribed

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such Legislature consists of one House, before that House.

1. Rules framed are as under- Chit Funds(Bihar) Rules, 1987 - Bihar Gaz" 25-11-1987, Ext., P. 72 (No. 561). 2. Chit Funds (Goa, Daman and Diu) Rules, 1984 - Goa Govt. Gaz., 23-6-1986, Series I, No. 12, P. 203. 3. Himachal Pradesh Chit funds Rules, 1984 - H.P. Gaz" 1-12-1984, Ext., P.2088. 4. Chit Funds (M.P.) Rules, 1984 - M.P. Govt. Gaz., 5-12-1986, Pt. 4 (Ga), P.304. 5. Chit Funds (Meghalaya) Rules, 1988 - Megha. Gaz., 6-6-1988, Pt. VA, Ext., P.329 (No.80). 6. Orissa Chit Funds Rules, 1985 - Ori.Gaz., 1-9-1985. Ext., P.I (No. 1210). 7. Chit Funds (Pondicherry) Rules, 1986 - Pondi. Gaz" 1-11-1986, Pt.II. Ext., P.320 (No. 33). 8. Chit Funds (Rajasthan) Rules, 1989 - Raj. Gaz" 30-6-1989 Pt" 4 Ga(I) Ext., P.29(I). 9. Chit Funds (Sikkim) Rules, 1984 - Sikkim Govt. Gaz" 18-6-1986, Ext., P.I (No.66). 10. Tamil Nadu Chit Fund Rules, 1984- T.N. Govt. Gaz" 13-4-1984, Pt.III S.I (a),Ext" P.1 (No.178). 11. Tripura Chit Fund Rules, 1987 - Tri. Gaz" 16-7-1987. Ext" P.I (No.232).

## **90. Repeal and saving :-**

(1) Andhra Pradesh Chit Funds Act, 1971 ,Kerala Chities, Act, 1975, Maharashtra Chit Funds Act, 1974 , Tamil Nadu Chit Funds Act, 1961, as in force in the State of Tamil Nadu and in Union

Territories of Chandigarh and Delhi, the Uttar Pradesh Chit Funds Act, 1975, Goa, Daman and Diu Chit Funds Act, 1973 and Pondicherry Chit Funds Act, 1966, are hereby repealed and the provisions of Section 6 of the General Clauses Act, 1897 , shall apply to such repeal as if each such Act so repealed were a Central Act.

(2) Notwithstanding such repeal, the Acts mentioned in sub-section (1) shall continue to apply to chits in operation on the commencement of this Act, in the same manner as they applied to such chits before such commencement.

SCHEDULE 1

THE SCHEDULE

PART

FORM OF BALANCE SHEET

PART

FORM OF PROFIT AND LOSS ACCOUNT