

THE
SIKKIM CODE
VOLUME II
PART I
CHAPTER I- II

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THE
SIKKIM CODE

VOLUME II

Foreword by

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LAW DEPARTMENT
GOVERNMENT OF SIKKIM
GANGTOK

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PREFACE

We undertook the task of publishing the First Volume of the Sikkim Code containing Sikkim laws enacted by the State legislature after the 26th day of April, 1975 till the end of the year 1982 and the same came out in the year 1984. I am glad to say that the First Volume was well received by all concerned.

We had planned to come out with the Second Volume of the Sikkim Code soon thereafter. But it was not possible for reasons beyond our control. Almost eight years have passed since the publication of the First Volume of the Code. We had always felt the necessity of publishing, rather re-publishing, the old Sikkim laws which prevailed in the erstwhile Kingdom of Sikkim prior to its merger with the Indian Union 'with effect from 26th April, 1975 in view of the fact that these old laws were not to be found in any codified form. Only the old Laws made by the then Head of the State after 1950 were found to have been published in the then, Sikkim Darbar Gazettes. The laws promulgated or made prior to 1950 were not published in any form that we may understand by the term. 'publication' in these days. They were published in small sheets of paper under the signature of the officers in the then Sikkim Government Press but never in a compiled form. It was because of this, collection of old laws prior to 1950 involved. a great deal of research work 'with a view to establishing the authenticity of such laws. We have been successful in, collecting sufficient number of such old laws made and promulgated prior to the merger of Sikkim. In this publication, 'we are publishing only the old Sikkim laws that prevailed in Sikkim prior to the date of merger and those which we have received the protection of Article 371 F of the Constitution of India. As we found that we had inadvertently omitted to include certain laws, we had to add. a supplementary chapter in this publication to accommodate the pre-merger old Sikkim laws 'which we had omitted to include at the time of sending the material to the press.

We have published in this Second Volume of Sikkim Code the laws enacted by the State legislature from the beginning of 1983 to the end of 1991. We 'have also published the Constitutional Orders relating to Sikkim made after the merger of Sikkim as also the rules/notifications./orders etc., made by the State Government under the provisions of the laws which .are enacted after 1975: Because of some problem in the printing of the Second Volume of Sikkim Code, we had to bifurcate this publication in two parts in. two books. Although in our endeavor to make this, volume of Sikkim Code as comprehensive as possible we had some difficulty in paginating, the subsequent additional material, i am sure this volume would be useful and well received 'as its predecessor by all concerned in the field.

We requested Shri Vepa P. Sarathi, Senior Advocate Supreme Court of India and presently the Advocate General for the State of Sikkim and Chairman, State Law Commission, to write a foreword for this publication. As was expected of him, the scholar in Shri Vepa P. Sarathi has produced a very illuminating article on codification of the laws. I have no doubt that this article in. the form of a foreword to this publication will make good reading for the students of law and all those who believe in the rule of law in a democracy. My attention has been particularly attracted to the last paragraph of his. foreword which reads "The law is now known. How much of it should be amended is for the policy makers. Much of the existing law, however, should not be tampered with, because it has the protection of Article 371 F of the Constitution. Any change should be slow. All change is not always progressive"

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I cannot close my preface without acknowledging the efforts put in by all my .officers and members of the staff who were concerned with the publication of this Second "Volume of Sikkim Code. Acknowledgements are also due to. the Sikkim Government. Press and the Sikkim Traders International, Gangtok, for undertaking the voluminous two parts of the present publication.

At this stage all of us may only say that we published the Second Volume of Sikkim Code in two parts but only posterity will realize what we have done for them

**B.R.Pradhan,
Legal Remembrancer and Law Secretary to
the Government of Sikkim.**

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FOREWORD

The predominant motives for codification are (a) to render the law certain, and (b) to replace the deferring laws by one uniform law. Codification is generally undertaken by two types of countries : those in which -there is a fully developed jurisprudence and further development through Judge made laws would be slow or remote; and those which have underdeveloped systems which are unable to grapple with their economic. problems. Many, who favour codification do so, because according to them the law should be thus simple, more easily accessible and chronologically, if not always logically, arranged.

The Roman emperor Justinian and the French Emperor Napoleon' Bonaparte', thought law would continue to be clear until commentators and Judges start explaining it. In England, Jeremy Bentham and that great master of law and literature Lord Macaulay have favored Codes one for England and the other for India.

The interpretation of Macaulay's masterpiece, the Indian Penal Code justifies the criticism of the two emperors. There are two views on its oft quoted sections, namely, section 299 and 300., One view is that section 299 merely described culpable homicide as contrasted with justifiable homicide, and that section 300 defines when such culpable homicide amounts to 'murder', and when it does not amount to 'murder' and when the act of the accused falls within one of its five exceptions. The other view is section 299 defines the offence of culpable homicide.

Next in order of time come the two tablets given to Moses on the Mount of .Sinai.

They contain the' famous Ten Commandments, about which, the poet Humbert Wolfe said:

Making innumerable statutes, men
Merely confuse what God achieved in ten,
In a sense, he 'is perfectly right. In fact all laws can be reduced to the two golden
rules, (1) Do unto others as you would be done by; and (2) Do not do unto others what you do not want to be
done unto you. The rest is mere commentary.

Hamburabi, King of Babylon as the first to simplify the law. This was about 2000BC. The seven foot high pillar of black marble on which these laws were chiseled in the Babylonian Script of that age stood for a thousand years in a temple near Baghdad .It was then carried off by an invading neighbor .At the beginning of this century it was transshipped to Europe And today it can be seen in the Loure in Paris with almost the whole text intact, and when deciphered these laws show that primitive law was far from being primitive

Then, just as Egypt drew out Greece, Carthage drew out Rome. With Rome's advent into world leadership began a new phase. As Sir Henry Maine said, 'the most celebrated 'system of jurisprudence known to the world begins, as it ends with a Code.' His reference is to the Twelve Tables of Roman Law of the 5th Century BC and the restatement of a thousand years of legal development, in the classic Institutes of the Emperor Justinian, the 6th Century A.D.

Sir Henry Maine did not know much about Hindu Law, as otherwise he would also have given a prominent place to the Code of Manu. Western scholars give 200 BC as its approximate date. It was probably a summing up of the existing customs. 'because Hindu Law was largely custom, As observed in the famous case of the Collector of Madura v. Moottoo Ramalinga 1, 'Under the Hindu system of law,' clear proof of usage will outweigh the written text of the law.' During the wanderings of the Pandavas in the forest to one of the Yakshaprasnas, what is Dharma', Yudhishtara gives the answer 'custom'. In the cited always their lordships of the Judicial Committee of the Privy Council showed how: Hindu Law developed.

'The remote sources of the Hindu Law are common to all the different schools. .The process by which these schools have been developed seems to have been of this kind. Works universally or very generally received became the subject of subsequent commentaries. The commentator put own gloss on the ancient text, and his authority having being received in one and rejected in another part of India, schools with conflicting doctrine arose. Thus the Mitakshara which is universally accepted in all the schools except that of Bengal, as of the highest authority, yielding only to the Dayabhaga in those points where they differ. was a commentary of Institutes of Yagnavalkya and the Dayabhaga which, wherever it differs from the Mitakshara, prevails in Bengal, and is the Foundation of the principles divergences between that and other schools, equally. admits and relies on the authority of Yagnavalkya. In like manner there are glosses and commentaries the Mitakshara which are received by some of the schools that acknowledge the supreme authority of that treatise, but are not received by all'.

Thus the Hindu Law developed and would have developed a bad custom yielding place to a good one, but then the Mohammedan rulers and later, the British, came. as rulers of India and this put a stop to all gradual change. Pundit Jawaharlal Nehru says in his 'Discovery of India', as follows:

'India was custom ridden when the British came, and the tyranny or old custom is often a terrible thing. Yet customs change and are forced to adapt themselves to some extent to a changing environment. Hindu law was largely custom, and as custom changed the law also was applied in a different way. Indeed, then' was no provision of Hindu law which could not be changed by custom. The British replaced this elastic customary law by judicial decision based on the old text and the decisions became precedents which had to be rigidly followed. That was, in theory an advantage, as it produced greater uniformity and certainty. but, in the manner it was done', it has resulted in the perpetuation of the ancient law unmodified by subsequent customs. Thus, the old law, which in some particulars and in various places, had been changed by custom and was thus out of date, was" petrified, and every tendency to change it in the well known customary way was suppressed'.

The only method of changing the law was by legislation and this was possible only after India attained independence from the British rule in 1947.

The Institute of Justinian became the foundation of many later codes in Europe of which the most celebrated is Napoleon's Code. It was received with *such* enthusiasm that it was thought, and there are many who still think so, that any case could be decided by deduction from the various provisions of this Code, so much so, Bugnet is supposed to have said 'Je ne connais pas le droit Civil Je n'enseigne que le Code Napoleon' (I do not know the civil law, I learn only Napoleon's Code). It was Stendhal's position- that there was only *one* example of perfect style and that was the Code Napoleon and that he would read it once in every year in order to make his style more precise.

As I said in the first paragraph above codification is popular, because of the belief that it simplifies the law. But one has, to remember always Lord Bryce's warning in his *American Commonwealth*, He remarked,

'With the masses of the people the problem is popular, *for* it holds out a prospect, unfortunately belied by the result of a system where simplicity will enable the layman to understand the law and render justice cheaper and more speedy.'

There are three reasons why codification will belie the hope of less litigation. The first is greater clarity in the law will not reduce the volume of litigation, Many of the disputes turn on disputes concerning the facts, that is which of the two parties has violated clear *out* legal rules. It is uncertainty about the facts that create the unpredictability of a decision, As Mahatma Gandhi said in his *Experiments in Truth*, 'I remembered the late Mr. Pincutt's advice that facts are three-fourths of the law.'

The second reason lies in the drafting of the statutory provision. According to the exegetical school, the emphasis is on the 'meaning of the written word. No draftsman can avoid, flaws of ambiguity, obscurity or conflict between sections' and this very often due to 'new problems which were not foreseen or when new philosophies become popular. Sometimes this is done deliberately, It was said of Solon the Athenian law giver, that he was obscure and ambiguous in the wording of his laws on purpose to increase the honour of his courts for since their (litigants) differences could not be adjusted by the letter they would have to bring their cause to the judges. who were thus in a manner master of the laws, Prof. Harry W. Jones says, 'The Judge, when he must act as a law-maker to fill in the gaps of a statute, exercises not original legislative power but delegated power, comparable to that conferred upon administrative officers possessed of rule making or subordinate legislative authority, Each has the duty of implementing the general policy of an enactment with detailed rules applying that: policy' to the infinite variety of unforeseeable particular situations of fact. . . . [I] do not mean to suggest that legislatures consciously delegate subordinate legislative powers to Courts, although as a matter of compromise in the legislature, the exact meaning of doubtful phrases is occasionally left to the Court by legislators unable to agree upon the exact formulation of difficult or highly controversial statutes'. Sir Ernest Gowers in his *Complete Plain Words* gives an example, In the Shops (Sunday Trading Restriction) Act, 1936, the draftsmen assumed that he had covered both 'sales in shops and 'sales in places that are not shops', But it turned out that he was wrong, because, he forgot 'the stop me and buy-one' mean. In one case the court held that the ice-cream vendor's tricycle was neither 'a shop' nor a 'place' " Therefore, he says

'The duty of a draftsman of legal text is to try to imagine every possible combination of circumstances to which: his words might apply and every conceivable misinterpretation. that, may be', put on them, and, to take, precautions accordingly: He must avoid all, graces not be afraid of repetitions or even of identifying them by' aforesaid" he must limit by definition words, with a penumbra ,dangerously 'large, and amplify with a string ,of near' synonymous, words with a penumbra dangerously small he must ,eschew all pronouns when their antecedents . might possibly ,be open to. dispute and generally avoid every potential grammaticed' ambiguity

In short, in drafting a statute, it is not enough to attain a degree of precision which a, person reading in good faith may be able to understand, but it is more necessary to attain a degree of precision which a person reading in bad faith cannot misunderstand. A very tall order. I therefore completely endorse Sir Ernest Gower's advice that the whole. system of modern drafting technique is based upon the obviously fallacious assumption that it b possible to cover every particular eventuality, and so, it is time to give up ;trying the impossible and concentrate instead on laying down broad general principles and leave it 'to the court to fill in the interstices.

This leads to the third of the reasons referred to above namely, interpretation of the statutes.

Obviously no code can be all-sufficient. The test of a good code is the amount of its flexibility. If a literal interpretation is placed on its provisions and it leads to" absurdity. there is a temptation to succumb to the use of perverse logic. English Law fortunately has it great reservoir of common law from which the courts can draw for filling up gaps; and rules of interpretation have been evolved to avoid either injustice or absurdity. Many of these rules are' used not so much to interpret a statutory provision ;as to adapt it to the changing 'needs of modern times. We find in Jaimini's emam.a (500 BC), rules of interpretation amazingly reminiscent "of the modern rules. 'For example 'Sarthakya' or every word should have. a 'purposeful meaning; 'Arthaikatwa' or same words should have the same meaning; Gunapradhana' or Reconciliation of all ideas with the principal one, 'Samangasya' or contradiction 'should not be presumed and reconciliation should be attempted; 'Vikalpa or choosing between two meanings; and , Anarthakeya' or avoiding "interpretation 'which makes words meaningless. This 'has had to a fecundity of case law which probably is making Malthus turn In his grave. But this is inevitable.

Law necessarily, has to be built up, not logically,'but empirically. At the same time, merely because an expanding society demands an expanding law, it ls not. right to expand it without clearly defining' the limits of expansion. After all, it is for the statesman and not the lawyer to discuss and it is for the legislature to determine what is the" best for public, good and to provide 'for it. by proper .enactments. 'Discretion' is nothing but a euphemism for arbitrary and unbridled judicial discretion case become the worst form of tyranny .As Judge Learned Hand said"Statutesalways have some purpose or object to accomplish ,whose sympathetic and imaginative discovery is the surest guide to their meaning

The Law Department has now supplemented by a second volume(in 2 parts) of the Sikkim Code first published in 1984.The rules, regulations, orders and enactments upto 1991 are included. The Law Department has to be congratulated for making the Law easily accessible to the Courts, administrators, lawyers and the people of Sikkim and such accessibility has also been made the constant

wish of the Chief Minister of Sikkim.It is hoped any omissions will be made up in a supplementary volume .

The Law is now known. How much of it should be amended is for the policy makers.Much of the existing Law ,however, should not be tampered with because it has the protection of Article 371 F of the Constitution. Any change should be slow. All change is not always progressive

Vepa P. Sarathi
Advocate General and Chairman,
Law Commission of Sikkim

PART I
CHAPTER 1
CHRONOLOGICAL TABLE OF OLD LAWS /NOTIFICATIONS/RULES/ORDERS
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NOTICE

Is hereby given to all the Kazis and Mondals in Sikkim, that no Bhutias and Lepchas are to be allowed to sell or sublet any of their lands without the express sanction of the Council. If anyone disobeys this order, he will be punished severely.

2nd January, 1897.

**John C. White,
Political Officer,
Sikkim.**

SIKKIM DEBT LAW 1910

Passed at the Council meeting held on 7th November 1910 and amended by Council Resolution dated the 5th September, 1913 and 14th May 1913

- I. No creditor is allowed to charge an interest more than 12.5 per cent per annum.
- II. The decree will not be more than double the original debt.
- III. Land will not be sold in execution of a decree.
- IV . (a) When a son , wife or brother or any relations inherits property from the deceased they shall be liable to pay the deceased's debt to the extent of the property inherited.
(b) A son shall be liable to liquidate the deceased father's debt if he is in a position to do so easily and provided that father had not been a lunatic, a debauch, drunkard or gambler and provided also that the son had not separated himself from his father during the latter's lifetime. But whether he should be made to pay the whole or part of a debt shall be at the discretion of the Court which will take into consideration the amount of the debt, the means and circumstances of the son or sons and then grant a decree for either the whole sum or portion. When the deceased father has been known to be debauch, drunkard or gambler or one who has been engaged in risky speculation the sons shall not be held responsible for the debt of the father. But in the ordinary course of event e.g., when father has died poor after having given education to his sons and fitted them for employment in a respectable position or profitable profession, although the father may have left nothing to bequeath yet the son must pay the father's debts if they do not exceed a sum, which he could pay off by devoting one-fifth of his income monthly for 5 or 6 months. If there be several sons and all are well to do they shall all be made to pay the debt.
(c) Only sons and no other relative be they daughter, wife, brother, nephew or sister shall be held liable to liquidate the debts of the deceased in the manner above described unless they inherit some property from him and even in that case only to the value of the property inherited.
- V There shall be no imprisonment for debt, but the Court may commit to its own jail, a fraudulent male debtor of full age who can but will not pay. The maximum limit of imprisonment in such cases shall be three months and such prisoners will not be thereby absolved from paying their debts.
- VI. A decree shall ordinarily become void except as regards pending proceedings, at the end of three years.
- VII. Subject to the following exceptions money and all property of a judgment debtor which he is himself competent to transfer, may be attached and sold in execution of a decree. The exceptions are as follows:
 - (a) The necessary wearing apparel and bedding of the judgment debtor, his wife and children.
 - (b) The tools of an artisan, and when the judgment debtor is an agriculturist his implements of husbandry, seed grain, one pair of plough bullocks up to two pairs and the food grain required by his family up till the next harvest.

- (c) The materials .of kutchha-houses and other buildings belonging to and occupied by an agriculturist.
 - (d) The nets and one boat of a fisherman and one cart and a pair of bullocks of a carter provided, that the total property, of the debtor is not worth more than one hundred rupees.
 - (e) The wages of a labourer or domestic servant.
 - (f) The stipends, gratuities pensions salaries and allowances mentioned below .
- (1) Stipends and gratuities, allowed to Military and Civil pensioners of Government and Political pensions shall not be attached.
 - (2) The salary of a public officer or of any servant of a mining Company or a local authority can be attached to the extent of.
 - (i) One-fifth of the salary, if the salary exceed Rs10/- but not Rs. 50/- monthly.
 - (ii) One-fourth of the salary, if the salary exceeds Rs. 50/- but does not exceed Rs. 100/- monthly.
 - (iii) One-third of the salary in- all other cases when the salary exceeds Rs. 100/ monthly. .
3. The pay and allowance of persons to 'whom the, Indian Articles of War apply shall not be attached.
4. Any allowance declared by the Maharaja in Council to be exempt from liability to attachment or sale in execution of a decree, shall not be attached.
5. Crops in the field or on the thrashing floor to the extent of quantity sufficient to cover the food of the debtor and his family for one year and seed for the next year shall not be attached. But if the decree is for rent due on a tenant's holding the whole crop of the holding *may* be attached.
- VIII. No creditor is allowed to give dadani for Cardamom or other crops or to take the produce of the fields as interest on a debt.

CORRIGENDUM TO THE SIKKIM DEBT LAW, 1910

For Rule III Substitute the following.

Rights of a tenant over land may be sold in execution of decree proved (1) that there are no other means by which the debtor can satisfy the decree, and (2) that .the purchaser is a Bhutia, Lepcha or Nepali.

No person is permitted to purchase in anyone Elaka rights of a tenant over land thus sold exceeding in extent an area of 20 acres in all.

Vide Council Resolution No. I dated 7th February, 1916.

REVENUE ORDER NO. I.

With reference to Order dated the 2nd January 1897, it is hereby again notified to all Kazis, Thikadars and Mandals in Sikkim that no Bhutias and Lepchas are to be allowed to sell, mortgage Or sub-let any of their land to any person "other than a Bhutia or a Lepcha without the express sanction of the Durbar or officers empowered by the, Darbar in their behalf whose order will be obtained by the landlord concerned. If any one disobeys he will be severely punished.

In this order the term 'mortgage' means mortgaging the whole or part of holding the Biyaz or masakata system and the term sub-let means sub-letting the whole or *part* of holding on the Pakhuria system.

DEFINITION

- (1) 'Biyaz' mean mortgaging land to another person who enjoys the produce of the land as interest, so long at the principal loan remains unpaid.
- (2) 'Masikata' means mortgaging of fields to a creditor who enjoys the produce of the field as an annual installment towards the loan.
- (3) 'Pakhuria' means sub-letting, where a rayot allows another new rayot to settle upon a portion of his own holding, generally receiving from him some rent in cash and some assistance in cultivating his own fields

**Gangtok,
The 17thMay, 1917.**

**C. A. Bell,
Superintendent,
Sikkim State.**

SIKKIM STATE

GENERAL DEPARTMENT

Notice No-640/G.B.

This notice is issued for general information and guidance. It is to notify that the playing of dice, cards, Khopi and other gambling, game etc are strictly prohibited. The playing of Dice etc however, be permitted, during the five 'days' of Tiwar or Laxmi, Puja, and Dice only during the three day of Magh Sankranti, Mela each year, Necessary licenses should be obtained for Dice playing as from the officer of the General Secretary to His Highness the Maharaja Sahib of Sikkim on payment of prescribed fee.

Anyone found infringing this order will be prosecuted and punished as under, namely:

For 1st offence a fine of Rs. 10

For 2nd offence a fine of Rs. 25

For 3rd offence, a fine of Rs. 50

For 4th offence, a fine of Rs. 50. and 2, months imprisonment.

The keeping of any gaming house, for playing cards or gaming, in any form is also a punishable offence. The offender will be liable, to severe punishment which will be decided on the merits of each, offense., All the Land Lords, are requested to Make this order widely known in their respective elaka' and to see that the order is respected They and all the Police Officials are hereby authorized to arrest any offender and to send him or her, upto Gangtok for trial under orders *to be taken* on each occasion. It is, notified that the learned Council Members of the State Council have both advised and approved of, the adoption of these measures.

By order of His Highness the Maharaja, of

Sikkim.

Sd/.

**Pestonji Jamsaji,
General 'Secretary' to**

**His Highness the Maharajah of
Sikkim**

**Gangtok. Sikkim
'The 20th May.1921**

S I K K I M S T A T E .**Judicial Department.****(Veterinary Branch)****No. 2487/48.J****Rules and By-Laws for Cattle rounds in Sikkim.**

1. No person in the Sikkim State, shall let loose or 'allow his cattle or others animal to go about astray in bazaar's, private fields; compounds, road reserves, or thoroughfares. Any animal found straying within the areas mentioned above shall, without any enquiry, be impounded.

2. The pound keeper is authorised to realize fees on the following scale for every 24 hour detention, up to a maximum of 7 days.

(a) Horses, cattle and mules.	0-8-0 each
(b) Ponies and calves	0- 6.-0 each
(c) Donkeys, sheep, goats and pigs.	0-4-0 each

3. The pound keeper shall grant printed receipts which. will be supplied by ,the Darbar on cash payment, indicating the name and address of the person from whom the animal; or animals in question were received, date of receipt, number and description of animals, and the amount of reward paid.

4. The pound keeper shall for each class of animal under clauses (a) (b) and (c) above pay annas -/2 /6,-/1 respectively, as reward to the person who impounds them.

5. Should any animal or animals remain impounded for over seven days, the matter shall be brought to the notice of the Darbar on the' eighth day, with a view to the animal. or animals, as the case may be being sold by public auction. The sale proceeds of the auction shall be credited to the Darbar.

6. Pound' keepers shall be required to maintain suitable structures as pound sheds, which should invariably be roofed., kept clean and dry, and ,should always contain an adequate supply of food and water The Darbar will take very serious notice of any violation of this rule.

7. All cases of disease amongst animals impounded shall, without delay, be reported to the Veterinary Inspector, Gangtok.

8. An account of animals impounded shall be submitted to the Veterinary Inspector by the pound keeper or landlord concerned by 'the 10th of each month, for the information of the Darbar.

9. All accounts of animals impounded and collection of taxes shall be open to inspection on demand by the Veterinary Inspector or by the Bazar Inspector.

10. Pound keepers and landlords concerned shall make known to the public by beat of drum the purport of these by-laws and rules as quickly as possible.

By order of His Highness the Maharaja of Sikkim.

**Gangtok,
Sikkim.
The 7th July, 1926.**

**W.Polden,
Judicial Secretary to
His Highness the Maharaja of Sikkim.**

SIKKIM STATE

RULES

R E.

COURT FEES AND STAMPS ON DOCUMENTS.

In amendment of Notification No.1933/ J, dated the 31 st March' 1921, on subject of stamps on documents., His Highness the Maharaja of Sikkim is pleased to order that the following rules and schedules shall in future govern the fixing of stamps on documents and court fee stamps on petitions, presented in, law courts of Sikkim, or in Darbar's offices.

(1) The Sikkim stamp marked "R" shall only be used for affixing on handnote. 'agreements, bonds, deeds vouchers etc., 'executed amongst the people themselves in order to validate the document.

(2) Any document which in accordance with the schedule in this notification should have been stamped, is discovered to be unstamped or insufficiently stamped, shall be charged a penalty which may extend to fifty times the stamp value so defaulted.

(3) The stamp value on a document or its penalty shall be payable by the person in whose favour the document is executed.

(4-) The stamp to be fixed on a document shall be so fixed at the time of execution of a document and cancelled by the signature of the person executing the document.

(5) The stamp:, marked "R" shall be known as Revenue stamps as distinguished from the Court fee stamps.

(1) The Sikkim stamp unmarked shall be used on petitions presented in court or to the executive officers or secretaries. It shall be known as court fee stamp.

(2) No court or official of the Darbar is authorized to accept a petition 'which is not stamped or under stamped as required by schedule (A).

(3) An unstamped or inadequately stamped. petition received by post shall be returned to the sender by bearing post.

(.4-) The system of paying court fees on civil suits viz.: one Anna in a rupee as preliminary court fee: and two Anna in a rupee a final court fee is abolished. In, future the whole of court fees :.shall be payable in advance before the suit is entertained and shall be charged at the rate of two annas in a rupee on the value of the claim put.

(5) In appeals, (Civil suits) the same court fee shall be charged as in the original court.

(6) On-plaints in Civil Suits or civil appeals no court fees stamps may be put in addition to the court fees paid in cash.

(7) A Bank receipt of Court fees paid in cash, shall be attached to the plaint or memorandum of appeal or its number quoted on ,the top in red ink.

(8) The schedules annexed to these rules shall come: in force from 1st August, 1918.

SCHEDULE (A) COURT FEES STAMPS.

Nature of petition	Value of stamp chargeable
(1) Plaints in Civil Suits or Civil appeals	No stamp, but cash court fees payable in advance; annas two in a rupee, on the value of the claim put.
(2) Complaints in ,criminal cases.	Re. 1- stamp.
(3) Appeals in criminal case	Before' Chief ,Court, RS.2/- stamp. Before H.H's Court Rs.5/- stamp
(4) Review of a Judgment or Second Double the amount of first court fee ,fees (civil side) (cash)'	Appeal in Judicial Case
(5) Ditto (Criminal side) In the Court of H.H. only.	Rs. 10/- stamp.
Review of an executive order before. 1 St time	Rs. 10/- stamp.
RH. only	2 nd time Rs.20/- stamp.
(6) Miscellaneous petitions in executive matters (apart from Judicial cases)	3 rd time Rs.40/- stamp. If addressed to H.H. Rs.;2/- stamp. If addressed to a Secretary or other official in the ordinary routine Re. 1/

**AMENDED SCHEDULE (A)
COURT - 'FEES STAMPS**

<u>Nature of petition</u>	<u>Value of stamp chargeable</u>
(1) Plaints in Civil Suits or Civil appeals	No stamp; but cash court fees payable in advance; annas two in a rupees, on the value of the claim put.
(2) Complaints in criminal cases	Re. 1 /stamp.
(3) Appeals in criminal cases	Before Chief Court RS.2/- stamp. Before H.H. or Dewan's Court-Rs.5/- stamp.
(4) Review of a Judgment or Second Appeal in Judicial Case (civil side)	Double the amount of first Court fees (cash).
(5) Ditto (criminal side) in the Court of H.H. or Dewan only.	Rs. 10 stamp.
(6) Review of an executive order before H.H. or Dewan only	1 st time Rs. 10/- stamp. 2 nd time Rs. 20/- stamp.
(7) Misc. petitions in Executive matters (apart from Judicial cases)	If addressed to H.H. or DewanRs:2/stamp. If addressed to a . Secretary or other _official in the ordinary- routine and for each petition for grant of forest produce free of royalty 'Re1 stamp and for grant of timber trees free, of royalty Rs.2/- stamp.

Application for Execution of decree (in civil cases). . .

A- If the value of the decree is Rs 50/ or above. Re. 1/- stamp

B- Ditto below Rs50 Rs; 8 stamp.

Misc. application in a judicial case (civil)

(a) if the value of the suit is Rs.50 or 'above. Re. 1 stamp.
Rs, 8 stamp

(b) Ditto below Rs 50

Misc. application in a judicial Case (criminal) Re. 2 stamp.

(a) in ordinary Court,

(b) Ditto in the Court of H.H. or Dewan. Rs. 1 stamp.

Misc. proceedings in Court of Judicial nature

(a) in ordinary Courts, Rs. 2/- stamp

(b) Ditto in the court of H.H. or Dewan.

Process fees payable for issue of processes to parties or witnesses. Rs. 8/ stamp.

(a) In Tahsil Courts

(b) In Chief Court Re. 1/- stamp.

(c) In the Court of H..H. and Dewan Re. 1 / stamp.

Only petitions written or typed by Licensed Petition writers will be accepted in case of illiterate applicants by Courts or other Officers of the Durbar. The petition writers . will also act as stamp vendors in the Tahsil Courts and at the Secretariat. Application for copy need not be stamped. Copies of orders, judgments and other documents will be granted on payment of usual copying fees.

Sd/ J.S. Lall, I.C.S
Dewan, Sikkim State.

SIKKIM STATE
GENERAL DEPARTMENT

No 660/G.

To

All Elakhadars and Managers of elakhas in Sikkim and the Chief Court, Gangtok

.It is hereby directed that you must follow the Revenue Circular. No 1. of .1917 also in Revenue Suits viz, that no Nepali can purchase Bhutia or Lepchas land .unless special permission has been accorded by His Highness. the Maharaja of Sikkim. No attachment and sale in Revenue Suits therefore should offend the. spirit of the said Circular. .

By order of His Highness the Maharaja. of Sikkim.

Gangtok, Sikkim

The 21st May, 1931.

C.E. Dudley,

**.General Secretary to
His Highness the Maharaja of Sikkim.**

SIKKIM STATE GENERAL

DEPARTMENT

Notification No. 90I/G.

Corrigendum to the Sikkim Debt Law, 1910.

For Rule VIII substitute the following:

No trader shall be allowed to give "Dadani" for cardamom or any other agricultural *or.* farm produce (such as milk, butter, eggs and vegetables) of a bustiwalla. .Advance purchase of articles at this market rate current at the time of actual supply shall not be prohibited.

The word "trader" shall include any person who buys or barter commodities with a view to sell the same.

The transaction of "Dadani" shall be declared an offence by the Darbar for which both parties to the contract of Dadani shall be punishable.

**By order of His Highness the Maharaja of
Sikkim.**

**C. E. Dudley,
General Secretary to
His Highness the Maharaja of Sikkim.**

Memo NO.1000/G.;

Copy forwarded to the Elakhadars and Managers of elakhas of Sikkim for information and guidance' and with the remarks that they will make the purport of the above known to *all* concerned in their elakhas and will report of their having done so, not later than the 1st November, 1933.

**Gangtok,
The 15th May, 1933.**

**C. E. Dudley,
General Secretary to
His Highness the Maharaja of Sikkim.**

SIKKIM STATE

JUDICIAL DEPARTMENT

Notice No. 550 /J.

In. modification of notification No. 640 /G. B., of 20th. May, 1921 (General Department) it is ordered.

I That gambling and the' keeping of common gaming houses in Sikkim shall be an offence. The-putting of stakes on games of mere skill such as 'bridge, billiards, khopi, etc., shall not be included .in the definition of the word gambling, which shall include games .of chance.

II. For playing the latter class of games, viz, games of chance on ceremonial occasions it shall be essential to obtain, a. license from the Darbar for opening a gaming house or stall.

III. The .operation of law under this notification paragraph 1 shall be suspended during the days when by religious usage and custom gambling is socially permitted viz during the 'festivals of Tihar, Lossong and Tibetan New Year's, day.

By order of His Highness. the Maharaja of Sikkim.

Gangtok,

The 15 th May 1934.

Gyaltzen Kazi,

**Judicial Secretary to
His Highness the Maharaja of Sikkim.**

MUNICIPAL RULES FOR THE BAZARS IN SIKKIM

Object & Reasons

WHEREAS it is expedient to frame rules to regulate and control the sanitation and arrangement of Sikkim bazaars, it is hereby enacted as follows

Extent.

These rules shall apply to all bazaars under the direct control of the Sikkim Darbar at present or which may hereafter fall under their control. The rules shall be in force from the Date of assent of His Highness the Maharaja.

ii) The following bazaars are under the direct control of the Darbar at present, namely Gangtok, Deorali, Tadong, Singtam, Rangpo, Pakyong, Rongli Naya Bazar and Soreng.

CHAPTER I.

Rules.

Disposal of offensive matter, 'rubbish and dead bodies of animals

I. No occupier of premises, houses or shops shall deposit or collect any kind of rubbish or other refuse inside his 'premises. Any such rubbish shall only be collected in the dustbins provided for the purpose.

II. All occupiers of shops or houses situated in the bazar area shall provide themselves with tins or receptacles with proper lids for keeping sweepings and washings of the kitchen. Such tins or receptacles shall not be exposed to public view, and the contents thereof shall be caused to be removed by the owner, at least once in twenty-four hours, to a place set apart for the purpose,

III. The occupier of premises shall remove or cause to be removed the dead bodies of animals dying within his premises to a place set apart for the purpose. The removal shall be effected within four hours after death of the animal, or if death takes place after sunset, within four hours after sunrise.

CHAPTER II.

Privies or Urinals

IV. (a) Every owner or occupier of a house or premises wishing to construct a privy or urinal in the premises shall submit an application in writing, on a prescribed form, to the State Engineer. On sanction of application, such privy or urinal shall be constructed on such site, and according to such plan or design, and with such materials as the State Engineer may direct.

Note- Application forms can be obtained from the' office of the State Engineer or the Bazar Contractor on payment of Rs 8 per form.

IV. (b) All privies or urinals constructed in contravention of rule IV (a) may be caused to be dismantled by ,the Darbar.

V, All privies or urinals situate in the premises of shops or houses shall be kept by the occupier of such house or shop in a sanitary condition, and no night soil or filth of any kind shall be allowed to flow or to be discharged from such privy or urinal to any drain, water course or public road. Separate receptacles to receive liquid and solid excreta shall be provided. .

VI. All privies or urinals in existence may be caused to be demolished by the Darbar, if the same are found to have been erected without the sanction of the Darbar, or are considered to be undesirable by the Darbar. The owner or a privy or urinal ordered to be demolished under this rule may apply for the erection of a new privy or urinal under rule IV (a).

CHAPTER III

Cattle and other animal accommodation in the Bazar area

VII. All cattle and other animals kept in the bazar .area shall be accommodated in sheds or stables detached from houses or shops occupied by human beings. No such shed or stable shall be erected without the permission in writing of the State Engineer, and shall be erected only on such site, .and according to such plan or design, and of such specification as may be approved by the State Engineer.

VIII. No animal or poultry shall be stabled or kept permanently or temporarily underneath the floor of .any' shop or house

IX. All sheds or stables in existence before the promulgation of these may be caused to be demolished by the Darbar, if the same are considered to be undesirable and unsuitable. The owner of a shed or stable demolished under this rule may apply for the erection of a new shed or stable under the' rule VII. .

X. No person shall let loose or allow his cattle or other animal or poultry to go about astray in the bazar area. Stray animals found in the bazar area shall be impounded; pigs and poultry if found straying in the bazar area shall be destroyed or sold by auction, and the sales proceeds thereof credited to the Darbar.

XI. All bullock carts, pack or riding ponies or mules shall, after unloading be removed and camped, or stabled at such place as may be fixed for the purpose

XII. No person shall tie or cause to be tied any animal to any lamp-post, railing, or other road fence in the bazar area.

XIII. All owners of sheds or stables used for the accommodation of animals or poultry either permanently, or temporarily, shall keep the same in a sanitary condition, and no stable litter, etc., shall be allowed to be discharged from such stable or shed to any drain, water course or public road. All stable litter shall be removed to a place set apart for the purpose.

CHAPTER IV **Shops, houses, and godown, etc in the Bazar area.**

XIV. No person or persons shall build or cause to be built any shop, house, godown, kitchen, stable, hut, shed, etc., on any piece of land within the Bazar area without first obtaining the written permission of the State Engineer, Sikkim.

XV. Persons requiring sites for building a shop; house, godown, hut, shed, etc., should apply to the State Engineer, Sikkim, in the prescribed form which can be obtained from the Bazar Contractor or the office of the State Engineer Sikkim on payment of Rs 1-4 per form.

XVI. Shops, houses, godown, etc., or any portion thereof in existence before the promulgation of the rules may be caused to be demolished by the Darbar, if the same are considered to be undesirable and unsuitable. The owner of a shop, house, godown, etc., demolished under this rule may apply for the erection of a new shop, house, godown, etc., under rule XV.

XVII. Every owner of a shop, house, - godown: etc. shall keep the same in a State of good repair, and shall carry out such repairs as may be required by the Sikkim Darbar from time to time.

CHAPTER V

General

. XVIII. No owner or occupier of any house or shop, etc.,

store or cause to be stored any fuel, wood, charcoal or other noxious articles underneath the floor of shops, or houses.

XIX. No person shall foul any lane, street, alley of the bazar, or commit urine or attend to call of nature in a jungle or open space situate within the bazar area or other prohibited area outside the bazar area.

XX. No person shall place or hang or cause to be put or hung any cloth or other substance whatsoever on the bazar street lamp-posts, or on trees standing in the bazar.

XXI. No person shall obstruct or cause to be obstructed any lane, walk, bye-path, or other thoroughfare by accumulating any articles or substance, or by exposing articles for sale on any part of such lane, bye-path, or thoroughfare.

XXII. All occupiers or owners of shops, houses, or premises shall keep the same in a sanitary condition and free from jungle growth.

XXIII. No person shall make or cause to be made a vegetable garden within the bazar area either in his own lane or in land belonging to the Darbar without the permission, in writing, of the State Engineer.

XXIV. No person shall bathe or wash any cloth, wool, leather, skins, cooking utensils or other dirty and offensive things or any carriage, cart, dog, horse, or any other animal at or near any standpipe or any other work erected for the supply of drinking water.

XXV. No person shall obstruct any authorised servant or official of the Darbar from examining the pipe and water connection, with a view to ascertain any wastage or misuse of water supply.

XXVI. In a bazar where water arrangements exist or may be made in future, any person desiring a water connection to be laid on his premises may apply for it on a prescribed form to the State Engineer. The Darbar shall charge a water tax of Rs.2 per month, and the connection shall be given at the applicant's expense.

Note---Application forms can be obtained from the office of the State Engineer, Sikkim, on payment 'of RS. 2 per form.

XXVII. Any infringement of any of the rules in Chapters I to V shall be punishable with a fine which may extend to Rs.100

APPROVED. These rules
should come into force from
1st April, 1924.

**Maharaja of
Sikkim.**

TASHI NAMYGAL.

SIKKIM STATE
FOREST DEPARTMENT
GAME LAWS

These rules apply to all in the 'Sikkim State, with the exception of the Private Estate of His 'Highness the Maharaja 'of Sikkim, whether residents or 'visitors, subjects of the Sikkim State or not but may be waived in' cases where His Highness the Maharaja ,has been pleased. to grant, a written order of exemption. .

2. The following licenses are obtainable on application to the Forest Manager, Sikkim State

(a) Large Game Shooting License, fee Rs. 30/-, The holder of this license will be entitled to shoot the following,

Tiger,.	1	Goral..	2.
Ovis Nahura (Burhel).	1	Barking Deer	3.
Tibetan Gazelle.	1	Bears, Panthers,' Leopards,	
Serow	1.	and pigs. .	any number,

(b) , Special license, fees, Rs. 15/-. This license may be 'obtained in addition to the Large Game Shooting License and entitles the holder to shoot the following game in addition' to the 'number laid down above

Barking Deer	1.,	Tibetan Gazelle or	
Goral	1	Ovis Nahura or Serow	1

(c) Small Game' Shooting License, fees Rs. 15/-. The holder of this. license' will be entitled to shoot the following :

Kalish pheasants.. . . .	2.	Luichey(Wild Fowl)	6
Partridges. .	4	Hare .	6
Blood Pheasants,	4Green and Imperial Pigeons	
		and Porcupines	any number.

(d) Fishing License fees Rs 5—The holder of this license will be entitled to catch the following---

All fishes and frogs, except cultured fish any number.'

(e) Special Sikkim Bustiwallas License" fees' Rs.'15/-' This license, is issued to

bona-fide Sikkim Bustiwallas only and entitles the holder to shoot the following for the protection of their crops and live stock :

Barking Deer.	3.	Leopards, Bears, Wild dogs	
Gorals .	2.	Pigs Porcupines,	any number

3. Not more than one each of any of the licenses, except (b) with (a) will be issued to any one person for the period in which the license, or licenses are valid.

4. These license are non-transferable and valid for one year only.

5. Landlords and managers of Estate are granted the privilege to shoot within their States Large and Small Game and Fish within ,the limits 'of Clause 2 (a), (c) ,and (d), but they shall observe the rules laid down herein and the closed areas. This privilege is confined exclusively to the landlord or manager himself personally.

'6.The driving for the purpose of scaring away Leopards, Bears, Wild dogs,. Pigs and Barking Deer by bustiwalas' is permitted throughout the year, for, the protection of their crops, and live stock, provided the drive is not made in any' Reserved, Forest. ,

7.The closed areas as notified by this Department from time 'to time shall be strictly observed.

8. The destruction of Musk Deer, Albino Deer, Black Deer, , Shapi and Tarkin is totally prohibited.

9. The destruction of females of Ovis Nahura, Tibetan Gazelle, Thar and 'any deer; and the removal of the young of wild animals and birds and birds eggs. the destruction of hornless male deer and deer with horns in velvet are prohibited. His Highness the Maharaja may however be pleased to grant permission to license holders or State ,servants for a fixed number of females to be shot in the interest of sport, scientific research or for curtailment of animal life.

10. The following closed seasons shall be observed.

All stags, goral and serow 1st May to 31st October.

Hare.. 1st May to 3rd October.

Green and Imperial Pigeons. - ... 1st February to 31st July.

Ducks, Geese, Teal and other wild fowls 1st April to 31st August.

Pheasants, Partridges and .other Game Birds 15th March to 30th, September..
not mentioned herein.

During the season thus defined no one shall destroy. nest or. capture any, of these' animals or birds in any' fashion.

II The, erection and' Use of fixed engines construction 'of weirs; poisoning of' rivers or streams, the use of explosives, darning and bailing of, water and the use of nets with meshes smaller in dimensions than one square inch are prohibited and shall be liable to seizure, forfeiture' and removal including all game, caught by such means

'12. The' use of pellet bows, traps, bow 'and arrows catapults, birdlime, snares, nets and hooks and the possession or use of such appliances for the express' purpose of taking or. destroying wild animals or' birds are illegal.

13. The ,shooting of game from motor vehicle: or with artificial -light is strictly prohibited.

14. The export and sale of all skins' and horns of wild, animals- and bird: without the written. permit of the Forest Manager Sikkim State, is prohibited.

15. On demand of any State, Officer, Forest 'Guard, or, authorized person -the licensee shall produce his license for inspection

16. Licensees are requested not to 'leave their' Weapons or 'fishing tackle with their shikaries or make present of arms and ammunitions to the subject of this, State, without'. the consent of the Sikkim Darbar Shikaries are warned that if they are found with the sporting ;implements and. weapons of their employer after their employers have left the, shooting or fishing grounds they will be, dealt with under rule 20, 17Sportsmen must report to the Forest Manager all cases of injuries' received by any person or persons ,with full, report on the circumstances of occurrence, compensation or reward paid by them to the' injured person or persons or his or their relatives. Disregard of this rule may result in forfeiture and refusal of any of the foregoing license or licenses any future occasions and drastic ,action being taken.

18; 'The following are the' dimensions laid down as definition of shooting heads :

Burhal.. ..22"

19. Licensees are requested on the expiry of their licenses or in the case of 'a visitor not intending to shoot any more that season to return their license or licenses to the issuing authority with a, written statement showing the number of animals killed by him' duly signed,

20.For any breach of these rules the offender or offenders are .liable to a ,fine up to Rs100-or imprisonment not exceeding three months or both on the first, conviction and Rs 200/- or six months imprisonment or both on any subsequent conviction. In either cases the punishment awarded will be in addition to the forfeiture of guns, nets, fishing tackle or any other weapon 'or instrument used including dogs, as well as all trophies.

21, Any person giving information leading to the conviction of any offender of the above rules shall receive a reward not exceeding' Rs, 50/-.

22The following scale of reward will be paid, for the destruction of vermin's by-license holders or any other specially privileged, as noted against each name
Tigers and Leopards.. Rs 5/- each.

Bears and Wild Dogs. Rs3/-

Otters, Jackals and Wild cats.. Rs1

In all cases the reward will be, .paid on the production of the skin before it is tanned. The skin will be stamped by the Forest Manager, Sikkim State and returned to the killer, if a license holder.

23 Bona-fide Sikkim Bustiwallas may, also destroy the above mentioned vermin as in rule 22 under the same, conditions but only outside the Reserved Forests

24-.Suggestions for the improvement of Sport' in Sikkim and reports of the infringement of any of these rules by licensees will be highly appreciated. All matters should be addressed to the Forest Manager, Sikkim State:

This will come into effect from 1st September, 1946 in super session of the existing Game Law.

By orders of His Highness the Maharaja of Sikkim.

**Gangtok,
The 1st September, 1946.**

**B.B., Pradhan
FOREST MANAGER~ SIKKIM/STATE**

SIKKIM STATE INCOME TAX MANUAL

I. Extent and commencement:

THIS MANUAL WILL COME INTO FORCE' FROM. 1ST APRIL 1948.

Definitions

- i) . Gross Sale proceeds means all proceeds secured from 'the turnover of a business ,within the territory of Sikkim
- ii) Agricultural Income means ,gross produce income' derived 'by a landowner from land under maize and paddy
- iii) Salaries means the aggregate emoluments paid to a Government employee including pay, Special Pay ,personal' pay and allowances' but excluding travelling, house, Vehicle and horse allowance
- iv) "Patta Estate Income" means. the difference between whatever moneys. landlord of a estate realizes. -from the Bustiwallas of his estate. and whatever amount he pays to .the Government
- v). Assessee' means a person or an ,association of persons by whose income tax is payable as also their legal representative. .
- vi) "Government means the 'Government. of Sikkim
- vii) "Person" includes individual, joint or undivided family, Firm or any; other association of .individuals
- viii) "Previous Year". in respect of an assessment .means 'the financial year. from 1st April, to 31st March preceeding the year in which tax assessed .is to, be collected
- ix) Joint or undivided family" mean, whose. members jointly own .landed property, or whose landed properties are either held a piece or ..collectively person or persons within the circle of the family who ate not legally . separated under deed of partition.
- x) "Income Tax Officer" means a person appointed by the-Government entrusted with the conduct or management of the .levy or assessment of Income tax coming within the purview of the Manual.
- xi) "Charitable institution" means all such religious, educational or social institutions recognised by Government as such..

ASSESSMENT OF INCOME TAX ON BUSINESS

- i) Income Tax shall be 'charged on the gross sale proceeds of previous year of all persons -engaged in business at the rate prescribed.
- ii) Every person doing business is expected to keep proper accounts and produce It on demand before the Income-Tax Officer who in default or in cases of satisfactory account will assess tax according to. his discretion.
- iii) For assessment of tax all persons doing business shall complete their accounts of the previous year before the end of June, every year.

5 RATE OF ASSESSMENT

All persons doing business shall be assessed tax at Rs 3% per annum on the gross sale proceeds of the previous year. A business yielding gross sale proceeds on Rs 2000/0r less will be exempted from assessment.

6. ASSESSMENT IN CASE OF DISCONTINUED BUSINESS

Person intending to close down business for good shall give previous notice to the Income-Tax Officer of the closure for assessment of tax. Such notice shall also be given to the Income Tax Officer for temporary closure.

7. PAYMENT OF INCOME TAX IN ADVANCE

The Income Tax Officer will maintain a Register of non resident assesseees and Income Tax will be realized in advance subject to adjustment on submission of accounts by such assesseees.

8. ASSESSMENT OF INCOME TAX ON AGRICULTURAL PRODUCE

- i) Agricultural Income Tax is liable to be assessed on person, individual or the members of the head of joint and undivided family on the gross produce income derived, land owner from land under maize and paddy. The annual gross produce of 100 mories or less is exempt from Income Tax.

9. RATE OF TAXATION

The rate of such agricultural taxation will be assessed at Rs. 3% per annum computed on the total value of the gross quantity of paddy and maize produce at the nearest market, of the assessee.

*Correction to Sikkim State Income Tax Manual No' 3/IT dated 18./4./1950.
Page 31.I.M. Rule 5.

The following shall be the rate of assessment under this rule with effect from 1.4.1950

- (i) Rs.3/- per thousand per annum in case of business yielding gross sale produce from Rs. 2,000/- to Rs. 4,999/
- (ii) Rs.5/- per thousand per annum in case of higher sales i.e.; RS.5,000/- and above.

Correction to Sikkim State Income Tax Manual No. 2/IT dated 18.4.1950.

Page 4 & 5 Income Tax Manual.

Delete Rules 8 & 9 for assessment of Income Tax on Agricultural produce and rate of taxation.

10. **PARTITION OF JOINT OR UNDIVIDED FAMILY.**

An assessee will continue to be assessed as a joint family unless satisfactory proof is produced of the family partition. Any description of the family during the middle of the year will be treated as such from the following year.

11. **RETURN OF INCOME STATEMENT OF AGRICULTURAL..**

- (i) At the commencement of each financial year the income tax Officer shall issue notice with prescribed form enclosed to all those persons, who are in his opinion liable to assessment of agricultural income tax, calling upon them to submit return in the prescribed form duly signed within the time specified in the notice which shall not be less than 60 days from the date of the notice). Failure to submit return within the prescribed time will entail summary assessment at the discretion of the Income Tax Officer.
- (ii) If the Income Tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that the return so made is correct and complete, he shall assess the total quantity of agricultural produce and shall determine the sum payable by him on the basis of such return the rate stipulated after such enquiry as is deemed fit.

12. **SALARY.**

The tax shall be payable by all the Sikkim State employees drawing salary of RS.200/- and above per month. Such amount of income shall be deemed to be salary due on the date when payment is received by the employees.

Correction to Sikkim State Income Tax Manual page 6 Rule 12 'Salaries'.
Correction No. 4/IT dated 12.5.1950 .

Provident Fund deductions of all kinds are exempted from income Tax.

13. **RATE OF TAXATION.**

Income Tax on salary will be assessed at the rate of Rs. 3 % per annum on the total amount of salary received by an employee during the course of a financial year.

Modification of Rule 13 Rate of Taxation.

Correction No. 1/IT of 30/3/1950

Income Tax on Salary will be assessed at the following rate:

- (i) RS.3/- per thousand per annum in the case of incomes from Rs.200per. month to Rs. 399/
- (ii) @ Rs. 5/- per thousands per annum in case of higher income i.e., Rs. 4-00/- and above per month.

1.4.(i) Working on the annual basis of the rate only such amount forming part of the tax payable on the monthly salary of the assessee shall be deducted and adjusted towards Income Tax accounts from out of his salary bill at the end of such month by the financial Secretary on intimation from the Income Tax Department.

(ii) At the beginning of each financial year a statement of accounts showing in detail of the monthly tax so deducted during the previous year shall be made available to the assessee for his satisfaction by the Income Tax Department if so desired.

(iii) On receipt of such statement, if any discrepancy is observed by the assessee in deduction of the tax on the salary of his previous year's accounts, he should, on his own motion, inform the income tax department in writing for such necessary rectification of the accounts. On such application, if there was an over assessment, refund will be allowed and readjustment of tax, if overlooked will be done after verification.

15. ASSESSMENT OF PATTI ESTATE INCOME.

i) The Tax shall be payable by all the landlords of Sikkim State whose profits is over RS.2,000 per annum

ii) RATE OF TAXATION.

Income tax on patti profits will be assessed at the rate of Rs. 3/- per cent per annum.

16. ASSESSMENT OF LOANS IN CASH OR KIND.

i) Tax shall be payable at the prescribed rate on principal loans in cash or kind above RS.2,000/- irrespective of the particular exemptions.

ii) RATE OF TAXATION.

Income Tax on principal loans in cash will be assessed at RS.3 per cent.

17. GENERAL EXEMPTION.

charitable institutions are exempt from income-tax on all categories of income.

18. TAX WHEN PAYABLE-GENERAL RULE.

Any amount specified as payable in a notice of demand, shall be paid into the State Bank within the time given thereunder, and any assessee failing so to pay shall be deemed to be default provided that, when an assessee has presented an appeal, the appellate authority may in his discretion pass stay order when the assessee will not default in respect of such tax so long the stay order remains in force.

19. When an assessee is in default in making payment of income tax the Government may in its discretion direct that in addition to the amount of arrears, a sum not exceeding that amount shall be recovered by distraint from the assessee by way of penalty.

20. FRAUDULENT DELCATION OR STATEMENT.

If a person makes a statement or a verification in as income tax Return which is false, and which he either knows or believes to be false or does not believe. to be true, be liable on conviction to a fine which may extend to RS.1,000/-.

21. TAX TO BE CALCULATED TO THE NEAREST RUPEE AND ANNA.

In the determination the amount of tax payable annually or of a refund payable under the Manual, fraction of rupee less than eight annas shall be disregarded and fraction of eight annas equal to or exceeding it shall be regarded as one rupee. In the case of tax deductible monthly, falling under the head 'Salaries' fraction of an Anna less than six pies shall be ignored and fraction of six pies equal to or exceeding it shall be regarded as one Anna.

22. APPEAL AGAINST ASSESSMENT UNDER THIS MANUAL.

Appeal from the assessment of Income-tax or penalty imposed under any of the foregoing clauses will lie to His Highness the Maharaja of Sikkim through the Department concerned.

23. POWER TO SUMMON PERSON.

The Income Tax Officer will have powers of a civil court to issue process to enforce the attendance of persons for the purpose of enquiry into any matter arising out of assessment of Income tax.

24 FORCED RECOVERY AND TRAIL OF CASES.

All forced recoveries of Income tax or penalties imposed under the provisions of this Manual will be done by the Revenue Court and all cases under para 18 of this Manual will be triable by the Chief Court.

GOVERNMENT OF SIKKIM

Health and Works Department

Notification No.6326-600-H&W-B.

Under powers conferred in para 2 of Notification No. 1366--G. dated the 28th July 1947, the following Rules have been framed to regulate letting and sub-letting of premises controlling rents thereof and unreasonable eviction of tenants as the scarcity of housing accommodation still exists' in Sikkim..

1 The landlords can charge rent for premises either for residential or business purposes on the basis of the rents prevailing in locality in year 1939, plus an increase upto 50 per cent so long as the scarcity of housing accommodation lasts.

2. The landlords cannot eject the tenants so long as the scarcity of housing accommodation lasts, but when the whole or part of the premises are. required for their personal occupation or for thorough overhauling the premises or on failure by the tenants to pay rent for four months the landlords may be permitted to evict the tenant on due application to the Chief Court.

3- Any tenant may apply to this Department for fixing' his rent. On receipt of such application the Department will enquire about the rent. prevailing in. the locality in 1939 , and fix rent as per Rule (1) above.

4- Any person acting in contravention of this Notification will be liable to prosecution under para..4. of notification No".1366-066-G. dated the28th July, 1947.

5 The tenant means those person in actual occupation. Landlord. means owners of the. premises.
These rules will come into force with immediate effect.

**By 'order of His Highness the Maharaja of
Sikkim.**

R.B. Singh

**Secretary,
Health and Works Department;
Government of Sikkim.**

Gangtok,

The 14th, April, 1949.

PART II**A NOTIFICATION PROVIDING FOR REGULATION OF FOREIGNERS**

Whereas it is expedient to provide for the regulation of foreigners being present in an departing from Sikkim, it is hereby ordered as follows:

1. The Sikkim Darbar may designate any person or class of persons as foreigners for the purpose of rules framed under this notification.

2. The Sikkim Darbar may make rules:

(a) for requiring any foreigner entering or being present in Sikkim to report his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;

(b) for requiring any foreigner moving from one place to another place in Sikkim to report, on arrival at such other place, his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;

(c) for requiring any foreigner who is about to leave Sikkim to report the date of his intended departure and such other particulars as may be prescribed to such authority and within such period before departure as may be prescribed;

(d) for requiring any foreigner entering, being present in, or, departing from Sikkim to produce on demand by a prescribed authority, such proof of his identity as may be prescribed;

(e) for providing for such other incidental or supplementary matter that may appear to the Darbar necessary or expedient for giving effect to this Notification.

3. **PENALTY:-** Any person who contravenes or attempts to contravene, or fails to comply with, any provision of any rule made under this Notification shall be punished, if a foreigner, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both, or if not a foreigner, with fine which may extend to five hundred rupees.

4 **EXEMPTION:-** The Sikkim Darbar may declare that any or all of the provisions of the rule made under this Notification shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified in the said order, to or in relation to any individual foreigner or any class or description of foreigner,

B. RULES FOR THE REGULATION OF FOREIGNERS.

1 Every foreigner, including foreigners in transit to India, shall on entering Sikkim personally report at which ever of the following check posts is nearest his point of entry. Gnathang, Pundramile, Chungthang, and state the particulars required in the register in form A. The entries should be made by or behalf of the foreigner in English, and in any case must be signed by him, or, if illiterate, he will affix thereto left thumb impression.

EXPLANATION : A foreigner will be deemed in transit to India if he intends to spend not more than 10 days in Sikkim from the date of reporting his arrival at a check-post.

2. All foreigners to whom rule I applies should procure from the check post at which arrival is reported a permit in form B.

3. On reporting at the registration office in India specified in form B, a foreigner will surrender his permit in form B to that Office.

4. A foreigner who

(a) took a permit in form B for transit to India, but does not proceed to India within 10 days of reporting his arrival, or,

(b) does, not intend to proceed to India and stays in Sikkim for a period exceeding 10 days from the date of reporting his arrival, shall before the period of 10 days has elapsed, report at the Office of the Superintendent of Police, Gangtok and obtain a permit in form C which shall be valid for a period not exceeding three months from the date on which the foreigner reported his arrival in Sikkim.

5. If a foreigner holding a permit in form C wishes to proceed to India, he will report at the Office of the Superintendent of Police, Gangtok, and surrender the permit in form B.

6. A foreigner holding a permit in form C shall, on return, surrender the permit to the office in charge of the Check post nearest his point of departure, taking a receipt in form B.

7. All foreigners to whom these rules apply shall on demand of a police officer of above the rank of Head Constable, or revenue officer of and above the rank of a Revenue Inspector, produce either a permit in form B or a permit in form C, as the case may be and, on failure to do so, shall be liable the penalty specified in Clause 4 of the Notification.

8 The term foreigner shall include all Tibetans but the following persons shall be exempted from the requirement to obtain permits in form B&C

Tibetan Official and members of Tibetan delegations.

TASHI NAMGYAL

MAHARAJA OF SIKKIM

FORM A**ARRIVAL REPORT REGISTER**

1. Serial Number.
2. Name in full (block capital, surname first).
3. Sex Height Colors of eyes
4. Date and place of birth.
5. Nationality.
6. Address of last residence.
7. Occupation or profession.
8. Purpose of visit .
9. Designation and rank held. ..
10. Number, date & Office of issue of passport, or particulars of other proof of identity.
11. Address or intended address in Sikkim.
12. Address or intended address in India.
13. Place of departure for India.
14. Intended date and place of arrival in India.
15. Signature (or thumb impression, if illiterate). (Name of office) Date (Officer in charge)

FORM B**TRANSIT DEPARTMENT**

Serial No. ..

Mr. of having reported his arrival at Serial No.... (as in form A) at (check post) on... ..

'(date) is directed to report to the (Registration Officer)at.. .. .(place) within 24 hours of his arrival at that place' to receive his certificate of registration.

2. This permit will be valid. up to.. .. (ten days from the, date on which arrival. (ten days from the date on: which arrival is reported) and must before that date, be replaced by a certificate of registration at the place specified in paragraph I. If the holder cannot report within 10 days to take a certificate of ,registration he will report at the Office of the Superintendent of Police, Sikkim State, at Gangtok, to obtain an extended permit.

3. The contents of this form have been explained to the holder thereof.

Sd/. (Officer in charge of
Check post).

FORM C

NO. **TEMPORARY RESIDENCE PERMIT**

Mr. of. who reported' his arrival at
serial No (as in form A) at. check post) an..
(date) is permitted to stay in Sikkim upto..

Sd/(Superintendent of' :Police
,Sikkim, State).

FORM D

RECEIPT

NO.

Received from Mr. 'who' originally 'reported arrival
at serial No..(as in form A) at..(check post)

on.. .. (date), his temporary residence permit in form C. No. ..

Sd (Officer in charge
of Check post).

SIKKIM DARBAR GAZETTE

Gangtok, October, 1951

No.5.

**RECORD WRITING OR KOTHA PURNU OR DRU-DEB AND ATTESTATION RULES
FOR SIKKIM STATE**

1. Record writing or Kotha Purnu or Dru Deb will consist of the writing of one khasra and one set of Khatiyans in the prescribed forms. The record writing or Kotha Purnu or Dru Deb will usually commence after the field survey is completed but this may be done earlier with the permission of the Head ,Inspector or Inspector if at least half of the Block has been surveyed and checked by the Head Inspector or Inspector or Head Amin.

2. Unit of survey and settlement: The Block will be retained as the unit of survey and settlement.' Boundaries of a Block or elakha will not be changed without proper sanction.

3. Cases of dispute: The Amin will prepare a dispute list in the prescribed form and will enter all cases of dispute in it giving brief particulars of disputed cases. Whenever a dispute is entered in the dispute list concerning any entry connected., with a khasra plot the number of the plot in column I of the khasra shall be encircled with a 'red line. Inspecting Officers should be particularly careful that all' disputes are recorded. The disputes should be disposed of promptly. The services of Mandal and Block Panchas and other reliable persons should be freely used by the Asstt. Record Officers in dealing. with disputes and their evidence taken on the subject matter of dispute when necessary. The attesting Officer should make local inspections where necessary.

4. The Amin will also prepare a note sheet (Yaddast) for each Block which he will attach to the cover of Khasra-inside. In the. Yaddast he will enter:

(a) Notes of any points he may wish to bring to the: notice of the Head Amin and the Inspector.

(b) The numbers of fields which any entry is incomplete or about which an agreement is to be taken under the terracing ordinance or a transfer deed as to be registered.

(c) The fact that the boundary dispute has been raised.

(d) Notes about Free-hold grants, Jagirs, Home farms and Private estates.

(e)Remarks about loss on which other than the owner claims' more than five years possession.

(f)Change in classification of land. The Amin should give a note about cultivable waste land available for Sukumbasi within the Block and in the Reserve Forest outside the boundaries of the Block to the Inspector,. He should also note the number' of Sukumbasi's families residing within the 'block. The Inspector after local inspection will report the matter to the Settlement. Officer with a Map of the plots.

- (i) The Amin will commence record writing which includes field numbering and writing the Khasra and Khatiyas as soon as the survey of the block is completed or earlier with the permission of the Inspector. The numbering will start from the North West Corner generally in blocks to the East, come back again to the West taking the plots just below and so on finishing at the 'end in the South-East corner.
- (ii) Numbering of plots will be done sheet-wise where the map of a block is contained on more than one sheet, but where the fields situated in the same block have been plotted on the margin of a map, the numbering will be in the same continuation as in the Main Map.
- (iii) The numbering will be first in pencil and will be inked only after the Head Amin or the Inspector has checked it thoroughly. Where the Amin is incapable of inking the numbers neatly, it will be done by the Head Amin or the Asstt Inspector himself.
- (iv) Kudas numbers must be avoided but if there are any, a note about them will be made in the margin of the map.

6. Each Amin should keep a copy of approved conventional signs. Highest and lowest altitudes of the Block should be noted in a triangle - near the North point in the map. Khasmas, Goucharan, cultivable and uncultivable waste and orange groves and cardamom cultivation should carefully be shown in the map by approved signs in the map. Plots fit for cultivation within Reserve Forest outside the boundary of a particular Block should also be shown outside the boundary of the Block concerned by the conventional signs approved for cultivable waste land.

7 All fruit trees, such as, Santola, Ambak, etc. growing on occupied land should be counted and the number and descriptions of the trees entered in the remarks column of the Khasra and Khatiyas.

8. Khasra. On the first page of the Khasra, the Amin will enter the following details

- (i) The name of the Block with chak or Tappa, if any.
- (ii) The name of elaka.
- (iii) The name of Tehsil.
- (iv) Name of Amin.
- (v) Name of Head Amin.
- (vi) Name of the year of survey (Both Nepali and A.D.) and Dates of beginning and completing the record writing.
- (vii) (2) The Amin will make all entries in the Khasra while standing in, the field to which the entries relate.
(3) Col. I will contain the serial No. of the field to agree with the map. A field is a portion of land of the same class. in the actual cultivation of the same person, the number of kisas, garras or sirhis of sub divisions of a field are not to be separately mapped, but their number, is to be entered in Col. 4.

- (4) Col. 2 will contain the name of bari (tok) or 'plot.
- (5) Col. 3 will contain height of the plot above the sea level. It should be carefully ascertained and survey Inspector: will verify the height of each Block with the 'help of his Aneroid Barometer
- (6) Col. 4 will contain the ,number of garras, sub divisions, of the field,
- (7) Col. 5 will contain the name. of the bustiwalla and his ,father's name and caste and the place of his residence. The Amin :should carefully ascertain father's name of the bustiwalla and enter in this column.

The names, of tenants and bustiwallas of Private Estates, free grants, monastery Estates, Jagirs ,Muafees, etc. will be entered in this column like the bustiwallas of other Ellakas ,as practically there is no difference between the Bustiwallas of these various estates and Ellakas. The right of ,a 'person including a secondary holder, kutiya or Adhiyadar who' has' remained in continuous possession for over 12 years cannot be questioned by the person against whom such possession may be construed. His name will find place in this column as bustiwalla like' other bustiwallas. Succession or other disputed cases will be governed by the ordinary law of the State.

- (8) Col. 6 soil classification will be, given in this column. The main basis for classification of both Panikhet and Sukha bari will be elevation above the sea level. There will be three classes in each case I.,II and III; first class will again be divided into' two' sub classes (a) &(b). In short the classification will be as follows;

Class I (a) upto,3500 feet

(b)

Class II from 3500 to' 45'00 feet

Class III above 4,500 feet

9. Land can be upgraded or' downgraded according to the circumstances of particular case, though by altitude it would fall in a different class,. for instance land which may be excessively steep or stony or due to' some other natural causes be incapable of bearing the rate of rent of the class to' which it would fall on the basis of elevation, may be downgraded; of the other and there may be some 'plots which owing to' the proximity to' markets of village' sites or cart roads or on account of other special fertility or produce on other allied causes, may seem to. be capable of paying khazana of a class higher than the one to' which they would fall by altitude, may be upgraded. Such change should be made in the presence of :the. Bustiwallas concerned. The Amin in the 'case of such variation will submit a special report to' the Head Amin, who after local inspection will confirm the change In the classification if' he agrees with the Amin. In case of difference of opinions the .Head's Amin will forward the report of the Amin to' the Inspector with his remarks. 'The Head. Inspector or the, Inspector after local inspection will decide the class of the land in the presence of the Amin and the owner of the plot. who' if aggrieved can refer the matter to' the Settlement Officer, 'who will have power to change classification of land. The Amin in every such case will make a' special entry in the remarks column of the Khasra under his dated signature. Head Amin and other inspecting Officers will pay special attention to such

entries. Number of orange trees and other trees should be shown in the remarks column. In case of waste land in the possession of a bustiwalla which was never brought under cultivation will be recorded in this column as Banjo, without any class, and waste plots not cultivated within the last 7 years, will be recorded as Banjar without any class; Plots cultivated within the last 7 years but not within years will be shown in this column as Pratiqadim - upon dry III class i.e. P.O. dry III Siro. Baries will be treated like cultivation.

The area of Banjo and Banjar will be entered in columns 7, 12 only. Waste plots cultivated within the last 3 years but not within one year will be known as partizadid; such plots, Ilaichi Baries, orange groves and Siro, Baris will be classified like cultivation according to the elevation and other circumstances, e.g., Ialchibari Bag I, II, III, Suntal. Bag I, II or III Siro Bari. I, II, III dry.

Siro Bari

Col. 7 will contain total area of the block in acres.

Col. 8 Crop.

Where one crop only is grown in the field in the course of the year the name of that crop will be entered. Where the land is do-fasli, the name; of both the crops will be entered. When two or more crops are sown together the name of the two principal crops with the word... Chhasmis under it will be entered. When entering Dhan as the crop it must also be ascertained if both kinds of Dhan crops Bhadai and Aghani are grown in the field and if so an entry be made in the remarks column. Such plots will be included in the Dofasla area.

Where different Crops of the same class are grown in different portions of

the same field, the Amin will enter roughly the 'portions of the field' under each crop e.g. 12 annas maruwa, 4 annas phapar.

If dofasli crops are grown on a whole 'plot' write Makai 16 annas wheat 16 annas, if each crop only on a half portion then write Makai 8 annas wheat 8 annas. If half of a piece of land was sown with maize and the rest kept fallow at the time but on harvesting makai, Phapar was sown on the whole plot, then the entry will be as follows:-

Makai 8 annas, phapar 16 annas. It is generally seen here that Kodo crop is grown after Makai crop on the same field. Such area will be treated as Dofasala. When the plot is under cardamom plantation the word Ilaichi upon number of years during which the cardamom has been on the plot will be entered, e.g. Ilaichi 3 years.

In case of waste plots - their class given in column 6 will be written here i.e. Banjo, Banjar, Partizadid, Pratiqadim Bag, etc.

10. Col. 9 - Area of Cultivation should be given, in this column in acres and decimals, one acre of Panikhet should be taken as equivalent to 3 pathis and one acre of Sukhet to 2 pathis.

II. Col. 10 should contain double cropped area, & Column 11 will contain area of orange grove.

12. Col. 12 - Area of Banjo (uncultivated land) in possession of a bustiwalla will be entered in column 12 in acres. It will include fuel and fodder reserves as under bamboo clumps and the Banjar land which has not been brought under cultivation for the last 7 years.

In Column 13 area of Cardamom cultivation should be given.

Partiqadim or Partizadid land and Siro Baris will not be entered in this column but recorded as explained in column 6.

13. Column '14- - The area of the following classes of land which are not to be assessed will be entered in this column Khasmahal, Gourcharan, cremation and burying grounds, other reserves, P.W.D. Roads, other roads and paths, Dak Bungalows, School, State Office buildings and quarters etc.

14- Column 15 - Remarks.

Entries will be made in this column, in accordance with the foregoing rules.

Points necessary for Milan Khasra should also be noted in this column. Whatever is entered in the remarks column of the Khasra must also be entered in the remarks column of the Khatiyar. Average annual outturn and income from oranges and cardamom should be given in the remarks column. The reservation of lands or camping grounds, Markets, Goucharan, , cremation or burial grounds, home farms, free grants etc. should be noted here against the plots concerned. Names of roads, village paths water channels, rivers, schools and official buildings, shareholders with their shares Kutias - Adhiadars - mortgagors or others secondary holders with number of year they have been in possession should also be noted in the remarks column.

Road reserves and water reserves are -.recorded in the' name of the State, 2.0 feet in case of dry fields and 10 feet in case of paddy fields should be recorded as reserve on either sides of all State paths' in Sikkim except on steep hillsides and places liable to land slips where 50 feet reserve shall be kept on either side of the road. In case of cart roads the existing practice of retaining 50 feet on either side shall be continued where the road borders on dry fields and 10 feet on either side of the road bordering a paddy field. The old practice of keeping only 8 feet road reserve on ,either side of the road shall be maintained in Lachung, Lacnen and Chungthang. Amins and Head Amins should report cases of encroachment to Inspector, or Head Inspector' who after local inspection ,will report the matter with a map to the Settlement Officer, who will get such encroachments removed where necessary at the cost of the trespassers and the latter can also be prosecuted u/s 447 I.P.C. At the end of the Khasra, the Amin will make a note about the Sayar (miscellaneous income of each. block)

Goshwara will be prepared carefully :lt the end-of each khasra 'giving the, following details: It will be thoroughly checked by the Head Amin and the Assistant Inspector and Inspector.

1 Total number of plot...	2 Total area of the Block	3 Total area of irrigated land			4 Total area of dry land		
		Class I (a) (b)	Class II	Class III	Class I (a) (b)	Class II	Class III
5 Total area of Banjo	6 Grand total of columns 3, 4- & 5	7 Total area of Cardamom Cultivation			8 Total area of Cultivable Banjar		
9 Total area of Uncultivable Banjar	10 Grand total of Cols. 6,7,8 & 9	11 Total area of Khas mahal from Cols. No.8 & 9			12 Total area of Goucharan from Cols. 8 & 9		
13 Total area of oranges' groves from Col. No. 4		14 Total area of home farms from Cols. 3,4-,5 & 6			15 Total area of Jagirs Muafees or free grants, from Cols. 3 to 6.		

15. Khatiyans and parchas :

1. In the first page of the khatiyans will be written the name of the Block, Ilakha, Tahsil, Mandal, Amin and Head Amin. Khatiyans will be prepared from khasras in duplicate, one copy called parcha for Bustiwala and the other called khatiyans for office use.

2. The Amin will give a serial number to each khata and give class wise total of khata. The khatiyans will be prepared first for Bhutias, Lepchas and then for Nepalese and others, alphabetically.

3. Column 1 will contain the serial number of the khatiyans and Col. 2 name and parentage, caste and residential -address of the Bustiwala. .

4. Column 3. Name of the plot or Tok should be given in *it*.

5. Column 4-. Khasra number of the plot will be given here.

6. Columns 5, 6, 7. In these columns irrigated lands will be shown class wise.

7.(a) Column 8. In this column Sukhabari (dry land) will also be shown class wise according to the principal laid down. The class of the land will be shown under the area figures e.g.

3. 5. acres	2. 2.	I
I	II	III

(b) Partikadim land which has sometimes been under cultivation within the last 7 years but not within 3 years will be entered in this column as dry land of class III.

16. Column 9 will contain the area of Banjo including fuel and fodder reserve. Partikadim land should not be shown in this column but in column 8 as Sukhabari Class III. Banjar land not cultivated for the last 7 years will be entered in this column along with other Banjar land in the possession of the owner of the Khata.

8. Column 9, will contain ,the area of Banjo including fuel and fodder reserve. Partkadim land should not be shown in this column but in column 8 as Sukhabari Class.: III. Banjar land not cultivated, for the last 7 year. will be entered in this column along with other Banjo land in the Possession of the owner of the khata.

9 Column 10 - Total area of the plot will be given in this column.

10 Column 11 - Area of orange groves should be given in this. column.

13 Column 14 will contain the area of the plot in Pathi, Manas.

12 (a) Column 13 - Khasmahal - Gorucharan Areas of reserves road, camping grounds, School, etc. will be entered in this column

(b). Free hold grants - Muafis and Darbar lands are not to be entered in this col. but they should find place' in' one of the columns 5 to 10 according to their classification. They should have separate khatas in, the Khatiyans.

14 Column 15 should be left blank by the Amin. It will be filled later in Office.

15 Column 16 - All remarks from the remarks column of the khasra should be copied out here.

16 (a) The Amin should prepare Goshwara according 'to the Khasra Goshwara columns 'at the end of the khatian.

(b) Separate Goshwaras will be. prepared for Bhutia - Lepcha and Nepali and other tenants.

(c) .Goshwara for Bhutias and Lepcha tenants will be prepared at the bottom of the khatian where their ,last ,khata of the khatian 'where their last khata number ends. Thereafter the khatian of Nepali and other tenants will begin and the serial numbers will be continued from the last Bhutia.- Lepcha Khata number. At the end the .Goshwara for Nepali and other, tenants will be prepared. In the last page grand total of the three. Goshwaras will be given 'which should tally, with the grand total given in the khasra Goshwara. Head Amins will be held personally responsible for the correctness of these Goshwaras totals.

11. A list of objects along with sign for them with which they will be marked on the Block Maps where such objects exist, is herewith attached.

1,2.. The Amin should carefully fill in all the columns of the block descriptive chart (Gaon Halat) and read it out to the. Bustiwallas and take the signatures of the Mandal and panchas and other responsible person on it and attach it to the khasra. It is the duty-of Mandals and Bustiwallas to attend during survey to assist Survey parties in ascertaining correct boundaries and the auto primary and secondary' holders concerned If Bastiwallas fail to attend, errors of, which Amins cannot be held responsible. .are like to occur. After completion of survey and record writing, Khatian parshas are issued to Bastiwallas of each holding. These slips enable bustiwalla's, to know exactly what has been recorded by the Amins. The Amin will hand over their .khatian slips to Bastiwallas. in the presence .of Mandals and block Panchayats ,and the Head Amin. Signature of the- Bastiwala concerned and the Mandal Will be -taken the back of the office by of the khatian in token of, receipt. The slips of-the Bustiwallas who are not present will be handed over to the. Mandals,. or Head Amins or other inspecting officers. Amins will. carefully prepare block boundary. descriptions and take the signatures of mandals and bustiwallas concerned ,thereon.

13. Head Amins and Survey Inspector' Will pay special attention to this work and see that slips are promptly distributed. Severe action will be taken if any kinds of complaints are received.

14.. A further 'verification of khasra and khatian slip entries is carried out when attestation is done an dates fixed for the purpose and notified in advance. The attesting officers will visit each area in turn.

15 The slips of every block will be taken in groups and compared with the office copy of the khatian, khasra and map and the entries in each of the slips will be read over and explained to. the Bastiwallas concerned. If they agree to. the entries prepared on the slip relating to. them, their signatures or thumb impression will be taken 'on the office copy in token of their assent.

16. The cases in which the proposed entries are not assented to., will be dealt by the attesting officer separately. He will hear objections to. the record writing on the spot and decide them summarily after taking the' evidence of the Mandals ,Panchas and other reliable persons. When necessary he will make personal inspection of the plots in 'dispute. Appeals call be filed from the decisions of Attesting officers (A.R.O. or A.S.O:) in the Court of the Settlement Officer. The period of limitation will be two. months. Gaon Halats, village descriptive charts and the block boundary descriptions will also. be read out and explained by the Attesting Officers to. the villagers and their signatures taken on the rolls. Attesting Officers will also. do. Registration' work in camp on payment of prescribed fees and take agreements from the owners of steep 'plots under terracing ordinance on Rs. 1 /- Stamp. Amins will receive such sale deeds on State paper in duplicate properly stamped and produced before the Attesting Officer after giving necessary notice to. the parties concerned well in time. No. ad-valorem Court fees will be charged for disputes decided by Settlement Courts. Any application presented before .the Attesting Officer, Assistant Settlement Officer, or Assistant Record Officer will bear a Court- fee stamp of Re. 1/-, while such application when presented before the Settlement Officer should bear a Court fee stamp worth RS.2/- . Any. application given, to. an Amin, Head' Amin. Inspector needing action by higher authorities. should also. bear' a stamp of the value of Re. 1/.

17. The Amin will be responsible for all entries in the records. These records should be prepared With all care and the staff should bear in mind that dishonesty will entrails severe punishment.

18. The Head Amin will be responsible for the 'Work of Amins under' his charge. He will weekly inspect the work, of each Amins .and check at least 50- percent of entries of their records in each block including map and other field records. He will thoroughly check Block charts. and Goshwaras and the boundaries of each block: and pay special attention to the entries made in the remarks column. of the khasra and khatians and also to the notes in the Yaddast., He will personally inspect all disputed plots and the. fields of which, Soil classification has been changed for reasons given-by the :Amin in the remark column of the khasra. He will note all these points in his diary and make special reports separately. .

19. The Inspector and Assistant Inspectors will check at least 20' per cent and 35 percent of entries in each black under their charge respectively.. They will exercise general control over all Amins and Head Amins and see that Work goes on. smoothly. They will thoroughly check Block descriptive charts and Goshwaras and' nearly all entries in which there was a dispute or there has been change. in Soil classification.

20 Good and honest work will be recognised by accelerated promotion and by payment of cash rewards.

**Yogamber Singh
U.P.C.S. Settlement
Officer,
Sikkim State.**

BLOCK DESCRIPTIVE CHART

Name of Block	Elakha	Tahsil	Sikkim State
Name of Mandal			
1. Boundaries. and total area.			
2. Physical Features.			
a. Highest and lowest altitudes.			
b. Rivers. Streams and Mountains, Rainfall etc.			
c. General Slope.			
d. Slips.			
e. Kinds of soil. Each kind in annas out of a rupee.			
f. (i) Climate.			
(ii) Kinds of crops and plants and medicinal herbs that thrive here.			
g. General features etc.			
3. Natural Resource..			
a. Fauna.			
b. Flora.			
c. Mineral..			
4. Reserve Forests .and its timber trees and means of export and other facilities.			
Cultivable area and its description.			
5. (XI) Total number of plots. Average area of each plot.			
(II) a. Total cultivated area and its percentage.			
b. Pani Khet			...
c. Sukha bari	..		"
d. Banjar	"		"
e. Elaichi bari	"		"
f. Orange grove	"		..
(III) Total Khasmahal	"		"
a. Cultural..			"
b. Unculturable

6. Average No. of plots in possession of each family.
Area of an average holding. '
Bhutia-Lepcha and Nepali separately.
Pani khet
Sukha Bad
Orange Grove
Banjar
Elaichi Bari.
7. Total number of families of land holders and house.
Total number of landless families & houses and their means of livelihood.
Number of persons in an average family-Bhutia, Lepcha and Nepali separately.
8. I. Crops
 - a. Varieties of crops grown according to different elevation.
 - b. Ways of sowing seeds, e.g. Board casting; Transplanting, drilling in row and so on.
 - c. Average grain per ear of barley, oats and rice.
 - d. Average cobs per plant of maize.
 - e. Average grain per cob.
 - f. Average No. of maize plants in one acre.
 - g. Average No. of orange trees per acre.
 - h. Average No. of fruits per orange tree.
 - i. Is rotation of crops 'practiced in the village or not
 - II. Physical appearance of fruits & crops should be described in details along with subsidiary details such as taste, smell, shape, color 'and so on.
 - III. Total area under each crop - Paddy, Maize, Buck sheat (Uwa Jaw); Potatoes, etc.
Total Do-Phasla (Double cropped) area
Net area under crops.
9. Average produce ,per acre" paddy Maize - Dodo - Potatoes - Elaichi
Total income per acre.
Average cost per acre. Net income per acre'
Ratio of Pathi and acre should be worked out by actual experiment;
10. Total ,population. Males-Female - Bhutia, Lepchas, Nepalese and other separately .
Density per square mile.
Total population of land holders
Total population of landless classes.
11. Home-Farm Description and its area.
 - a. Pani khet
 - b. Sukha bari
 - c. Elaichi bari, Orange grove
 - d. Waste land including fuel and fodder reserves.
 - i. Culturable
 - ii. Unculturable.

12. Private Estate

13. (a) Rent free grants
b. Jagirs

14. 'Details regarding ,institutions such as Monasteries etc,
a. Whether dependent on land. subscription, :charity or. otherwise with details of each.
b. Area from which people attend the monastery
c. Number of Monks in Monasteries.
d, An indication of where the Monks come from.

15. a. Names of biggest and smallest land 'holders ,with area of their holdings.
b. Total number of khatas and acres upto 2 '
c. Total number with area 2 to 5
d. Total number with area 5 to 10
C . Total number with area 10 to 1 5
f. Total number with area 1 5 to 20
g. Total number with area above 20 acres.

Note: Bhutia, Lepcha, Nepali and others .khatas should, be shown separately.

16. Old area and old khazana of the block Mandals" co mission at the rate
As 4 per cent.

17. Customs.

a. Local customs among the main community, regarding death and marriage etc.
b. Main customs regarding religion festivals. .
c. Main customs regarding succession and ,inheritance of property.

18. Economic condition.

a. Special .source of income.

b. Number of families in debts and-reason thereof and rates of interests.
c. Number of money-lending and grain. lending families.
(Bhutia, Lepcha and Nepali).

19. Names of irrigation.

20. a. Trade, 'Market and their distance and Market day

b. Special produce, import & export.

c. Current grain rates
Grain rates in 1925 and in 1939.

d. Wages of agricultural labour and village artisans (current) and in 1925 and 1939.

21. Cattle. Total No. of ploughs and carts

Yoke Bullocks

Sheep & Goats.

Pigs

Poultry

43

22. Schools and colleges and educational facilities.
23. Public Health.
 - a. Special disease, percentage of child mortality death and birth rate
 - b. Name of two oldest persons in the block with their ages.
24. Means of communication
 - a. Roads and their length.
 - b. Rest Houses.
 - c. Other travelling facilities.
25. General.

Yogamber Singh
U.P.C.S.
Settlement Officer;
Sikkim State.

Clarification of procedure adopted: by Settlement Officer in land dispute cases

. In amplification of para (3) of the settlement Record Writing Rules published

under the signature of the Settlement Officer in the Sikkim Gazette of October '1951.

it is hereby explained

(1) 'That the decision, of the Settlement Officer in any land dispute being solely for the purpose of making entries in the Settlement record, is final and non. appeal able,

(2), Any. party desiring to challenge that decision or wishing to be put in possession of land appearing in his name in Settlement records, has to resort to a civil court for declaration about title or recovery of possession as the case may be.

(3) The Tahsildars Court is. the Court of first instance in all Land dispute cases.. but in cases in which the Tahsildar has expressed his opinion in his capacity of land Revenue .officer or Registrar for registering documents the Court, of the Judge ,shall take cognizance, as Court of original jurisdiction.

**Gangtok: The: :6th
May 1953**

**Sd- Rup Narayan.
Judge, Sikkim State.**

SIKKIM STATE**LAND REVENUE DEPARTMENT****Notification. No.3083/L.R.,****Rules under the Notification No.3082/L.,R., dated 24./3'/54**

A primary holder in respect of whose holdings proceedings are being taken in execution will submit to the Court a certified copy of the' entries pertaining to his holdings in the land records.

2. If the executing Court is the Court of the' Assistant Magistrate or Tahsildar ,the Court will inspect the records and certify the area of the holdings in the execution file.
3. (a) Section 3 may be relaxed on one or more of the following grounds only
 - (i) if the primary holder in question is without an heir-
 - (ii) if the said primary holder's main occupation or means of support is not agriculture and provided that such means are adequate for the maintenance of himself and his dependents;
 - (iii) if the piece of land proposed to be sold of or transferred is at such a distance from his house and other lands that it cannot be managed economically; provided that in this case and none other the said holder is left with a minimum of three acres.
- (b) The executing Court may accept such proof or cause; such inquiry to be made as it considers necessary in the, circumstances of the case before relaxing the provisions of the Notification under Section .'3.
4. (a) An affidavit shall be taken from a prospective purchase with regard to the area of his holdings unless he can produce a certificate from' the Assistant Magistrate or Tahsildar with report.
- (b) In allowing sales, Court will give preference to prospective purchases in the following order' - (i) a primary holder with land contiguous to the land to be sold so that a compact holding ls formed; (ii) a primary holder, firstly with land in the same block and secondly in other blocks, provided that the provisions' of section 5 and rule 4 (b) 'may be relaxed. if it, by adhering to such restrictions, the holding of the Judgment debtor will not fetch its proper market value.

A Court shall move the Government if it considers that the provisions. of Revenue Order No. I of 1917 should be relaxed

BY ORDER

Gangtok,
The 24th .March, 1952.

J.S. LALL, I.C.S.
Dewan, Sikkim State.

SIKKIM STATE
LAND REVENUE DEPARTMENT

Notification NO.3082/L.R.

- 1 Subject: To provide for the maintenance of economic holdings.
2. Definitions: The definitions of Land Revenue Department Notification NO.1208/L.F. Dated 20th May, 1950 will apply.
3. Sale ,of Land in execution- No Court will sell or transfer a holding or any part of a holding of a primary holder in execution of a decree, whether revenue or , civil, if by such sale or transfer the said holding will become less than five acres' in area.

Provided that sale of land to meet Government dues will be excluded from of this Notification

4. Exceptions to Section 3- The provisions of Section 3 may be relaxed by the Chief Executive Officer or other Officer specified for the. purpose.
5. Restrictions on purchase- No person who already has a holding or holdings of or exceeding 20 acres in area may purchase land sold in execution or revenue or civil decree;

Provided that this provision may be relaxed by the executing Court if no purchaser comes forward within 2 months of the publication of the sale;

Provided that if a. prospective purchaser already has 20 acres of land or more, he may be allowed to purchase land in execution proceedings in the name of his dependent wife, brother, son or daughter or other co-lateral living jointly with him upto a. maximum of 10 acres only in the name of such dependent.

- 6, Revenue Order No.1 of 1917 No Court will effect a sale in execution whether revenue or civil against the provisions of Revenue Order No. I of 19.17.

No person who is not a Sikkim subject may purchase agricultural land in a Court sale under this Notification.

Gangtok,
The 24th March, 1954.

TASHI NAMGYAL,
Maharaja of Sikkim.

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SCHEDULE A.

THE SIKKIM CO-OPERATIVE SOCIETIES ACT 1955

AN

Act to facilitate the formation and working of Co-operative Societies and to consolidate and amend the law relating to Co-operative Societies in Sikkim.

PREAMBLE

Whereas it is expedient to facilitate the formation and working of Co-operative Societies for the purpose of thrift, self help, mutual aid and creating the quality of credit worthiness among agriculturists, artisans and other persons with common economic needs so as to bring about a higher standard of living, better business, better methods of production, equitable distribution and exchange and for that purpose to make laws relating to Co-operative Societies in Sikkim, His Highness the Maharaja of Sikkim is pleased to enact as follows:

**CHAPTER I.
PRELIMINARY**

- 1. Short title, extent ,and commencement:--**(1) This Act may be called the Sikkim Co-operative Societies Act, 1955
(2) It extends to the whole of Sikkim.
(3) It shall come into force immediately.
- 2. Definitions:-** In this Act, unless, there is anything .repugnant in the subject. or context:
- (a) "Arbitrator" means a person appointed. under the provisions of this Act to decide any dispute referred to him;
- (b) "Auditor" means a person appointed under the provisions of this Act to audit the accounts of a registered society. ;
- c) "Byelaw" refers to the registered bye-laws for the time being in force and includes a registered amendment of bye-laws ;
- (d) "Co-operative Demand Certificate" means a certificate as defined, in section 83;
- (e) "Co-operative Society" means a society registered or deemed to be registered under this Act;
- (f) "Co-operative Year" means the period 'beginning from the 1st April. or the date of commencement of the business or the date of registration and ending on the 31st March for the purpose of drawing up the balance sheets of registered societies;
- (g), "Dispute" means any matter capable of being the subject of civil litigation and includes claim in respect of amount payable to or by a co-operative society whether such claim be admitted or not;
- (h) "Employee" means a person not being an office-bearer. employed by a registered society on a salary or similar form of remuneration; .
- (i) "General Assembly" means the supreme body of a. registered society as defined in section 3 I .

(j) "Managing Committee" means the body to which the management of the affairs of a registered society is directly entrusted and does not include the Administrative council .

(k) "Member" means a person admitted to the membership after 'registration in accordance with the, bye-laws and rules of the Society includes a promoter;

(l.) "Office Bearer" means a member duly elected by the appropriate body of a registered society, accordance to its bye-laws, to any office such as Chairman, Vice Chairman, Secretary, Director and Treasurer; provided that any officer. appointed by the Sikkim Durbar to hold charge. of any office of a registered society shall be deemed to be an office bearer unless specifically stated to the contrary

(m) "Prescribed" means prescribed by rules

(n) "Promoter" means any eligible persons or registered society signing the application for registration of society

(o) "Registered Society" means a Co-operative Society registered under this Act ,and includes a society formed after amalgamation of such two or' more societies or by division of such an existing society;

(p)"Registrar" means a .person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ;

(q) 'Rules" means rules made under this Act;

® "Signature" includes the thumb impression of an illiterate person"

CHAPTER II REGISTRATION OF SOCIETIES.

3. The Registrar(1)The Durbar may appoint a. person to be Registrar .of Co-operative Societies for' the State registration, supervision, assistance, counsel and control of registered societies and for the development of the co-operative movement and control over all co-operative education and with such other powers and responsibilities as- may be provided under this Act Or rules or bye-laws framed thereunder.

(2) The. Durbar may also appoint to assist the Registrar and may by general or special order, in writing delegate to any such persons or to any other State Officer, all .or .any of the powers of the Registrar under this Act..

(3) The Durbar may also appoint non-official helpers with .such designations and functions as prescribed to aid in the organisation of Co-operative Societies.

4. **Societies which may be registered** Subject to the provisions hereinafter contained, a society which has as its chief object. the promotion of the economic interest and general welfare of its members in accordance with ,co-operative principles or a society established with the object of facilitating the operations of such a society, including a society formed by .the division .of an existing registered society or amalgamation of existing two or more societies, may be registered under this Act with or without limited liability:

Provided that, unless the Durbar by general or special order otherwise direct:

(l) The liability of a society of which a member is a registered society shall be limited.

(2) The liability of a society of which the primary object is the creation of funds to be lent to its members and of which the 'majority of the members are agriculturists or artisans, and of which no member is a registered society, shall be unlimited and the members of such a society shall, on its liquidation, be jointly and severally liable for and in respect of, an obligations of such a society:

Provided further that. no society shall ..be registered if, in the opinion of the Registrar, its declared objects are unlikely to be achieved or if it is economically unsound or if it may have adverse effect upon any registered society or the co-operative movement as a whole.

5.Age, qualification of a member:- No person may be an individual member of a registered society unless he is. above eighteen years of age; provided that the bye-laws of a society may prescribe a higher minimum age.

6. Conditions of Registration :- (1) No society ,other than a society or which a member is a registered society ,shall be registered under this Act which does not consist of at least ten eligible persons and, in cases where the primary object of the society is the creation of funds to be lent to its members, unless such persons reside in. the same town, village or in 'the same area.

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

7.Registrations on Acquisition .of Shares in a Society-(1) No member of a registered society shall hold more than such/portion of the share capital of the society as may be prescribed by the rules or the bye laws of the society.

(2) No member shall be. allowed to acquire an additional share until he has paid in full the value of the whole or that portion or his share-holding which he is required to pay in accordance with the bye-laws of his society..

8.Power of Registrar to decide certain Questions:- All disputes regarding membership for the purpose of the formation, registration or continuance of a society under this Act shall be decided by the Registrar.

9.Change of liability :- (1) Subject to the proviso, to section 4 and. to any rules made in this behalf, a registered society may, with the previous sanction of the Registrar, change its liability from limited to unlimited or from unlimited to limited
Provided that

(1) The society shall give notice in writing of its intention to change its liability to all its members and creditors.

(ii) Any member or creditor shall, notwithstanding an bye-law or contract to the contrary; have the option of withdrawing his shares, deposits or loans; as the case may be, within three :months of the service of such notice on him and the change shall 'not take effect until all such claims have been satisfied; and

(iii) Any member or creditor, who does not exercise his option within the period aforesaid. shall be deemed to .have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1) the change .shall take effect at once 'if all 'the members and .-creditors assent thereto.

(3) The Registrar shall register the. amendment of the bye-laws consequent on the change of liability provided that no. 'person who ceases to 'be a member 'of the society before such amendment is registered .shall be adversely affected by the change of liability

10 Application for registration (1) An application for registration shall be made to the Registrar in the prescribed form

(2) The application shall be signed

(a) in case of society which no promoters is a registered society by at least ten eligible persons,

(b) in the case of a society of which least, one promoter is a registered society a duly authorised person on behalf of such registered society and, at least one

other individual promoter or one other duly authorized person on behalf of another registered society

(3) . The application shall be accompanied by four copies of the proposed bye

laws of the society signed, on behalf of the promoters by the president of the inaugural general meeting. 'Promoter by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require and they shall liable to the, full extent of the share money which they have' undertaken to subscriber with effect from the date of registration of the society

11. Registration :-(1) The Registrar shall decide' all' questions as to whether the application complies with the provisions of this Act and rules thereunder and whether the objects of the society are in accordance with section 4.

(2) When he is satisfied that the application is in order under sub-section (1) and the proposed, bye-laws are not contrary thereto, he may register the society and its bye-laws; provided that the Registrar shall have powers register the bye-laws with such modifications he thinks are necessary to bring about uniformity in the main with 'the provisions of the bye-laws of societies which have similar objects or functions.

(3) The Registrar shall endorse the bye-laws in token of registration. Each society shall have a copy of its bye-laws so endorsed.

(4) If the Registrar refuses to register a society or an amendment of the byelaws of a registered society he shall record his reasons in writing and communicate these reasons and his decision to the promoters or the Secretary of a registered society by a letter to their office. The Registrar may at any time review his orders in this respect.

12. Evidence of Registration- A certificate of registration signed by the Registrar shall be issued to the society and shall be conclusive evidence that the Co-operative Society therein mentioned is a Co-operative Society duly registered under this Act and that its bye-laws are as attached to the certificate, unless it is proved that the registration of the society has been cancelled or that amended bye-laws have been registered or that the society's copy of the certificate or byelaws has been tampered with,

13. Amendment of the Bye-laws of a Registered Society:- (1) No amendment of the bye-laws of a registered society, whether by way of addition, alternation, omission, rescission or change of name shall be valid until such amendment has been registered under this Act.

(2) Every proposal for such amendment shall have to be approved by a resolution at a meeting of the General Assembly in accordance with the bye-laws of the society and be forwarded within a month from the date of the resolution to the Registrar; and if the Registrar is satisfied that the proposed amendment is not contrary to the provisions of this Act or rules, he shall, unless for reasons to be recorded in writing, he considers fit to refuse, register the amendment.

(3) When the Registrar registers an amendment of the bye-laws of a registered society, he shall issue to the Society a copy of the amendment certified by him, which shall be conclusive evidence that the same has been duly registered, unless it is proved that the registration of the society has been cancelled or that further amendments have been registered or that the society's copy of the amendments have been tampered with. The amendment shall be binding upon the society with effect from the date of registration.

14. Power of Registrar for Affiliating Society' to Direct Amendment. of Bye-laws' or Adoption of Rules. of Procedure

I. (i) When it appears to the Registrar that an amendment of the bye-laws of a registered society is necessary in the interests of such society or of the co-operative movement as a whole or for the purpose of bringing about uniformity in the main with the provisions of the bye-laws of societies which have similar objects or functions, he may by an order in writing direct the society to amend its bye-laws in accordance with the amendment drafted and forwarded to the society by him within such time as he may specify in the order.

(ii) If the society fails to take such amendment within the time specified the Registrar shall, after giving the society an opportunity of representing its case, make such amendment himself and register the same. The Registrar shall then forward a copy thereof to the society together with a certificate signed by him which shall be effective as prescribed in section 13 (3).

(iii) The Registrar shall not register any amendment of the bye-laws of a society, whether under this section, or section 13 of this Act, without the consent of the Darbar. If the effect of such amendment is to lessen the degree of control of the Darbar or of the Registrar as already provided for in the bye-laws.

(iv) The Registrar may require any registered society to frame rules of procedure under its bye-laws to govern any part of its business and to send such rules to him for prior approval.

2. (i) When it appears to an affiliating society that an amendment of the bye

laws of a registered society which is a member and debtor of such society is necessary in the interests of such society, it may suggest to the affiliated society that it makes the amendment within such time as it may specify. The affiliating society shall forward to the affiliated society a draft of the suggested amendments of the bye-laws.

(ii) If the society fails to implement the suggestion within the time specified, the affiliating society may forward to the Registrar the amendment which it considers necessary and the Registrar, if satisfied that the amendment is necessary, and not contrary to the provisions of this Act or the rules may thereupon register the amendment and forward to the society a copy thereof together with a certificate signed by him. The certificate shall be conclusive evidence that the amendment has been registered and such Amendment shall thereupon be binding upon the society and its members.

15. Division and Amalgamation of Societies :- (1) (i) Any registered Society may, at a meeting of its General Assembly specially called for the purpose, resolve to divide into two or more societies. At least fifteen clear days' notice of such meeting with the agenda shall be given to its members, together with a copy of the proposed solution.

(ii) Such a resolution shall contain the proposal as to how to divide the assets and liabilities of the society among the newly proposed societies, their areas of operation and the members who will constitute each of the newly proposed societies- with draft new bye-laws.

(iii) A copy of the resolution shall be sent to the Registrar with In thirty days of its adoption and subject to the Registrar's non-interference within thirty days of the dispatch to him of the resolution, the resolution shall be circulated among the members and creditors of the society.

(iv) Notwithstanding any bye laws to the contrary, any member of the society, and notwithstanding any agreement to the contrary, any creditor of the society may by notice given to the society within thirty days of the receipt of the resolution intimate in case of a member his intention not to become a member of any of the societies, and in case of a creditor his intention to demand a return of the amount due to him.

(v) After the expiry of ninety days from the passing of the aforesaid resolution, a meeting of the General Assembly shall be convened for finally deciding the resolution. At least fifteen days' clear notice with agenda of the meeting shall be given to all members of the society.

(vi) If the General Assembly decides by a three fourth majority finally to divide the society and if the Registrar approves of the decision, the members, who will constitute each of the newly proposed societies subscribing to the new draft bye-laws, shall apply to the Registrar under section 10 for registration of the new societies and the registrar shall register the societies under section 11

(vii) The Registrar shall not register the new societies if the application for registration is not accompanied by a certificate of repayment of share capital to members and certificate of satisfaction of claims to creditors referred to in clause (iv).

(viii) From the date on which the new societies are registered under clause (vi), the registration of the old society shall be deemed to have been cancelled.

(ix) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society according to the aforesaid resolutions in the new societies.

(2) (i) Two or more registered societies may, at a meeting of their respective General Assemblies specially convened for the purpose, by giving at least fifteen clear days' notice to the respective members of the societies, resolve to amalgamate into one society by adopting common bye-laws.

(ii) A copy of such resolution of each society shall be circulated forthwith among members and creditors thereof.

(iii) Notwithstanding any bye-laws to the contrary, any member of any such societies, and notwithstanding any agreement to the contrary, any creditor of any such societies, may within a period of thirty days from the receipt of the aforesaid resolution, intimate his intention not to become a member of the new society, in the case of member and to demand a return of the amount due to him, in the case of a creditor.

(iv) After the expiry of ninety days from the date of the aforesaid resolution a meeting of the members of such societies shall be convened to decide finally the resolution.

(v) At least fifteen clear days' notice shall be given to all the members of the Societies. If at such meeting the aforesaid resolution is confirmed by a majority of three-fourths of the members of each society present and the common -byelaws are accepted with or without any alterations, the Registrar shall be moved by an application under section 10 for registration and he shall register the new society under section 11 if he approves.

(vi) The Registrar shall not register the new society if the application for

registration is not accompanied by a certificate of repayment of share capital to members and a certificate of satisfaction of claims of creditors referred to in clause (iii).

(vii) From the date on which the new society is registered the registration of the old societies shall be deemed to have been cancelled.

(viii) The registration of the new society shall be a sufficient conveyance to vest in it all the assets and the liabilities of the original societies.

CHAPTER. III

RIGHTS AND LIABILITIES. OF MEMBERS OF REGISTERED SOCIETIES.

16. MEMBER NOT TO EXERCISE RIGHTS TILL PAYMENT MADE AND CONDITIONS FULFILLED No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or bye-laws.

17. VOTE OF MEMBERS:- (1) Irrespective of the shares he holds in the society and subject to any temporary disqualifications from voting which may be prescribed in the bye laws to the provisions of section 31 (2) relating to voting by representatives a member of a registered society shall have one vote only in the affairs of the society:

Provided that in the case of an equality of votes the chairman at any meeting shall have a second or casting vote:

Provided further that the bye laws of society may provide for more than one vote in the case of an affiliated society.

{2} A registered society which is a member of another registered society may appoint one of its members qualified under any rule or bye-laws to vote in the affairs of such other society as its representative.

(3) Voting by proxy shall not be allowed except as prescribed in a registered society's bye-laws; Provided that in registering the byelaws of a society, the Registrar shall not permit voting by proxy except in cases, such as those involving a wide area of operation, where it would be difficult for members to exercise their right to vote if voting by proxy were not permitted.

18. MEMBER OF UNLIMITED SOCIETY TO FURNISH INFORMATION AS TO HIS FINANCIAL POSITION:- (1) A full, true and accurate statement of his assets, including his immovable property and liabilities shall be furnished:

(a) by an applicant for membership of a registered society with unlimited liability, together with his application.

58.

(b) by a member of registered society with unlimited liability when required to do so by the Registrar or any person authorised by him in his behalf. or by the affiliating society

(2) No member of a registered society with 'unlimited liability, shall. be member of more than one- such society.

(3) A member of a registered society with unlimited' liability shall furnish to the society full, true. and accurate information regarding. his intention 'to transfer his Immovable property, In whole or In part by way of sale, mortgage or gift at least fifteen days before completion of each such transaction.

19. **LOAN TO BE UTILISED FOR PURPOSE FOR WHICH ADVANCED:-** The loan advanced by. a registered society to a member thereof shall be utilized by him for the purpose for which it was advanced and for any other purpose. The 'society shall have power to recover the advance as prescribed if the member does not so utilize it

20. **RESTRICTIONS ON TRANSFER OF SHARE OR INTEREST:-** 1 The' transfer or charge of the share or interest' of a member .in the capital of a registered society, shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(2) Except or otherwise provided in this Act, no transfer or change of his share or interest by a member of society with unlimited liability shall be valid unless:

(a) he has held such share or interest for less than one year; and

(b) the transferee or mortgagee is either a member of such society or a person whose application for membership' has been accepted.

21. **LIABILITY OF PAST MEMBER AND HIS ESTATE:-** (1) The liability of a: past member and of the estate of a deceased member for the debts 'of a registered society as they existed at the date of his ceasing to be a ,member or of his death, as the case may be, shall continue for a period of four years from' the said date.

(2) No past member of a registered society with unlimited liability shall be eligible for membership of another such society with unlimited liability except with the ,special permission of the Registrar.

22. **SHARE OR INTEREST NOT LIABLE TO ATTACHMENT:-** Notwithstanding anything contained in any laws for the, time being in force but subject to the. provision of section 44 of this Act, the share or interest of a member in the capital of a registered society or in any' fund under section 53 -shall not be liable to 'attachment or sale under any 'decree or order of a court in respect of any debt or liability incurred by such member.

2.3.**NOMINATION OF TRANSFEREE:-** If the bye-laws of a registered society so permit, any member of the society may, in- accordance therewith nominate a person or persons in whose favour the society shall dispose of the shares or interests of such member on his death.

24- **TRANSFER OF INTEREST ON DEATH OF MEMBERS:-** When ,a member of a registered society dies his shares and interest in the society shall, subject to the provisions of !his Act, be 'transferred,

(a) the person, if any. nominated in accordance with the provisions of section 23; or

(b) if there be no such nominee or if the nominee is not available or is . difficult

to be ascertained by the managing body, or if for any other cause such transfer cannot be made without unreasonable delay difficulty, to the person as may appear to the managing body to be the heir or legal representative of the deceased member; provided that ninety days have elapsed from the date of the -member's death. No new claim shall be entertained after the said period of ninety days.

25:DISPOSAL OF SHARES OR INTEREST OF CEASED MEMBERS: When a member of a registered society is expelled or withdraws or otherwise ceases to be a member under this Act, rules or bye-Laws, his share or interest shall be transferred to another eligible person, and the value thereon, determined in accordance with the rules shall be paid to such ceased member if his share or interest is. not forfeited under the provisions of this Act, rules or bye-laws or if he is insane to any person appointed by the competent authority to manage his properties, provided that if there is no eligible transferee and if the bye-laws of the society so provide the value of his share or interest. determined in accordance with the bye-laws shall be paid to him or, if he is insane, to a person appointed to manage his properties.

26.LIABILITY OF MEMBERS ON WINDING UP OF SOCIETY :- The members of a registered society shall, in the winding up of the society, be jointly and severally liable to contribute towards any deficiency in the assets of the society.

(a) in the case of a society, :with unlimited liability without limit; and

(b) in the case of a society with limited liability, subject to such limitation of amount as may be provided. in the bye-laws.

27.RESTRICTION ON TRANSFER OF POSSESSION OF LAND HELD UNDER A SOCIETY:- Notwithstanding anything in any law for the time being in force

(1) a member of a registered society, the object of. which is to develop cooperative or Collective farming, shall not be entitled to transfer his possession or interest in any land' held by him under the society, except to the society or with the previous approval of the managing body and in accordance with its bye-laws, to a member thereof or to a person who will be admitted as a member of the society;

(2) on the death of such member, his possession of and interest in, any such land held by him under the society shall come. to his nominee in accordance with the provisions of section 23 or in the' first .eligible heir according to seniority in age willing to become a member-of the society; .

(3) if no nominee or heir becomes a member the possession of and interest in, such land of the deceased, shall vest in the society, which shall pay to the nominee or the heir, .a sum equivalent to the value of the share and interest of the deceased member' and any other sum due from the' society as determined in accordance with this Act or rules framed thereunder after deducting all dues which the "deceased member owned to the society

(4-) if there is no person qualified to succeed 'to the share or: interest of the deceased member, the society shall pay to his heir, executor or the legal representative as the case may be, a sum equivalent to the value of the share and interest of the deceased member determined in accordance with the rules after deducting the dues of the deceased to the' society

(5.)when. in any other case a member ceases to be a member of such society under this Act, rules or 'bye-laws', his possession of and interest in, any such land held by him under the society shall come to the society. If the bye-laws allow and if the share and interest of the member is not forfeited under this Act or rules framed thereunder, the society shall pay to the ceased member a sum equivalent to the value of the share and interest of such member and any other sum due to him from the society after deducting his debts to the society, if any ;

(6) no land held under a registered society specified in sub-section (1) by a member thereof, or vested under sub-section (2) in the heir or nominee of such member shall be attachable to any suit or proceeding for the recovery of any debt other than a debt due to society or to a member thereof;

(7) no land shall vest in such a society. by reason of the provisions of the section unless it is owned by the society or has been leased to the society and, if the society holds the land by lease or contract the land shall vest in the society only during pendency of the lease or contract.

28. RIGHT OF- A REGISTERED SOCIETY TO PAY PRIOR DEBTS, OF A MORTGAGOR:-

(1) Where a mortgage is executed in favour of a registered society for payment of prior debts or part thereof, of the mortgagor secured on the mortgaged property, the registered society may, by notice in writing and served by registered post with acknowledgment due, require any person to whom any such debt is due to receive payment of such debt or part thereof from the society at its registered office within such period as may be specified in the notice.

(2) The person on whom such notice is served shall be bound to receive payment of the amount offered by the society, but where there is disagreement or dispute between the mortgagor and such person as regards the amount of the debt, or where the society tenders less than the agreed amount of debt, the receipt of the sum offered by the society shall not debar such person from enforcing his right to recover the balance claimed by him.

(3) If any such person refuses to receive such notice or such payment, such debt or part thereof as the case may be, shall cease to carry interest from the expiration of the period specified in the notice and the property mortgaged under subsection (1) shall be deemed to have been freed from the encumbrance of such prior mortgage.

(4) No society shall advance a loan on a mortgage without taking a declaration from the respective mortgagor as to the names of prior mortgagees of the property in question, if any.

29. RESTRICTIONS ON MORTGAGED. PROPERTY:- When land is mortgaged to a registered society- (1) the mortgagor shall not be entitled without the approval of the society to transfer or mortgage his equity of redemption or to create a charge upon or lease out such property for a period exceeding three years,

(2) If the mortgaged property at any time is wholly or partially destroyed or the security is rendered insufficient due to fall in value or for any other reason and the mortgagor having been given a reasonable opportunity by the society of providing for further security sufficient to cover the loan or of repaying the loan with interest or such portion of the loan as may be determined by the supervisory, managing or controlling body and the mortgagor having failed to provide such security or repay

such portion of the loan or such uncovered portion shall be deemed to fall due at once and recoverable through a co-operative demand certificate

(3) The mortgaged property in case of default of payment of mortgaged money or any part thereof may be sold by the society as prescribed by rules in addition to any other remedy available. It is expressly conferred by the society without the intervention of the court is expressly conferred by the mortgage deed, provided the society serves a notice in writing by registered post demanding payment of the mortgage money with interest or part thereof on the mortgagor or any person having an interest in or charge upon the mortgaged property or the equity of redemption who has previously notified the society of such interest or charge in writing or any surety and if default has been made in payment of the loan or part thereof for three months after such service of notice. Provided that any party aggrieved by an action taken by a registered society under this section may prefer an appeal to the registrar within thirty days from the date of the sale His decision shall be final

30 BAR TO CERTAIN CLAIM: All payments and transfer made by, a registered society under this, Chapter shall be valid, and effectual against any demand made upon the society by any other person.

CHAPTER IV

MANAGEMENT.

31. GENERAL ASSEMBLY:- (1) The General Assembly of a registered society Shall consist of all those who are eligible to vote at general meetings of the society. .

(2) (a) Every member of a registered society and every ex-officio member

of the Administrative Council or managing body of such society, unless under some temporary disqualification, shall have the right to attend any general meeting of the society and to exercise his vote at such meeting, Provided that these bye-laws of a registered society may prescribe,

(i) that a registered society affiliated to such society may have more than one representative but only the authorized member shall be entitled to vote at general meetings of the society; and

(ii) that only one-third, of the members of the General Assembly, excluding

exofficio members may be individual members, the other two thirds being representatives of affiliated registered societies..

(b) When the bye-laws of a registered society contain the provision of subsection (2)(a) (ii), if the number of individual members exceed one third of the total membership of the society, the individual members shall elect at a special meeting, to be called by the Secretary of the society not more than one month before the annual general meeting in the manner prescribed in the bye-laws for annual general meetings those individual members who, as the representatives of the body of individual members shall form the one-third membership of the General Assembly for the purpose of voting at the annual and other meetings of the General Assembly during the ensuing year only such elected representatives having the right to attend, and vote at such general meetings,

(:3) The supreme authority of a registered society shall be vested in the General Assembly: Provided that during the pendency of any loan or service from the Durbar, or any other creditor secured at the instance of the Durbar.. supreme authority in respect of any matter adversely affecting the interest of the Durbar or the said, creditor touching such loan or service shall be vested in the Durbar or the Registrar as may be provided in the bye-laws, or any 'person authorised by them in writing, and may extend to, the appointment of orders to hold any of the offices of the society or any persons to be ex,officio members of the Administrative Council, managing body or any committee of the society even if not members of the society. This supreme authority of the Durbar or Registrar may also be exercised in the absence of any loan or service when the Durbar or Registrar, as the case may be, deem their intervention to be necessary in the interests of the: members of the society' or of the co-operative movement in general. The Durbar or the Registrar as the case may be, may fix the salary of any such appointed officer and declare it to be a charge on the society. They may cancel any such appointments made by them.

(4) An annual or special meeting of the General Assembly shall be summoned .and shall exercise its authority and perform its functions in such, manner as may be prescribed in the bye-laws of the society.

32. ANNUAL MEETING OF GENERAL ASSEMBLY:- (1) A 'general meeting to be termed the .annual, general meeting of the General Assembly of a registered society shall be' held at least once in every Co-operative year for the purpose of-

(a) .electing members to the managing body and other committees of the society, the Chairman, Vice-Chairman, and other office bearers, as may be provided in the bye laws, and fixing such fees, salaries or other remuneration as prescribed in the bye-Laws; provided that the Durbar may prescribe by rules the qualifications necessary for office bearers and employees;

(b) electing an internal ,auditor or auditors, 'who shall not be 'member of the governing body, and fixing the remuneration;

c) considering the annual report of. the managing body, audit report and audited annual accounts and balance sheets and reviewing the working of the society during the preceding Co-operative year;

(d) deciding how profits are to be distributed in accordance with the bye

laws

(e) passing the annual' budget and approving the, programme of work for the ensuing year;

(l) fixing the maximum amount of liability to be incurred during the ensuing year and the maximum rate of interest payable on deposits; and.

(g) considering such other 'business as may be placed before the meeting in accordance with the bye-laws.

(2)' Such meeting shall be held not more than fifteen months after 'the date of the last preceding meeting held under sub-section (l) and unless the Registrar on special grounds extend the period, within three months' of the receipt of statutory annual audit report.

33 SPECIAL MEETING OF GENERAL ASSEMBLY:- .(1) . A Special Meeting of the General Assembly shall be called:

(a) at the instance of the Administrative Council or if there be no Administrative Council, of the managing body

(b) at the request of the Chairman of the society

(c) on a requisition signed by one-tenth of the members of the General Assembly or twenty members, whichever is less or

(d) at the instance of the Registrar

(2) The Registrar himself or any person authorised by him in this behalf, in writing, may, by special order call a special meeting of the General Assembly at any time and shall call such a meeting upon the failure of the society to call a meeting on the requisition by the members or at the instance of the Registrar under subsection (i),

(3). Notwithstanding any rule or bye-laws prescribing the method of summoning or period of notice for a General Assembly, the Registrar or any person authorised by him in this behalf, may specify the time, place, business for the meeting and manner of convening it.

34 Administrative Council :- The management of every registered society shall vest in the managing body of the society, except in the case of a society, which for administrative convenience necessitated by reasons such as wide area of operations, that responsibility shall vest in an Administrative Council. The Administrative Council, the managing body and committees of a society shall be constituted in accordance with the bye-laws of the society which shall specify the composition of such bodies, their powers, functions, duties, method of summoning meetings and procedure, .

35. Power to Depute State Servant to manage the affairs of a Society

The Durbar may, on the application of a registered society and on such conditions as may be determined, depute State officials to the service of the society for the purpose of managing its affairs and the official shall exercise such powers and perform such duties, as may be determined

36. Dissolution or Reconstruction of the Administrative Council, Managing Body or any Committee of a Society:

(1), When the Registrar is satisfied after an inspection or enquiry under section 60 or 61 for reasons to be recorded in writing that the Administrative Council, managing body or any committee of a registered society is not functioning properly according to this Act, rules or bye-laws, he may, after giving the offending body an opportunity to state its case, direct under clause (d) of subsection (1) of section 33, that a special general meeting of the General Assembly be called within a time to be specified to dissolve the Administrative Council, managing body, or committee concerned and to elect a new one. Provided that, if in the opinion of the Registrar it is necessary as an emergent measure to suspend the offending body forthwith, he may do so and shall appoint a person or persons, on such conditions as prescribed by him to be in full control of the suspended body until a new body has been elected or action has been taken in accordance with section 37

(2) The Registrar may, for reasons to be recorded, specify in the direction made under sub-section (1) that all or any of the outgoing members of the dissolved body shall be disqualified for such period not exceeding three years as he may determine, for election or appointment as an officer of the society or for service on any of its bodies.

(3) An appeal shall lie to the Durbar against an order of the Registrar disqualifying a member of a society for election or appointment within two months from the receipt of the order.

37. Dissolution of the Administrative Council Managing Body.. or any Committee and Appointment: of persons to manage the Affairs of a, Society :If the 'Administrative Council, managing body or any committee as the case may be, of a society is not dissolved and reconstituted within the time specified by the Registrar under section 36, he may by order in writing dissolve such body and shall thereupon appoint a person or persons, on such conditions as prescribed by him, to manage the affairs of the society for such period not exceeding one year when he shall arrange for the constitution of a new body to take the place of the dissolved body. The Registrar may extend this period from time to time as he may deem fit; provided that the aggregate of such periods shall not exceed three years.

38. Tenure of office of the person Appointed under section 37:- The person appointed under section 37, shall hold office until the Administrative Council, managing body of committee, as the case may be, is reconstituted or his appointment is cancelled by the Registrar.

39. Powers of person appointed under section 37:- During the tenure of office of a person appointed under section 37 he shall, subject to the control of the Registrar, exercise all the powers and perform all the functions and duties which may be exercised or performed by the superseded body under the provisions of this Act, rules or bye-laws.

CHAPTER V DUTIES OF REGISTERED SOCIETY.

40 Address of Society :-Every registered society shall have a registered address, to which all notices and communications may be sent and shall send notice in writing of every change thereof within thirty days of such change, to the Registrar and to the affiliating society, if any.

41. Prescription and Inspection of Documents:- (1) Every registered *society* shall keep and allow inspection free of charge by any member of the *society* and such other persons as may be prescribed at all reasonable times at the office of the society

- (a) A copy of this Act.
- (b) A copy of the rules framed under this Act.
- (c) A copy of the bye-laws of the society.
- (d) A copy of all rules framed under the bye-laws of the society.
- (e) Annual balance sheet authenticated by the Audit Officer, and
- (f) Such other books, forms, registers or other documents as may be prescribed by the Registrar.

(2) A society shall deliver to every member on payment of a sum prescribed by the society's bye-laws or rules, copies of documents certified to be true copies.

42. Restrictions on Borrowing:- A registered society may receive deposits and may borrow from its members and from persons who are not members to such extent and on such conditions as may be prescribed in the Act and bye-laws.

43 Power of Durbar to give Financial Assistance

Notwithstanding anything contained in any Law for the time being in force, the Durbar. may grant loans to take shares in guarantee or give any type of financial assistance to the registered society which puts forward a satisfactory scheme for the utilization of the funds so raised .The Durbar may recover from any society in any year all or any part of such financial assistance

44.,Restrictions on Loans (1) A registered society shall not give Loans

(a) to any person other than a member except with the general or special sanction ,of the Registrar; provided that a loan may be 'given to a depositor of the society's on the security of his deposit or

(b),to a member. in excess either of the maximum or of the normal credit determined by the society for that member in accordance with its bye-laws; provided that in assessing normal credit the managing body shall take a full statement as to the member's means of earning.

(c) on the security of the movable property or future movable property unless the movable: property is placed with the society.

(d) on personal security without sureties, unless the borrowing member has unencumbered immovable property or attachable funded assets sufficient to cover the loan and' a full statement of such securities is submitted by the borrower and the truth of the statement is ascertained by-the managing body.

(e) on personal security with sureties, unless the borrowing member and his sureties together have 'unencumbered immovable property or attachable funded assets sufficient to cover the loan and a full statement of such securities is submitted by borrower and the sureties separately and the truth of ,the statements is ascertained by the managing body. .

(f) on personal security, with or without sureties, unless the loan is for a short period not exceeding the time required to. reap the benefit of the loan and in no case exceeding three years.

(2) (a) Notwithstanding the 'provisions of, sub-clause (l) (b), (d) and (e) It loan may' be given on personal security provided that the managing body of the society is satisfied as to the credit on the borrower and has taken from him a scheme for the utilization of the loan and has 'ascertained the truth of the statements contained in the scheme and the bonafides of the' borrowing member,

(b) the resolution of the managing body granting a loan under this section shall contain the names of all assenting members, .

(c) notwithstanding the provisions of sub-clauses 1b to f. and 2 a and b a registered society may issue a loan on mortgage or valuable security

(d)no person shall be accepted as a surety for any borrower unless he is also a member of the same registered society

(3)A registered society the primary object of which is not the issue of loans shall open a separate accounting or finance or banking branch in accordance with its bye laws and frame rules for the conduct of business in such branch before it issues any loans and such rules shall first be approved by the Registrar

45 Office-Bearer of Society is Required to Furnish Information and Produce Documents:-

(1) Every office bearer of a registered society shall produce documents and books of accounts, cash balance in his custody and appear before and furnish such information in regard to the transactions or working of the society as may be required of him by the Registrar, or persons authorised by the Registrar in this behalf, and audit officer, Arbitrator, liquidator or any person conducting an inspection or inquiry under the provisions of this Act and the Rules made thereunder.

(2) (a) At any sale of property, movable or immovable held under this Act or rules framed thereunder, no office-bearer of the registered society concerned or any person having any duty to perform in connection with such sale, shall either directly or indirectly bid for, acquire or attempt to acquire any interest in such property.

(b) Any office-bearer, of a society, or liquidator may on behalf of the society bid and purchase at a sale of mortgaged property.

**CHAPTER VI
PRIVILEGES OF REGISTERED SOCIETIES.**

46. Prior Claim of Society:- (1) Notwithstanding anything contained in any other Act or Rules having the force of law, any debt or outstanding demand due to a registered society by any member, surety past member, or the estate of any deceased member shall be a first charge.

(a) if such debt or demand is due in respect of the supply, or any loan to provide the means of such supply, of seed, manure, labour, fodder for cattle or any other thing incidental to the conduct of agricultural operations, upon the crop or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date of such supply or loan or from the date on which the last installment of such supply or loan became repayable

(b) if such debt or demand is due in respect of the supply of or any loan for the purchase of cattle, agricultural implements or warehouses for the storage of agricultural produce in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouse thus supplied or purchased wholly or in part from any such loan;

(c) if such debt or demand is due in respect of the supply or any loan for the purchase of raw materials, industrial implements, machinery, workshop, warehouses or business premises, upon the materials or other things supplied or purchased by such member, past member or the deceased member wholly or in part from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased wholly or in part from any such loan

(d) if such debt or demand is due in respect of any loan for the purchase, improvement or redemption of land or for the purchase or construction of any house, building or any portion thereof, upon the land purchased, improved or redeemed or the house or building so purchased or constructed by such member, past member or the deceased member from any such loan

(2) Notwithstanding anything contained in any law, any transfer made in contravention of the provisions of sub clause (l) shall be void.

47, Charge and set off in Respect of Shares or Interest of Members :

A registered society shall have a charge upon the share or interest in the Capital and on the deposits of a *member*.; or past member or deceased member and upon any dividend, bonus or surplus payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or estate of. such deceased member to the society, and may .set off any' sum credited or payable to a member or past member or estate of a deceased member in or towards payment of any such debt.

48. DEDUCTION OF DUES FROM SALARY OF MEMBERS If 'a member of a registered society, who is an employee of the Durbar, takes a loan from a society. and contracts to repay it by installments, and authorizes the society to recover such instalments by deduction from his salary, the person who disburses any amount payable to such member as salary or remuneration in respect of 'Such employment shall. on demand from the society; deduct the amount of such installment. from the amount disbursed to such member as salary and shall forthwith remit to the society the amount so deducted.

49. EXEMPTION FROM COMPULSORY REGISTRATION AND PERSONAL

ATTENDANCE FROM REGISTRATION OF INSTRUMENTS:-- Nothing in any Act or Rule having the force of law shall apply to :

- (1) any instrument relating to shares in a registered society, notwithstanding that assets of such society consist in whole or in part of immovable property; or
- (2) any debenture.- issued by any such society and not creating. declaring.

assigning, limiting or extinguishing any right. title or interest to or in immovable Property except in so far as it entitle the holder to the security afforded by a registered instrument whereby' the society has mortgaged, conveyed or otherwise transferred the' whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures: or

- (3) any endorsement upon or transfer of any debenture issued by any such society;

(4-) It shall not be necessary for any office bearer of a registered society or liquidator of. society to appear' in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign. . .

(5) Where any instrument is so executed, the registering to whom such. instrument is presented for registration may, if he thinks fit. refer to such office-bearer or liquidator for information regarding the same and. on being satisfied of the execution thereof, shall register the instrument.

50, POWER TO REMIT CERTAIN DUTIES. FEES, ETC:-(l)The Durbar

may by general or special order in the case of a registered society or class of registered societies. remit any tax, cess' or fee payable under any law for the time being in force or the rule; thereunder.

(2) The Durbar may, in 'respect of any registered society or class of registered. societies, remit

'(a) the stamp duty in respect' of any instrument executed by. or. on behalf . of, in favour of, a registered society or by an' officer or on behalf of a member thereof,

and relating to the business of such society or any calls of such instruments, co-operative demand certificates or decisions, awards or orders of Registrar or arbitrators under this Act, in cases where, but for such remission, the registered society, officer or member thereof, as the case may be, would be liable to pay the stamp duty chargeable under any law for the time being in force, in respect of such instrument, and

(b) any fee payable by a registered society under any law for the time being in force for the registration of documents or of court fee for the time being in force.

CHAPTER VII

PROPERTY AND FUNDS OF REGISTERED SOCIETY

51 INVESTMENT OF FUNDS:- (1) A registered society may invest or deposit its funds

- (a) in a Recognised Savings Bank, or
- (b) in any of the securities approved by the Registrar, or
- (c) with the sanction of the Registrar, in the shares or debentures or in the security of any other registered society, or
- (d) with a any registered society, bank or persons carrying on the business of banking approved for this purpose by the Registrar, or
- (e) in any other mode permitted by the Rule.

(2) Such investment shall be accounted for separately to show whether it is from the Reserve Fund or from the general funds of the registered society.

52. RESERVE FUND (1) Every registered society shall maintain a Reserve Fund formed from its profits and carry to the fund in each year not less than twenty per centum of its net profits.

(2) The Reserve Fund shall be invested separately in any of the ways prescribed in section 51, or, with the sanction of the Registrar, in immovable property required for the furtherance of the activities of the society. Any such investment shall be deemed to constitute Reserve Fund. No instrument securing a loan on a Reserve Fund shall be valid.

(.1) The Reserve Fund shall not be utilized for any purpose whatsoever' except with the sanction of the Registrar, who shall accord such sanction only in exceptional circumstances.

53 DISTRIBUTION OF NET PROFIT:- After making the allocation to the Reserve Fund as prescribed in section 52, the remaining net profits of a registered society may be distributed 'according to the bye-laws of the society, provided that the rate of dividend on shares does not exceed 61-4 per cent.

54 RESTRICTION ON DISTRIBUTION OF PROFIT:- (9) Save as may be prescribed, no distribution of profit shall be made in the case of a registered society with unlimited liability and no part of the net profit or of a fund of any society shall be divided by way of dividend, bonus, rebate or otherwise among its, members, except with the previous approval of the Registrar and as provided in the bye-laws of the society.

(2) No dividend, bonus, or rebate shall be paid

(a) otherwise than out of net profits certified by the audit officer to have been actually realized; provided that advance patronage dividend maybe paid in accordance with the directions of the Registrar and on the certificate of an internal auditor approved by the Registrar; or

(b) without the previous sanction of the Registrar, if the audit officer report that any asset is bad or doubtful and also recommends that such action is necessary.

55 REGISTRAR IS RESPONSIBLE FOR AUDIT:- (1) The Registrar shall audit or 'cause to be audited by some person' authorised by him by general or special order in writing in this behalf the 'account of every registered, society and society under liquidation once at least in every year.

(2) The Registrar or the persons authorised by him in this behalf shall at all reasonable time have free access to the books, accounts, documents securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts documents ,securities, cash or other properties to produce the ,same and furnish such information in regard to the transactions and working of the society at any convenient place or at the. headquarters of the society or any branch thereof by the same means and, so far as may be in ,the same manner as provided in the Code of Civil Procedure, applicable to the State.

(3) In respect of every audit 'of the accounts, a registered society shall pay such audit fee as may be prescribed and such fee shall be deemed to, be outstanding dues from the society.

56. POWER OF THE REGISTRAR TO HAVE THE ACCOUNTS WRITTEN UP :If at the time of the audit the accounts of a registered society are not complete, the Registrar or with his sanction, the audit officer, may cause the accounts to be written up at the' expense of the society.

57. NATURE OF AUDIT :- The audit shall include'

- (i) a verification of the cash balance and securities
- (ii) a verification of the, balance at the credit of the depositors and creditors and of the amounts due from the debtors of the society;
- (iii) an examination of the overdue debts; if any
- (iv) the valuation of the assets including stock verifications, and liabilities of the society
- (v) an examination of the statement of accounts and balance sheets to be prepared by the managing body of the society in such forms as ,may be prescribed.
- (vi) a certification of the, realized profits; and
- (vii) any other relevant'. matter.

58. AUDIT REPORT :- The audit officer shall, within a' week from the date of completion of audit, submit to the registered society, and to the Registrar', together with the state, ment of accounts audited, and report including a. statement of -

- (i) every transaction which appears to him to be contrary to law or to the rules or byelaws
- (ii) every sum which ought to have been has not been brought into account;
- (iii) the amount of deficiency or loss which appears to have resulted from any negligence or misconduct or to require further investigation; .
- (iv) an money ,or;. property belonging to the society which appears; to have been misappropriated or fraudulently retained by any person;
- (v) any of the asset. .which appears to him to be bad or doubtful;
- (vi) any irregularity 'for 'maintaining account; and
- (vii) . any other relevant .matter.

59. **RECTIFICATION OF DEFECTS:-** A registered society shall be afforded by the Registrar an opportunity of explaining any defect, or irregularities pointed out' and objected to by the audit Officer, and thereafter the society shall, within such time and in such manner as the Registrar may direct. remedy such defects and irregularities and report .to the registrar the action taken by it thereon..

CHAPTER IX INQUIRY AND INSPECTION

60. **INQUIRY BY REGISTRAR** :- (1) The Registrar may, at any time, of his, own motion or' shall at the request of the Administrative head 'in-charge of the civil Sub-division or other Administrative Area, hold an inquiry or direct some person authorized by him by order in writing in this behalf, to' hold an enquiry into the constitution, working and financial condition of a, registered society.

(2) Such an inquiry shall also be held on the application of (i) affiliating society, if any, of which the society is a member and a debtor; (ii) a majority of the members pf the managing body;

(iii), one-third of the members of the society, who 'shall have deposited such security for. costs, if any. and the Registrar' may direct; .

(iv) .creditors representing not less than one half of the borrowed Capital of the society, who shall have deposited such security for costs, if any, as. the Registrar may direct.

(3) The Registrar shall communicate to result of any enquiry under this section to society and to the person at whose request such enquiry was made.

61. **INSPECTION OF SOCIETY** :- (1) Every registered society shall be liable to inspection at any time by the Registrar or any-person authorised by him in this behalf any .general or special order; and by' any affiliating society if so provided in its bye-laws.

(2), An inspection of a registered society shall. be made by the Registrar or any person authorised by, him in this behalf by an order in writing at any time on the application of a creditor of a registered society.

Provided that no inspection shall be made under this sub-section unless (1) the creditor deposits with the Registrar such sum as security for the cost of the proposed inspection as the Registrar may .require and (ii) the creditor satisfies the Registrar that the alleged debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time

,Provided further that no inspection shall be conducted under this sub-section with out giving the society an opportunity *of* being heard.

(3) The' result of an inspection under this section shall be communicated to the society and at held. at the. instance of a creditor, to the a-creditor.

62. **COST OF ENQUIRY AND INSPECTION** :- (i) When an inquiry is held under section 60 (1) or an inspection is made under section 61 (1). the Registrar may after. giving the parties an opportunity of being heard, apportion the cost or such part .

of the cost as he may deem fit, between the society, the members thereof or the affiliating society or the creditor or creditors applying for such inspection or inquiry, as the use may be, and the officers, former officers, members and past members of the society.

(2) No expenditure from the fund of a registered society shall be incurred for the purpose of defraying any cost in support of any appeal preferred by any person other than the society itself against an order under sub-section (1).

(3) Any person authorised by the Registrar under sections 60 and 61 shall have all the powers of the Registrar when acting under these sections.

(4) Recovery of costs:- Any sum awarded by way of cost under this section shall be recoverable through a Co-operative demand certificate.

CHAPTER X SETTLEMENT OF DISPUTES

63. **REFERENCE OF DISPUTE:-** Any dispute touching the business of a registered society, other than a dispute regarding disciplinary action taken by a society against an employee of the society, or of the liquidator of a society shall be referred to the Registrar for decision if the parties thereto are among the following:

(a) the society, its past or present controlling or managing body, any past or present officer, agent or employee or the liquidator of the society; or

(b) member, past member or persons claiming through a member, past member, or deceased member of the society; or

(c) a surety of a member, a past member or deceased member of a society;

(d) any other registered society or the liquidator of such society.

64. **SETTLEMENT OF DISPUTE:-** (1) The Registrar shall on receipt of a reference under section 63

(a) decide the dispute himself or authorize any officer to decide the dispute or

(b) refer it for disposal to an arbitrator appointed by the Registrar or to three arbitrators one to be nominated by each of the parties to the dispute and the third, who shall be nominated by the Registrar, to act as Chairman. Where any party to dispute fails to nominate an arbitrator within fifteen days after the communication of this notice, the Registrar may himself make the nomination.

(2) The Registrar may withdraw any reference of such dispute referred under sub-section (1) and may deal with it himself under the said sub-section.

(3) Where the Registrar is satisfied that a party to any reference made to him under section 63 with intent to defeat or delay the execution of any decision that may be passed thereon-

(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 his property from the local limits of the jurisdiction of the Registrar, the Registrar may, unless from the local limits of the jurisdiction of the Registrar, the Registrar may, unless adequate security is furnished; direct the conditional attachment of the said property or such part thereof as he deems necessary; and such attachment shall have the same effect as if it had been made by a competent Civil Court.

CHAPTER XI
DISSOLUTION OF SOCIETY

61. **CANCELLATION OF REGISTRATION:-** (1) If the Registrar, on receipt of an application made upon a resolution adopted in a meeting of the General Assembly by a three fourths majority of the members present at the meeting provided that the notice of dissolution was included in the circulated agenda of the meeting, is of opinion that a society ought to be dissolved, he may by an order in writing cancel the registration of the society.

(2) The Registrar, after an enquiry has been held under section 60, or after an inspection has been made under section 61 may cancel the registration of a society which-

- (i) has not commenced, working; or
- (ii) has ceased working; or
- (iii) has ceased to comply materially with any condition as to registration in this Act, rules or bye-laws, and
- (iv) in his opinion ought to be dissolved.

(3) A copy of the order 'canceling the' registration of a society shall forthwith be published in the Official Gazette by a notice which shall be communicated to the society and to any affiliating society concerned by registered post. The notice shall contain the name of the liquidator appointed under section 66, who shall take full charge of the society forthwith and shall require all claims against the said society to be made to the liquidator within two months of publication of the notice. All liabilities recorded in the account books of the society shall be deemed ipso facto to have been so claimed.

(4.) When the cancellation of the registration of a society takes effect, the society shall cease to exist as a corporate body, but shall vest in the liquidator.

(5) Any member of the society may, within two months from the date of publication of the order of cancellation, appeal to the Dewan, Sikkim State against such order.

(6) Where no appeal is presented within two months from the publication of an order canceling the registration of the society, the order shall take effect on the expiry of that period.

(7) When an appeal is presented within two months of an order of cancellation the order shall not take effect until it is confirmed by the Dewan and such confirmation is communicated to the society by registered post.

66. **WINDING UP:-** (1) Where an order of cancellation of the registration of a society is made by the Registrar under section 65 he may appoint any person to be the liquidator of the society and may remove such person and appoint another in his place.

(2) The liquidator appointed under sub-section (1) shall have power from the date of his appointment to take immediate possession of all assets, properties, effects and actionable claims of the society or to which the society is entitled and of all books, records, cash and other documents pertaining to the business of the society and, in the interests of the society, shall hold charge of the society notwithstanding the provisions of section 65 provided that no steps shall be taken for the winding up of the society during the pendency of any stay order.

(3) The liquidator shall, with the sanction of the Registrar, have power, so far as is necessary for the winding up of the society, on behalf of the society to carry on the business thereof and to do all acts and execute all documents necessary to such winding up, and in particular shall exercise the following powers:

(a) to institute, compromise and defend suits and other legal, proceedings on behalf of the society by his name of office.

(b) to make any compromise or arrangement with any person between whom and the society there exists any dispute;

(c) to determine the debts due to the society by a member, past member or the estate, nominees, heirs or legal representatives of a deceased member,

(d) to determine from time to time the contribution to be made or remaining to be made by the members, past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officer to the assets of the society and to determine the debts due from such members or persons and cost of liquidation;

(e) to calculate the cost of liquidation and to determine by what persons and in what proportion they are to be borne;

(f) to investigate all claims against the society and, subject to the provisions of this Act to decide questions of priority arising between claimants;

(g) to pay claims against the society including interest up to the date of cancellation of registration according to their respective priorities, if any in full or rateably as the assets including the reserve fund of the society, permit; the surplus any, remaining after payment of claims being applied in payment from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case;

(h) to take steps to recover dues according to the provisions of section 83, if necessary; and

(i) to dispose of the surplus, if any, remaining after paying the claims against the society in accordance with section 67 of this Act

(4) Subject to the provisions of this Act and rules made thereunder, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of any book, accounts, documents, securities, cash

or other properties belonging to or in the custody of the society by the same means and so far as may be in the same manner as is provided in the case of a Civil Court in the State.

(5) Notwithstanding anything contained in any law for the time being in force, if any landed property is held by a liquidator as such the title over the land shall complete as soon as the mutation of the name of his office is effected and no court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

67. Distribution of Fund of a dissolved Society :- On dissolution of a society, the reserve fund- and any undischarged cash in hand shall be applied to, discharging the liabilities of the society and the repayment of the share capital. Any sum, that may, remain shall be credited to the reserve fund of a society to be formed to replace, the dissolved society or, if there be any such society, to any other deserving society existing within the same area of operation and having objects similar to those of the dissolved society or, if there be no such society, to any other registered society in Sikkim as may, be determined

by the Registrar and till then. the amount shall be deposited in the ' name' of the Registrar 'in some Bank approved by the Durbar.

68. . Liquidator to deposit the books and submit a final report:- When, the affairs of a registered society have. been wound up, the liquidator shall make a report to the Registrar, who when satisfied shall order the liquidation proceedings to be closed and direct the liquidator to deposit the records whomsoever the Registrar thinks fit.

69. Bar of Suit:-' Save in so far as is expressly provided in this Act, no Civil' court shall take 'cognizance of any matter connected with. the winding up or dissolution of a society under this Act and when a liquidator has been appointed no suit or other legal proceedings shall lie or be proceeded with against him except by leave of the Registrar and subject to such terms as he may impose. .

CHAPTER XII RECOVERY OF SUMS DUE AND ENFORCEMENT OF OBLIGATIONS.

70 **Power of Registrar to. direct' payment of dues:-** Notwithstanding anything contained in Chapter X, the Registrar or such other person as may be authorized in this behalf, may, *on his own* motion or on the written requisition of a registered society or an affiliating society for the recovery of any loan due by a defaulting member, after due enquiry, make an award directing payment by such member of the amount found to be due.

71. **Charge and Surcharge** (1) Where, as the result of an audit under section 55, Or an enquiry under section 60 -or an inspection under section 61 or a report made in the course of the winding up of a registered society, it appears to the Registrar that any member, officer or employee, past or present, of the society has at any time-

- (a) intentionally, whether individually or as an assenting member of any' Managing or other controlling body, made or authorised any payment or granted any loan which is contrary to the provision of this Act or to the rules or bye-laws. or failed to, take ' timely steps to recover any loan at the, due date or if it was being improperly utilized, or
- (b) was grossly negligent in respect of any loss or deficiency. or
- (c) failed to bring into account any sum which ought to have been brought into account, or
- (d) misappropriation or fraudulently retained any property of the society; or
- (e) committed breach of trust in relation to the society; the Registrar may inquire into the conduct of such' officer or member of the managing. or other controlling . body.

(2) the Registrar may similarly inquire into the conduct relating to the affairs of the society of any member, officer or employee, past or present, of a registered society,' *on the application of the present controlling or managing body of the society, or liquidator or any creditor, or any other registered society to which the society is affiliated or any contributory.*

(3) Upon such enquiry, after giving such member, officer or employee an opportunity of being heard and, in the case of a payment made contrary to the provisions of this Act or rule or bye-laws, after affording such member, officer or 'employee

to recover the amount of such payment from the payee and credit it to the funds of the society the Registrar may by an order in writing require such member, officer or employee to pay such sum with interest at such rate as the Registrar may direct, to the society by way of compensation in respect of such payment or loss or to restore such property as the Registrar thinks fit, and to pay such sum as the Registrar may fix to meet the cost of the proceedings under this section.

(4) Any award made by the Registrar under sub-section (3) shall be reduced to the form of a Co-operative' demand certificate by the officer authorised to issue such certificates.

(5) This section shall apply notwithstanding that such member, officer or employee may by his act or omission have incurred in addition criminal liability under this Act or any other law for the time being in force.

(6) An appeal shall lie to the Dewan against an order passed 'under sub-clause (I) (a) within thirty days of the communication of the order.

CHAPTER XIII. PENALTY.

72. Prohibition of the use of the word "Co-operative":- (I) No person other than a society registered under this Act shall trade or carry on business under any name or title of which the word " Co-operative," is part:

Provided that nothing in this section shall apply to the use by any person, or by his successor in interest of any name or title under which he lawfully traded or carried on business at the commencement of this Act

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees, .and in the case of a continuing offence with further fine of five rupees for each day on 'which the offence is continued after .conviction therefore.

73 Punishment for false return, false information, Disobeying summons, orders etc

If (a) a registered society or an officer or member thereof or any liquidator, wilfully makes a false return or furnishes false Information or wilfully neglects or refuses to do any act required. by this Act or the rules or bye-laws&; or does any thing contrary to this Act Or the rules or bye-laws or

(b) .any person willfully or without reasonable excuse disobeys .any summons, requisition or lawfully written order issued under the provisions of this Act or. does not produce documents, or cash balance of the society or furnish ,any information lawfully required from him by .a person .authorized in this behalf under the provisions of this Act (or fails to maintain up-to: date accounts, records ,and other documents of the society required to be maintained by him under this Act or the rules or byelaws) he shall be punishable with fine which may extend to five hundred rupees and in the case of-a continuing offence a further line of five rupees for each day on which the offence is continued after conviction therefore.

74. Punishment for disposing property in contravention of Section 46

Any member, past member or the nominee, heir or legal representative of a deceased member removing or otherwise disposing of, or suffering to be removed or otherwise disposed of, any property on this registered society holds a first charge under section 46 with intent to defraud the society or with such intent doing any other act to the prejudice of the society's first charge, shall be punishable with fine not exceeding five hundred rupees.

75 Penalty for certain misdemeanors:- Where it appears to the Registrar that any person has contravened the provisions of this Act, the rules or bye-laws

(a) by sitting or voting or exercising his rights as a member, or as a member of any managing or controlling body, or voting in the affairs of a registered society as a representative of another society which is a member of such society, when such person was not entitled so to sit, vote or exercise such rights, as the case may be, or

(b) by utilizing a loan for a purpose different from that for which it was granted; the Registrar may, after affording such person an opportunity to be heard, by an order in writing direct them to pay the assets of the society by way of penalty such sum not exceeding fifty rupees as the Registrar thinks fit.

76. Power to enforce performance of 'obligations :-Notwithstanding anything contained in this Act, where any registered society:-is required to take any action under this Act, the rules or bye-laws and such action is not taken within the time provided in this Act, the rules or bye-laws or within such time as the Registrar; may specify by a notice in writing, where no time is so provided, the Registrar may call upon any officer of the ,society whom he considers to be responsible for carrying out these directions, and after giving such officer an opportunity to be heard, may require him to pay to the assets 'of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out. .

77. Cognizance of offence: (1) No court inferior to that of a Magistrate of the second class shall try any offence under this Act.

(2) No prosecution for an offence under this Act shall be instituted without the previous sanction of the Registrar.

(3) Offences under' this Act' may be tried summarily..

CHAPTER XIV.**JURISDICTION**

78 Indemnity--No suit ,proceeding or prosecution whatever shall lie against the Registrar or any person acting on his authority or against any liquidator in respect of anything done in good faith under this Act

79 Bar to Jurisdiction of Courts (1)save as provided in this Act no Civil or Revenue Court shall have the Jurisdiction in respect of

(a)registration of a registered society or its bye laws or amendments of bye laws

- (b) the-dissolution Of a managing or controlling body and the management of the affairs of the society on dissolution thereof; or
- (c) any ,dispute referred to the Registrar; or
- (d) any matter in, relation to the winding up and dissolution of as registered society

(2) Save ,as provided in this Act, no order, decision or award under this Act,

or working of the affairs of a registered society shall be liable to be challenged, set aside, modified, revised or declared void in any ,court on any ground whatsoever except on grounds of jurisdiction.

80. **Appeal or Review** :-Except where otherwise expressly provided to the contrary an appeal shall lie to the Registrar *from* the decisions made under this Act or .rules framed under it by any Government Officer, Liquidator or, non official helper appointed under sub - 'section (3) of section 3.

(3) Save as provided in this Act or rules, no appeal shall lie to the Durbar .against any order of the Registrar, except ,on a question of law, and provided such appeal is preferred within two months of the communication of such order.

(4) Any appellate authority. and the Registrar in case of review may pass any order pending any appeal or review before such an authority, and may award costs against such an authority, and may award costs against any party appealing or petitioning for review if such appeal or review petition is considered false, vexations or frivolous by the authority concerned..

81. **Power of Attachment of Property**:- Where the Registrar or such gazetted officer as may have powers delegated to him under section 83 is satisfied that any persons holding property within his jurisdiction with intent to defeat or delay the execution of any order, under a Cooperative demand certificate for recovery of dues, or with intent to avoid payment of dues from such person under this Act, rules or bye-laws

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

(b) is about to remove the whole or any part of such property

from the local limits of the jurisdiction of the Registrar or of such gazetted officer may, unless adequate, security is furnished, as he. may require, direct the conditional attachment of the said property or such part thereof as he thinks necessary, notwithstanding that the claimant or owner ,of the property may reside elsewhere, and such attachment shall have the same *force* and effect as if it had been made by a competent Civil Court .and shall continue in *force* until withdrawn or cancelled.

82. **Registrar to be Civil Court for Certain purposes** :. The Registrar or any person empowered by him in this behalf shall be deemed, when. exercising any powers under this Act for the recovery of any amount by attachment and sale or by the

sale without attachment of any property, or when passing any orders on any application made to him for such recovery or to take any step-in-aid of such recovery, to be a Civil Court.

83. Recovery of Sums Due (1) All dues recoverable under this Act or Rules framed thereunder shall be reduced to the form of a Co-operative demand certificate, as in Schedule A over the signature of the Registrar or of such gazetted officers as may have powers delegated to them by the Registrar in this behalf and shall be recovered as an arrear of land revenue and shall be paid to the certificate holder or his authorised nominee. Such certificate shall be in the name of the claimant and shall be delivered to him.

(2) Notwithstanding anything contained in sub-section (1), all the said dues shall also be recoverable as a public demand, on a written requisition sent to the certificate officer in the prescribed form over the signature of the Registrar or of such gazetted officer as may have powers delegated to him by the Registrar in this behalf.

(3) For the purpose of this section a member of an affiliated society shall be deemed to be a member of the affiliating society and loans due to the affiliated society be deemed also to be loans due to the affiliating society to the extent that loans from the affiliating society to the affiliated society outstanding and cannot be recovered from the affiliated society directly, provided that not more than one demand certificate may be executed against a single loan.

84. REGISTRAR MAY ORDER A MEETING OF CREDITORS:- (1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a registered society and its creditor or any class of them the Registrar, upon an application made by a registered society or by liquidator in case of a society in respect of which an order has been passed for the winding up thereof, or by a creditor or creditors or any class of creditors, may order a meeting of the creditors.

(2) If a majority in number of creditors or the class of creditors as the case may be, representing claims to three-fourths of the debts due by the society to the creditors or class of creditors, at a meeting agree to any compromise or arrangement and if the Registrar agrees to such compromise or arrangement and gives his sanction then the compromise or the arrangement shall be binding on all the creditors or class of creditors and also on the society or on the liquidator in the case of a society in respect of which an order has been passed for winding up thereof and of all persons who may be required by the registrar to contribute to the assets of the society.

CHAPTER XV MISCELLANEOUS

85. SOCIETY TO BE A BODY CORPORATE:- Every registered society shall be deemed to be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and do all things necessary for the purposes for which it was constituted,

86. **REGISTER OF MEMBERS:-**Any register or list of members or shares kept by any registered society shall be prima facie evidence of any of the following particulars entered therein-

(a) the date on which the name of any person was entered in such register or list as a member; and

(b) the date on which any such member ceased to be a member.

87. **ENTRIES IN BOOKS OF REGISTERED SOCIETY SHALL BE RECEIVED AS PRIMA FACIE EVIDENCE:-** (1) A copy of any entry in a book of a registered society, regularly kept in the course of business shall, if certified by the Chairman or Secretary of the society, be received in any suit or legal proceeding as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transaction and accounts therein recorded in every case where, and to the same extent as the original entry itself is admissible.

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall in any legal proceeding to which the society or the liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless specially so directed by an order of the Court or the arbitrator.

88. **ACT OF SOCIETIES, ETC. TO BE INVALIDATED BY CERTAIN DEFECTS:**

(1) No act of a registered society or of a managing or controlling body or of any officer or liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect subsequently discovered in the organization of the society or in the constitution of any such body or in the appointment or election of the officer or liquidator on the ground that such officer or liquidator was disqualified from appointment.

(2) No act done in good faith by any person appointed under this Act shall be invalid merely by reason of the fact that his appointment has been cancelled or in consequence of any order subsequently passed under this Act.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of a society.

89. **RULES AND BYE-LAWS NOT TO BE DEEMED TO GO BEYOND THE ACT:-**

Rules framed under this Act and bye-laws registered under this Act shall not be deemed to go beyond the provision of this Act if their effect is not to lessen the degree of control expressly provided for in the Act.

90. **POWER TO EXEMPT FROM CONDITIONS AS TO REGISTRATION:**

Notwithstanding anything contained in this Act, the Durbar may by special order and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

91. **POWER TO ORDER RECOUPMENT OF EXPENDITURE:-** Notwithstanding anything contained in any law for the time being in force the Durbar may, by a general or special order, require every registered society or a class of registered societies to make contribution of such sum annually to be fixed by the Registrar towards

the recoupmnt of administrative expenditure incurred by the' State in respect of inspection, supervision and guidance of a society or class of societies or of any service ,to such society or class of societies.

92. POWER TO SEIZE RECORDS OF SOCIETY:-(1) If the Registrar or any person authorised by him in this behalf, while making audit, inspection, inquiry or supervision as the case may be, believes or has reason to believe that the Registered society is not keeping or maintaining the accounts, books and records of the society properly or finds or reasonably suspects gross negligence of duties, miss-appropriation or misuse of funds of the society, irregularity in recording 'proceedings -or keeping accounts or book he shall have power to take possession of any or an books, registers or documents, cash in hand or account books of the society and remove such seized property or keep in proper custody such seized property till it is disposed of in any manner -as may be directed by the Registrar.

(2) The person seizing the. property of the society under sub-section (1) shall prepare an inventory of the properties seized in duplicate with his signature and require the officer or member of the society from whose possession or custody the property is seized to put his signature in, witness thereof and, if such officer or member refuses to sign, the person seizing the property shall call upon two or more persons. to sign to the seizure list. A copy of the list prepared under the. section, signed by the witnesses shall be delivered to the officer 'Of the society.

(3) The Registrar shall take immediate steps in way of audit or inspection and pass such orders as he may think fit.

(4) The administrative head of a civil sub-division or administrative area shall give police help to an officers mentioned in subsection (1) of this section -when. sought for.

93. POWER OF THE MANAGING BODY OF AN AFFILIATING SOCIETY TO ENQUIRE INTO THE AFFAIRS OF A MEMBER SOCIETY When a. registered society takes a. loan from an ,affiliating society and defaults payment of or any installment thereof, any member of the managing body of the affiliating society, may examine and look into the. accounts and working of such borrowing society and report the result of his enquiry or examination particularly with reference to the said loan to the affiliating society and may recommend any suggestion in his report. The borrowing: society shall furnish such information and produce such documents, books and accounts. as the member of the managing body may require.

94. POWER TO MAKE RULES: The Durbar may, after previous publication make rules to' carry out the purpose and objects of-this Act., and such rules may provide a penalty not exceeding fifty Rupees for a breach thereof.

SCHEDULE A
(See Section 83

CO-OPERATIVE DEMAND CERTIFICATE

Granted under Section 83 of the Sikkim, Co-operative' Societies Act, 1955,
(Co-operative Demand Certificate' granted under section 8 3 (1) of the' Sikkim
Co-operative Societies Act 19 55).

(To be realized as an arrear of land revenue by the Revenue' authority within
whose jurisdiction the judgment debtor's property is situated).

Case No:
'Tahsil

of 19
Sub tahsil

In the matter of.

Versus

Whereas, . . . has made a reference, in writing
to me complaining, 'determining as a result of my personal inspection I decide, that a
sum of Rs. . . (Rupees. . . -) by way of.....
under section, of the Sikkim- Co-operative Societies,
Act, 1955 and a sum of Rs.; (Rupees :.) by way 'of
interest is/are due from *you* and you have evaded payment of the same and whereas a notice
of demand calling on you to pay the dues within the specified time was served with notice to
show cause.

And whereas you have not paid up your dues specified in the notice;
And whereas you have not submitted explanation-your explanation is unsatisfactory

Now, therefore, I under authority of 'sub-section (I) of Section 83 of the Sikkim
Co-operative Societies Act, 195'5: do hereby order that .the abovementioned ,sum of Rs.
, is due to the above, named from you and that *you* pay further interest on the principal
sum at the rate of. per cent per annum from. . . together with all, cost till the date of
realization.

I further order that right .title and interest of.in the . properties set out and
described ,in the Schedule below be sold as an, arrear of land' revenue and
that, if the sale proceeds should be found insufficient to discharge the dues with 'subsequent
interest at the above rate till the date of realization and costs in full the' balance be realized
by attachment and sale of other moveable and immoveable property of the judgment debtor
.as an arrear of land revenue.

Registrar ,
Co-operative .Societies.
Sikkim.

The .. Officer empowered under section. 83 (1) of
Sikkim Co-operative. Societies Act 195'5

N.B The irrelevant words may be struck off and' relevant entries, may be made
where necessary.
This, Act. has been repealed by the .Sikkim ,Cooperative Societies Act NO
12 of.'1978.-ED.
(As' published in Sikkim Darbar Gazette .Extraordinary April, I.955)

As published in Sikkim Darbar Gazette Extraordinary. April, 1955]
Proclamation regarding High Court.

HIGH COURT OF JUDICATURE (JURISDICTION AND POWERS)
PROCLAMATION OF 1955

Whereas it is expedient to define the powers of the High Court of Judicature in Sikkim, the terms of officer of the Judge. or Judges and matters ancillary to the administration of Justice, I, Sir Tashi Namgyal, Maharaja of Sikkim. am pleased to proclaim and ordain as follows

- 1 **Title.** This Proclamation may be cited as the High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955.
2. **Judges** (a) There shall be a High Court of Judicature in Sikkim consisting of one or more Judges.
- (b) In case there are more than one Judge, one of them shall be designated by the Maharaja as the Chief Justice. with precedence over all the others who shall be designated as Puisne Judges.
3. **Tenure.** The Judges of the High Court shall hold office for such period as may be provided in the terms of their appointment by; the Maharaja.
4. **Law to be applied.** The High Court shall apply the laws and usages prevalent in Sikkim.
5. **Oath.** Before assuming office, every Judge shall make and subscribe before His Highness the Maharaja, or some person appointed in that behalf by him, the following oath:
- I, appointed Chief Justice Judge of the High Court of Sikkim do swear by God solemnly affirm, that I shall bear true faith and allegiance to His Highness the Maharaja and to the Constitution of Sikkim as by law established and that I will duly and faithfully and to the best of my ability and knowledge perform the duties of my office without fear or favour, affection or ill will and that I will uphold the laws and usages of Sikkim.
- 6 **Jurisdiction.** (a) The High Court shall be the final authority in an judicial matters, civil or Criminal, subject to the exercise of prerogative of mercy by the Maharaja of Sikkim in case of convictions under the criminal law and the provisions under section II(b) of his Proclamation.
- (b) All courts and tribunals in Sikkim shall be subordinate to the High Court: from whose judgments and decisions in all matters, criminal and civil, an appeal or revision, as the case may be, shall lie to the High Court.
7. **Classification. grading. and supervision of subordinate Courts.**
 The High Court may. with the approval. of the Maharaja. classify and grade for the purpose of jurisdiction. appeals and, revisions the existing courts in Sikkim criminal and civil. and may further, with similar approval. make rules providing for.

- i) Supervision of the courts;
- ii) submission of returns;
- iii) regulation of the practice and procedure.

8. **Procedure of High Court.** The High Court may likewise, with the approval of the Maharaja, make rules for its own procedure.

9. **Power to punish for contempt.** The High Court shall have the power to punish with simple imprisonment for a period not exceeding six months and a fine not exceeding rupees five hundred or with both any person found guilty of contempt in relation to itself or to any subordinate court.

10. **Language.** The records in the High Court shall be in- English for the time being.

II. Giving of Maharaja's prerogative. .

(a) Nothing contained herein shall affect the Maharaja's prerogative of mercy and pardon and his powers for remission, commutation and reduction of sentence.

(b) Nothing contained herein shall affect the Maharaja's prerogative to set up a special Tribunal for the review of any case, civil or criminal, provided that the President of such Tribunal shall be a judicial officer of the status of a High Court Judge and provided further that such prerogative shall be exercised in only very special cases where, in the opinion of the Maharaja, there may be apprehension of miscarriage of justice.

12. Pay and service conditions. Judges of the High Court shall draw such pay as may be fixed by the Maharaja and in respect of leave, travelling, gratuity and other allowances, shall be subject and to the Sikkim State Rule.

13. Disposal of work. If at any time or for any reason no Judge is available for the discharge of the duties of the High Court, the Maharaja may make, by order, such arrangements as he deems fit for the disposal of the work of that court.

SEAL

Dated Gangtok,
the 17th April,
1955

Sd/- Tashi Namgyal,
Maharaja of Sikkim.

'PART I'
THE SIKKIM FOOD AND DRUGS CONTROL

Act I of 1955.

(Passed by the Sikkim State Council)

**(Received the assent of High Highness the Maharaja on the 9th
December, 1955)**

Preamble.

Whereas it is expedient to make provision to prevent the supply of food and drugs unfit for human consumption or medicine, it is hereby notified as follows

Short Title

Rule 1. These rules may be called the Sikkim Food and Drug Rules.

Definitions

Rule 2. For the purposes of these rules, unless there is anything repugnant in the subject or context.

(i) "Food" includes every article used for food or drink; by man, other than drugs or water and any article which ordinarily enters into or is used in the composition or preparation of human food and also includes confectionery, flavoring and coloring matters and spices and condiments.

(ii) "Drug" means any substance used as medicine or in the preparation of medicines, whether for internal or external use, but does not include medicines and substance exclusively used or prepared for use in accordance with Ayurvedic, Unani or indigenous system; of medicine.

(3) An article shall be deemed to be "Adulterated"

(a) In the case of drugs:

If its strength, quality or purity falls below the professed standard under which it is sold or exposed for sale

(b) In the case of confectionery:

If it contains any mineral substance or poisonous coloring or flavoring or other ingredients deleterious or detrimental to health and;

(c) In the case of food

(i) if any substance has been mixed or packed with it so as to reduce or lower or harmfully affect its quality or strength, or

(ii) if any substance has been substituted wholly or in part for the article, or

(iii) if any normal constituent of the article has been wholly or in part abstracted, or

(iv) if it is mixed colored powdered coated or stained in a manner whereby deterioration inferiority is concealed, or

(v) if it contains or is mixed: or diluted with any substance in any quantity to the prejudice of the purchaser or consumer. or In any proportion which diminishes in any manner its food value or nutrition properties as ,compared with the same in a pure or normal state and in an undeteriorated and sound Condition or

(vi) if it contains any added poisonous or. other, 'added deteriorous ingredient which may render such article injurious to .health,

(vii) if it is ,not of the nature, substance or -quality which it purports, or is represented to be. .

No diseased person to engage in the manufacture, 'preparation, etc ,for sale of any food or drug.

Rule 3. (i.) No person who is suffering from any infectious. disease or who is suffering from any condition, causing a .discharge of pus serum from any ,part of the body shall engage or shall be engaged or shall be 'allowed to engage himself in the manufacture preparation, 'storage, packing, carriage or delivery for sale of any food or drug, or of any material or article used or intended to be used-as a Wrapper or' container for food;. or

(ii) Every person engaged in the manufacture, preparation, Storage :packing carriage or delivery as aforesaid, shall be subject to medical examination, ,by the Chief Medical Officer or by any other medical officer empowered by the Chief Medical Officer ' and such person shall allow himself to be so examined. No person who .is or has come in in contact' with any person suffering from an . infectious' disease shall so, engage himself if forbidden to do so by the Chief Medical Officer,

Place of manufacture, preparation etc for, sale of any food or drug to be open. to inspection.

Rule. 4. (i) Every place used for the manufacture, preparation storage packing or delivery for sale of any article of food or, drug, shall be open at all times for inspection by the Officers of the Bazar and Medical Department authorised in his ,behalf by the Chief Medical Officer and such Officers ,shall have-the right to enter, into such place for such inspection at all times,.

(ii) Every vessel or container or instrument or other article , used for ,the manufacture, preparation storage; packing or delivery of any ,such article of food, or drug, shall be kept clean and shall for that purpose be washed every time it has been used for such purpose. Such vessel, container, instrument; or other, article shall at all times be open to inspection by Officers of the Bazar and Medical Department referred to in sub-rule (l).

(iii) In every place used for manufacture preparation-, 'storage ,or. packing for sale or delivery for sale.. of any article of food or drug 'or receptacle and materials used for such measures as may be prescribed by the Chief ,Medical Officer in this behalf.

Prohibition' of sale of ,diseased animals or unwholesome articles 'intended for' human food 'or medicine

Rule 5. (i) No, person shall sell, store for sale, expose or hawk about for sale. or keep for sale, any animal intended for human consumption which is diseased, or any food or drug intended for human consumption or manufacture' any such food or drug which is unsound, unwholesome or unfit for human food or for medicine as the case may be.

(ii) In any prosecution under this rule the Court shall, unless and until the contrary is proved, presume that any animal, food or drug found in the possession of a person who is in the habit of keeping animal of that class intended to be used food human consumption or of keeping or manufacturing such food or-drug for the purpose of human consumption, has been so kept or manufactured as the case may be for sale by such person.

Licensing of shops for retail sale of drug.

Rule 6. (i) No person shall keep any shop or place for, retail sale, of drugs, not being also article of ordinary domestic consumption, without. a licence from the Chief Medical Officer.

(ii) The person to whom such licence is granted in respect of any shop or place shall display it in some conspicuous part of such shop or place.

Manufactory or place of storage in contravention of the provisions of this notification may be closed.

Rule 7. (i) If any manufactory or place of storage or sale of any article of food is kept in contravention of the' provisions of this notification, the Chief Medical Officer may cause the same to be closed.

(ii) Whenever a Magistrate convicts any person for keeping a manufactory or place of storage for sale of any animal food or drug in contravention of the provisions of this notification he may direct that the use of the premises for such purpose shall cease.

Inspection of 'animal, etc. exposed for sale and seizure of animals, etc. which are diseased, etc.

Rule 8. (i) The Chief Medical Officer -or any person authorised by him in this behalf, may, at any time by day or night, inspect 'and examine any animal, food or drug intended for human consumption which is in course of transit or is exposed or hawked about for sale or deposited' in or' brought to any place for the purpose of sale or of preparation, for sale, and may inspect any such food or drug during the process of its manufacture and any utensil or vessel used for preparing, manufacturing or containing any such food or drug.

(ii) If, as a result of such inspection. a prosecution is instituted, then the burden of proving, that any such animal, food or drug was not exposed or hawked about or deposited or brought for sale. or was not intended' for human consumption shall rest with the' party charged.

(iii) If any such animal appears to, the Chief Medical Officer or a person ,authorised as aforesaid to be diseased or if :any such food or drug appears to him or for medicine. as the case may be or to be adulterated or if any such utensil or vessel

of such kind or in such state as to tender any food or drug prepared, manufactured, contained therein unwholesome or unfit for human food, or for medicine, as the case may be he may seize and carry away such animal, food or drug, utensil or vessel ,in: order that the same may be dealt with as hereinafter provided.

Destruction of animal etc.
seized under Rule 8.

Rule 9. (i) When any, animal food, drug, utensil or vessel is seized under rule 8, it may, with the consent of the owner or the person in whose possession it was found, be forthwith destroyed or;

If such consent be not obtained and, if any food or drug seized is of a perishable nature and is in the opinion of the, Chief Medical Officer or of the Medical Officer in charge of a hospital or of a Sanitary Inspector of the Sikkim State, unsound, unwholesome or unfit for human consumption or medicine, it may likewise be destroyed.

(ii) The expense incurred in taking any action under the sub-rule '(i) shall be paid by the person who was in possession of such animal,' food, drug, utensil or vessel at the time of its seizure.

Taking before Magistrate animals, etc., seized under rule 8,

Rule 10. (i) Any animal, food, drug, utensil or vessel seized under rule 8 which is not destroyed in pursuance of rule 9, shall subject to ,the provision of rule' 9, be taken before a Magistrate as soon as may be after such seizure.

(ii) If it appears to the Magistrate that any such animal is diseased, or that any such food or drug is unsound, unwholesome, Or unfit for human food, or for medicine, as the case may be, 'or is adulterated, or that any such utensil or vessel. is of such or in such state as is mentioned in rule 8 and is likely to be used for preparing manufacturing or containing suck food or drug, he shall cause the same to be destroyed at the expense of the person who was in possession of it at the time of its seizure or to be other wise disposed of so as not *to* be capable of being ..used as human food or medicine, or for preparing, manufacturing or containing any food or drugs as the case may be.

(iii) If it appears to the Magistrate that any such animal is not diseased or. that any such food or drug is not unsound, unwholesome or unfit for human food 'Or for medicine, as the case may be or is adulterated or that all such utensil or vessel is not used for preparing manufacturing or containing the same the person' from whose shop or place. the animal, food, drug, utensil or vessel was taken shall be entitled to have it restored to him and it shall be in the discretion of the Magistrate to award him such compensation not exceeding: the actual loss which he has sustained as the Magistrate may think proper.

The Chief Medical Officer may frame subsidiary. rules.

Rule II. The Chief Medical Officer may frame subsidiary rules to be observed by tea-shops. restaurant, hotels and other food catering establishment for ensuring the safety of the food for human consumption.

Penalties.

Rule 12. Whoever contravenes ,any of the' provisions of this notification or ,of subsidiary rules framed, 'by the Chief Medical Officer 'thereunder shall be ;punished with a. fine not exceeding one, thousand rupees or, with imprisonment which may extend up to six months or with both

By order of His. Highness the Maharaja of Sikkim.

**T. D. DENSAPA
Chief Secretary
Government of. Sikkim.**

GANGTOK RENT CONTROL' AND EVICTION ACT OF, 1956

Received assent of His Highness .the Maharaja of Sikkim' on, 31st .May

1956

Preamble. Whereas it' is deemed expedient and necessary to control rent and. eviction

of accommodation in Gangtok Bazar premises; it is hereby enacted, as follows

i) **Short Title:** This Act shall be called the Gangtok Rent Control
Eviction Act I of 1956

(ii) **Commencement.**-It shall come' into force from the date of its -.publication in the Sikkim
Darbar Gazette.

(iii) **Extent.**- It shall extend to all Buildings &, Construction situated within the area of Gangtok
Bazar, which may be fixed from time to by the 'Sikkim Darbar.

2, No tenant shall be liable to pay rent for accommodation within the .Bazar area:
as specified in schedule I in excess of the standard rent fixed for ,such accommodation:.

3, Standard rents shall be fixed as follows,

(i) Market value of the premises on the. date this. Act comes into force shall
be fixed by the Sikkim Durbar. In fixing the Market value; the competent authority.

would take the opinion of such responsible members of the public: including-the
owner of the premises, as may be deemed fit so as to ensure a just evaluation. . The rent
so fixed would remain valid 'for five years

(ii) The standard rent shall be 9% per year of the market value of the premises

4. A Landlord may not ordinarily eject any, tenant. When, however
whole or part of the premises are required for the- bonafide occupation of, 'the landlord
or his dependents or for thorough' overhauling excluding addition; and ,alterations
or when the rent in arrears amount to four months 'rent or more; the 'landlord may evict the
tenant on filing a suit of ejection in the Court of the Chief Magistrate .The tenant so evicted
shall, however , have the first right to re-occupy the premises after over-hauling, on such
enhanced rent as may be fixed by the Sikkim Darbar before it is let out to any other' tenant.

5. 'No tenant shall sub-let the premises , either in whole or in part, to 'a. third party
without the consent of the Landlord.

6. No landlord or tenant shall keep either the whole or any part of the business premises
facing the Bazar street as a go down, as long as parties may be available to take up the
premises on payment of the standard rent.

7. . No landlord or tenant shall keep either the whole or any part of the business
premises facing the Bazar street closed down-for a period exceeding .six months. If he does
so, the Sikkim Darbar shall have the right to take possession of the: premises and let
it out to anyone else whom it thinks proper:
Provided the landlord will first be given the opportunity to let out such premises himself
on being so directed by the Darbar.

8 Where: during the currency of a standard, rent payable for any premises, there is any increase in the ground rent payable to, the Darbar in respect of the premises, the landlord 'may' enhance the rent to the extent of the increase in such ground. rent, subject to the approval of the Darbar.

9. Where, during 'the currency of a standard rent' payable for any premises the landlord has, on the request of the tenant made, some addition alteration. or improve ment in the premises, the landlord shall be entitled to proportionate - increase In the standard rent.

10 (i) Any tenant or landlord may apply to the Sikkim Darbar in writing to fix the standard, rent, as provided in section 3.

(ii) Application shall be accompanied by a State Bank Receipt of 'Rs.10

11, Where the landlord recovers, possession of any premises from the tenant by virtue, of a decree obtained under section 4 and the premises are not occupied by him or by the person for whose benefit the premises were, acquired within 2 months of date of vacation of the premises or through overhauling is not commenced within three months of the date of vacation of the premises, by the tenant, the Sikkim Durbar, shall, on receipt of a complaint from the evicted tenant let out premises 'in a standard rent While so letting out the- premises, the evicted tenant shall be given the first choice, but if he does not choose to re-occupy the premises within one month of the receipt of notice' the premises may be let out to any one else.

12., No tenant shall make any additions or alterations to the building, or damage the structure in any way, save in the course of ordinary wear and tear, without the approval in writing of the landlord, failing which the landlord shall have the right to evict such tenant.

13. Any person contravening, attempting, or abetting the contravention of any of the provisions of this Act shall be liable to fine which may extend to Rs. 1000, in default one month's simple imprisonment.

The following Proclamation issued by His Highness the Maharaja of Sikkim is published for general information:

PROCLAMATION OF HIS HIGHNESS SIR TASHI NAMGYAL

**K.C.S.I., K.C.I.E.,
MAHARAJA OF SIKKIM**

Dated 30th August, 1956.

I. WHEREAS it is His Highness' s desire that, notwithstanding the continuance of measures for the protection of the interests of the indigenous people, all duly recognised subjects of Sikkim should be accorded equal treatment.

. AND WHEREAS, hitherto, there has been difference in the rate of land revenue payable by Nepali subjects of Sikkim and subjects of Bhutia and Lepcha origin on- account of annual services, etc. rendered by the latter.,

HIS HIGHNESS is pleased to proclaim his decision that progressive steps should be taken to eliminate this difference in such a manner that undue hardship should not be caused to any section of the community,

AND IN PURSUANCE OF the above decision, His Highness is pleased to order that, within 10 years from the date of issue. of this Proclamation, the rates of revenue. should be equalized by five periodical adjustments, the first such adjustment to take effect two years after the issue of this Notification.

2. AND WHEREAS, secondly, it is necessary to give a clear decision regarding the question of limitation of suits in respect of cases of unauthorised transfer of land by Bhutias and Lepchas to Nepali (i.e. transfer without the written permission of the Sikkim Darbar) .

HIS HIGHNESS is pleased to order. that such unauthorised transfer as may have taken place within the last 2 5 years from the -date of issue of this Proclamation shall be deemed as invalid by the Courts and such land shall revert; on application by the party. concerned, to the original holder on payment of such compensation for. improvement as may be decided by the Court.

AND FURTHER, His Highness is pleased to order- that, no unauthorised transfer of land (transfer without the written permission of the Sikkim Darbar) by Bhutia and Lepcha Sikkimese to Nepali Sikkimese subsequent to the issue of this Proclamation shall henceforward be held valid by the Courts irrespective of such laws, rules, regulations and usages regarding limitation of suits as may be applicable' in other cases.

.3. AND WHEREAS, thirdly, His Highness deems fit that the interests of the indigenous and backward people in 'the North Sikkim area require, as hitherto, to be duly safeguarded.

HIS HIGHNESS is pleased to order that the rules relating to the settlement and or the carrying on of any occupation in such areas (i.e., North of the line formed by the Dick Chhu from the Chola, down the Tista to Ranghap Chhu, up the-Ranghap ,Chhu till it meets the 27' 25 minutes latitude and thence along it to the Western .border of Sikkim). by outsiders (non-indigenous) only on a permit issued by the Sikkim Darbar' shall continue to hold force.

MAHARAJA OF SIKKIM.

**N. K RUSTOMJI,
Dewan of Sikkim**

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SIKKIM MOTOR VEHICLES ACT, 1957

(Published in the Sikkim Darbar Gazette, March 1959)

CHAPTER I

Preliminary

S. 1 Short title and commencement:

- (i) This Act may be called the Sikkim Motor Vehicles Act, 1957.
- (ii) It extends to the whole of Sikkim.
- (iii) It shall come into force on the 1st day of April 1959.

S. 2. Definition:

In this Act, unless there is anything repugnant in the subject or context:

- (i) "Axle weight" means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface whereon the vehicle rests;
- (ii) "Certificate of registration" means the certificate issued by a competent authority to the effect- that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV
- (iii) , "Contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum and from one point to another without stopping to pick, up or set down along the line of route passengers not included in the contract; and includes a motor cab notwithstanding that the passengers may pay separate fares

Explanation "Contract carriage" does not include a motor vehicle,

possession of which has been temporarily transferred in accordance with an express agreement of hire for use as a private vehicle and is used in accordance with the terms of such agreement.

- (iv) "Delivery van" means any goods vehicle the registered laden weight of which does not exceed 5000 pounds avoirdupois.
- (v) "Driver" includes, where a separate person acts as steersman of a motor vehicle, that person as well as any other person engaged in the driving of the vehicle.
- (vi) "Fares" includes sums payable for a season ticket or in respect of the hire of a contract carriage;

- (vii) "Goods' includes livestock and anything (other than equipment ordinarily used with the vehicle) carried in a vehicle except living person but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the. personal luggage of passengers travelling in the vehicle;
- (viii) "Goods vehicle" means any motor constructed or adapted for use for the carriage of goods or any motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers ;
- (ix). "Heavy transport vehicle" means a transport vehicle the registered axle weight of which exceeds 10600 pounds avoirdupois" or. the Registered .laden weight of which exceeds 14,5'00 pounds avoirdupois
- (x) "Invalid Carriage" means a motor vehicle the unladen weight of which does not ,exceed five hundred weights, specially designed and constructed and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;
- (xi) "Licence" means the document issued by a competent authority authorizing the person specified therein to drive, a motor vehicle or a motor vehicle of any specified class or description;
- (xii) "Licensing authority" means an authority empowered to grant licenses, appointed by Sikkim Darbar;
- (xiii) "Light transport vehicle" means any Public Service vehicle other than a motor cab, or any goods vehicle other than a heavy transport. vehicle or a delivery van;
- (xiv) "Motor cab" means any motor vehicle constructed, adapted or used to carry not more than six passengers excluding the driver, for hire or reward;
- (xv) "Motor car' means any motor vehicle other than a transport vehicle, locomotive, road-roller. tractor, motor cycle or invalid carriage
- (xvi) "Motor cycle' means a motor vehicle, other than an invalid carriage with less than four wheels the unladen weight of which, inclusive of any side-car attached to the vehicle, does not exceed 900 pounds avoirdupois;
- (xvii) "Motor vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or used solely upon the premises of the owner;

- (xviii) , "Owner" means, where the person in possession of a motor vehicle .is a minor, the -guardian. Of such minor', and in relation to a .motor vehicle which is the subject. of a hire purchase agreement, the person in possession' of the vehicle' under that agreement;
- (xix) "Permit" means the document issued *by* the Transport Authority . authorizing the Use of a transport vehicle as a contract ;carriage, or . private carrier *or* public carrier to use such vehicle
- (xx) "Prescribed" means prescribed by rules made under this ,Act
- (xxi) .Private' carrier" means an owner of a transport vehicle other than . public carrier who uses that vehicle solely for' the carriage of good which are his . property the ,carriage ,of ,which' is necessary for the purposes -.of his .business not being a-business, of providing transport, or 'who uses the' vehicle for any, 'of the purposes specified in sub section (2) of Section 35
- (xxii) "Public carrier" means an owner of a transport, vehicle who transports' or undertakes to transport goods, *or* any class of goods, for another 'person at any time and in any public place for hire or reward whether in pursuance of the terms of a contract or agreement or otherwise, and 'includes any person, body, association or company engaged in the business of carrying the goods of person associated with that person, body, association or company for the purpose of having their goods transported;
- (xxiii) "Public place" means a road, street, way of other place, whether a thoroughfare at *not*, to which the public have a right of access, and includes any place or stand at which passengers are picked up *or* set down *by* a stage carriage;
- (xxiv) "Public service vehicle" means any motor vehicle used *or* adapted *to* be used for the carriage of passengers for hire *or* reward, and includes a motor cab, contract carriage and stage carriage;
- (xxv) "Registered axle weight" means in respect of .any vehicle the axle weight certified and registered *by* the registering authority as permissible for the vehicle;
- (xxvi) "Registered laden weight" means in respect of any vehicle the total weight of the vehicle and loan. certified and registered *by* the registering authority as permissible for the vehicle;
- (xxvii) "Registering authority" means an authority empowered to register motor vehicle under Chapter 'IV ;

- (xxviii) "Stage- carriage" means a motor vehicle carrying not adapted to carry more than six persons including the driver which carries passengers for hire or reward , separate fares paid by or for individual passengers, either for the whole journey or for stages of the Journey.
- (xxix) Tractor "means a motor vehicle which is not itself constructed to carry an. load other than equipment used for the purpose of propulsion the weight, of which does not exceed 16,000 pound avoirdupois but excludes a road-roller
- (xxx) "Traffic signs" includes all signals, warning signs posts, direction or other device for the information, guidance or direction of driver of motor vehicles;
- (xxxi) "Trailer" mean any vehicle other than a sidecar drawn or intends to be drawn by a motor vehicle;
- xxxii "Transport vehicle" mean a public service vehicle, a motor vehicle, a locomotive .or a tractor other than a locomotive or tractor used solely for agricultural purposes;
- (xxxiii) "Unladen weight" means the weight of a motor vehicle or trailer -including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;
- (xxxiv) "Weight" means the total weight transmitted for the time being .by the wheels of a vehicle to the surface of which the vehicle rests.

'CHAPTER II

S. 3. Power to make Rules:

The Government may make rules for the purpose of carrying into effect the provisions of this Act, as and when necessary.

CHAPTER III

Licensing of drivers of Motor Vehicles .

S 4 Necessity for driving licence:

No person shall drive a motor vehicle. in any public place unless he holds an effective licence issued to himself authorizing him to' drive the vehicle, and no person shall so drive a motor vehicle as a paid employee or shall so drive a public service vehicle unless his licence specifically entitles him to so.

S. 5. Age limit in connection with driving of motor vehicles:-:

No person under the age of eighteen years shall drive a motor vehicle in any public place.

S. 6. Responsibility of owners of motor vehicles for contraventions of Section 4 and 5

No owner or person in-charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of Section 4 or Section 5 to drive the vehicle.

S. 7 Restriction on the holding of license

No holder of a licence shall permit it to be used by any other person.

S. 8. Grant of Licence:

- (i) Every application for a licence to drive 'motor' vehicle shall be in the 'thumb impression of the applicant in two places and shall contain the information required' by the form
- (ii) Where the application is for a licence to drive a paid employee or to drive a transport vehicle ;for 'reasons to be stated in writing so . requires, the application shall be' accompanied by a Medical Certificate in Form C, as, set forth in the First Schedule, signed by a registered medical practitioner.
- (iii) Every application for licence to drive. as a paid employee and application for a licence to drive a transport vehicle shall be accompanied by two clear, copies of recent photograph of the applicant.
- (iv) If, from the application or form the medical certificate referred to in sub-section (ii), it appears that the applicant is suffering from any disease or disability specified in, the Second schedule or any other disease or disability which is likely to cause the driving by him of a motor vehicle of the 'class which. he would be authorised by. the licence applied for to drive to be a source of danger to the.' public or to issue the licence.
No licence shall be issued to any applicant unless :
- (v) (a) He passes to the satisfaction of the licensing authority the test of competence to drive specified in the Third ,Schedule.
- (vi) .The test of 'competence to drive shall ,be carried out in . vehicle of the type to which the. application refer. .and for,. the purposes of Part I of the test

(a) a person who passes age test in driving a motor car or a motor cab or a delivery van shall be deemed to have passed the test for all of these vehicles;

(b) a person who passes the test in driving a light transport vehicle shall be deemed also to have passed the test in driving the vehicle referred to in clause (a) and

(c) a person who passes the test in driving a heavy transport vehicle shall be deemed to have passed the test in driving any vehicle other than a motor cycle.

- (vii) The fee for a driving licence issued in accordance with the provisions of this Act shall be eight rupees only or any amount fixed by the competent authority.

9. Form and contents of Licence :

(1) Every licence shall be in Form D as set forth in the First Schedule and shall have affixed thereto one of the signatures or thumb impressions given on the form or application for the licence and, in the case of a licence to drive as a paid employee or to drive a *transport* vehicle, one of the photographs referred to in subsection (ii) of Section 8.

(2) A Licence shall specify whether' the holder is entitled to drive as a paid employee and whether he is entitled to drive a public service vehicle and shall further be expressed as entitling classes, namely;

- (a) Motor cycle,
- b) Motor Car,
- (c) Motor Cab,
- (d) Delivery van,
- (e) Light transport vehicle,
- (f) Heavy transport vehicle,
- (g) Tractor,
- (h) Road roller,
- (i) Invalid carriage or
- (j) Motor vehicle of specified description.

S. 10. Extent of validity of licence:

(1) Subject to any rules made by the Government licence issued under the foregoing sections shall be effective throughout Sikkim.

(2) Subject, in the case of international driving permits issued. in pursuance of the international convention relative to motor traffic concluded at Paris on. the 24th day of April, 1926, or of any convention modifying the same a licence to drive a motor vehicle issued by a competent authority in any Indian State shall, if the holder is ordinarily resident in the State in which the licence was issued be valid as if it were issued under this Act.

S. 11. Currency of Licenses:

A licence issued under the foregoing sections shall, subject, to the provisions contained in this Act as to the cancellation of licenses and the disqualification of holders of licenses for holding for obtaining licenses, be effective without renewal for a period of twelve months only from the date of issue of last renewal.

S. 12. Renewal of Licenses :

(1) The licensing authority may on application made to it renew a licence issued under the provisions of this Act.

(2) An application for the renewal of a licence shall be made in Form B as set forth in the First Schedule and shall contain the declaration required by that form; provided that where the applicant does not or is unable to subscribe to the said declaration the provisions of sub-section 8 (iv) shall apply.

(3) The fee payable for the renewal of a licence shall be three rupees or such amount as may be fixed by the competent authority if the application for renewal is made previous to, or not more than fifteen days subsequent to, the date on which the licence is due to expire and shall be five rupees in any other case, unless the licensing authority is satisfied that the holder was prevented by good cause from applying for the renewal of the licence within fifteen days after its expiry.

(4f. When the authority renewing the licence is not the authority which issued the licence, it shall intimate the fact of renewal to the authority which issued the licence.

S. 13. Revocation of licence on grounds of disease or disability:

Notwithstanding anything contained in the foregoing sections, a licensing authority may at any time, revoke a licence issued by it, or may require, as a condition of continuing to hold such licence, the holder thereof to furnish a fresh medical certificate in Form C as set forth in the First Schedule signed as required by sub-section (ii) of Section 8, if the licensing authority has reasonable grounds to believe that the holder of the licence is by virtue of any disease or disability, unfit to drive a motor vehicle.

S. 14. Orders refusing or revoking licenses and appeals thereon:

(1) Where the licensing authority refuses to issue or revokes or refuses to renew any licence, it shall do so by an order communicated to the applicant or the holder as the case may be, giving the reason in writing for such refusal or revocation.

(2) Any person aggrieved by the refusal of a licensing authority to grant or renew a licence or by the the revocation of a licence may, within thirty days of the service on him. of the order of such refusal or revocation, appeal to the Dewan of Sikkim, who shall decide the appeal after giving the licensing authority an opportunity of being heard; and the decision of the ,appellate authority shall be binding on the licensing authority.

(3) The order of a licensing authority shall, unless the appellate authority, conditionally or unconditionally, directs otherwise, be in force pending the disposal of an appeal under the foregoing sub-section.

S. 15. Power 'of licensing authority to' disqualify for holding a license

(I) If a licensing authority is satisfied after giving him an opportunity of being heard that any person:-

- (a) is a habitual criminal or a habitual drunkard, or
- (b) is using or has used a motor vehicle in the commission of a cognizable Offence, or
- (c) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public,

it may, for reasons to be recorded in writing, make an order disqualifying that person for a specified period for holding or obtaining a licence.

2. Upon the issue of any such order a person affected, if he is the holder of licence, shall forthwith surrender his licence to the licensing authority making the order if the licence has not already been surrendered, and the licensing authority shall

- (a) if the licence is a licence issued under this Act, keep it until the disqualification, has expired has been removed' or
- (b) if it is not a licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued;

(c) any person aggrieved by an order made by a licensing authority under this section may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and make such inquiry into the matter as it thinks fit. An order made by any such appellate authority shall be final.

S. 16. Power of Court to disqualify:

Where a person is convicted of an offence under this Act, or the rules made there under, a Court by which such person is convicted may, subject to the provisions of this Act and the rules made thereunder, in addition to imposing any other punishments authorised by law, declare the person so convicted to be disqualified, suspended or cancelled for such period as the Court may specify, or permanently, for holding any licence for driving a motor vehicle.

S. 17 Effect of disqualification order:

The operation of the disqualification, suspension or cancellation order made under Section 16 shall not be suspended or postponed while an appeal is pending against such order unless the appellate Court so directs.

S. 18. Endorsements :

(1) The Court or authority making an order of disqualification shall endorse or cause to be endorsed upon the licence, if any, held by the person disqualified particulars

of. the order of disqualification and of any conviction of all offences in respect -of .which the order or disqualification is made, and shall also inform the licensing authority of all the details thereof.

(2) A Court by which any person is convicted of an offence specified in the Fifth Schedule shall, whether or not an order of disqualification is .made in respect of. such . conviction, endorse or cause to be endorsed particulars of such conviction on any licence held by the person convicted.

(3) Any person accused of an offence specified in the Fifth Schedule shall when attending the Court bring with him his licence if it is in his possession.

S. 19 Transfer of endorsement and issue of licence free from endorsement:

(1) An endorsement on any licence shall be transferred to any new or duplicate licence obtained by the holder thereof until the holder becomes entitled under the provisions of this section to have a licence issued to him free from endorsement.

(2) Where a licence is required to be endorsed and the licence is at the time not in the possession of the Court or authority by which the endorsement is to be. made then

- (a) if the person in respect of whom the endorsement" is to be made is at the time the holder of a licence, he shall produce the licence to the Court or authority within five days or such longer time as the Court or authority may fix or,
- (b) if, not being then the holder of a licence, he subsequently obtains a licence, he shall within five days after obtaining the licence produce it to the Court or authority; and if the licence is not produced within the time specified it shall on the expiration of such time be of no effect until it is produced for the purpose of endorsement.

(3) A person whose licence has been endorsed shall, if during a continuous period of three years since the last endorsement was made no further order of endorsement has been made against him, be entitled, on surrendering his licence and on payment of a fee of five rupees, to receive a .new licence free from all endorsement. If the endorsement was only in respect of exceeding a speed limit., he shall be entitled to have a clean licence issued on the expiration of one year from the date of the order:

Provided that in reckoning the said period of three years and one year respectively, any period during which the said person was disqualified for holding or obtaining a licence shall be excluded.

(4) When a licence is endorsed by or an order of endorsement is made by any Court, the Court shall send particulars of the endorsement or order, as the' case may be, to the licensing authority by which the licence was last renewed and to the licensing authority which granted the 'licence.

(s) Where on an appeal against any conviction or order of a Court which has been endorsed on a licence, the appellate Court varies or sets aside the conviction order ,the appellate Court shall inform the licensing authority by which the license was last renewed and the licensing authority which granted the licence, and shall amend or cause. to be amended the endorsement of such conviction or order.

CHAPTER 1V**Registration of Motor Vehicles****S20 Necessity for Registration**

No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner.

S. 2 I. Registration how to be made:

- (a) An application by or on behalf of the owner of a motor vehicle for registration shall be in Form E as set forth in the First Schedule, shall contain the information required by that form, and shall be accompanied by the prescribed fee.
- (b) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in Form G as set forth in the First Schedule- and shall enter in a record to be kept by it particulars of such certificate.

S. 22. Production of vehicle at time of Registration

The registering authority may before proceeding to register a motor vehicle require the person applying for registration of the vehicle to produce the vehicle either before itself or such authority as the Government may by order appoint in order that the registering authority may satisfy itself that the particulars contained in the application are true and that the vehicle complies with the requirements of Chapter VI and of the rules made thereunder.

S. 23 Refusal of "Registration .

The registering authority may refuse to register any motor vehicle if the vehicle is mechanically defective or fails to comply with the requirements of Chapter VI or of the rules made under this Act, or if the applicant fails to furnish the particulars of any previous registration of the vehicle and it shall furnish the applicant whose vehicle is refused registration with the reasons in writing for such refusal.

. S. 24-. Effectiveness in India 'of Registration :

(I) A motor vehicle registered in accordance with this Chapter in Sikkim shall be required to be registered elsewhere in India and certificate of registration issued or in force under this Act in respect of such vehicle shall be effective in India and similarly the ones issued in the Indian Union shall be valid in Sikkim. as per existing reciprocal arrangements.

(2) Subject, in the case of international motor vehicle certificates issued in pursuance of the international Convention relative to Motor traffic concluded at Paris on the 24th day of April, 1926, or to any rules made by the Government a motor vehicle registered by a competent authority in any Indian State or in the Portuguese Settlements bounded by India shall not require to be registered in Sikkim.

S. 25. Change of residence or place of business:

(1) If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration of the vehicle, he shall, within thirty days of any such change of address, intimate his new address to the registering authority.

(2) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

S. 26. Transfer .of ownership:

(1) Within thirty days of the transfer of ownership of any motor vehicle registered under this Chapter; the transferee shall report- the transfer to the registering authority and shall forward the certificate of registration to the registering authority together with the prescribed fee in order that particulars of the transfer of ownership may be entered therein.

S. 27. Alteration in motor vehicle:

(29) If a motor vehicle is so altered that the particulars contained in the certificate of registration are no longer accurate, the owner of the vehicle shall, within fourteen days of the making of any such alteration report the alteration to the registering authority and shall forward the certificate of registration to that registering authority together with the prescribed fee in order that particulars of the alteration may be entered therein: ..

Provided that it shall be necessary to report any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two percent of the weight entered in the certificate of registration.

S. 28. Suspension of Registration :

(1) The registering authority or other prescribed authority which has reason to believe that any motor vehicle is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with requirements of Chapter VI or of the rules made thereunder. may after giving the owner an opportunity of making any representation he may wish to make, for reasons to be recorded in writing, suspend the certificate of registration of the vehicle until the defects are remedied to its satisfaction.

(2) An authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of suspension and the reasons therefore to the registering authority.

(3) Where the registration of a motor vehicle has been suspended under sub-section (1), for a period of not less than six months the registering authority may cancel it forthwith.

(4) The owner of a motor vehicle shall, on the demand of a registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration and any token or card issued to authorize the use of the vehicle in a public place.

(5) A certificate of registration and any token or card surrendered under subsection (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

S. 29. Cancellation of Registration:

(1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority and shall forward to that authority the certificate of registration of the vehicle together with any token or card issued to authorize the use of the vehicle in a public place.

(2) The registering authority shall, cancel the registration and the certificate of registration.

(3) The registering authority may order the examination of a motor vehicle by such authority as the Government may by order appoint and, if upon such examination and after giving the owner an opportunity, to make any representation he may wish to make it, is satisfied that the vehicle is in such a condition that its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration of the vehicle.

(4) If the registering authority is satisfied that a motor vehicle has been permanently removed out of Sikkim, the registering authority shall cancel the registration.

(5) The registering authority canceling the registration of a motor vehicle under Section 218 or under this Section shall communicate the fact in writing to the owner of the vehicle and the owner of the vehicle shall forthwith surrender to the authority, the certificate of registration of the vehicle and any token or card issued to authorize the use of the vehicle in public place.

S. 30. Appeal :

(1) Any owner of a motor vehicle aggrieved by an order of refusal under Section 23 to register a motor vehicle or under sub-section (1) of Section 33 to issue a certificate of fitness or by an order of suspension or cancellation made under Section

28 or 29 or by an order of cancellation under sub-section (3) of Section 33 may, within thirty days of the date on which he has received notice of such order, appeal against the order to the prescribed authority.

(2) The appellate authority shall give notice of the appeal to the original authority and after giving opportunity to the original authority and the appellant to be heard either personally or by pleader in the appeal, pass such orders as it thinks fit;

Provided that orders of the original authority shall remain in force pending the disposal of the appeal unless the appellate authority otherwise directs.

S. 31. Special requirement for Registration of Transport vehicle :

(1) The registering authority shall refuse to register any transport vehicle other than a motor cab, unless the application for registration is accompanied by a document in Form F as set forth in the First Schedule signed by the maker of the vehicle or an assembler duly authorised by the maker in this behalf stating the greatest laden weight and greatest axle weights for which the vehicle is and the several axles are designed:

Provided that nothing in this sub-section shall apply to any application for the registration of a transport vehicle already registered under any enactment in force at the commencement of this Act.

(2) Where a transport vehicle or chassis, as the case may be, has affixed to it a metal plate, bearing the stamp of the maker or assembler and identified as appertaining to the particular vehicle or chassis to which it is attached, which contains the particulars specified in sub-section (1), that plate may at the discretion of a registering authority be deemed to be the document referred to in sub-section (1).

S. 32. Special particulars to be recorded on Registration of Transport vehicle

(1) The registering authority, when registering a transport vehicle other than a motor cab, shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely

- (a) the unladen weight of the vehicle;
- (b) the number, nature and size of the tyres attached to each wheel;
- (c) the registered laden weight of the vehicle and the registered axle weights pertaining to the several axles thereof, fixed in accordance with sub-section (2) with reference to the particulars of the tyres entered in the certificate of the registration; and
- (d) if the vehicle issued or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided,

And the owner of the vehicle shall have the said particulars exhibited in the prescribed manner on the vehicle:

(2), Notwithstanding any statement contained in the document referred to in sub-section (1) of Section 3 I as supplied by the maker or assembler of a transport vehicle, the registered weight to be recorded by the registering authority for any axle shall not exceed the permissible weight for that axle calculated in accordance with the Seventh Schedule, nor shall the registered laden weight of the vehicle exceed the sum of the several axle weights as so determined:

.Provided that where it appears to the Government that heavier weights than those' . specified in the Seventh Schedule may be permitted in a particular. locality for vehicles of a particular type, the. Government may, by notification in the Official Gazette, direct that the provisions of this sub-section shall apply with such modifications as may be specified in the Rules.

(3) .When by reason of an alteration in the number, nature or size of tyres attached to the vehicle, the registered laden weight of any registered axle weight recorded in the certificate of registration no longer accords with the laden weight or the axle weight as determined in accordance with sub-section (2) the provisions of Section 72 shall apply, and the registering authority shall enter in the certificate of registration a revised registered laden weight and registered axle weights,.

S. 33- Certificate of fitness of transport vehicle:

(1) A transport vehicle shall not be deemed to be validly registered for the purpose of Section 20 unless it carries a certificate 'Of fitness in Form H as set forth in the First Schedule, issued by the prescribed authority, 'to the effect that the vehicle complied for the time being with all the requirements of Chapter VI and the rules made under this Act. Where the prescribed authority refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal.

(2) Subject. to the provisions of sub-section (3) a certificate of fitness shall remain effective for three months unless a shorter period, is specified in the certificate by the prescribed authority.

(3) The issuing authority or other prescribed authority may, for reasons to be recorded in writing, cancel a certificate of fitness at- any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and on such cancellation, the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new certificate of fitness has been obtained.

s. 34. Application of Chapter IV to trailers:

(1) The registration make assigned to a trailer shall be displayed in the prescribed manner on the side of the vehicle.

(2) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed in the prescribed manner on the trailer or on the last trailer in the train, as the case may be.

Control of Transport Vehicles**S 35 Necessity of Permits :**

(1) No Owner of a transport vehicle shall use or permit the use of the vehicle in any public place, Save in accordance ,with the conditions of a permit granted or counter signed in the Transport Authority authorizing the use of the vehicle by that place in the 'manner in which the 'vehicle is being used

Provided that a stage carriage permit shall subject to any conditions that 'may, be specified in the permit, authorize' the use_of the vehicle as a contract carriage

Provided further that a stage carriage' permit may, subject to any conditions that may be specified in .the permit, authorize the use of the vehicle as a goods vehicle either when carrying passengers or not.

(2) The carriage of goods in a transport vehicle by a manufacturer of 'or dealer in such goods whilst the vehicle is being used for demonstration purposes, shall not be deemed to constitute a carrying of the goods for hire or regard; but the carriage in a transport vehicle of goods by a person not being a dealer in such goods who has acquired temporary ownership of goods for the purpose of transporting them to another place and there relinquishing ownership shall be deemed to constitute a carrying of the goods for hire or reward.

(3) **Sub-section** (1) shall not apply:

- (a) to any transport vehicle owned by or on behalf of the Government;
- (b) to any transport vehicle used for towing disabled vehicle or for removing goods from a disabled vehicle to a place of safety,
- (c) to any transport vehicle used for any other public purpose prescribed in this behalf;
- (d) subject to any prescribed conditions, to any transport vehicle owned by the Government of India used for Government purpose unconnected with any commercial enterprise, or
- (e) to any trailer used for any purpose other than' the carriage of goods for hire or reward when drawn by a motor vehicle constructed the carriage of not more than six passengers excluding the drivers.

S 36. Power to control road transport:

(1) The Government having regard. to:-

(a)the advantages offered to the public, trade and industry by the, development of motor transport, and

- (b) the desirability of co-ordination road and rail transport and the
- (c) desirability of preventing the deterioration of the road system and
- (d) the desirability of preventing uneconomical competition among motor vehicles, and after having heard the representative of the interests affected, may by notification in the Official Gazette,
- (e) Prohibit or restrict throughout Sikkim or in any area or on any route within Sikkim, subject such conditions as 'it may think desirable, the conveying of goods traffic generally, or of prescribed classes of goods, by private or public carriers; or
- f) fix maximum or minimum fares or freights for stage carriage and public carriers to be applicable throughout Sikkim or within any area or on any route within Sikkim.

S. 37. Transport authorities

- (1) The Government shall, by notification in the official Gazette, constitute for Sikkim a Sikkim Transport Authority to exercise and discharge, throughout Sikkim, the powers and functions conferred by or under this Chapter on such Authority.
- (2) The Transport Authority shall consist of such number of officials and non officials as the Government may think fit to appoint; but no person who has any financial interest whether as proprietor or employee or otherwise in any transport undertaking shall be appointed as or continue as a member of a Transport Authority, and, if any person being a member of any such Authority, acquires a financial interest in any transport undertaking, he shall within four weeks of so doing give notice in writing to the Government of the acquisition of such interest and shall vacate office.
- (3) The Sikkim Transport Authority if authorised in this behalf by rules made under this Act, may delegate such of its powers and functions to such authority or person and subject to such restrictions, limitations and conditions as maybe prescribed by the said rules

S. 38. General provision as to applications for permits:

Every application for a permit shall be made to the Transport Authority.

S. 39 Application for stage carriage permit:

An application for a permit to use a motor vehicle' as a stage carriage in 'this Chapter referred to as a stage carriage permit, shall contain the following particulars, namely:

- (a) the type and seating capacity of the vehicle in respect of which the application is made;
- (b) the route or routes on which or the area within which it is intended to use the vehicle;
- (c) the time table, if any, of the service to be provided; and

- (d) such other matters as may be prescribed.

S. 40 Procedure of Transport Authority in considering application for stage carriage permit

The Transport Authority shall, in deciding whether to grant or refuse a stage carriage permit, have regard to the following matters, namely:

- (a) the interest of the public generally;
- (b) the advantages to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken
- (c) the adequacy of existing road passenger transport services between the places to be served, the fares charged by those services and the effect upon those services proposed;
- (d) the benefit to any particular locality or localities likely to be afforded by the service;
- (e) the operation by the applicant of other transport services and in particular of unremunerative service in conjunction with remunerative services; and
- (f) the condition of the roads included in the proposed route or routes; and shall also take into consideration any representation made by persons already providing road transport facilities along route or routes or by any local authority or police authority within whose jurisdiction any part of the proposed route or routes lies or by any association interested in the provision of road transport facilities. A permission may then be granted.

(2) The Transport Authority shall refuse to grant a stage carriage permit if it appears from any time table furnished that the provisions of this Act relating to the speed at which vehicle may be driven are likely to be contravened:

Provided that before such refusal an opportunity shall be given to the applicant to amend the time table so as to conform to the said provision.

S 41. Power to restrict the number of stage carriages & impose conditions on stage carriage permits

The Transport Authority may, after consideration of the matters so forth in sub-section (1) of Section 40:-

- (a) limit the number of stage carriages in respect of which stage carriage permits may be granted for a specified route or for, a specified area
- (b) limit the use of specified routes to stage carriages of a particular type or design
- (c) issue a stage carriage permit in respect of a particular stage carriage or a particular service of stage carriages

- (d) regulate the timings of arrival or departure : of stage' carriages whether they belong to a single -or .more owners or
- (e) attach to a stage carriage permit any prescribed condition or any one or more of the following conditions,. namely-
 - (i) that the service specified in the permit shall be commenced not -later than a specified date and be continued for a specified period;
 - (ii) that the service 'may be varied only in accordance with specified conditions ;
 - (iii) that ,copies of the fare table and time-table shall be exhibited on the stage carriage and that the fare-table and time, tables so exhibited shall be observed.
 - (iv) that not more ,than a specified number ,off . passengers and not more than specified amount of luggage shall be carried on any specified, vehicle at anyone time;
 - (v) that within municipal limits and in such other areas and places as may be prescribed passengers shall not be taken up or set down at specified, points or,
 - (vi) that tickets shall be, issued the passengers 'for the fares paid.

S. 42. Application for contract-carriage permit:

An application for a permit to use a motor vehicle as a contract carriage (in this Chapter referred to' as a contract carriage permit) shall contain' the following particulars, namely:

- (a) the type and seating capacity of the vehicle
- (b) the area for which the permit is required;
- (c) in .the case of a motor vehicle other than a motor cab, the manner in which it is claimed that the' public convenience will be served by the vehicle; and
- (d) any other particulars which may- be prescribed.

S. 43. Procedure of Transport Authority in considering application for .contract carriage permit:

- (a) The Transport Authority shall in deciding whether to grant or-refuse a contract carriage permit, have regard to the extent to which additional contract carriage may be necessary or desirable in the public' interest, and shall also take into consideration any representations which may then be made or which may previously have been made by persons, already holding contract carriage permits in Sikkim by ,any local authority or police authority in Sikkim; to the effect that the number of contract carriage for which permits have already been granted is sufficient for or in excess of the needs.

S. 44. Power to restrict the number of contract carriages and impose conditions on contract carriage permits:

The Transport Authority may, after consideration of the matters set forth in Section 43 :

- (a) limit the number of contract carriages generally or contract carriage of any specified type for which contract carriage permits may be granted in Sikkim;
- (b) fix in the case of motor cabs the fares which may be charged;
- (c) require that every motor cab shall carry a copy of the fare-table for inspection by passengers;
- (d) require that any motor cab shall be fitted with a taxi meter; or
- (e) impose on the use of a contract carriage any other condition which may be prescribed.

S. 45 Application for private carrier's permit:

(1) An application for a permit to use a transport vehicle for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a private carrier's permit) shall contain the following particulars, namely:

- (a) the type and carrying capacity of the vehicle;
- (b) the nature of the goods which the applicant expects normally to carry in connection with his trade or business;
- (c) the area for which the permit is required; and
- (d) any other particular which may be prescribed.

S. 46. Procedure of Transport Authority in considering a private carrier's permit:

(1) The Transport Authority shall, in deciding whether to grant or refuse a private carrier's permit, have regard to the condition of the roads to be used by the vehicle or vehicles in respect of which the application is made, and shall satisfy itself that the vehicle or vehicles for which the permit is required will not be used except in connection with the business of the applicant.

(2) The Transport Authority may in granting a private carrier's permit impose conditions to be specified in the permit relating to the description of goods which may be carried, or the area in which the permit shall be valid, or the maximum laden weight and axle weights of any vehicle used.

(3) If the applicant is the holder of a private carriers permit which has been revoked, the Transport Authority may at its discretion notwithstanding anything contained in sub-section (1) refuse' the application.

S. 47 Application for public carriers permit

An application for a permit to use a motor vehicle for the carriage of goods for hire or reward (in this Chapter, referred to as a public carriers permit)-shall contain the following particulars, namely:

- (a) the routes on which or the area in which it is, intended to use the vehicle
- (b) the type and carrying capacity of the vehicle
- (c) the manner in which it is claimed that a public need will be served by the vehicle
- (d) such particulars as the Transport Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application; and of the rates charged by the applicant.
- (e) particulars of any agreement or arrangement, affecting in any material respect the provision of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or outside Sikkim; and
- (f) any other particulars which may be prescribed.

S. 48. Procedure of Transport Authority in considering application for public carrier's permit :

The Transport Authority shall, in deciding whether to grant or refuse public carriers permit, have regard to the following matters, namely :

- (a) the interests of the public generally;
- (b) the advantages to the public of the service to be provided and the convenience afforded to the public by the provision of such service;
- (c) the adequacy of existing road transport services for the carriage of goods upon the routes or within the area to be served and the effect upon those services of the service proposed;
- (d) the benefit of any particular locality or localities likely to be afforded by the service;
- (e) the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair; and
- (f) the condition of the roads included in the proposed routes or area; and shall also take into consideration any representations made by persons already providing road transport facilities along or near to the proposed route or routes or by any local authority within whose jurisdiction any part of the proposed route or routes lies

S. 49. Power to restrict the number of and attach conditions to public carrier's permits :

The Transport Authority may, after consideration of the matters set forth, in Section 48 :

- (a) limit the number of transport vehicles or transport vehicles of any specified type for which public carrier's permits may be granted in Sikkim or in any specified area or on any specified routes within Sikkim; or
- (b) attach to a public carrier's permit all or any of the following conditions, namely :
 - (i) that the vehicle shall be used only on specified routes or in a specified area;
 - (ii) that the laden weight and the axle weights of any vehicle used shall not exceed a specified maximum;
 - (iii) that such records as may be prescribed, relating to the plying of the vehicle shall, be maintained, and
 - (iv) any other prescribed condition appropriate, to the service to be provided by the vehicle which the Transport Authority thinks proper to impose in the public interest or with a view to prevent uneconomic competition between road transport services. .

S. 50. Procedure in applying for & granting permits:

(1) An application for a contract carriage permit or a private carrier's permit may be made at any time.

(2) An application for a stage carriage permit shall be made not less than six weeks before the date on which it is desired that the permit shall take effect, or, if the Transport Authority appoints dates for the receipt of such applications, on such dates.

(3) On receipt of an application for a stage carriage permit, the Transport Authority shall make the application available for inspection at the officer of the Authority and shall publish the application or the substance thereof in the prescribed manner together, with a notice of the date before which representations in connection therewith may be submitted and the date, not being less than thirty days from such publication, on which, and the time and place at which, the application and any representations received will be considered.

(4) No representation in connection with an application referred to in sub. section. (3) shall be considered by the Transport Authority unless it is made in writing before the appointed date and unless a copy thereof is furnished simultaneously to the applicant by the person making such representation.

(5) When any representation such as is referred to in subsection (.3) is made, the Transport Authority shall dispose of the application at a public hearing at which the applicant and the person making the representation shall have another opportunity of being heard either in person or, by a duly authorised, representative.

(6) When any representation has been made by the person or authorities referred to in Section 43 to the effect that the number of contract carriages for which permits have already been granted in Sikkim is sufficient for or in excess of the needs whether such representing is made in connection with a particular application for the grant of a contract carriage permit or otherwise, the Transport authority may take any such steps, as it considers appropriate for the hearing of the representation in the presence of any person likely to be affected thereby.

(7) When the Transport Authority refuses an application for a permit of any kind, it shall give to the applicant, in writing its reasons for the refusal.

S. 51 Duration & renewal of permits :

(1) A permit other than a temporary permit issued under Section 55 shall be effective without renewal for the period of one year.

S. 52. General conditions attaching to all permits:

(1) Save as provided in Section 54, a permit shall not be transferable from one person to another except with the permission of the Transport Authority which granted the permit and shall not without such permission to operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

(2) The holder of a permit may, with the permission of the authority by which the permit was granted, replace by another vehicle of the same nature and capacity any vehicle covered by the permit.

(3) The following shall be conditions of every permit:

(a) that the vehicle or vehicles to which the permit relate are at all time so maintained as to comply with the requirements of Chapter VI and the rules made under this Act

(b) that the vehicle or vehicles to which the permit relates are not driven at a speed exceeding the speed lawful under this Act

(c) that any prohibition or restriction imposed and any maximum or minimum fares or freights fixed by notification made, under Section 36 are observed in connection with any vehicle or vehicles to which the permit relates

(d) that the vehicle or vehicles to which the permit relates are not driven in contravention of the provisions of section 63

- (e) that the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle or vehicles to which the permit relates; and
- (f) that the provisions of Chapter VIII so far as they apply to the holder of the permit are observed.

S. 53 Cancellation. suspension of permits

(1) The Transport Authority which granted a permit 'may 'cancel the permit or may suspend it for such period as it thinks fit;

- (a) on the breach of any condition specified in sub-section (3) of Section 52 or of any condition contained in the permit, or
- (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or
- (c) if the holder of the permit ceases to possess the vehicle or vehicles covered by the permit, or
- (d) if the holder of the permit has obtained the permit by fraud or misrepresentation:

Provided that no permit shall be cancelled unless an opportunity has been given to the holder ,of the permit to. submit his. explanation

(1) . Where a Transport Authority conceals or 'suspends a permit it shall give to the ;holder in writing its reasons for the revocation or suspension.

S. 54. . Transfer of permit on death of holder :

(1) Where the holder of a permit dies, .the person succeeding to the possession of the vehicle covered by the permit may, for' a period of three months, use the permit as. if it 'had been granted to himself:

Provided that such person has within 30 days of the death of the holder, informed the Transport authority which granted the permit on the death of the holder and of his own intention to use the permit:

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(2). The Transport Authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit.

S. 55. 'Temporary permit

(1) the Transport Authority may, at its discretion and without following the procedure laid down in Section so', grant permits, to be effective for a limit period not in any case to' exceed three months, to authorize the use of a transport vehicle temporarily

- (a) .for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings or
- (b) for the purpose of a seasonal business
- (c) or meet a particular temporary need and may attach to any such permit any condition it thinks fit .

S56 Validation of permits of the Indian Union in Sikkim and vice versa

The validation of the permits issued in India is, in Sikkim and the ones issued in Sikkim, in India would be governed by reciprocal arrangements' between the two Governments .

S57. Appeals

Any person

- (a) aggrieved by the refusal of the Sikkim Transport Authority to grant a permit, or by any condition attached to a permit' granted to him, or
- (b) aggrieved by the revocation or suspension of the permit 'or by :any variation of the Conditions thereof, or
- (c) aggrieved by the refusal to transfer the permit to the person succeeding on the -death of the holder of a permit, or
- .(d) aggrieved by the refusal of the Transport Authority to countersign a permit, or by any condition attached to such countersignature, or .
- (f) being a local police authority. or an association which, or a person providing transport facilities who, having opposed the -grant of permit, 'is aggrieved by the grant thereof or by any' condition attached thereto, or
- (g). being the holder of a licence, who is aggrieved by the refusal of a Transport Authority to grant an authorization to drive a Public Service Vehicle, may, within the prescribed time and in the prescribed manner, appeal to the prescribed. Authority who shall give such person and the original authority an opportunity of being heard.

S 58. Restriction of hours of work of drivers

(I) .No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to 'work :

- (a) for more than five hours before he has had an interval of rest of at least half an hour. or
- (b) for more than nine hours in one year or
- (c) for more than fifty-four hours in the week.

(2) The Government may grant such exemptions from the provisions of sub-section (1) as it thinks fit, to meet cases of emergency of delays by reason of circumstances which could not be foreseen.

(3) The Government may require persons employing any persons whose work is subject to any of the provisions sub-section (1) to fix beforehand the hours of work of such persons so as to conform with those provisions, and may provide for the recording of the hours so fixed.

(4.) No person shall work or shall cause or allow any other persons to work outside the hours fixed or recorded for the work of such persons in compliance with any rule made under sub-section (3).

(5) The Government may prescribe the circumstances under which any period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for *rest* within the meaning of sub-section (1):

S. 59. Voidance of contracts restrictive of liability:

Any contract for the conveyance of a passenger in a stage carriage or contract carriage, in respect of which a permit has been issued under this Chapter, shall, so far as it purports to negative or restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to the passenger while being carried in, entering or alighting from the vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, be void.

S. 60. Powers to make rules as to stage carriage and contract carriages:

(1) The Government may make rules to regulate, in respect of stage carriages and contract carriages:-

- (a) The conduct of persons licensed to act as driven of, and the licensing of and the conduct of conductors of, such vehicles when acting as such, and
- (b) the conduct of passengers in such vehicles.

(2) Without prejudice to the generality of the foregoing provisions, such rules may:

- (a) Authorize the removal from such vehicle or any person infringing the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor or any passenger, by any Police Officer;
- (b) require a passenger who is reasonably suspected by the driver, conductor of contravening the rules to give his name and address to a Police Officer or to the driver conductor on demand;
- (c) require a passenger to declare, if so requested by the driver or conductor the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket provided therefor;

- (d) require, on demand being made for the purpose by the driver or conductor. or other person. authorised by the owner of the vehicle, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued 'to him;
- (e) require a passenger. if so, requested by the driver or conductor to leave the vehicle on the completion of the journey the fare for which he has paid;
- (f) require the surrender by the ,holder thereof on the expiry 'of the period for which it is issued of a ticket issued to him;
- (g) require the maintenance of complaint books in stage carriage and prescribe the conditions under which passenger' can record any complaints in the same.

CHAPTER VI

Construction Equipment and maintenance of Motor Vehicles.

S 61. General provision regarding 'construction and maintenance':

Every motor vehicle shall be so constructed and so maintained as to be at all under the effective control of the person driving the vehicle.

- 1 (61A. (I)The State Government may, by order published in the Official Gazette specify the person or class of persons or a motor vehicle or class of motor vehicles who or, which, as the case may be, shall be entitled to use are light on the top of motor, vehicle subject to such conditions and restrictions -as may be specified in the order.
- (2) Whoever contravenes the, provisions of any order made under sub section (I), shall be punished
 - (a) on first conviction, with a fine which may extend to rupees five hundred; and
 - (b) on the second and subsequent conviction; with a fine which may extend to rupees one thousand.
- (3) Where the person who contravenes the provisions of any order made under sub-section (I), is a Government servant, he may, in addition to the punishment specified in sub-section (2) be also liable to disciplinary action under the provisions of the relevant Conduct rules applicable to him as a Government servant.
- (4) Every offence under this section shall ,be cognizable and shall be tried summarily.

CHAPTER VII

Control of Traffic

S. 62. Limits of speed:

(I) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed fixed for the vehicle by or under this Act or under any law for the time being in force: Provided that such maximum speed shall in no case exceed the maximum fixed for the vehicle in the Eighth Schedule.

I. Inserted by the Sikkim Motor Vehicles (Amendment) Act No: 6 of 1982 w. e f. 16.4. 1982.

(1) The Government or any authority authorised in this behalf by the Government' if satisfied that it is necessary to restrict the speed of motor vehicles in the interests of public safety or convenience or because of the nature of any road or bridge, by notification in the Official Gazette, fix such maximum speed limits as it thinks fit for motor vehicles to which a trailer is attached, either generally or in a particular area or on a particular road or roads,

S. 63. Limits of weight & limitations on use:

(1) The Government may prescribe conditions for the issue of permits for heavy transport vehicles by the Transport Authorities and may prohibit or restrict the use of such vehicles in any area or route:

Provided that any permit issued before the commencement of this Act may be continued or renewed by the competent Authority for a period not exceeding one year under the conditions upon which the permit was originally issued, unless the Government directs otherwise,

(2) Except as may be otherwise prescribed, no person shall drive or cause or allow to be driven in any public place motor vehicle which is not fitted with pneumatic tyres.

(3) No person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer

- (a) the unladen weight of which exceeds the unladen weight specified in the certificate of registration of the vehicle, or
- (b) the laden weight or which exceeds the registered laden weight specified in the certificate of registration or any axle weight of which exceeds the maximum axle weight specified for that axle in the certificate of registration.

(4) Where the driver or person in charge of a motor vehicle or trailer driven in contravention of sub-section (2) or clause (a) sub-section (3) is not the owner, a Court may presume that the offence was committed with the knowledge of or under the orders of the owner of motor vehicle or trailer.

S. 64 Power to have vehicle weighed:

Any person authorised in this behalf by the Government may, if he has reason to believe that a goods vehicle or trailer is being used in contravention of Section 63, require the driver to convey the vehicle to a weighing device, if any, within a distance of five miles from the destination of the vehicle for weighing; and if on such weighing the vehicle is found to contravene in any respect the provisions of Section 63 regarding weight, he can, by order in Writing, direct the driver to convey the vehicle or trailer to the nearest place to be specified in the notice, where facilities exist for the storage of goods and not to remove the vehicle or trailer from that place until the laden weight or axle weight has been reduced or the vehicle has otherwise been treated so that it complies with Section 63.

S. 65 Power to restrict the use of vehicle:

The Government or any authority authorised in this behalf by the Government, if satisfied that it is necessary in the interest of public safety or convenience, or, because of the nature of any road or bridge, may, by notification in the Official Gazette, prohibit or restrict, subject to such exceptions and condition as may be specified in the notification, the driving of motor vehicle or any specified class of motor vehicles or the use of trailers either generally in a specified area or a specified road.

S. 66. Power to erect traffic signs:

(1) The Government or any authority authorised in this behalf by the Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of regulating motor vehicle traffic.

(2) Traffic signs erected under sub-section (1) for any purpose for which provision is made in the Ninth Schedule shall be of the size, colors and type and shall have the meanings set forth in the Ninth Schedule, but the Government or authority empowered in this behalf of the Government may make or authorize the addition to any sign set forth in the said Schedule of transcriptions of the words, letters or figures thereon in such script as the Government may think fit, provided that the transcription shall be of similar size and colors to the words, letters or figures set forth in the Ninth Schedule.

(3) Except as provided by sub-section (1) no traffic sign shall, after the commencement of this Act, be placed or erected on or near any road; but all traffic signs erected prior to the commencement of this Act by any competent authority shall for the purposes of this Act be deemed to be traffic signs erected under the provisions of sub-section (1).

(4) The Government may, by notification in the Official Gazette, empower the Secretary, Sikkim Transport Authority, to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which is in his opinion so similar in appearance to a traffic sign as to be misleading.

S. 67. Parking places & halting Station:

The Government or any authority authorised in this behalf by the Government may, determine places at which motor vehicles may stand either indefinitely or for a specified period of time and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

S. 68. Main roads:

The Government or any authority authorised in this behalf by the Government may, by notification in the Official Gazette or by the erection at suitable places of the appropriate traffic sign referred to in Part A of the Ninth Schedule, designate certain roads as main roads for the purposes of the regulations contained in the Tenth Schedule.

S. 69. Duty to obey traffic signs :

Every driver of a motor vehicle shall drive the vehicle in conformity' with any indication given by a traffic sign included in Part A of the Ninth Schedule and in conformity with the driving regulations set forth in the Tenth Schedule, and shall comply with all directions given to him by' any police officer for the time being engaged in the regulation of traffic in. any public place.

S.70 Signals & signaling devices:

The driver ,of a motor vehicle shall on the occasions specified in the Eleventh Schedule make the signals specified therein:

, Provided that the signal of an intention to turn to the right or left or to stop

may be given by a mechanical or an electrical device of a prescribed nature affixed to the. vehicle .

S.71 Vehicles with left hand control

No person shall drive or cause or allow to be driven in any public place any motor vehicle with a left hand steering control unless it is equipped with a mechanical signaling device of a prescribed nature and in working order.

S 72. Leaving vehicles in dangerous position:

No person in charge of a motor vehicle, shall cause or allow the vehicle or any trailer to remain at rest on any road in such a position or in such a condition or in such circumstances as to cause or be likely to cause danger, obstruction or under inconvenience to other users of the road.

S- 73. Riding on running board:

No person driving or in charge of an motor vehicle shall carry any person or' permit any person to be carried on the running board or otherwise than within the body of the vehicle.

S. . 74. Obstruction of driver:

No person driving a motor vehicle shall allow any person to stand or sit or .any thing to be placed in such a manner or position as to hamper the driver in his control of the vehicle.

S. 75 Stationary vehicles:

No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place unless there is in the driver's seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver.

S. 76. Pillion riding:

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No driver of a two-wheeled motorcycle, shall carry more than one person in addition to himself on the cycle and no such person shall be carried otherwise than sitting in a proper seat fixed to a cycle behind the driver

S77 Duty to produce licence and certificate of registration

(1) The driver of the motor vehicle in any public places shall on demand by any police officer in uniform, produce his licence for examination.

(2) The owner of a motor vehicle or, in his absence the driver or other person in charge of vehicle, shall on demand by the registering authority or any person authorised in his behalf by the Sikkim Government, produce the certificate of registration of the vehicle and where the vehicle is a transport vehicle - the certificate of fitness referred to in Section 33.

(3) If the licence or certificate, as the case may be, are not in the possession of the persons to whom demand is made it shall be a sufficient compliance with this section if such person produces the licence or certificates within ten days at any Police Station in Sikkim which he specifies to the police officer or authority making the demand

Provided, that except in such case and with such modifications as may be prescribed, the provisions of this sub section shall not apply to driver driving as a paid employee or to the driver of a transport vehicle or to any person required to produce the certificate of registration or the certificate of fitness of a transport vehicle,

S 78 Duty of driver to stop in certain cases

(1) The driver of the vehicle shall cause the vehicle to stop and remain stationary as long as may reasonably be necessary

(a) when required to do so by the police officer in uniform

(b) when required to do so by any person in charge of an animal if such person apprehends that the animal is or being alarmed by the vehicle will become unmanageable or

(c) when the vehicle is involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property, whether the driving or management of the vehicle was or was not the cause of the accident or damage, and he shall give his name and address and the name and address of the owner of the vehicle to any person affected by any such accident or damage who demands it provided such person also furnishes his name and address.

(2) The driver of a motor vehicle shall, on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under Section 103, give his name and address to the person.

(3) In this Section the expression "animal" means any horse, cattle, elephant camel, ass, mule, sheep or goat.

s. 79. Duty. of owner of motor vehicle to give information :

The owner of a motor vehicle the. driver of which is accused of any: offence under this Act shall. on the demand of any police officer authorised in this behalf by the Government, give all information regarding the name and address of the licence held by the driver which is in his possession or could by reasonable diligence be ascertained by him.

S. 80. Duty of driver in case of accident and injury .to a person

When any person is injured as the result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the Vehicle shall ;

(a) take all reasonable steps to .secure medical attention for the injured person, and, if necessary, convey him to the nearest hospital, unless the injured person or his guardian, in case he is a minor, desires otherwise

(b) give on demand by a: police officer any information required by him, or, if no police officer is present, report. the circumstance of the occurrence at the nearest Police Station as soon as possible and in any case within twenty-four hours of the occurrence.

s. . 81. Inspection of vehicle. involved in accident :

When any accident occurs in which a motor vehicle is involved, any person authorized in this behalf by the Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be, and may remove the vehicle for examination;

Provided that the place to which the vehicle is so removed shall be intimated to 'the owner of the vehicle and the vehicle shall be returned without unnecessary delay..

CHAPTER VIII

Insurance of motor "Vehicle against third party risks

S. 82. Definitions :

In this Chapter :

(a) "authorised insurer" means a insurer in whose case the require ments of the Indian Insurance Act, 1938, with respect.
.....
of the registration of and deposits by insurers are complied with, and

- (b) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of sub-section (4) of Section 84; and includes where more than one certificate has been issued in connection with a policy, or where a copy of a certificate has been issued, all the certificates or that copy, as the case may be.

S. 83. Necessity for insurance against third party risk. :

(1) No person shall use except as a passenger or cause or allow any other person to use a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, the case may be, a policy of insurance complying with the requirements of this Chapter.

Explanation :-A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.'

(2) This section shall not apply to any vehicle owned by or on behalf of the Indian Government or Sikkim Government or a State owned railway, at any time when the vehicle is driven by a servant or owner in the course of his employment, or is otherwise subject to the control of the owner.

S. 84. Requirements of policies and limits of liability :

In order to comply with the requirement of this Chapter, a policy of insurance must be a policy which-

- (a) is issued by a person who is an authorized insurer, and
 (b) insures the person or classes of person specified in the policy to the extent specified in sub-section (2) against any liability which may be incurred by him or them in respect of the death, or of bodily injury, to any person caused by or arising out of the use of vehicle in a public place;
 Provided that a policy shall not except as may be otherwise provided under

sub-section (3) be required

- (i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by an employee arising out of and in the course of his employment, or
 (ii) except where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, to cover liability in respect of death or of bodily injury to persons being carried in or upon or entering or mounting or alighting from the vehicle at, the time of the occurrence of the event out of which a claim arises, or
 (iii) to cover any contractual liability.

(2) Subject to the proviso to sub-section (1) a policy of insurance shall cover any liability incurred in respect of anyone accident up to the following limits, namely:

- (a) where the vehicle is a vehicle used or adapted to be used for the carriage of goods, a limit of twenty thousand rupees;
- (b) where the, vehicle is a vehicle in which passenger are carried for hire or reward or by reason' of or in pursuance of a contract of employment, in respect of persons other than passenger carried for hire or reward, a limit of twenty thousand rupees; and in respect of passengers a limit of twenty thousand rupees in all and four thousand rupees in respect of an individual passenger, if the vehicle is registered to carry not more than six passengers excluding the driver or two thousand rupees in respect of an individual passenger, if the vehicle is registered to carry more than six passengers excluding the driver;'
- (c) where the vehicle is a vehicle of any other class the amount of the liability Incurred.

(3) The Government may prescribe that a policy of insurance shall in order to comply with the requirement of this Chapter cover any liability arising under the provisions of the Workmen's. Compensation Act, 1923, in respect of the death of Or bodily injury to any paid employee engaged in driving or ,otherwise in attendance on or being carried in a motor vehicle.

(4) A policy shall be of no ,effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance or a cover note in the prescribed form and containing the prescribed particulars of any conditions subject to which the policy is issued and of any other prescribed matters; and' different forms, particulars and matters may be prescribed in different cases.

5') Notwithstanding anything else where contained in any law, a person issuing a policy of insurance under this section shall be liable to indemnify the person or classes of person specified in the policy in respect of any Liability which the policy purports to cover in the case of that person or those classes of person.

S. 85. Duty of insurers to satisfy judgments against persons insured in respect of risks:

(1) If after a certificate of insurance or a cover note has been issued under sub. section (4-) of Section 84 in favour of the person whom. a policy has been effected judgment in respect of any such liability as is required to be covered or a policy under Clause (b) of sub-section (1) of Section 84 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this Section pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect to costs and any sum payable in respect of interest of that slim by virtue of any enactment relating to interest of judgments.

(1) No sum shall be payable by an insurer. under sub-section (1) in respect of any judgment unless before or after the commencement. of the proceedings in which the judgment is given the insurer had notice through the Court of the bringing of the proceedings in respect of any judgment as long as execution is stayed thereon pending an appeal and an insurer to whom notice of the bringing of any such proceedings, is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:

- (a) that the policy was cancelled by mutual consent or by virtue of any provision contained therein before the accident giving rise to the liability and that either the certificate of insurance was surrendered to the insurer or that the person to whom the certificate was issued has made an affidavit stating that the certificate has been lost or destroyed, or that either before or not later than fourteen days after the happening of the accident the insurer has commenced proceedings for cancellation of the certificate after compliance with the provisions of Section 94- or
- (b) that there has been a breach of a specified condition of the policy, being one of the following conditions namely,
 - {i) a condition excluding the use of the vehicle,
 - (a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle, not covered by a permit to ply for hire or reward, or,
 - (b) for organized racing and speed testing, or
 - (c) for purpose not allowed by the permit under which the vehicle is used, where the vehicle is a public service vehicle or a goods vehicle, or
 - (d) without side-car being attached, where the vehicle is a motor cycle; or
 - (ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any persons who has been disqualified for holding or obtaining a driving license: during the period of disqualification; or
 - (iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war or civil commotion; or
- (c) that the policy is void on the ground that it was obtained by the non disclosure of a material fact or by a representation of fact which was false in some material particular.

(3) Where a certificate of insurance or cover note has been issued under subsection (4) of Section 84 to the person by whom a policy has been effected, so much of the policy as purport.. to restrict the insurance of the persons insured thereby by reference my conditions other than those in Clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by it policy under Clause (b) of sub-section (1) of Section 84-. be of no effect:

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only. of this sub-section shall be recoverable by the insurer from that person.

(4) . If ,the amount which an insurer becomes liable under this Section to pay any respect of a liability incurred 'by a person insured by a policy exceeds the amount for which the insurer would apart from the provisions of this Section be liable under the policy respect of that liability, the insurer shall be entitled to recover the excess from that person

(r) In. this Section the expressions " material fact" and "material particulars mean, respectively, a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so 'at what premium and on what conditions, and the expression "liability covered by the terms of the Policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has' avoided or cancelled the' policy.

(6) No insurer to whom the notice referred to in sub-section (2) has been given shall be entitled to the benefit or any such judgment as is referred to in sub-section (1) other wise than in the manner provided for in sub-section (2).

S 86.Rights of third parties against insurers on insolvency of the insured :

(1) Where under any contract of insurance effected in accordance with the . provisions of this Chapter a person is insured against liabilities which he may incur to third parties then

(a) in the event of the person becoming insolvent or making composition or arrangement with his creditors, or

(b) where the insured person is a company. in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to the company or of receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders on any secured by a floating charge on any property comprised in or subject to the charge.

if, either before or after that event. any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall notwithstanding .;anything to the contrary 'in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred'.

(2) Where .an order for 'the administration of the estate of the deceased debtor is made according to the law of insolvency, then if any debt provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provisions of law be transferred to and vest in the persons to whom the debt is owing

(1) Any condition in a policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of the parties there 'under upon the happening to the insured person of any of the events specified in Clause (a) or Clause (b) of sub-section (1) or upon the making of an order according to the law of insolvency, shall be of no effect

(4) Upon a transfer under sub-section (1) or sub-section (2) the insurer shall be under the same liability to the third party as he would have been to the insured person, but

(a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall effect the rights of the insured person against the insurer in respect of the excess, and

(h) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party nothing in this Chapter shall effect the rights of the third party against the insured person in respect of the balance

S. 87. Duty to give information as to insurance:

(1) No person against whom a claim is made in respect of any liability referred to in Clause (b) of sub-section (1) of Section 84 shall on demand by or on behalf of the person making the claim refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insured had not avoided or cancelled the policy nor shall he refuse, if he was or would have been so insured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

(2) In the event of any person becoming insolvent or making composition or arrangement with his creditor, or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of winding up order being made or a resolution for a voluntary winding up being passed with respect to any company or of a receiver or manager of the company's business or

undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge and any property comprised in or subject the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor, or company is under such liability to him as is covered by the provisions of this Chapter such information as may reasonably be required by him for the purpose of ascertaining whether many rights have been transferred to and vested in him by Section 86, and for the purpose of enforcing such rights, if any, and any such contract of insurance as whether directly or indirectly to avoid the contract or to alter the rights of the parties there under upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events shall be of no effect.

(3) If, from the information given to any person in pursuance of sub-section (2) otherwise, he has reasonable ground for supposing that there have or may have been transferred to him under the Chapter, rights against any particular insurance - that insurer shall be subject, to the same duties is imposed by the said sub-section on the persons therein mentioned .

(4) The duty to give the information imposed by this section shall include a duty to allow all contract of insurance, receipts of premiums and other relevant document san the possession or power of the person on whom the duty is so imposed to be inspected and copies hereof to' be taken.

S. 88. Settlement between insurers.& insured persons :

(1) No settlement made by an insurer in respect of' any claim which might be made by a third party in respect of any liability of the nature referred to in Clause (b)of sub-section (l) of Section 84 shall be valid unless such third party is party to the settlement.

(2) Where a person who is insured under a policy issued for the purposes of the Chapter has become insolvent, or where if such insured person is a. company, a winding up order has been made or by a. resolution for a voluntary winding up has been passed with respect to the company not: agreement made between the insurer and the insured person after liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the, insured person after the commencement aforesaid shall be effective to defeat the rights .transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

S. 89. Saving in respect of Sections 86,87, and 88

(1) For the purposes' of Sections 86, 87& 88, a reference to liabilities to third parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

(2) The provisions of Sections 86,87 8; 88 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

S 90. Insolvency of insured. persons not to affect liability of insured. or claims by third parties:

Where a certificate of insurance has been issued to the person by whom -a policy has been effected, the happening in relation to any person insured by the policy any such event as is mentioned in sub-section (l) or sub-section.(2) of Section 86 shall notwithstanding any thing in this Chapter, net effect any liability of that person of the nature referred to in, Clause (b) of sub-section (l) of Section 84 but nothing in this Section shall affect any rights of the insurer conferred under the provisions of Sections 86, 87 & 88

S. 91 Effect of the death on certain causes of action

The death of person in whose favour a certificate of insurance or cover note had been issued if it occurs after the happening of an event which has given rise, to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer;

S'91. Effect of certificate of insurance:

When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person then :

- (a) if and so long as the policy described in the certificate has not been issued by the insurer, shall, as between himself and any other person except the insured be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in, such certificate; and
- (b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favorable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with particulars stated in the said certificate.

S. 93. Duty to surrender certificate- on cancellation of policy :

1. Whenever the period of cover under a policy of insurance issued under the provisions of this Chapter is terminated or suspended by any means before its expiration by effluxion of time, the insured person shall within seven days after such termination or suspension deliver to the insurer by whom the policy was issued the latest certificate of insurance given by the insurer in respect of the said policy or; if the said certificate has been lost or destroyed make an affidavit to that effect.

2. Whoever fails to surrender a certificate of insurance or to make an affidavit, as the case may be, in accordance with the provisions of this Section shall be punishable with fine which may extend to fifteen rupees for every day that the offence continues subject to a maximum of five hundred rupees.

S. 94-. Duty of insurer to notify registering authority cancellation or suspension of the policy:

1. Whenever a policy of insurance issued under the provisions of this Chapter be cancelled or suspended by the insurer who has issued the policy, the insurer shall within seven days notify such cancellation or suspension to the registering authority in whose records the registration of the vehicle covered by the policy insurance is recorded or to such other authority as the Government may, prescribe.

S. 95. Production of certificate of insurance:

1. Any person driving a motor vehicle in any public place shall on being so required by a police officer in uniform produce the certificate of insurance relating to the use of the vehicle:

Provided that if the driver of a motor vehicle within seven days from the date of which the production of the certificate of insurance was so required, produces the certificate at such police station as may have been specified by him at the time its production was required he shall not be liable to conviction under this sub-section by reason only of failure to produce the certificate to the police officer.

2. If, where owing to the presence of a motor vehicle in a public place an accident occurs involving bodily injury to another person, the driver of the vehicle does not at the time produce the certificate of insurance to a police officer he shall produce a the certificate of insurance at the police station at which he makes the report required by Section 80:

Provided that no person shall be liable to conviction under this sub-section by reason only of failure to produce his certificate of insurance if within seven days from the occurrence of the accident he produces the certificate at such police station as may be specified by him to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident.

3. The owner of a motor vehicle shall give such a information as he may be required by or on behalf of a police officer empowered in this behalf by the Government to give for the purpose of determining whether the vehicle was or was not being driven in contravention of Section 83 ,and on any occasion when the driver was required under this Section to produce his certificate of insurance.

4- In this Section the expression "produce his certificate of insurance" means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of Section 83.

S 96. Production of certificate of insurance for authority to use vehicle:

The Government may make rules requiring the owner of any motor vehicle when applying whether by payment of a tax or otherwise for authority to use the vehicle in a public place to produce such evidence as may be prescribed by those rules to the effect that either;

- (a) on the date when the authority to use the vehicle comes into operation there will be in force the necessary policy of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission, or
- (b) the vehicle is a vehicle to which Section 83 does not apply.

S. 97. Duty to furnish particulars of vehicle involved in accident:

The registering authority or the officer in charge of a police station, shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it.

s. 98. Power to appoint persons to investigate and report on accidents:

The Government may, by notification in the Official Gazette, appoint a person or a body of persons to investigate and report on accidents involving the death of or bodily injury to any person arising out of the use of motor vehicles and the extent to which their claim to compensation have been satisfied and to advise and assist such persons or their representatives in presenting their claims for compensation:

Provided that nothing in this Section shall confer on any such person or body of persons the right to adjudicate in any way on the liability of the insurer or on the amount of damages to be awarded except at the express desire of the insurer concerned.

CHAPTER IX**Offences, Penalties and Procedure****S. 99. General provisions for punishment of offences:**

Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for the offence, be punishable 2 [with fine which, shall not be less than fifty rupees and may extend to five hundred rupees] or, if having been previously convicted of any offence under this Act he is again convicted of any offence under the Act, 3 [with fine which shall not be less than one hundred rupees and may extend to one thousand rupees.]

S 100. Disobedience of orders, obstruction and refusal-of information:

Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such, direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge or being required by or under this Act to supply any information which he knows to be false or which he does not believe to be true shall, if no other penalty is provided for the offence, be punishable with fine which may extend to two hundred rupees.

2. Substituted by the Sikkim Motor Vehicles (Amendment), Act No.6 of 1982 w.e f. 16.4.82.
3. Substituted by *ibid.*

S. 101 Offence relating to licenses:

Whoever, being disqualified under this Act for holding or obtaining a licence drives a motor vehicle in a public place or applies for or obtains a licence or, not being entitled to have a licence issued to him free of endorsement applies for or obtains a licence without disclosing the endorsements made on a licence previously held by him or, being disqualified under this Act for holding or obtaining a licence, uses in Sikkim a licence such as is referred to in sub-section 2 of Section 10, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both, and any licence so obtained by him shall be of no effect.

S. 102. Driving at excessive speed:-

(1) Whoever drives a motor vehicle in contravention of Section 62 shall be punishable with fine which may extend to one hundred rupees.

(2) Whoever causes any person who is employed by him or subject to his control in driving to drive a motor vehicle in contravention of Section 62 shall be punishable with fine which may extend to two-hundred rupees.

(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion of the witness that such person was driving at a speed which was unlawful, be based on an estimate obtained by the use of some mechanical timing device.

(4) The publication of a time table under which or the giving any direction that, any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case of that journey or part of a journey to be completed in the specified time without infringing the provisions of Section 62 be *pima facie* evidence that the person who published the time table or gave the direction has committed an offence punishable under sub. section (2).

S. 103. Driving recklessly and dangerously :

Whoever drives a motor vehicle at speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonable be expected to be in the place shall be punishable on a first conviction for the offence with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

S. 104. Driving while under the influence of drink or drugs :

Whoever while driving or attempting to drive' a motor vehicle is under the influence of drink or a drug to such an extent as to be incapable of exercising proper control over the vehicle, shall be punishable for a first offence with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years,' or with fine which may extend to one thousand rupees, or with both.

S. 105. Driving when mentally or physically unfit to drive:

Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability' calculated to cause his driving of the vehicle to be a source of danger to the public shall be punishable for' a first offence with fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may extend to five hundred rupees.

S. 106. Punishment of abetment of certain offences :

Whoever abets the commission of an offence under Section 103 and, 104 shall be punishable with the punishment provided for the offence.

S. 107. Racing and trials of speed:

Whoever without the written consent of the Government permits or takes part in a race or trial of speed between motor vehicles in any public place shall be punishable' with imprisonment for a term which may extend to one month, or with fine which may extend to three hundred rupees, or with both.

S. 108. Using vehicle in unsafe condition :

Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with fine which may extend to five hundred rupees

S. 109 Sale of vehicles in or alteration of vehicle to a condition contravening this Act :

Whoever, being an importer or dealer in motor vehicles, sells or delivers or orders to sell or deliver a motor vehicle or trailer in such condition that the use thereof in a public place would be in contravention of Chapter VI or any rule made under this Act alters the motor vehicle or trailer so as to render its condition such that its use in a public place would be in contravention of Chapter VI or any rule made under this Act shall be punishable with fine which may extend to two hundred rupees:

Provided that no person shall be convicted under this Section if he proves that he had reasonable cause to believe that the vehicle would not be used in a public place until it had been put into a condition in which it might lawfully be so used.

110. Using of vehicle without permit :

(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used or lets out a motor vehicle for use in contravention of the provisions of sub-section (1) of Section 15 shall be punishable for a first offence with fine which may extend to five hundred rupees, and for a subsequent offence if committed within three years of the commission of a previous similar offence with fine which shall not be less than one hundred rupees and may extend to one thousand rupees

(2) Nothing in this Section shall apply to the use of motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or of food or materials to relieve distress or of medical supplies for a like purpose:

Provided that the person using the vehicle reports such use to Transport Authority within seven days.

S. 111. Driving vehicle exceeding permissible weight :

Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of any permit issued thereunder or in contravention of any prohibition or restriction imposed under Section 6 shall be punishable for a first offence with fine which may extend to one hundred rupees, and for a second or subsequent offence with fine which may extend to five hundred rupees.

S. 112. Driving uninsured vehicle

Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 83 shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

S. 113 Taking vehicle without authority :

Whoever takes and drives away any motor vehicle without having either the owner thereof or other lawful authority shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both:

Provided that no accused person shall be convicted under this Section if the Court is satisfied that the accused acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefore.

S. 114. Unauthorised interference with vehicle:

Whoever otherwise than with lawful authority or reasonable excuse enters or mounts any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable with fine which may extend to one hundred rupees.

S. 115 Power of arrest without warrant:

(1) . A police officer in uniform may arrest without warrant any person who commits in his view an offence punishable under Section 103 or Section 104 or Section 113 :

Provided that any person so arrested in connection with an offence punishable under Section 104 shall be subjected to a medical examination by a registered medical practitioner within two hours of his arrest or shall then he released from custody.

(2) A police officer in uniform may arrest without warrant

- (a) any person who being required under the provisions of this Act to give his name and address refuses to do so, or gives a name or address which the police officer has reason to believe to be false, or
- (b) any person, concerned in an offence under this Act or reasonably suspected to have been so concerned, if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons.

(3) A police officer' arresting without warrant the driver of a motor vehicle shall, if the circumstances so required, take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle..

S. 116. Power of the police officer to impound document:

(1) Any police officer authorised in this behalf or other person authorised in this behalf by the Government may, if he has reason to believe that ,any identification mark carried on a motor vehicle or any license, permit, certificate of registration; certificate or insurance or- other document produced to him by the driver or person in charge of .a motor vehicle is a false document within the meaning of Section 464 of the Indian Penal Code, seize the mark or document and call upon the driver or owner of the vehicle to account .for his possession of or the presence in the vehicle of such mark or document.

. (2) Any police officer authorised in this behalf by the Government may, if he has reason to believe that the driver of ,the motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any, licence held by such driver and forward it to the Court taking cognizance of the. offence

(3) A police officer seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporary acknowledgement therefore and such acknowledgement shall authorize the holder to drive until the licence has been returned to him or the Court has otherwise ordered.

S. 117. Summarily disposal of cases:-

(i) The Government may authorize officers other than Magistrate to try the cases of over loading of passengers and unauthorised carriage of goods summarily; whether at the spot where the contravention of Sikkim Motor Vehicles Act or rules is detected Or elsewhere. However cases in which the accused pleads not guilty and in which infliction of imprisonment or fine exceeding Rs. 100 as punishment is proposed the case shall be sent upto Court of law.

(ii) No Court inferior to that of the 2nd Class Magistrate shall try any offence punishable under this Act except for the officers as specified in sub-para (i)

S. 118. Restriction on conviction:

No person prosecuted for an offence punishable under Section 102 or Section 103 shall be convicted unless

- (a) he was warned at the time the offence was committed that the question, of prosecuting him would be taken into consideration, or
- (b) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence or,
- (c) within twenty eight days of the commission of the offence, a summons for the offence was served on him

Provided that nothing in this Section shall apply where the court is satisfied that

- (a) the failure to, serve the notice or summons referred to in this Section was due to the fact that neither the name and address of the accused nor - the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time, or
- (b) such failure was brought about by the conduct of the accused.

CHAPTER X Miscellaneous

S119 Publication of commencement of rules

All rules made under this act shall be published in the Official Gazette unless some later date is appointed come into force on the date of such publication

S 120. The Sikkim Motor Vehicles Act I of 1937 is hereby repealed.

**.THE SCHEDULES
THE. FIRST SCHEDULE FORMS**

Form A.

**Form of application for licence' to drive a motor.
vehicle.**

I

. Application.

I apply for licence to enable me to enable me

.as a paid. employee

.otherwise than a paid employee

.Vehicles of the following description.

- (a) motor vehicles.
- (b) motor cars,
- (c) invalid carriages,
- (d) motor cabs,
- (e) delivery vans,
- (f) light transport vehicle including/excluding public service vehicles,
- (g) heavy transport vehicles
- (h) tractors,
- (i) road rollers,
- (j) a vehicle of a special type (description attached) constructed or adapted to be driven by me.

*Strike out whichever in-applicable.

Particulars to be furnished by the applicant.

1. Full name and name of father..
2. Permanent address.. . . .
3. Temporary address. . . .
4. Age at date of application. .
5. Particulars of any licence previously held by applicant.
6. Particulars and date of every conviction which has been, ordered to be endorsed on any licence held by the applicant..
7. Have you been disqualified for obtaining a licence to drive? If so, for what reason?
8. Have you been subjected to a driving test as to your fitness or ability to drive a vehicle in respect of which a licence to drive is applied for? If so, give date, testing authority and result of test.

III

Declaration as to physical fitness of applicant.

The applicant is required to answer "Yes" or No in the space provided opposite each question.

- (a) Do you suffer from epilepsy, or from sudden attacks of disabling giddiness and fainting?
- (b) Are you able to distinguish with each eye at a distance of 25 yards in good day light (with glasses, if worn) a motor car number plate containing seven letters and figures?
- (c) Have you lost either hand or foot or are you suffering from any defect in movement, control or muscular power of either arm or leg? .
- (d) Do you suffer from color blindness or night blindness ?
- (e) Do you suffer- from a defect of hearing?
- (f) Do you suffer from any other disease or disability likely to cause your driving of a motor vehicle to be a source of danger to the public .?

. If so, give particulars.

I declare that to the best of my information and belief the particulars given in Section II and the declaration made in Section III thereof are true.

. Note:- An applicant who answer "Yes" to question (b) (& c) in the declaration and "No" to the other questions may claim to be subjected to a test as to his competency to drive vehicles of a specified type or types.

Date.19

Signature or thumb impression of applicant.

Certificate of test of ability to drive.,

The applicant has passed-failed in the test specified in ,the Third Schedule to the Sikkim Motor Vehicles Act, 1957. The test was conducted on a* on (date)

**Signature of ,testing Authority.
Duplicate Signature or thumb impression of applicant.**

Here .enter description of vehicle.

FORM "B" .

[See Section 12 (2).]

Form of application for renewal of driving license

,I hereby apply for a renewal of the licence under the Sikkim Motor Vehicles Act, 1957, which was issued to me on the. by

I hereby declare that-I am not subject to any disease or disability likely to ,cause my driving of a motor vehicle to be a source of danger to the public.

Date 195. Signature of applicant.

FORM "C"

(See Section 8 (ii) and Section 13).

Form of ' medical certificate in respect of applicant for a licence to drive any transport vehicle or to drive any vehicle as paid employee.

(To be filled by' a registered medical Practitioner)

1What is the applicant's' apparent age?

2. Is the applicant, to the best of your judgment, subject to epilepsy, vertigo or any mental ailments likely to affect his efficiency?

3. Does the applicant suffer from any heart or lung disorder which,'might interfere in the performance of his duties' as a driver

4. (a) Is there any defect of vision?

If so, has it been corrected, by suitable, spectacles?

(b) Does the applicant suffer from night blindness or color blindness?

(c) Does the applicant suffer from a degree of deafness which would prevent his hearing the ordinary sound signs ?

5. Has the applicant any deformity or loss of members which would interfere with the efficient performance of his duties as a driver ?

6. Does he show an evidence of being addicted to the excessive use of alcohol, tobacco, or drugs ?

7. Is he, in our opinion, generally fit as regards (a) bodily health and (b) eyesight? .

8. Marks of identification.

I certify that to the best of my knowledge and belief the applicant is the person hereinabove described and that the attached photograph is a reasonable correct likeness.

Signature

Name

Designation

. Note.- Special attention should be directed to distant vision and to the condition of the arms and hands and the joints of both extremities.

FORM D.

[(See Section 9 (I)]

. Driving Licence (Sikkim).

No.

195

Name

son.. daughter of (father's name) of

permanent address

temporary address

Photograph
if necessary

Signature or thumb impression.

is licensed to drive throughout India, vehicles of the following description*

- (a) Motor Cycle,
- (b) Motor Car,
- (c) Motor Cab,
- (d) Delivery van,
- (e) Light transport vehicle,
- (f) Heavy transport .vehicle
- (g) Tractor.
- (h) Invalid carriage,
- (i) . Road roller,
- (j) A motor vehicle hereunder described:

He is also authorised to drive as a paid employee.

This licence is valid from _____ to _____

(To be struck out if inapplicable).

Signature and designation of
Licensing Authority.

Dated _____ 195

. So long as the licence of authorization to drive a public service vehicle is valid and is renewed from time to time, the holder is authorised to drive a public service vehicle.

Signature and, designation of
Prescribed Authority.

Date
195
This licence is hereby renewed
upto
the _____ day of 19
the _____ day of 19

Signature of licensing Authority.

ENDORSEMENT

Date	Section and Rule	Fine or other punishment	Signature of Endorsing Authority
------	------------------	-----------------------------	-------------------------------------

FORM E

[SEE SECTION 21(a)]

Form of application for the Registration of a Motor Vehicle.

- 1) Full name, name of father and address of person to be registered as registered as owner
- 2) Class of vehicle.
- 3) Type of body.
- 4) Maker's Name
- 5) Year of manufacture
- 6) Number of cylinders
- 7) Horse power
- 8) Maker's classification or, if not known, wheel base
- 9) Chassis number...
- 10) Engine' number
- 11) Seating capacity (including driver)
- 12)Unladen weight.
- 13) Particulars of previous registration and registered number (if any)

Additional particulars to be completed only in the case of transport vehicles other than motor cabs:

14. Number, description and size of tyres

- (a) front axle
- (b) rear axle
- (c) any other axle

15. Maximum laden weight lbs.

149

- 15 Maximum axle weight
 - (a) front axle
 - {b) rear axle
 - (c) any other axle

The above particulars are to be filled in for a rigid frame motor vehicle of two or three axles, for an articulated vehicle of three axles, or, to the extent applicable, for trailer, (other than the trailer to be registered as part of an articulated vehicle) as the case may be, where a second trailer or additional trailers are to be registered with an articulated motor vehicle, the following particulars are to be furnished for each such trailer:

- 1 Type of body
- 7. Unladen weight
- 10 Number, description and size of tyres on the axle
- 20. Maximum axle weight

Date 195 Signature of applicant.

Explanation.-An articulated vehicle means a tractor to which a trailer is attached in such a manner that part of the-trailer is superimposed on and part of the weight of the trailer is borne by the tractor.

Note.- The motor vehicle above described is held by the person to be registered as the registered owner, under a hire purchase agreement with..

Signature of owner
 . Signature of the hire purchase
 company.

FORM" F "

[See Section 3 I (I)]

Document to be furnished by the maker or authorised assembler in the case of transport vehicles other than motor cabs.

150

Certified that the Engine No. _____ vehicle Chassis No. _____ and is designed for maximum weights as follows

when fitted with the tyre-equipment specified below:

Maximum laden weight..... lbs.

Rear weight front axle. lbs.

Maximum weight rear axle. lbs.

Maximum weight any other axle. lbs.

Tyres- Front wheels

Rear wheels

Other wheels

Date

195

Signature of maker or authorised assembler.

Special certificate to be furnished by an assembler.

Certified that I am authorized by the maker of the vehicle described above to issue this certificate. .

Signature. of authorised assembler.

FORM 'G'

[See Section 2 I (b).]

Form of Certificate of Registration

Registered number

Brief description of vehicle

(e.g. Ford touring car, Chevrolet 22 seater bus, Albion Lorry trailer, etc)

Name, name of father and address of Registered owner

Signature of Registering Authority.

Transferred to

Signature of Registering Authority

Transferred to

Detailed description.

- I.
 - 1. Class of vehicle
 - 2. Maker's name
 - 3. Type of body
 - 4. Year of manufacture
 - 5. Number of cylinders
 - 6. Chassis number
 - 7. Engine Number
 - 8. Horsepower
 - 9. Maker's classification or if not known, wheel base
 - 10. Seating capacity (including driver)
 - II. Unladen weight
 - 12. Registered laden weight
 - 13. Number, description and size of tyres
 - (a) front axle
 - (b) rear axle
 - (c) any other axle
 - 14. Registered axle weight:
 - (a) front axle lbs.
 - (b) any other axle lbs

Additional particulars of alternative or additional trailer or trailers registered with an articulated vehicle.
 - 15. Type of body.....
 - 16. Unladen weight... lbs
 - 17. Number, description and size of tyres of the axle.
 - 18. Registered axle weight. lbs.

Date

19

Signature of Registering Authority.

FORM "H"

(See Section 33.)

Certificate of fitness (applicable in the case of Transport Vehicles only).

Vehicle No. is certified as complying with the provisions of Chapter VI of the Sikkim Motor Vehicles Act, 1951 and the rules made thereunder. This certificate will expire on.

Signature and designation of
Inspecting Authority,

Date 19

The certificate of fitness is hereby renewed

Upto. 19
Upto. 19
Upto 19

Signature of Inspecting Authority

**THE SECOND SCHEDULE
(See Section 8 (iv))**

(I) Diseases and disabilities absolutely disqualifying a person for obtaining a licence to drive a motor Vehicle,.

1. Epilepsy
2. Lunacy.
3. Heart disease likely to product' sudden attacks of giddiness or fainting.
4. Inability to distinguish with each eye at a distance of twenty five yards in good daylight (with the aid of glasses, if worn) series and figures in white on " black ground of the same size or arrangement and arrangement 'as those . registration marks in a motor Car.
- 5). A degree of deafness which prevents the applicant from hearing the ordinary sound of signals.
6. Color blindness.
7. Night blindness.

(II). Disease .and disabilities absolutely disqualifying a person for obtaining a License' to drive . public service vehicle.

1. Leprosy

THE THIRD SCHEDULE**(See Section 8, (v))**

The candidate shall satisfy the person conducting the test that he is able to .

- 1 Start the engine of the vehicle.
2. Move away straight ahead or at an angle.
3. Undertake, meet or cover the path of other vehicle and take an appropriate course.
4. Turn right and left corners correctly.
- 5 Stop the vehicle in an emergency and normally, and in the latter case bring it to rest at an appropriate part of the road.
6. Drive the vehicle backwards and whilst so doing enter a limited opening either to the right or left.
7. Cause the vehicle to face in the opposite direction by means of forward and reverse gears
8. Give by hand and by mechanical means (if fitted to the vehicle), or, in the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions.
9. Act correctly and promptly on all signals given by traffic signs and traffic controllers and take appropriate action on signs given by other road user.

Note- (i) Requirements 6 & 7 are not applicable in the ,case of motor cycle or tricycle not equipped with means for reversing.

(iii) Requirements 6, 7 & 8 are not applicable in the case of invalid carriages

PART II.

The candidate shall satisfy the person conducting the test that he is cognizant of the provision of Section 72, 73, 74, 75 & 76 and of the Tenth Schedule; that he knows the meaning or the traffic signs specified in the Ninth Schedule; and if he has not been medically examined, that he is not so deaf as to be unable to hear the ordinary sound signals and is able to distinguish with each 'eye at a distance of twenty-five yards in good day light (with the aid of glasses, if worn) a registration mark containing seven letters and figures.

FOURTH SCHEDULE.

Authorities entitled to grant licenses *to* drive and to register motor vehicles, the property of the Government and registration marks for such vehicles..

PART A.

The Police Commissioner may grant licence in respect of vehicles, whether the property of the Government or otherwise.

PART B.

The Police Commissioner may register motor vehicles, the property of the Government or otherwise, and may grant certificates of fitness in respect of such vehicles.

THE FIFTH SCHEDULE.

(See Section 18 (2) & (3).)

Offences on conviction of which an Endorsement shall be made on the licence of the person affected.

Part A.

1. Driving recklessly or dangerously (Section 104).
2. Driving while under the influence of drink or drugs (See Section 104).
3. Abetment of an offence under Section 103 & 104 (See Section 106).
4. Taking part in unauthorised race or trial of speed
5. Driving when disqualified (See Section 17).
6. Obtaining or applying for licence without giving particulars of endorsement (See Section 10 I).
7. Failing to stop on the occurrence of an accident (Section 78)
8. .Altering a licence *or* using an altered licence.
9. Any offence punishable with imprisonment in the commission of which a motor vehicle was used.

Part B.

1. Driving without a licence, or without a licence which is effective or without a licence applicable to the vehicle driving (Section 4)
2. Allowing a licence to be used by another person (Section 7).
3. Driving at excessive speed (Section 102).
4. Driving when mentally or physically unfit to drive (Section 105).
5. Abetment of an offence punishable under Section 102 or 105
6. . Refusing or failing within specified time to produce licence (Section 77).
- 7 Failing to stop when required (Section 78).
- . 8. Driving an unregistered vehicle (Section 20).
9. Driving a Transport vehicle not covered by a certificate of fitness (Section 33).

10. Driving in contravention any rules made under this' Act relating to speed governors
11. Driving a vehicle exceeding the permissible limit of weight.
- 12 Failure, to comply with a requisition made Under ,Section 64.
13. Using a vehicle in unsafe condition (Section 108).
14. Driving a transport vehicle in contravention of Section 'JS.

SIXTH SCHEDULE.

REGISTRATION MARKS.

I. The letters SKM shall be used, as hitherto, as registration mark for all vehicles in Sikkim.

1. The letters SKM shall be followed by the number allotted by the Sikkim Transport Authority to the vehicles, painted on a plate of the size 13 "X5" as follows:

Darbar vehicles	Red-Yellow.
(b) Public vehicles-buses, taxis, Station wagons (contract & stage carriage)	White-Black.
(c) S.N.T. vehicles trucks buses, taxies & Station Wagons	Black-Yellow.
(d) Temporary anything	Yellow-Red.
(e) Private carriers.	White-Red.
(f) Private Vehicles	Black-White.

Note : (a) The registration mark shall be clearly and legibly exhibited on a , plate or part of the vehicle both at front and rear facing direct to front or rear, as the case may be, in' the manner hereinafter' specified.
(d) The registration mark shall be in English letter, and numerals and

- (i) Save in the case of a motor cycle or an invalid carriage the letters shall be not less than 2 inches high and 5/8th inches thick at any parts the numerals shall not be less than 3.5 inches high and 3/4 inch thick at any part, and there shall be a space ,between an letter any numeral and between any letter or any

numeral and the plane surface of not less than 1/2 inch and a:
space between two numerals of less than 3/8th -inch.

- (ii) In the case of a motorcycle or an invalid carriage, of dimensions not less than 2/3rds of those specified 'in clause (i)
(b) The plain surfaces aforesaid shall not be inclined from the vertical by more than 30 degrees., The letters and numerals shall be exhibited: as follows, that is to sav

(i) in the case of a transport vehicle other than a motor cab,-both registration mark shall exhibit the letter and numerals in two separate horizontal lines, the letter and numeral. below.

(ii) . In all other cases the registration marks may exhibit the letters and numerals either in two horizontal as aforesaid or in one horizontal line.

(e) Notwithstanding any thing contained in sub-rule (1)), the registration mark exhibited at the front of a motor cycle or of an invalid carriage may be displayed on a plate if a line with the axis of the vehicle and shall in such case be displayed on both side of the plate.

(f) The registration mark as aforesaid exhibited at the rear of & transport vehicle shall be affixed to the vehicle at as great a distance (but not exceeding two feet from the ground as may be reasonably possible having regard to the type of body of the vehicle.

THE SEVENTH SCHEDULE

(See Section 32 (2).)

Table A.

For each low pressure pneumatic tyre, fitted to a wheel on the axle, if a nominal size.	The permissible weight in pounds is.
5.00-11.	980
5.25.-11.	1.060.
5.25-18.	1.100.
5.50-17	1.140,
5.50-18	1.195.
5.50-17	1.140'
5.50-20	1.225.
6.00-16	1200
6.00-17	1350
6.00-18	1450
6.00-20	1550.
6.25-16	1300.
6.50-16	1400..
6.50-17	1550
6.50-17	1700.
6.50-20	1850.
7.00-15'	1500
7.00-16	1675
7.0017	1850
7.00-18	2050

7 00-20	2.200.
7.50-15	1.700.
7-50-16	2.050.
7-50-17	2.150
7-50-18	2450.
7.50-20	2.650.
7-50-24	2.65'0.
8-25-18	2.900.
8-25 -20	3.100.
8-25-22	3.100.
8.25-24	3.100.
9.00-15	2650.
9.00- 18	3.300.
9.00 -20	3.550
9.00-22	3.550.
9.00-24	3.650
9.75-15	3175'.
9'-75-18	3.900.
9.75-20	4.200.
9-75-22	4.200.
9.75-24	4400.
10-50-20	4.850.
10'5'0-22	5.000.
105'0-24-	5.200.
11.25'20	5450
11.25'22	5800
11.25'24	6050

TABLE B.

For each high pressure pneumatic tyre The permissible weight in pound is.
fitted to wheel on the scale of a nominal size

30X5	2.000.
33x5	2.000.
34x5	2.000.
35x5	2.000.
32x6	2.65'0.
34x6	2.65'0.
36x6	2.65'0.
32X6.5	2.95'0.
32x7	3.000.
34x7	3.300.
36x7	3.300.
38x7	3.300.
36x8	4.000.
38x8	4.200.

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4x8	4400.
38x9	4850.
4x9	5100.
42X9	5300
40XIO	5.700.
44XIO	6.100.

Explanation:- The figures 5.00-17 etc, in Table A represent' respectively, the nominal section diameter of the tyre and the diameter of the wheel rim; and the figures 30x5 etc, in Table B represent. respectively, the over all diameter of wheel and tyre and the nominal sectional diameter of .the tyre when mounted on its appropriate rim and inflated shall in no case be less then the nominal sectional diameter

Note.-Tyres may be calibrated in so called metric sizes, for example 72”X70', In that case the first number represents that sectional diameter of the tyre in millimeter's and the second number represents the diameter of the. rim in inches. The permissible weight in pounds for each such tyre shall be determined. by dividing the nominal section diameter of the tyre in millimeters by figure' 25.4. the quotient being the nominal sectional diameter in inches. The permissible, weight given in Table A for the nearest equivalent nominal sectional diameter in inches and the actual rim-diameter shall be the permissible weight for that tyre.

EIGHTH SCHEDULE
(See Section 62.)

Limits of speed for Motor vehicles.	Maximum speed per hour Miles
I. .Passenger vehicles that is to say. vehicles constructed solely for the carriage of passengers and their effects :	
(a) if all the wheels are fitted with pneumatic tyres and the vehicle is drawing a trailer:	
(i) if the vehicle is a motor cycle motor car or motor cab.-	40 Miles per hour
(ii) if the vehicle is a public service .vehicle other than a motor cab	30Miles per hour
(b) If the vehicle, being a motor .car or motor cab, is drawing two wheeled trailer of a laden weight not exceeding l. 700 pounds avoirdupois, and if all the wheels of the vehicle and trailer are fitted with pneumatic tyres	20 Miles per hour

(c) any other vehicle, including an in valid carriage 20 Miles per hour,
 2. Goods vehicle, that is to say, vehicles constructed or adapted for use or used for the conveyance of goods:

- (a) If all the wheels are fitted with pneumatic tyres and the vehicle is a light transport vehicle and is not a drawing trailer . 25Miles per hour
 (b) in any other case 15 Miles per hour

3. Tractors :

- (a) If drawing not more than one trailer and all the wheels of the tractor and trailer are fitted with pneumatic tyres 15 Miles per hour
 (b) in any other case 6 Miles ,per hour

4. Locomotives, whether drawing a trailer or not 6 Miles per hour

**THE NINTH SCHEDULE
 (See Section 66, 68 & 69,)
 TRAFFIC SIGNS**

As per Government of India's Motor Vehicles Act, 1939

**THE TENTH SCHEDULE
 See Section 68 & 69.
 Driving regulations,**

1. The driver of a motor vehicle shall drive the vehicle as close to the left hand side of the road as may be expedient and shall slow all traffic which is proceeding in the opposite direction to pass him on his right hand side.

2. The driver of a motor vehicle may pass to the left of a vehicle the driver of which having indicated an intention to turn to the right has drawn to the center of the road.

3. The driver of motor vehicle shall not pass a vehicle travelling in the same direction as himself

- (a) if his passing is likely to cause inconvenience or danger to other traffic proceeding in any direction, or.
 (b) where a point or corner or a hill of an obstruction of any kind render the road ahead not clearly visible.

4. The driver of a motor vehicle shall not, when being over taken or being passed by another vehicle increase speed or do anything any way to prevent the other vehicle from passing him.

5. The driver of a motor vehicle shall slow down when approaching a rural intersection, a road junction or a road corner, and shall not enter any junction until he has become aware that he may do so without endangering the safety of persons thereon.

6. The driver of a motor vehicle shall, on entering a road intersection if the road entered is a main road designated as such, give way to the vehicle proceeding along that road and in any other case give way to all traffic approaching the intersection on his right hand.

7. The driver of a motor vehicle shall when passing or meeting a procession or a body of troops or police on the march or when passing workmen engaged on road repair, drive at a speed not greater than fifteen miles an hour.

8. The driver of a motor vehicle shall

- (a) when turning to the left, drive as close as may be to the left hand side of the road from which he is making the turn and of the road which he is entering;
- (b) when turning to the right, draw as near as may be practicable to the centre of the road along which he is travelling and cause the vehicle to move in such a manner that
 - (i) as far as may be practicable it passes beyond, and so as to leave on the driver's right hand, a point formed by the intersection of the centre lines of the intersecting roads:
 - (ii) it arrives as near as may be at the left hand side of the road which the driver is entering.

THE ELEVENTH SCHEDULE

('See section 70)

Signals.

1. When about to turn to the right or to drive to the right hand side of the road in order to pass an other vehicle or for any other purpose a driver shall extend his right arm in a horizontal position outside of and to the right of his vehicle with the palm of the hand turned to the front.

2. When about to turn to the left or to drive to the left hand side of the road, a driver shall extend his right arm and rotate it in an anti-clockwise direction:

3. When about to slow down, a driver shall extend his right arm with the palm downward and to the right of the vehicle and shall move the arm so extended up and down several times in such a manner that the signal can be seen by the driver of any vehicle which may be behind him.

4. When about to stop, a driver shall raise his right forearm vertically outside of and to the right of the vehicle, palm to the front.

5. When a driver wishes to indicate to the driver of a vehicle behind that he desires that driver to overtake him, he shall extend his right arm and hand horizontally outside of and to the right of the vehicle and shall swing the arm backwards and forwards in a semi-circular motion.

[This Act has been repealed by the Central Motor Vehicles Act, 1988-ED.]

Notification Providing for the Registration of Foreigners

I. This notification supersedes all previous notifications issued on the subject on registration of foreigners by the Sikkim Darbar from time to time.

II; Whereas it is expedient to provide for the registration of foreigners entering, being present in and departing from Sikkim, it is hereby ordered as follows:-

2. The Sikkim Darbar may designate any person class of persons as foreigners for the purpose or rules framed under this notification.

3. The Sikkim Darbar may make rules:

- (a) for requiring any. foreigner entering, or being present in Sikkim to report his presence to a prescribed authority with such time and in such manner and with such particulars as may be prescribed;
- (b) for requiring any foreigner moving from one place to another place in Sikkim to report, on arrival at such other place, his presence to ... prescribed authority within such time and in such manner and with such particulars as may be prescribed;
- (c) for requiring any foreigner who is about to leave Sikkim to report, the date of his intended departure and such other particulars as may be prescribed to such authority and within such period, before departure as may be prescribed;
- (d) for requiring any foreigner entering, being present in, or departure from Sikkim to produce on demand by a prescribed authority, such proof of his identity as may be prescribed;
- (c) for providing for such other incidental or supplementary matters as may appear to the Darbar necessary or expedient for giving effect to this notification.

4. Penalty. Any person who contravenes or. attempts to contravene, or fails to comply with any provision or any rule made under this notification shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

2. SIKKIM DARBAR GAZETTE EXTRAORDINARY, MAY 4, 1960

5, Exemption :Sikkim Darbar may declare that any of all of the provisions of rules made under this notification shall not apply, 'or shall apply only with such modifications or subject' to such conditions as may be specified in the said order, to or in -relation to ,any individual foreigner or any class, or description of foreigner.

III. Rules for the Registration of Foreigners.

1 Every foreigner to whom these rules apply, including foreigners in transit to India, shall on entering Sikkim, personally report at the Police Check post or Station nearest his point of entry and state the particulars required in the register in Form .A . The entries should be made by or on behalf of the foreigner in English, and in any case must be signed by him, or, if illiterate, he will affix thereto his left thumb impression.

Explanation :

A foreigner will be deemed in transit to India if he intends to spend not more than 7 days in Sikkim from the date of reporting his arrival at a check post.

2. All foreigners to whom Rule 1 applies should procure from the Police check post or Station, at which arrival is reported, a temporary certificate of registration in Form B.
3. On reporting at the Registration Office in India specified in form B, a foreigner will surrender his temporary certificate of registration in Form B to that Office.
4. (I) A foreigner who:
 - (a) takes a temporary certificate of registration in Form B for transit to India, but does not leave Sikkim within 7 days or,
 - (b) intends to stay in Sikkim for a period exceeding 7 days from the date of entry, shall, before the period of 7 days has elapsed, report at the Foreigner's Registration Office, Gangtok, and obtain a permit in Form C. which will be valid for a period not exceeding one year from the date on which the foreigner reported his arrival in Sikkim.
5. If a foreigner holding a permit in Form C wishes to proceed to India, he will report at the Foreigner's Registration Office, Gangtok, and surrender the permit in Form C obtaining in its place a temporary certificate of registration in Form B.
6. A foreigner holding a permit in Form C shall, when proceeding to Bhutan, Tibet or Nepal, surrender the permit to the Office Incharge of Police Check post or Station nearest his point of departure. The permit may be utilized again on the person's return to Sikkim if it has not already expired.
7. All foreigners to whom these rules apply shall on demand of a Police Officer of and above the rank of Head Constable, or revenue officer, produce either a permit in Form B or a permit in Form C or a certificate of registration in Form A issued under the Sikkim or India Registration of Foreigners Rules, 1939, as the case may be; and, on failure to do so, shall be liable to the penalty specified in clause 4. of the notification.
8. Tibetan and Chinese nations shall be deemed to be foreigners for the purposes of these rules, but the following person shall be exempt from the requirement to obtain permits in Form Band C:
 - (i) Tibetan officials and members of Tibetan delegations;
 - (ii) Chinese holding diplomatic passports;
 - (iii) Tibetans related to the Sikkim Royal Family.
9. (a) The term Prescribed Authority or 'Authority' occurring in this notification shall be deemed to include the 'Foreigners Registration Authority' which shall be:
 - (i) Police Commissioner, Sikkim.
 - (ii) Inspector, Intelligence Branch, Sikkim.
 - (iii) All 'Check post Inspectors and officers-in-charge of Police Stations.

**TASHI NAMGYAL,
MAHARAJA OF SIKKIM..**

This Notification was published in Sikkim Darbar Gazette, Extraordinary dated 4.5. 1960Ed.

SIKKIM DARBAR GAZETTE, JANUARY, 1962**Registration of Companies Act, Sikkim, 1961****PART V**

Acts passed and assented to by His Highness the Maharaja

PREAMBLE

Whereas it is expedient to provide for the rapid industrialization of Sikkim by establishing companies and other organizations to take part in this process. And Whereas it is necessary to provide for the registration of such companies.

Now, therefore, His Highness the Maharaja of Sikkim has been pleased to make and promulgate with immediate effect the following law to be known as "REGISTRATION OF COMPANIES ACT, SIKKIM, 1961

- I. (i) This Act may be called the "REGISTRATION OF COMPANIES ACT, SIKKIM, 1961.
- (ii) It shall come into force with immediate effect.
- (iii) It extends to the whole of Sikkim.
2. (i) . Any seven or more persons, or where the company to be formed will be a private company any two or more persons association for any lawful purpose may, by subscribing their names, to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without limited liability.
 - (ii) Such a company may be either;
 - (a) A company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Act termed "a company limited by shares")
 - (b) a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake by the memorandum to contribute to the assets of the company in the event of its being wound up (in this Act termed "a company limited by guarantee"); or
 - (c) a company not having any limit on the liability of its members (in this Act termed as "an unlimited company").
 - "[(d) a Company which shall not be a company set up to carry on business in any other State except the State of Sikkim relating to acquisition and transfer of stock or shares, or investment of money or value of money or any form of trade in investments.]"
3. (i) The memorandum of every company shall state:
 - (a) the name of the company with "Limited" as the last word of the name in the case of a public limited company, and with " Private Limited' as the last words of the name in the case of a private limited company.

Inserted by the Sikkim Registration of companies (Amendment) Act NO.3 of 1989 w.e.f 17-2-89.

- (b) Sikkim, where the registered office of the company is to be situated
- (c) the objects of the company, and, except in the case of trading corporations, the territory where its objects extend.
- (ii) The memorandum of a company limited by shares. or by guarantee shall also state that the liability of its members is limited.
- (iii) The memorandum of a company limited by guarantee shall also state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a 'member or within one year after he ceases be a member, for payment of the debts and liabilities of the company or ,of such debts -and liabilities of the company as may have been contracted before he ceases to be a member, as the case may be, and of the costs,. charges and expenses of winding up, and for adjustment of the rights of the contributories among. themselves, such amount as may be required, not exceeding, a specified amount.
- (iv) In the case of company having a share capital:
 - (a) unless the company is an unlimited company, the memorandum shall also state the amount share capital with which the company is to be registered and the division thereof into shares of a fixed amount;
 - (b) no subscriber of the memorandum shall take less than one share;
 - (c) each subscriber of the memorandum shall write opposite to his name number of shares he takes.

4. The memorandum of association of a company shall be in such forms as may be applicable in the case of company or in a form as near thereto as circumstances admit.

The memorandum shall:-

- 5. (i) be printed,
- (ii) divided into paragraphs numbered consecutively,
- (iii) be signed by each subscriber (who shall add his address, description occupation if any).

6. (i) No company shall be registered by a-name which, in the opinion of the Government of Sikkim, is' undesirable.

(ii) without prejudice to the generality. of the foregoing power, a name which is identical with, or too nearly resembles, the name by which a company in existence has been previously registered, may be deemed to be undesirable by the Government of Sikkim within the meaning of sub -clause (i) above.

7. A company may, by special resolution and with the approval of the Sikkim Government signified in writing, change its name.

8. (i) Where a company changes its name in pursuance of Clause 7, the Government shall enter the new name in the register, in place of the former name, and shall issue a fresh certificate of incorporation with necessary alteration embodied therein; and the change of name shall be complete and effective only on the issue of such a certificate.

(ii) The Government shall also make the necessary alteration in the memorandum of association of the company.

(iii) The change of name shall not affect any rights or obligations of the company, or render defective and legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the company in its former name may be continued by or against the company by its new name.

9. There may in the case of a public company limited by shares, and there shall in the case of unlimited or a company limited by guarantee or a private company limited by shares, be registered with the memorandum, article,; of association signed by the subscribers of the memorandum prescribing regulations for the company.

10. Articles shall-

(i) be printed ;

(ii) be divided into paragraphs numbered consecutively; and

(iii) be signed by each subscriber of the memorandum of association (who shall add his address, description and occupation, if any), in the presence of at least one witness who shall attest the signature and shall likewise add his address, description and occupation if any;

There shall be presented for registration to the Government of Sikkim the

- ii.
- (i) memorandum of the company;
 - (a) its articles, if any
 - (b) the agreement, if any, which the company proposes to enter into with any individual, firm or body corporate to be appointed as its managing agent or with any firm or body corporate to be appointed as its secretaries and treasurers.

12. (i) On the registration of the memorandum of a company the Government shall certify under its seal that the company is incorporated and, in the case of a limited company, that the company is limited.

(ii) From the date of incorporation. mentioned in the certificate of incorporation, such of the subscribers of the memorandum and other person, as may from time to time be members of the company, shall be body corporate. by name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company and having perpetual succession and a common seal.

13. A certificate of incorporation' given by .the Government in respect to any association shall be conclusive evidence that all the requirements of this Act have been complied with in respect of registration and matters precedent and incidental thereto, that the association is a company authorized to be registered and duly registered under this Act,

14., (i) For the purpose of the registration of companies under this Act there shall be offices at such places as the Government of Sikkim thinks fit

(ii) The Government of Sikkim may appoint such officer .it thinks necessary for the registration of companies under this Act and may make regulations with respect to their duties

15 The following table of fees shall be paid to the Registrar together with , appropriate application for registration of companies:

(i) In respect of a company having share capital:

(a) For registration of a company whose nominal share capital does not exceed Rs. 20.000 a fee of Rs. 5'000

(b) For registration of a company whose nominal share capital exceeds . Rs. 20.000 the above fee of Rs. 5'000 with the following additional fees regulated according to the amount of nominal capital:-

1. For every Rs. 10.000 of nominal share capital, or part of Rs. 10,000 after the first Rs, 20.000 upto Rs. '5'0000	Rs. 25.00
2. For every Rs. 10,000 of nominal share capital, or part ,of Rs. 10.000 after the first Rs. 5',00,000	Rs. 15.03
3. 'For every Rs. 10,000 of nominal share capital, or part of Rs. 10,000 after the first Rs. 5' ,00,000 upto Rs. 10,00,000	Rs. 12.00
4. For every Rs. 10,000 of nominal share capital, or part of Rs. 10,000 after the first Rs. 10,00,000 upto Rs. 25',00,000	Rs. 10.00
5'. For every Rs. 10,000 of nominal share capital, or part of Rs. 10,000 after the first Rs. 25',00,000 '	Rs. 7.50

(c) For filing a notice of any increase in the nominal share capital of a company" the difference between the fees payable on the date of filing the notice for the registration of a company with a nominal share capital and the fees payable, on such date, for the registration of a company with a share capital equal to the nominal capital of the company filing the notice immediately before the increase.

(d) For filing, registering or recording any document by this Act or authorised to be filed, registered or recorded, other than the memorandum or the abstract required to be filed with the Government a fees of Rs. 7.5'0 np. shall be payable, The same fees shall be payable with an application to the Government ,as to whether name of a company proposed to be registered, is undesirable within the meaning of the Act.

16. Notwithstanding any thing contained in this Act, the Government may refuse to register any company under this Act without assigning any reasons thereto, if the Government considers that the objects of such a company are not in the interests of Sikkim. The decision of the Government of Sikkim shall be final in this respect and binding on the applicants. No appeal can be made against the decision.

17. Notwithstanding anything contained in this Act, the Government of Sikkim reserves the right to make rules and regulations from time to time for the proper conduct and administration of any company registered under this Act

This Act was published in Sikkim Durbar Gazette in January, 1962-Ed.

SIKKIM DURBAR GAZETTE, FEBRUARY, 1962. PART III.

Notification No. 1385/H.

Dated Gangtok, the 20th February, 1962.

In exercise of the powers conferred under Section 14 (i) and 14 (U) of the Registration of Companies Act, Sikkim, 1961, as published in the Government Gazette of January, 1962, the - Govt. of Sikkim has appointed the Chief Magistrate as the officer to whom an application for registration of companies, as envisaged in the said Act, should be addressed.

The Chief Magistrate's Office located at Gangtok will function as the place where registration of companies will be conducted.

Registration of Companies Act, Sikkim, 1961.

Amendment

For item 2 Clause 15(i) (b) read as follows:

"For every Rs. 10,000/- of nominal share capital, or part of Rs. 10,000/- after
the first Rs. 50,000/- upto Rs. 5,00,000Rs. 15.00

The existing entries in item 2 Clause 15(1) (b) are hereby cancelled after this amendment.

PART III
Rules, Orders, Press Notes, etc.
HOME DEPARTMENT

Notification No.1155 /H
Dated Gangtok, the 12th October, 1962.

The following Proclamation of His Highness the Maharaja of Sikkim is hereby notified ;

Whereas it is expedient to provide for the rights of Sikkimese women married to persons other than Sikkim Subjects to acquire, hold and dispose of immoveable property in Sikkim and to provide for rules of succession to property held by such Sikkimese women.

NOW, THEREFORE, His Highness the Maharaja of Sikkim has been pleased to make and promulgate the following Regulation;

I. Short title and extent

(i) This Regulation may be called Married Women's Property Regulation, 1962;

(ii) It shall extend throughout the territory of Sikkim.

2. This Regulation shall come into force on such date as may be appointed for the purpose by His Highness the Maharaja of Sikkim.

3. In this Regulation the term (a) "Sikkimese" means a person who is a Sikkim Subject at the time of her marriage (b) "Law" means Statutes, regulations, rules and includes customary law.

4. A Sikkimese woman who holds immoveable property in Sikkim at the time of her marriage shall continue to hold such property notwithstanding her marriage with

a person who is not a Sikkim Subject and shall have the power to dispose of such property either by sale, mortgage or otherwise to a Sikkim Subject during her life-time.

5. A Sikkimese woman married to a person who is not a Sikkim Subject shall have no right to acquire any immoveable property or any interest in such property in the territory of Sikkim subsequent to her marriage.

6. If a Sikkimese woman marries a person who is not a Sikkim Subject the husband and any offspring born of that marriage shall acquire no interest in any immoveable property which she may hold in Sikkim by virtue of Section 4 of this Regulation.

7. Notwithstanding the provisions of any other law to the contrary any immoveable property in Sikkim which may be held by a Sikkimese woman at the time of her marriage shall not on her death devolve on her husband if she had been married to a non-Sikkim Subject nor shall it be inherited by Any offspring of such marriage.

8. Any immoveable property held by a Sikkimese woman married to a person who is not a Sikkim Subject is contemplated in Section 4 of this Regulation shall devolve on her death and be inherited by such person or persons who would have been regarded but for her marriage -as her next of kin under the rules for intestate succession, provided always that such next of kin in order to succeed to such property is a Sikkim Subject.

This Regulation was published in Sikkim Durbar Gazette dated 12.10.1962-Ed.

HOME AND, POLICE DEPARTMENT

Notification NO.848/HP.

Dated Gangtok, the 10th December, 1965.

1. It is hereby notified that every foreigner, entering Sikkim or residing therein shall be required to obtain a Work Permit from the Chief Secretary or any other Officer authorized him in this behalf before he can take up or continue in any employment for gain within the State of Sikkim.

2. Any foreigner, who has obtained or continues in such employment without the grant of a Work Permit shall be liable to be deported from Sikkim forthwith.

3. All foreigners, at present residing in Sikkim and engaged in any such employment, shall procure work permits by 1st. February, 1966, failing which they will be liable to be deported from Sikkim.

4. Any person acting in contravention of this order, including a person who employs a foreigner without a valid work Permit, as required above, shall also be liable to a fine which may extend to one hundred rupees and in default thereof to 15 days simple imprisonment.

5. A citizen of India shall not be deemed to be foreigner for the purposes of this notification.

6. The Government of Sikkim may frame rules for carrying out the purpose and objects of this notification. Any contravention of such rules shall be punishable with fine which may extend to Rs. 10000 in default thereof 15 days simple imprisonment.

THE SIKKIM WORK PERMIT RULES, 1965

In pursuance of the Notification No. 848/HP, Dated Gangtok, the 10th December, 1965, the Government of Sikkim is pleased to make and promulgate the following Rules.

1. **Short title and extent:**

- (i) These Rules may be called Sikkim Work Permit Rules, 1965.
- (ii) It shall extend throughout the territory of Sikkim.

2. **Commencement:**

These Rules shall come into force on such date as may be specified for purpose by the Government.

3. **Definitions:**

- (a) Foreigners - means all foreigners not being Indian nationals:
- (b) District Officer - means the Administration Officer of the Government of Sikkim, in charge of a District.

- (c) Government - means the Government of Sikkim
- (d) Rules means "the Sikkim Work Permit Rules 1965
- (e) Permit means Sikkim Work Permit.

4 These rules are applicable to :

(a) -All foreigners entering Sikkim and residing therein or already residing in Sikkim and engaged in any employment for gain or otherwise before the enforcement of these Rules;

(b) an such foreigners, if any, entering Sikkim or residing therein shall obtain a Work Permit before they can take up or .continue in any employment *for* gain or otherwise within the territory of Sikkim;

(c) all such foreigners, if any. who are already residing in Sikkim and engaged in. any such employment for gain shall procure Work Permit by 1st February, 1966.

5 Authority to Issue Work Permits:

- (i) The Chief Secretary to the Government may authorize the District Officers of Sikkim to issue such Work Permits *on* his behalf.
- (ii) Every foreigner' shall apply for the Permit in the prescribed form as given in Appendix I to the District Officer of the area where he intends to stay temporarily *on* his own behalf and on behalf of his family members, if any, in the prescribed form as given in Appendix 2.
- (iii) The District Officer, on being satisfied as to the correctness of the particulars given, shall prepare such permit (as given in Appendix 3) in triplicate in each case and issue one to the foreigner concerned (applicant), the second to be kept in his office *for* record and the third to be sent to the Police Thana of the area', where the foreigner intends to take or has already taken any employment.
- (iv) The District Officer has the right to make such enquiries which he deems necessary and to satisfy himself about the correctness of the particulars given and statements made therein. .
- (v) The Government reserves the right to refuse such Permit or to cancel the already issued Permit, on proper grounds.

6. **Validity of the Permit:**

- (i) A permit once issued shall be valid for a period of one year from the . date of issue.
- (ii) on completion of one year a Permit is renewable within 30 days for the succeeding year.
- (iii) The permit holder shall deposit the Permit in the Office of the District officers or Police of the area where the permit holder last stayed or at the check post at the time of his permanent departure from Sikkim.
- (iv) If any permit holder ,who leaves Sikkim after depositing the Permit in accordance with the rule 6(iii) happens to re-visit Sikkim, he shall again have to apply for a fresh Permit a, is to he done by a new entrant.

7. **Forms:**

- (i) Necessary forms will be available at the District Offices on payment of 25 paise each.
- (ii) Forms should be properly filled in ink giving the necessary details as required.

8. **Fees:**

- (i) Each application form available in the District Office will cost 25 paise as fee to cover expenses.
- (ii) On completion of one year, Permit is renewable on payment of an annual renewable fee of Rs. 3.00 each to cover expenditure-on account of administration.
- (iii) The District Officer shall maintain two separate Registers showing the fees collected in accordance with Rules 8(i) & (ii).
- (iv) The District Officer shall submit a monthly statement showing the :number of applications received, No. of Permits issued, No. of Permits renewed, fees collected from them and such other particulars as may be required, to the Chief Secretary, Government of Sikkim.

9. **Offences and Punishments:**

- (i) Any foreigner, who procures or continues to be in employment without obtaining a Work Permit as required under Para 4- (b) of this Rule, shall be liable to a fine which may extend to Rs. 100.00 or in default thereof to undergo 15 days simple imprisonment or deportation from Sikkim forthwith.
- (ii) Any foreigner who, being already in Sikkim and engaged in any employment, fails to procure Permit within the specified date as given in Para 4 (c) of this Rule shall be liable to punishment as specified above under Rules. 9 (i). Any person who, in contravention of the Rules, employs a foreigner without a valid Permit, as required in Rule (4) (b) shall be liable to a fine which may extend to one hundred rupees and in default thereof to undergo 15 days simple imprisonment.

THE SIKKIM RURAL INDEBTNESS ACT 1966

An Act to consolidate the laws relating to the Dadani, Mashikata and the Biyaz in Sikkim

It is hereby enacted as follows:

I. **Short Title, Extent and Commencement.**

- (i) This Act may be called the Sikkim Rural indebtedness Act, 1966.
- (ii) It extends to the whole of Sikkim
- (iii) It shall come into force at once.

2. **Definitions.**

- (i) Dadani.

"Dadani" means pledging to a creditor by a cultivator or land-owners of the produce of any land, in consideration of cash or kind, with the price or quantity of such - produce prefixed.

- (ii) Mashikata.

," Mashikata" means :

(a) mortgaging of land to a creditor as security for repayment of any advance, or interest thereon, together with transfer of right to the creditor to enjoy the produce of that land, until repayment

or

(b) transfer of land for a specified period to a creditor together with right to enjoy the produce of that land for that period, in consideration of the principal and interest of any advance obtained.

- (iii) Biyaz.

"Biyaz" means mortgaging of land, to a creditor together with, right to enjoy the produce of that land as interest for so long as the principal loan remains unpaid.

3. No person shall enter into any transaction of Dadani, Mashikata or Biyaz Or have any right interest or title to any land or the produce of any land, on grounds of any agreement of Dadani, Mashikata or Biyaz.

4. Any obligation, in cash or kind, or any right interest or title that may have arisen or may arise out of the terms and conditions of any Dadani, Mashikata or Biyaz, shall be void and unenforceable.

5. Any creditor granting Dadani, Mashikata or Biyaz, in contravention of this Act shall upon conviction by a Magistrate of the First Class be liable to a fine equivalent to double the amount advanced thereunder and may also be punished with a term of imprisonment not exceeding three years.

6. Any person obtaining Dadani, Mashikata or Biyaz in contravention of this Act, shall upon conviction by a Magistrate of the First Class be liable, for the first offence to a fine not exceeding Rs. 100.00 and in default to two week simple imprisonment and for any subsequent offence to a fine not exceeding Rs. 500.00 and in default to two months simple imprisonment.

- 7. Any offence under this Act shall be a cognizable one.

s. No provisions in this Act shall be deemed to affect in any way any of the provisions of Revenue Order No. I dated 17th May, 1917.

CHOGY AL OF SIKKIM

This Act was published in Sikkim Dar bar Gazette Extraordinary,
dated 23.9. 1966

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**GOVERNMENT Of SIKKIM
HOME DEPARTMENT**

Notification No. 845/I I

Dated Gangtok, the 20th August, 1968

In partial modification of Section 4- of the Sikkim Rural Indebtedness Act, 1966,

it is hereby notified that a creditor may recover through normal process of Law, any amount, being only the principal sum of Loan advanced prior to the coming into force of the aforesaid Act.

SIKKIM DARBAR GAZETTE, DECEMBER 1966 '

Act passed and assented to by The Chogyal of Sikkim.

THE SIKKIM OFFICIAL SECRETS ACT, 1966.

An Act relating to Official Secrets.

Dated Gangtok, the 23rd December, 1966.

It is hereby enacted as follows :

Short title, extent and application:

- I. (1) This Act may be called the Sikkim Official Secrets ACT .1966,
- (2) It extends to the whole of Sikkim and applies also. to servant of the Government of Sikkim and to subjects of Sikkim out. side Sikkim.

Definitions:

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

- (1) Any reference to a place belonging to Government includes a place occupied by any department of the Government, whether the place is or is not actually vested in 'Government;
- (2) "prohibited place" means any place belonging to or used for the purpose of Government of Sikkim which is for the time being declared by that Government by notification in the Official Gazette, to be a prohibited place for the purposes of this Act or of any other law for the time being in force.

Penalties for spying:

3. If any person for any purpose prejudicial to the safety or interest of the State :

- (a) approaches, inspects, passes over or is in the vicinity of, or enters any prohibited place; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, detrimental to the security of the State;
- (c) obtains, collects, records or publishes or communicates to any other person any secret officials code or password, or any other document or information which. is calculated to be or might be or is intended to be, directly or indirectly, detrimental to the security of the State; he shall be punishable with imprisonment for a term which may extend to fourteen years.

Wrongful communication of information:

4-. (1) If 'any person having in his possession or control any secret official code or password or -any document or information which relates to or is used in a prohibited place or relates to anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Govern ment, or which he has obtained or to which he' has had access having been' Government servant or as a person who holds or has held a contract made on

behalf of Government, or as a person who is or has been employed under a person who holds or has held such an office or contract :

(a) wilfully communicates the code or password, document or information to any person other than a person to whom he is authorised to communicate it, or a Court of Justice or a person to whom it is, in the interests of the State, his duty to communicate it ; or

(b) uses the document or information in his possession in any manner prejudicial to the safety of the State;

, he shall be guilty of an offence under this Section.

(2) If any person voluntarily receives any secret official code or password or any document or information knowing or having reasonable ground to believe, at the time when he receives it that the code, password, document or information is communicated in contravention of this Act, he shall be guilty of an offence under this Section.

(3) A person guilty of an offence under this Section shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine, or with both.

Unauthorised entry to prohibited place:

5. If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety of the State :

(a) uses or 'wears, without lawful authority, any official uniform or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform, or

(b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission ; or

(c) retains any official document, whether or not completed or issued for use, when he has no right to retain it, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, or with both.

Attempts, incitements, etc.

6. Any person who attempts to commit or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to be proceeded against in the same manner as if he had committed such offence.

Penalty for harboring spies:

7. (1) If any person knowingly harbors any person whom he knows or has reasonable grounds for supposing to be a person who is about to commit or who has committed an offence under Section 3 or under Section 3 read with Section 6 or knowingly permits to meet or assemble in any premises in this occupation or under his control any such persons, he shall be punishable with imprisonment for a term which may extend to five years or fine, or with both.

**Palden Thondup Namgyal,
Chogyal of Sikkim**

This Act has been repealed by the Official Secrets Act, 1923- Ed.

SIKKIM DARBAR GAZETTE OCTOBER. 1967. PARTIII

SIKKIM VACCINATION ACT. 1967

J. **Short title, extent and application.**

This Act may be called the SIKKIM VACCINATION ACT, 1967 and shall apply to the whole of Sikkim.

It shall come into force at once.

2.

Definitions.

In this Act. unless there is Anything repugnant in the subject or context.

1. "Parent" means the father of a legitimate child and mother of an illegitimate child

2. "Guardian" includes any person who has accepted or assumed the care of custody of any child.

3. "Unprotected Person" means an individual above the age of 6 months who has not been duly protected against small-pox by having had the disease either naturally or by having been successfully vaccinated/revaccinated once in 2 years or who has not been certified under this Regulation to be- insusceptible to vaccination.

4. "Vaccinator" means any vaccinator authorized by the Government of Sikkim to perform the operation of vaccination.

5. "Competent authority" means any person or authority declared to be a competent authority for any or all of the purposes of this Regulation.

3. **Liability to Vaccination.**

(a) The parent or guardian of any unprotected child immediately after such child attains the age of 6 months, shall have such child vaccinated by a vaccinator.

(b) Any person above the age of 6 months shall have vaccination/revaccination every alternate year

(C) The Government of Sikkim may also, by public notification, declare that any person upon his entry into Sikkim, must satisfy a competent authority that he has been successfully vaccinated, failing which such person will be required to be vaccinated by a vaccinator, at any place and within such period, as may be specified in the notification:

Provided that any person who may satisfy a competent authority that he objects to being vaccinated on grounds of religion, or conscience may be exempted from the provisions of this Section by a competent authority

.4. **Measure to ensure vaccination.**

(a) Regular mass vaccination by vaccinators' village to village visits will be carried out in such a way that half of the population will be covered in one year and the remaining half in the following year. Thus the entire unprotected population will receive vaccination once in every 2 years.

the copy of mass vaccination programme will be endorsed well in time, amongst others to the Panchayat Officers and the Secretary Panchayat concerned Besides regular mass vaccination facilities for vaccination will be made available in the nearest hospital or dispensary for the benefit of those who per chance miss vaccination during vaccinators visit' to his village.

(b) A competent authority shall ascertain whether all persons required to be vaccinated under Section 3 have been vaccinated and if he has reason to believe that such person parent or guardian, as the case may be, has omitted to do or" nor complied with the provisions of Section 3, he shall forthwith give vaccination' to such person. parent, or guardian or caused to be affixed to his house a notice requiring that the vaccination be done at a time and place to be specified in such notice.

5 Report to District Officer.

If such notice is not complied with, the competent authority shall report the matter to the District Officer and the District Officer receiving such report shall summon the defaulter and demand his explanation, and shall, if such explanation is satisfactory, made an order in writing directing such person to comply with the notice before a date specified in the order.

6. Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the defaulter before him, and unless cause or excuse-is shown, shall deal with the disobedience as an offence punishable under Section7

7. Punishment

Whoever violates the provisions of this Regulation or neglect without just cause to obey an order made under this Regulation or the rules made thereunder, shall be liable to be punished with fine which may extend to fifty rupees.

8. Power to make Rules.

The Government of Sikkim. may make rules, consistent with this Act, for its proper enforcement.

This Act was first published in Sikkim Darbar Gazette-dated 25th - September, 1967-Ed.

THE STATE BANK OF SIKKIM PROCLAMATION, 1968**CHAPTER .1****Preliminary****Sections**

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2. Definitions.

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- 3 Establishment of the State Bank of Sikkim.
- 4 Share Capital and shares.
- 5 Register of shareholders
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CHAPTER III**Management**

- 7 Offices, branches and agencies.
8. Management.
- 9 Composition of the Board.
- 10 Term of office of Chairman, Vice-Chairman, Managing Director, etc
- 11 Disqualification for directorship.
- 12 Vacation of Office of directors, etc.
- 13 Removal from office of directors, etc.
- 14 Casual vacancy.
- 15 Remuneration of directors.
- 16 Powers and remuneration of managing director.
- 17 Executive and other committees of the Board.
18. Meetings of the Board.

CHAPTER IV**Business of the Bank**

19. Business of the Bank.

CHAPTER V**Regulation of Business of the Bank**

20. Provisions to override all the other provisions of the Proclamation.
21. Prohibition of trading

- 22. Disposal of non-banking assets.
- 23. Prohibition of employment.
- 24. Prohibition of charge on unpaid capital.
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- 26. Restriction as to payment of dividends.
- 27. Maintenance of a percentage of assets.
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- 28. Monthly returns and power to call for other returns and information.
- 29. Restriction on loans and advances.
- 30. Restriction on power to remit debts.
- 31. Inspection of the Bank.
- 31'A. Bank to comply with Government policy, and direction.

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Funds, Account and Audit

- 32. Accounts and balance-sheet.
- 33. Submission of returns.
- 34. Disposal of profits and establishment of reserve fund.
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- 37. Obligations as to fidelity and secrecy.
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- 40. "Defects in appointment or constitution not to invalidate acts or proceedings.
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- 43. Removal of difficulties.
- 44. Offences.
- 45. Penalty for contravention of any provision of the Proclamation.
- 46. Applicability of commercial laws.
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PROCLAMATION OF THE CHOYAL PALDEN THONDUP NAMGYAL

Dated Gangtok. the 24th June. 1,968

WHEREAS it .. been our earnest desire to constitute

a bank for. providing banking facilities in the. State . to mobilize capital for economic development and to stimulate trade and industry and diverse other public purposes.

NOW. THEREFORE. by virtue of powers 'vested in us under the laws and usages of the State and in exercise thereof, we are pleased to proclaim and ordain. and It is. hereby-, proclaimed and. ordained as.. follows..

CHAPTER I**Preliminary**

1. (1.) This Proclamation may be .cited ..as the State. of Sikkirn Proclamation. 1968.

(2) This chapter ,has-come into force.. at once and the other provisions of the Proclamation shall come .into force on such date as the Chogyal may by, Proclamation appoint on different dates may be appointed for bringing into force the. different provisions of the Proclamation

1.. In this Proclamation. unless the context otherwise requires

(a) "approved security means.

(i) promissory notes. debentures. stock- or other securities of the Government of Sikkim or of the Government of India or any State Government in India or the securities of any other Government as notified by the Government of Sikkim in this behalf:

Provided that securities both the principal where of and the interest whereon. shall have been fully and unconditionally guaranteed by any such Government, shall be deemed, for the purpose of this clause. to be securities of such Govern. ment.

(ii) Debentures or other securities for money issued under the authority of any law in force in Sikkim, India or on behalf of any municipal body, port trust, or city improvement trust in Sikkirn or in India or in any other country as may be notified by. the Government of Sikkim. (b) "the .Bank" means the State Bank of Sikkim constituted under this Proclamation.

(c) "Board" means. the Board of Directors of the Bank.

(d) "Chairman" means the Chairman of the Board of Directors of the Bank.

(e) "demand liabilities" means liabilities which must be met on demand and "time liabilities" means liabilities which are not demand liabilities.

(f) goods means every kind of moveable property other than actionable claims and money; and includes bullion and specie, stock and shares, growing crops, grass, and things attached to or forming part of land which are agreed to be severed before sale or under the contract of sale.

(g) "Messrs Jetmull Bhojraj" shall mean the partnership firm at present consisting of Sarvashri Devidayal Sukbani and Pratap Chandra Sukbani and carrying on business, as bankers and merchants, inter alia at Gangtok under the name and style of Messrs Jetmull Bhojraj.

(h) "Reserve Bank" means the "Reserve Bank of India established under the Reserve Bank of India Act. (Act II of 1934 of India).

(i) "prescribed" means prescribed by regulation made under this Proclamation.

(j) secured loan or advance means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance; and "unsecured loan or advance" means a loan or advance not so secured.

(k) "United Commercial Bank Ltd." shall mean the United Commercial Bank Limited incorporated under the Indian Companies Act, 1913 of India and now having its registered office at 10, Brabourne Road, Calcutta, India.

CHAPTER II

Incorporation and Share Capital of State Bank of Sikkim.

3. (1) A bank to be called the State Bank of Sikkim shall be constituted to carry on the business of banking and other business in accordance with the provisions of this Proclamation.

(2) The Bank shall be a body corporate by the name of the State Bank of Sikkim having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The Bank shall have power to acquire and hold property, whether movable or immovable, for the purposes for which it is constituted and to dispose of the same.

4 1) The authorised capital of the Bank shall be one crore of rupees divided into one hundred thousand shares of one hundred rupees each which shall be issued, subscribed and allotted in the prescribed manner

Provided the authorised Capital may be increased by the Chogyal. from time to time, in his discretion

Provided further not less than fifty one percent of the share capital at any time shall be held by the Government of Sikkim and not less than twenty percent by the United Commercial Bank Ltd. and the balance by any individual or corporation.

(2) Shares of the bank shall be transferable in accordance with the regulation made in this behalf.

(3) The liability of the share holders shall be limited to the amount, if any, unpaid on the shares respectively held by them.

5. The Bank shall keep at its central office a register in one or more book, of the shareholders and have enter therein the following particulars so far as they may be available :

(i) the names, addresses and occupations if any, or the shareholders and a statement of the shares held by each shareholder., distinguishing each share by its denoting number;

(ii) the date on which each person is so entered as a shareholder; .

(iii) the date on which any person ceases to be a share holder; and

(iv) such other particulars as may be prescribed.

6. No notice of any trust, express, implied or constructive, shall be entered in the register of shareholders or be receivable by the Bank :

Provided however that the shares held by the Government of Sikkim and the United Commercial Bank Ltd. may be held by them in the name of their nominees.

CHAPTER III

Management

7. (1)The central office of the Bank shall be at Gangtok.

(2) The Bank may establish branches at any place within Sikkim or outside.

8. (1) The general superintendence and directions of the affairs and business of the Bank shall be vested in the Board which may, subject to the provisions of this Proclamation, exercise all powers and do all such acts and things as may be exercised or done by the Bank and are not by this Proclamation expressly directed or required to be done by the Bank in general meeting.

(2) The Board in discharging its functions shall act on business principles, regard being had to public interest and development of banking industry, trade and commerce in Sikkim.

9. The Bank shall consist of the following, namely:

(a) a Chairman and two directors to be nominated by the Government of Sikkim.

(b) for the period of ten years from the commencement of this Chapter, one managing director to be appointed by the Board with the consent in writing of ...the United Commercial Bank Ltd. :

Provided that the first managing director may be appointed by the Government of Sikkim, in consultation, with the United Commercial Bank Ltd.

(c) one director to be nominated by the United Commercial Bank Ltd.

(d) two directors to be elected in the prescribed manner by the shareholders other than the Government of Sikkim and the United Commercial Bank Ltd. :

Provided that the first director may be appointed by the Government of Sikkim and, if so appointed, shall hold office till the next annual general meeting of the Bank.

10. (1) The Chairman shall hold office for such term as the Government of Sikkim may fix when nominating him and shall be eligible for re-nomination.

(2) A managing director shall hold office for a term not exceeding five years to be specified at the time of his appointment or until his successor is appointed and shall be eligible for re-appointments

(3) A director nominated by the Government of -Sikkim in pursuance of clause (a) of Section 9 and a director nominated by the United Commercial Bank Ltd. in pursuance of clause (c) of section 9, shall hold office during the pleasure of the nominating authority.

(4-) The directors elected under clause (d) .of Section, shall hold office for three years:

Provided that an elected director shall continue in office until his successor, has been elected and shall be eligible *for* re-election.

11. No person shall be qualified to be director of the Board who

(a) holds an office *of* profit under the Bank other than the office of managing director or legal or technical director,.

(b) is except in the case of the managing Director. or the Director nominated Under clause (c) of section 9, or an officer or employee of any bank; ,

(c) is or at any time been adjudicated an -insolvent or has suspended payment of his 'debts or has, compounded 'with his creditors; ,

(d) is declared lunatic or becomes of 'unsound' mind;

(e) is or has; been convicted of .any offence involving moral turpitude; ,

(f) in the case of an elected director is not registered as a holder in his own right of unencumbered ,shares. in the Bank of .a nominal value of at least two thousand rupees.

I 2, If a director of the Board ..

(a) becomes subject to any of the disqualifications mentioned in section 11 or'

(b) resigns his office by giving notice in writing under his hand, in the case of the Chairman or director nominated by the Government of Sikkim, to that Government, and in the case of a director nominated by the United Commercial Bank Ltd., to, that bank and in the case of elected directors, to the Board and the resignation is accepted; or

(c) is absent without leave of the Board for more than three consecutive meetings thereof; his seat shall thereupon become vacant.

I 3. (I) The Government of Sikkim may remove from office the chairman, or the managing director, or any other director; including an elected director:

Provided that the managing director may be removed only after giving notice to him and in consultation with the United Commercial Bank Ltd :

Provided further that the Director nominated under clause (c) of Section 9, may be removed only with the consent in writing of the, United Commercial Bank Ltd.

(2) The shareholders (other than the Government of Sikkim and the United Commercial Bank Ltd.) may by a resolution passed by majority of the votes of such shareholders holding in the aggregate not less than one-half-of the share capital held by all such shareholders, remove any director elected under clause (d) of Section 9 and elect any other person to till the vacancy.

14. (1) If the chairman is rendered incapable of discharging his duties by reason of infirmity or otherwise or is absent in circumstances not involving the vacation of his office, the Government of Sikkim may nominate another person to officiate in such vacancy.

(2) If the managing director is rendered incapable of discharging his duties by reason of infirmity or otherwise or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Board may, on the recommendation of United Commercial Bank Ltd. appoint another person to act in his place during his absence..

(3) Where any vacancy occurs before the expiry of the term of office of an elected director, the vacancy shall be filled in by election:

Provided that the duration of the vacancy is likely to be less than six months, the vacancy may be filled by the remaining directors by co-opting a person not disqualified under Section II

Provided further that a person elected or co-opted, as the case may be, under this section, shall hold office for the unexpired portion of the term of his predecessor.

15 The directors shall be paid such fees and allowances for attending the meetings of the Board or of any of its Committees and for attending to any other work of the Bank as may be prescribed:

Provided that no fees shall be payable to the managing director or any other director who is an officer of the Government of Sikkim or of the United Commercial Bank Ltd.

16. (1) The managing director
(a) shall be a whole-time officer of the Bank, and
(b) subject to the general control of the Board, shall exercise such powers and perform such duties as may be entrusted or delegated to him by the Board by regulations or otherwise.

(2) The managing director shall receive such salary and allowances as may be determined by the Board on the recommendation of the United Commercial Bank Ltd.

Provided that in respect of the first managing director. the Government of Sikkim may on the recommendation of the United Commercial Bank Ltd. determine the salary and allowances payable to him.

17. The Board may constitute such and so many committees, including an executive committee, of itself as it deems fit to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Board may impose, be delegated to them by the Board by regulations or otherwise.

18. (1) The Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business. at its meetings as maybe prescribed.

(2) To constitute a quorum at a meeting of the Board, not less than three directors shall be present of whom at least one shall be a person nominated by the Government of Sikkim and one shall be the Managing Director or the Director nominated. by clause (c) of Section 9.

(3) All questions at the meeting shall be decided by a majority of the votes of the directors present and in the case of equality of votes, the Chairman, or in his :absence the director presiding over the meeting shall have a second or casting vote.

(4) If for any reason the Chairman is not able to be present at a meeting of the Board, any director, other than the managing director, authorized by the Chairman in writing in this behalf, and in the absence of such authorization any such director elected by the directors present from amongst themselves, shall preside at the meeting.

CHATER IV

Business of the Bank

19. (1) (a) The Bank shall, if so required by the Government of Sikkim, act as agent of the Government, accept moneys on account of the Government and make payments upto the amount standing to the credit of Government's account and carry out Government remittances and other banking operation:., including the management of the public debt of the Government.

(b) The terms and conditions on which the Bank shall act as agent of Government and undertake other functions for Government shall be such as may be approved by the Chogyal

(c) The Bank may, for the purpose of acting as agent of the Government of Sikkim as provided in clause (a) appoint, on such terms and conditions as may be agreed upon, Messrs Jethmull Bhojraj as its agent, at any place in Sikkim where the Bank does not have a branch and where there is an office of Messrs Jethmull Bhojraj.

(2) The Bank shall be authorised to carryon the business of banking in an its forms without any restrictions whatsoever, including accepting of deposits for the purpose of lending, withdrawal by cheques, draft, order or otherwise.

(3) In addition to the business of banking, the Bank may engage in anyone or more of the following forms of business, namely;

(a) the borrowing, raising, or taking up of. money, the lending or advancing of money either upon or without security, the drawing, making, accepting, discounting buying, selling, collecting

and dealing in bills of exchange, hundis, promissory notes, coupons, drafts, bills of fading, railway receipts, warrants, debentures, certificates, scripts, and other instruments and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, traveler's cheques and circular notes, the buying, selling and dealing in bullion and specie; the acquiring, holding, issuing on commission, under writing and dealing in stock, funds, shares, debentures, debenture stock, obligations, securities and- investment of all kinds in Sikkim and in India; the purchasing and selling of bonds, script or other forms of securities on behalf of constituents or others ,the negotiating of loans and advances; the receiving of all kinds of bonds, scripts or valuables on depositor for safe custody or otherwise, the providing of safe deposit vaults, the collecting and transmitting of money securities;

(b) acting as agents for any local authority or any other person or persons;- the carrying on of agency business of any description including the clearing, and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers;

(c) contracting for public and private loans and negotiating and issuing the same;

(d) The effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State , municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue;

(e) carrying on and transacting every kind of guarantee and indemnity business;

(f) managing, selling and realizing any property which may come into the possession of the Bank in satisfaction or part satisfaction of any of its claims.

(g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form the security or part of the security for any loans or advances or which may be connected with any such security;

(h) undertaking and executing trusts

(i) undertaking the administration of estates as executor, trustee or otherwise;

(j) establishing and supporting or aiding in the establishment and support of associations, institutions funds, trusts and conveniences calculated to benefit employees or ex-employees of the Bank or the dependents or connections of such persons; granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object;

(k) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the Bank;

(1) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing or of tuning into account or otherwise dealing with all or any part of the property and rights of the Bank;

(m) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section;

(n) doing an such other things as are incidental or conducive to the promotion or advancement of the business of the Bank;

(4) Nothing in the aforesaid provisions shall affect or abrogate Article IV in the Indo-Sikkim Treaty, 1950 and, to the extent, if any, the aforesaid provisions may be contrary to or inconsistent with the said Article in the "Treaty, the former shall have no effect

CHAPTER V

Regulation or Business of the Bank

20. The provision of this chapter shall have effect notwithstanding anything to the contrary in any other provisions of this Proclamation.

21. Notwithstanding anything contained in section 19 or in any contract, the Bank shall not directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realization of security given to or held by it, or engage in any trade, or buy, sell or barter goods for others otherwise than in connection with bills. of exchange of its business as is referred to "in clause (i) of sub-section (3) of Section 19.

22. Notwithstanding anything contained in section 19, the Bank shall not hold any immovable property howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the acquisition thereof or any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period, as the case may be:

Provided- the Bank may, within the period of seven years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof:

Provided that the Chogyal may in any particular case extend the aforesaid period of seven years by such' period or periods as he may deem fit from time to time.

23. The Bank shall not employ or continue the employment of any person;

(i) who is, or at any time has been, adjudicated insolvent or has suspended payment or has compounded with his creditors or who is, or has been, convicted by a criminal court of an offence involving moral turpitude; or

(ii) whose remuneration is in the opinion of the Government of Sikkim, excessive.

24-. The Bank shall not create any charge upon any unpaid capital of the Bank, and any such charge shall be invalid

25 . The Bank shall not create a floating charge on the undertaking or any property of the Bank or part thereof.

26. (1) The Bank shall not pay any dividend on its shares until all its capitalized expenses (including preliminary expenses, organisation expenses, share-selling commission, brokerage, amounts of losses incurred and any other item of expenditure not represented by tangible assets) have been completely written off

(2) The Bank may pay dividends on its shares without writing off .

(i) the depreciation, if any, in the value of its investments in approved securities in any case where such depreciation has not actually been capitalized or otherwise accounted for as a loss;

(ii) the depreciation, if any, in the value of its investments in shares, debentures or bonds (other than approved securities) in any case where adequate provision for such depreciation has been made to the satisfaction of the auditor of the Bank;

(iii) the bad debts, if any, in any case where adequate provision for such debts has been made to the satisfaction of the auditor of the Bank.

27. The Bank shall maintain in Sikkim and in India in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than 20 percent of the total of its time and demand liabilities:

Provided that after the expiry of one year from the commencement of Chapter IV the amount to be maintained in Sikkim shall not be less than 10 per cent of such total.

Explanation: For the purpose of this section

(a) "unencumbered approved securities" of the Bank shall include its approved securities lodged with another institution for an advance or any other credit arrangement to the extent to which such securities have not been drawn against or availed of.

(b) "cash" shall exclude any deposit made by the Bank for a period not exceeding 91 days with any Banking company as may be notified by the Government of Sikkim.

27A. (1) The assets in Sikkim of the Bank at the close of business on the last Friday of every quarter or, if that Friday is a public holiday in Sikkim, at the close of business on the preceding working day, shall not be less than 50 per cent of its demand and time liabilities in Sikkim.

(2) The Bank shall within one month from the end of every quarter submit to the Government of Sikkim a return in the prescribed form and manner of the assets and liabilities referred to in sub-section (1) as at the close of business on the last Friday of the previous quarter or, if that Friday is a public holiday in Sikkim, at the close of business on the preceding working day.

(3) For the purpose of this section

(a) "assets in Sikkim" shall be deemed to include export bills drawn in and import bills drawn on and payable in Sikkim and expressed in such currencies as Reserve Bank may from time to time approve in this behalf and also such securities as the Government of Sikkim may approve in this behalf, notwithstanding that all or any of the said bills or securities are held outside Sikkim.

(b) "Liabilities in Sikkim" shall not include the paid up capital or the reserves or any credit balance in the profit and loss account of the Bank.

(c) "Quarter" means the period of three months ending on the last day of March, June, September to December.

28. (1) The Bank shall, before the close of the month succeeding that to which it relates submit to the authority designate by the Government of Sikkim a return in the prescribed form and manner showing its assets and liabilities in Sikkim as at the close of business on the last Friday of every month or if that Friday is a public holiday in Sikkim, at the close of business on the preceding working day

(2) The Government of Sikkim may at any time direct the Bank to furnish it or the authority designated by it within such time as may be specified by it with such statements and information

relating to the business or affairs of the Bank (including any business or affairs with which such bank is concerned) as the Government of Sikkim may consider necessary or expedient to obtain for the purposes of this Proclamation, and without prejudice to the generality of the foregoing power may call for information every half year regarding the investments of the Bank and the classification of its advances in respect of industry, commerce and agriculture.

29. (l) The Bank shall not
- (a) make any loans or advances on the security of its own shares; or
 - (b) grant unsecured loans or advances
 - (i) to any of its directors or
 - (ii) to firms or private companies in which any of its directors interested as partner or managing agent or guarantor or to individuals in cases where any of its directors is a guarantor.

(2) The Bank shall, before the close of the month succeeding that to which the return relates, submit to the authority designated by the Government of Sikkim, a return in the prescribed form and manner, showing all unsecured loans and advances granted by it to companies in cases (other than those in which the Bank is prohibited under sub-section (l) to make unsecured loans and advances) any of its directors is interested as director or managing agent or guarantor.

(3) If on examination of any return submitted under sub section (2) it appears to the Government of Sikkim that any loans or advances referred to in that sub-section are being granted to the detriment of the interests of the depositors of the Bank the Government of Sikkim may, by order in writing, prohibit the bank from granting any such further loans or advances and impose such restrictions on the grant thereof as it thinks fit and may by like order direct the Bank to secure the repayment of any such loan or advance within such times as maybe specified in the order.

30. The Bank shall not, except with the prior approval of the Government of Sikkim, remit in whole or in part any debt due to it by

- (a) any of its directors or
- (b) any firm or company in which any of its directors is interested as director, partner, managing agent or guarantor, or
- (c) any individual .or any of its directors is his partner or guarantor.

(2) Any remission made in contravention of the provision of sub-section (1) shall be void and of no effect.

31. (1) The Government of Sikkim may request the Reserve Bank of India to cause an inspection to be made, by one or more of its officers, of the Bank and *its books and accounts*.

(2) It shall be the duty of every director or other officer or employee of the Bank to produce to any officer of the Reserve Bank making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of the Bank as the said officer may require of him within such time as the said officer may specify.

(3) Any officer making an inspection under sub-section (1) may examine on oath any director or other officer of the Bank in relation to its business and may administer an oath accordingly.

(4) The officer making the inspection shall report to the Government of Sikkim on any inspection made under this section and a copy of the inspection report shall also be furnished to the Bank by such officer and the Government of Sikkim may direct the Bank to take such steps as it may deem necessary in the light of the findings of the inspection.

31 A. (a) Where the Government of Sikkim is satisfied that it is necessary or expedient in the public interest or in the interests of depositors so to do, it may determine the policy in relation to advances to be followed by the Bank and when the policy has been so determined, the Bank shall be bound to follow the policy as so determined.

(b) The Government of Sikkim may caution or prohibit the Bank against entering into any particular transaction or class of transactions and generally give advice to the Bank.

(c) When the Government of Sikkim is satisfied that it is necessary or expedient in public interest so to do it may direct the Bank not to carry out or comply with any resolution passed by its Board and the Bank shall comply with such direction.

CHAPTER VI

Funds, Account and Audit

32. (1) At the expiration of each calendar year, the Bank shall prepare with reference to that year a balance sheet and profit and loss account as on the last working day of the year in the prescribed form or as near thereto as circumstances admit.

(2) The balance-sheet and profit and loss account shall be signed by the Managing Director and by at least two other directors.

(3) The balance-sheet and the profit and loss account prepared in accordance with sub-section (1) shall be *audited by an auditor who shall be a Chartered Accountant*, to be appointed. by the shareholders in the prescribed manner and the remuneration of the auditor shall be such as may be fixed by the shareholders.

(4) Every auditor shall be supplied with a copy of the annual balance-sheet of the Bank, and. it shall be his duty to examine together with the accounts and vouchers relating thereto; and every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and . other documents of the Bank, and may 'in relation to such accounts examine any director or officer of the Bank.

(5) The, auditor shall make a report to the shareholders upon the annual balance-sheet and accounts, and in every such report he shall state whether in his opinion the balance-sheet is a full and fair balance-sheet, containing all necessary particulars and properly drawn ,up so as to exhibit a true and correct view of, the state of the affairs of the Bank, and in case he has called for any explanation or information from the Board whether it has been given and whether it is satisfactory.

(6) The Government of Sikkim may at any time issue directions to the auditor requiring him to report to it upon the adequacy of measures taken by the Bank for the protection of its shareholders, depositors and other creditors or upon the sufficiency of that procedure ,in auditing the affairs of the Bank, and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted and direct that any other examination be made by the auditor if the Government-of Sikkim so desires.

3.3. The .account: and balance-sheet referred to in section 3 2 together with the auditor's report :shall be' published in the prescribed manner and the copies thereof shall be. furnished as return to the Authority designated by the government within three months of the period to which they refer :

Provided that the Government of Sikkim may extend the said period of three months for .the furnishing of such returns. .

34. (1) After making provisions for bad and doubtful debts, depreciation in assets, equalization of dividends, contribution to stall and superannuation funds and for .all other matters for which provision is necessary. by or under this Proclamation or which are usually provided for by bankers, the bank may. out of its net profits, declare dividend.

(2) The rate of dividend shall be determined by the Board with the approval of the Government of Sikkim.

(3) The Bank shall create a reserve fund and shall, out of the balance of profit of each year as disclosed in the profit and loss account prepared under Section 32 and before any dividend is declared, transfer to the reserve fund a sum equivalent to not less than twenty percent of such profit.

35. (1) A general meeting therein after referred to as the annual general meeting) shall be held annually at Gangtok or any other place in Sikkim where there is an office of the bank within six months from the date on which the annual accounts of the Bank are closed or such extended time as the Government of Sikkim may allow from time to time on a request from the Bank; and a general meeting may be convened by the Board at ,any other time.

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the Board on the working of the Bank throughout the year and the auditors' report on the annual balance sheet and accounts.

CHAPTER VII

Miscellaneous

36. (1) The Bank may appoint such number of officers, advisors and employees as it considers necessary or desirable for the decent performance or its functions, and determine the terms .,and conditions of their appointment and service.

(2) The officers, advisors and employees of the Bank shall 'exercise such powers and perform such duties as may. be entrusted or. delegated to them by the Board by regulations or otherwise.

37. (1) The Bank shall observe, except as otherwise required by law, the practices and usages customary ,among bankers, and, in particular, it shall not divulge any information relating to or to the affairs of its constituents except in circumstances in which it is, in ,accordance with the law or practice and usage customary among bankers, necessary or .appropriate for the bank to divulge such information.

(2) Every director, auditor, .advisor, officer or other' employee of the Bank shall before entering upon his duties, make .a declaration of fidelity. .and secrecy in the prescribed form.

38 The Bank shall not be' placed in liquidation by order of the Chogyal ,and in such manner .as he may direct.

39).(1) Every director shall be indemnified by the bank against all losses and expenses incurred' by him in or in relation to the discharged or his duties except such ,as .caused by his own willful act or default.

(2) No director shall be responsible for any loss or expense:

caused to the Bank by the insufficiency or deficiency of the value of or title to any property or, security acquired or taken. on behalf of the Bank or by the insolvency or wrongful act of any customer or debtor or by anything done in or in relation to the execution of the duties of his office or otherwise than for his willful act or default.

40. (1) No act or proceeding of the board or Committee shall be questioned on the ground merely of the existence of any vacancy or defect in the constitution of the Board or Committee, as the case may be.

(2) All acts done by any person acting in good faith as a director or as a member of a Committee, shall notwithstanding that there was some defect in his appointment. or qualifications. be as valid as if he was a director of the Board or a member of the Committee, as the case may be.

41. The Board may, by general or special order, delegate to the Chairman, or any other director or other officer of the Bank, subject to such conditions' and limitations, if any, as may be specified in the order, such of its powers and duties under this Proclamation as it may deem necessary.

42. For the purpose of this Proclamation any order made. and executed in the name of the Government of Sikkim shall be authenticated under the signature of the Principal Administrative Officer of the Government of Sikkim or the Chief Secretary to the said Government and the validity of an order which is so authenticated shall not be called in question on the ground that it is not an order made or executed by the Government of Sikkim.

43. (1) If any difficulty arises in giving effect to the provisions of this Proclamation', the Chogyal may, make such provision as appear to him necessary or expedient for removing the difficulties.

(2) An order under sub-section (1) may be made so as to have retrospective effect.

44. (1) Whoever in any bill of lading, warehouse receipt or other instrument given to the Bank whereby security is given or is purported to be given to the Bank for any accommodation granted by it under this Proclamation wilfully makes any false statement, or knowingly permits any false statement to be made,. shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five times of the value of the instrument.

(2) Whoever, without the consent in writing of the Bank uses the name of the Bank in any prospectus or advertisement shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend .to five thousand rupees, or with both.

(3) No Court shall take cognizance of any offence punishable under this Proclamation otherwise than on a complaint in ,writing signed by an officer of the Bank authorised by the Board in this behalf.

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45. The provisions of this Proclamation and of any rules or orders made thereunder shall have no effect on any other law

45.A'(a) If any provision of this Proclamation is contravened or any default is made in complying with any requirement of the Proclamation or any order rule or direction made or on conditions imposed thereunder any person guilty of such contravention or default shall be punishable with fine which may extend to five hundred rupees and where a contravention or default is a continuing one with a further fine which may extend to one hundred rupees per day for every day during which the contravention or default continues

(b)provisions of sub section (3)of section 44 shall not apply in this section

46 To facilitate the proper working of the bank ,the Chogyal may by proclamation enact for the state laws on contracts , negotiable instruments ,partnerships , sale of goods and other subjects dealing with commerce ,trade and industry

47(1)The Board may with the previous sanction of the Government of Sikkim make regulations not inconsistent with the proclamation to provide for all matters for which provision is necessary for the purpose of giving effect to the provisions of this proclamation

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

(a)the holding and conduct of election under the proclamation including the final decision of doubts and disputes regarding the validity of elections

(b)the manner in which and the conditions subject to which the first allotment of shares of the bank shall be made

(c)the manner in which and the conditions subject to which the shares of the bank may be issued held and transferred and generally all matters relating to the rights and duties of the shareholders

(d)the manner in which general meetings shall be convened , the procedure to be followed and the manner in which the voting rights may be exercised

(e)the calling of meetings of the Board and of its committee , fees and allowances for attending the meeting and the conduct of business

(f) the delegation of powers and functions of the board to the Chairman and Managing Director and other officers of the bank

(g)the provisions of an official seal of the bank and the effect of its use

(h) the manner and terms of issue and redemption of bonds of debentures by the Bank;

(i) the conditions which the Bank may impose in granting loans or advances

(j) the forms of returns and statements required under this

Proclamation

(k) the duties and conduct, salaries, allowances and conditions of service of officers and other employees and of advisors and agents of the Bank

(l) the establishment and maintenance of provident or other benefit funds for employees of the Bank

(m) the disclosure of interest, direct or indirect, of a Director in any Company having dealing with the Bank

(n) appointment of advisory committees for technical and other advice for purposes of this Proclamation, fees and allowances for attending meetings thereof and the conduct of business thereat;

(o) the election of an auditor

(p) generally, the efficient conduct of the affairs of the Bank, and any other matters that may be prescribed.

SEAL

.Palden Thondup Namgyal

Chogyal of Sikkim.

Dated Gangtok,
24th June, 1968.

This Proclamation was first published in Sikkim Darbar Gazette Extraordinary, dated

24/6/1968-Ed.

THE SIKKIM BAZAR COMMITTEES ACT, 1969.

An Act to provide for the establishment and administration of Bazar Committees in Sikkim.

1. **Short Title: extent and commencement**

- (1) This Act may be called the Sikkim Bazar Committees Act, 1969.
- (2) It extends to the whole of Sikkim..
- (3) It shall come into force at once.

2. **Constitution of Bazar Area**

1. The Government of Sikkim, may by notification, declare any area to be a Bazar Area for the purpose of this Act and, until otherwise directed, the number in the State will remain as specified in the Schedule.

2. The Chogyal of Sikkim may, by notification, suspend the operation of the whole or part of this notification in any area or areas to which it may have been extended and make any alternative arrangement deemed necessary.

3. **Membership of Bazar Electorate**

On the publication of a notification under Section 2 in respect of any Bazar area, all persons whose names are included in the list of voters referred to in Section 4 shall be deemed to constitute a Bazar electorate for the area.

4. **List of voters to Bazar Committee**

Every person not below the age of 21 years, who has been ordinarily resident of any Bazaar area for three years immediately preceeding an election to a Bazar Committee and is the head of a family and pays any of the taxes, namely ground rent, local tax, land rent, frontage tax or trade licence fees, whether in his own name or on behalf of the Firm which he represents as proprietor or manager provided the Firm is in existence for a period of not less than three years, shall be included by officers, empowered by the Government, in the list of voters entitled to vote in the election to the Bazar Committee for that area:

Provided that such officers, shall publish draft electoral Rolls at least three weeks in advance of an election, fix at least a period of one week for hearing of objection for correction, inclusion and exclusion and have the power of revision as they deem necessary; and publish the final electoral Rolls at least ten days before the holding of the election:

Provided further that any appeal in this connection will be heard by the Chief Secretary .

5. **Bazar Committee**

(I) The Bazar Committee shall, besides the Chairman, consist of five' members to be chosen .as hereinafter provided.

(1) The District Officer in his absence the Deputy Development Officer shall be ex-officio Chairman of a Bazaar Committee in his area

(3) Sikkim Subjects included as voters in any bazar electorate' shall choose, in the prescribed manner, from that electorate two Sikkim subjects to be members of the Bazaar Committee' concerned and persons including in any bazar electorate, not being Sikkim 'subjects, shall similarly choose two non-Sikkim Subjects to be members thereof.

(4) The Chogyal; may. nominate one person to be a member who shall exercise the same rights and discharge the same duties as any elected member.

(5) The term of office,' of a member of a. Bazaar Committee shall be three years unless the life of the committee is ,extended superseded. or dissolved earlier.

(6) A *Bazaar committee* may appoint it, own Secretary from amongst its members

6, **Conduct of business of Bazar Committee**

(I) Meetings of the Bazaar Committee shall be called by the Chairman and shall be held in a place in within that bazaar area as he may' notify.

(2) An ordinary meeting of the Bazaar Committee shall be held once in every months and its agenda shall be held circulated amongst all the members.

(3) The Chairman. may at any time . and shall upon a requisition in writing by not less than three members of the of a Bazaar Committee or the Executive Officer, Bazar call a 'special meeting.

(4) Every meeting' shall be presided over by 'the, District Officer and in his absence by the Deputy Development Officer.

(5) (i) For any meeting of *the Bazaar* Committee the Chairman and three members shall form the quorum and decision of the majority. shall be binding in all matters, The Chairman, shall not be entitled. to vote in the first instance, but when voting is equal he shall have a casting vote

(ii) The voting will be by show of hands

(6) Notice for bazaar committee meeting shall be sent to every member at least five days before the date fixed for the meeting

(7) Minutes of the proceedings of every meeting shall be recorded in English at the time of meeting in a book kept for the purpose and shall be signed by the Chairman of the meeting before the meeting disperses

(8) The bazaar committee secretary shall send copies of the proceedings of all meetings to the executive officer and also he will send a quarterly report to the executive officer which will be approved by the bazaar committee

(9) Resolutions of the Bazaar Committee shall be carried out by the Secretary who shall be the Executive Officer of the Committee

7. **Filling up Casual Vacancies of Bazar Committee**

If a member of Bazar Committee dies, resigns in writing, or is removed or otherwise a vacancy is created, the Committee shall take steps to fill up such vacancies under direction of the District Officer and in the manner prescribed for such elections.

8. **Disqualification of Members of a Bazar Committee**

A person shall be disqualified for being chosen as, and for being, a member of a Bazar Committee if he ;

- (a) is not included in the electoral roll for the Bazar Committee concerned
- (b) is below the age of 30 years on the date of selection; or
- (c) has been absent from 5 consecutive meetings of the Committee; or
- (d) has been convicted of an offence involving moral turpitude; or
- (e) has been dismissed from Government service or is black listed by the Government; or
- (f) has contested on a party or political platform or upon election associates himself in any manner, in the discharge of his duties as a member, with any political group or party; or
- (g) applies to be declared as uncertified bankrupt or undischarged insolvent; or
- (h) holds any office of profit under the Government provided that a nominated member shall be exempted from the operation of this clause; or
- (i) holds any contract under the Committee of which he is a member.

9. **Duties and functions of Bazar Committee**

A Bazaar Committee may be entrusted with such duties and functions relating to health, welfare and amenities of the residents of the Bazar area, as may be prescribed by the Government in that behalf from time to time and in particular with the following :

- (1) Construction, maintenance, repair, improvement and cleansing of roads, bridges, squares, gardens, tanks, ghats, wells, channels, drains, latrines and urinals within a bazaar area.
- (2) Planting trees, bamboos and flowers.
- (3) Maintenance of water supply and the lighting and watering of roads.
- (4) Erection and maintenance of public halls, offices and other buildings required for the purpose of the Bazar Committee.
- (5) Maintenance of market.
- (6) Acquiring and keeping of open spaces for the promotion of physical exercise and recreation.
- (7) Establishment and maintenance of free public libraries and reading rooms.

- (8) Taking precautionary measures against incidents of fire.
- 9) Provision of burial and cremation grounds.
- '10) Maintenance of Vital Statistics.
- (11) Holding of fairs.
- (12) Disposal of noxious diseased or unclaimed animals.
- (13) Establishment and maintenance of cattle pounds.
- (14,) Taking of such measures as may appear to the Bazar Committee' to be necessary during the prevalence of diseases or as ordered by Government.
- (15) Construction and maintenance of Dharmasalas.
- (16) Other works of public utility calculated to promote the health, comfort or convenience of the inhabitants.

10. **Bazar Committee Fund**

There shall be a fund vested in the Bazar Committee and it shall be utilized to meet expenditure in connection with their aforesaid duties. Accounts of such funds shall be kept in the prescribed manner.

II. **Powers of taxation**

The following taxes may be collected by a Bazar Committee within its area with the approval of the Government.

- (a) water tax,
- (b) Conservancy tax,
- (c) Cattle pound fees:

Provided that as long as a Bazar contractor is authorised to collect any of these taxes under his contract, the Bazar Committee shall not levy or collect such tax for that period.

12 **Credit to the Bazar Committee Fund**

Besides the taxes collected by a Bazar committee, the Government may make a grant of any amount to meet the cost (If any specific scheme, which has been approved by the Government for general purpose.

11 **Preparation of Budget of Bazar: Committee**

A Bazaar Committee shall annually prepare and submit a budget, showing the probable estimate of receipt, expenditure the purposes to incur expenditure and may, from time to time, furnish a supplementary estimate providing any modification which it may seem advisable to make in the distribution of the amount to be raised and expenditure in each financial year to the executive officer bazaar. All such budgets, including any subsequent reappropriation, shall require prior approval of the Government.

14 **General Power of Inspection, Supervision and Control**

(1) The Panchayat Secretary, the Executive Officer, Bazar, and such other officer as may be empowered by the Government in this behalf shall have general power of inspection, supervision, and control over the performance of the administrative duties of a Bazar Committee.

(2) Any person aggrieved by the decision of a Bazar Committee may also appeal against the same to the Panchayat Secretary for redress of his grievances, where, upon necessary action may be taken by such officers.

15. **Dissolution or Super session of Bazar Committee**

If the Government are of opinion that a Bazar Committee makes default in the performance of the: imposed upon it by or under this Act or any other Regulation or Act or abuses its power, they may, after giving sufficient opportunity to show cause to contrary, by an order in writing, specifying the reason, for so doing, dissolve or super-seede, the. Committee concerned,

16 **Taking of Oath**

Every person who is...elected or nominated to be a Member of a Bazar Committee shall before taking his seat take .at .a meeting of the bazaar. committee an oath to be administered by the Chairman, 'in the following form, namely:

"I, A B being.: a member of the.. .Bazaar Committee do swear in the name of God (or solemnly' ,affirm) that I will faithfully discharge the duty upon which. I am about to enter and that I will not participate in or associate myself with any .act of disloyalty towards the Chogyals Government.

17. The Government may make rules for carrying out .any of the purposes of this Act,

Chogyal of Sikkim

By Order

Gangtok,

The 10 th February, 1969.

D. DAHDUL,

**Chief Secretary,
Government of Sikkim.**

(this Act has been repealed by the Sikkim (Repeal and Miscellaneous Provisions Act 1985-Ed

Schedule of Bazar Area in accordance with Section 2 (l) of the Sikkim Bazar Committees Act, 1969.

<u>S1. No.</u>	<u>District</u>	<u>Bazar Area</u>
1.	East Sikkim.	Gangtok including Deorali.
2.	“	Singtam.
3.		Rangpo
4.	North Sikkim	Mangan
5.	West Sikkim'	Geyzing. .
6.	South Sikkim	Namchi.
7.	“	Jorthang including Nayabazar.

**PROCLAMATION OF
THE CHOGYAL PALDEN THONDUP NAMGYAL OF SIKKIM DATED THE
30TH. MARCH, 1972**

		WHEREAS it is expedient to constitute and regulate a Corporation for the purpose of promoting external and internal trade in Sikkim. The Chogyal of Sikkim is pleased to proclaim and ordain as follows:
Short title.	1.	This Proclamation may be cited as the State Trading Corporation of Sikkim Proclamation of 1971.
Definitions.	2.	In this Proclamation (a) "Board" means the Board of Director of the Corporation. (b) "Corporation" ,means the State, Trading Corporation of Sikkim; (c) "Financial Year" means the year commencing on the 1st. day of April; (d) "Managing Director" means the Managing Director of Corporation.
Incorporation.	3.	(1) There shall be established a Corporation to be called the State Trading Corporation ,of Sikkim with its. headquarters at Gangtok, Sikkim. (2) The Corporation shall be a body corporate, having perpetual succession and a common Seal with power to acquire, hold or dispose of, property, both movable and immovable, and shall by the said name sue and be sued,
Share Capitals.	4.	The authorised capital of the Corporation shall be Four Crore rupees, divided Into four lakhs fully paid up shares of hundred rupees each, which shall be issued to the Government of Sikkim.
Management	5.	The general superintendence and direction of the ,Affairs of the Corporation shall be entrusted to the Board of Directors, who may exercise all powers and do all acts and things which may be exercised or done by the, Corporation.
Board of Directors.	6.	(1) The Board of Directors shall consist of five Directors: nominated by the Government of Sikkim. (2) Notwithstanding anything contained in sub. section (1) two additional Directors may be appointed on the Board by the Government of Sikkim.
Remuneration of the Directors.	7.	The Directors of the Board shall receive such remuneration for attending any meeting of the Board may fix in this behalf, subject to the provision that the Government of Sikkim may also place a limitation on the quantum of such remuneration.

Committee	8. The Board may from time to time appoint one or more Committee for.' the purpose of assisting the Board in the efficient performance of its function:.
Chairman	9. The Government of Sikkim shall appoint one of, the Directors nominated by it on the Board to the Chairman. of the Corporation.
Managing Director	10. (1) The Government of Sikkim shall appoint one of the Directors nominated by it on the Board to be the Managing Director of the Corporation. (2) The Managing Director shall exercise such powers on behalf of the Corporation as may be delegated to him by the Board and approved by the Government.
Meetings of the Board	11. The Board and the Committee constituted by it shall meet at such times and places and shall observe such rules of proceedings in regard to the transaction of business and its meetings as may be determined by the Board: Provided that the Board shall meet at least once in a period of three months.
Functions of the Corporation	12. The Corporation may carry on to transact any kind of business concerning purchase, holding, stocking, sale, clearing, forwarding, export, and import and transaction of any kind of materials inside and outside Sikkim and to do all other things as are determined or may be thought conducive to the Government of the above objectives or any of them.
Funds of the Corporation	13. (1) The Corporation shall constitute its board and all receipts of the Corporation shall be carried hereto and all payments by the Board shall be made there from . (2) All money belonging to the fund shall be deposited in such manner as may be determined by the Board, and approved by the Government.
Disposal of profits	14.. (1) The Corporation shall establish a reserve fund to such extent, in such manner, and for such purposes as may be determined by the Board and approved by the Government, (2) After making provision for reserve fund and for bad and doubtful debts, depreciation of assets and all other matters which may be specifically provided in this behalf by the Board the Corporation shall out of its net' annual profit, declare a dividend.
Audit	15'. The affairs of the Corporation shall be audited by the auditors appointed by the Board.

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- Budget** 16. The Board shall in December each year prepare In such form as it thinks fit a budget .for the next financial year showing the estimated receipts and expenditure during that financial year.
- Monthly Report.** 17. The Corporation shall furnish to the Government of Sikkim a monthly report of its progress and activities ,and such .other information as the Government may require.
- Returns.** 18. The Corporation shall furnish to the Government of Sikkim within six months of the close of the financial year a statement of its assets and liabilities as at the close of that year together with the Profit and loss account for the year, auditors' report and the report of the working of the Corporation during the year.
- Regulations** 19. The 'Board shall make rules and regulations not inconsistent with this Proclamation to provide for all matter for which purpose of giving effect to the provision of this Proclamation.

**SD/~PALDEN THONDUP NAMGYAL
THE CHÖGYAL OF SIKKIM.**

(This Proclamation was published in Sikkim Darbar Gazette Extraordinary dated 30/3/. 1972 Ed.)

SUPPLEMENTARY CHAPTER

ADDENDUM

CHAPTER

ON OLD LAWS

OF

SIKKIM

EXTRACT FROM THE MINUTES OF THE COUNCIL MEETING HELD AT THE PALACE, GANGTOK, AT 11 A.M., ON THE 14th MARCH, 1913.

1. Marwaris in Sikkim.

It was resolved that the present rules prohibiting Marwaris. from settling in Sikkim except in Gangtok, Rangpo and Rhenock without the ,permission of the Political Officer should be applied to Gangtok, Rangpo and Rhenock also, and that there may be one uniform set of rules throughout Sikkim. It was further resolved that Marwaries shall not be allowed to increase the size of their shops or other buildings or to build fresh shops or' other buildings in any place without the leave of the Political Office

**Circular No. 2 S.
(ST AMP DEPARTMENT)**

Your attention is hereby drawn to the accompanying rules for the introduction and sale of revenue and Judicial Stamps in Sikkim, and you. are directed :

- (1) to make these rules widely known ,in your Elakha ; and
- (2) to warn all Bustiwallahs that these Stamps must not be affixed to letters etc. intended for the post.

1. The values of the Stamps to be introduced are as follows :..

One Anna
Eight. annas
One Rupee
Five Rupees

And the Stamps .are obtainable from the undersigned as provided for; 'in rules 3 and 4.

3 People residing within the limits of the Gangtok Bazar will apply direct to the Chief Court and not to the Gangtok Kazis for stamp they require.

Gangtok, Sikkim
The 7th December' 1916

Tashi Namgyal
Maharaja 'of Sikkim.

**Rules relating to the introduction and sale of Revenue
and Judicial stamps in Sikkim**

Landlords are hereby directed to inform their bustiwallas and others living in their elakas that, with effect from the 1st January 1917. no Court fees are to be paid in cash on petitions, etc., submitted by them in the various court; in Sikkim.

2 . Instead of the cash payment all persons must purchase stamps 'after them to petition. etc.

3. Stamp will be obtainable only from landlords for servants duly approved of by His Highness the Maharaja to whom application should be made who will submit an application in form A. (attached) to the Maharaja for the stamps they require.

4. Applications received through the post will not be attended to unless the landlord or duly approved servant is present in Gangtok to take over the stamps.

5. For their trouble in disposing of the stamps landlords will be given as commission six (6) pies in every rupee's worth of stamps sold, e.g., if a landlord sells in any one month stamps worth Rs 10 he will receive from the State/5/ as commission. Fractions of a rupee will not be taken into account.

6. At the beginning of each month (not later than the 10th) landlords will submit to the Maharaja an account in form B (attached) showing the various kinds and quantities of stamp sold during the previous month.

7. This account must be accompanied by the amount realized on sales, less the commission referred to in rule 5.

8. Any person found selling stamps at a price over and above the actual value will be severely punished. Landlords will be held responsible that bustiwallas do not cheat each other in this respect.

9. Landlords are not empowered to try such cases which must be reported at once to His Highness the Maharaja for trial.

10. Copies of the form referred to in rules 3 & 6 above are obtainable, free of cost on application to the State Printing Works, Gangtok.

Dated, Gangtok
The 7th November, 1916.

T. Namgyal,
Maharaja of Sikkim.

FORM A

*(Referred to in rule 3, Circular No. 35.
dated the 7th November, 1916)*

TO

HIS HIGHNESS THE MAHARAJA of SIKKIM
(STAMP DEPARTMENT)

Please supply me with the following stamps:

Number required.	Total value.
------------------	--------------

One Anna	
----------	--

Eight Anna	
------------	--

One rupee	..
-----------	----

Five Rupee	
------------	--

Total	
-------	--

Note:- The number of stamps required of each value must be written in words not figures

Dated
The 191

-(Signature of the landlord),

Received the above stamps,

Dated Gangtok,

The 191

(Signature of Landlord).

Printed at State Printing Works Gangtok, No.2 75'- 1,000- 5'.12.16.

SIKKIM STATE

Judicial Department

Veterinary Section

Notification No.6

An Act for the Prevention of

Cruelty to Animals in SIKKIM.

'WHEREAS it is expedient: to make provision for the prevention of cruelty to animals ; It is enacted as follows :-

1. The act shall extend to the whole of the Sikkim State and shall come into force with effect from the date of the issue of this notification.

2. In this act, the word "animal" shall be taken to mean any domestic or tamed quadruped, or any domestic or tamed bird.

3 Every person who shall cruelly and wantonly beat, ill treat, abuse, torture, overdrive or over load or cause to be beaten, ill treated, abused, tortured, over driven or over laden any animal shall be liable to a fine. which may extend to one hundred rupees.

4. Every person who shall incite any quadrupeds or birds, whether domestic or wild, to fight, or shall bait any animal, or shall aid or. shall abet anyone in so doing, shall be liable to a fine which may extend to fifty rupees.

5 Every person who shall wilfully and knowingly permit any animal, of which he may be the owner, to go at large in any public street, road, or thoroughfare while such animal is affected with contagious or infectious disease, or shall wilfully permit any diseased or disabled, animal, of which he may be the owner, to die in any public street, road or thoroughfare shall be liable to a fine which may extend to one hundred rupees.

6. If any person employs in any work or labour any animal which by reason any of disease, infirmity, wound, sore or other cause, is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed he shall. be punished with fine which may extend to one hundred rupees.

,7. (a) The Sikkim Darbar may, by general or special order, appoint' places to be infirmary for the treatment and care of animals in respect of which offences against this Act have' been committed:

. (b) The Veterinary Hospital at Gangtok is now appointed a place for the treatment and care of such animals.

(c) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is, in his opinion, again fit for the work, for labour on which it has been ordinarily employed..

(d) The cost of the treatment, feeding and watering of the animals in the infirmary shall be payable by the owner of the animal, according. to . such scale rates as the

Magistrate, or the Veterinary officer may, from time to time prescribe.

(e) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the magistrate referred to in sub-section (c), may prescribe, such magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(f) The surplus, if any, of the proceeds of the sale, shall on application made by the owner within 2 months after the date of the sale, be paid to him.

8. A prosecution for an offence against this Act shall not be instituted after the expiration of 3 months from the date of the commission of the offence.

9. All complaints of offence against the provision of this Act committed in the Gangtok area; shall be heard and determined summarily by the Judicial Secretary.

10. Every charge of an offence against the provisions of this Act, alleged to have been committed out of Gangtok area may be heard and determined by any officer authorised to exercise the powers of a magistrate by the Judicial Secretary in the place in which such offence has been committed.

Published by order of His Highness the Maharaja Sahib of Sikkim.

*Dated Gangtok,
The 22nd, June,
1922.*

*W. Polden.
Judicial Secretary to
His Highness the Maharaja of
Sikkim.*

SIKKIM. STATE

GENERAL DEPARTMENT

NOTICE

No .9004/G.

ALL LANDLORDS OF SIKKIM

Attention of the general public is invited to the Sikkim Debt Law, 1910, rule VIII, according to which no creditor is allowed to give Dadani for cardamom or other crops. It is imperative that this rule should be strictly observed. In future, if anyone is found infringing the above rule, he will be severely punished. The landlords of Sikkim are requested to make this order widely known in their respective elakhas, and to report, not later than the 1st January 1925, of their having done so.

Sd- Pestonji Jamasji,

**Gangtok.
the 4th November, 1924**

**General Secretary to His
Highness the Maharaja of Sikkim.**

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**SIKKIM STATE
GENERAL DEPARTMENT**

Notification No. 385/G

All Kazis, Thikadars and Managers of Estates.

In continuation of the previous rules on the subject, His Highness, the Maharaja of Sikkim is pleased to order that the Law of Registration applicable in the State shall be amended. Notification No. 314 and 2283-36/G., dated the 23rd January, 1907 and 19th JULY 1922, respectively shall be read and applied as under:-

Any document such as mortgage and sale deeds and other important and deeds, etc. will not be considered valid unless they are duly registered

The contents... of an unregistered document (which ought in the opinion of the court to have been registered) may be provided in court but a penalty upto fifty times the usual registration fee shall be charged.

Exception:- Hand notes duly stamped shall be exempt from registration penalty.

BY ORDER OF HIS HIGHNESS THE MAHARAJA OF SIKKIM

**Gangtok
The 11th April,
1928.**

**Gyaltzen Kazi
General Secretary to H.H. the
Maharaja of Sikkim.**

SIKKIM STATE

GENERAL DEPARTMENT

Notification No: 2947 G.

Amendment of para 2 of Notification No: 385/G dated the 11th April, 1928.

An unregistered document (which ought in the opinion of the court to have been registered) may however be validated and admitted in court to prove title or other matters contained in the document on payment of a penalty upto fifty times the usual registration fee.

Issued by order of H.H. the Maharaja of Sikkim.

**Gangtok, The
22nd Nov, 46**

**T. Tsering
(Offs) General Secretary to
H.H. The Maharaja of Sikkim.**

Copy of the memo no 2553/C&F dated 18/9/1949 from the Dewan Sikkim State to the Tahsildar East Sikkim.

A copy of Rule regarding registration of document (1930) is Sent herewith.

The seals of registration fees is one rupee fee every Rs.100 or fraction thereof on the value of property or properties.

**SIKKIM STATE
RULES
REGISTRATION OF DOCUMENT**

19 30

**PRINTED AT SIKKIM SECRETARIATE
(G ANGTOK)**

REGISTRATION OF DOCUMENT IS PRIMARILY INTENDED TO GIVE SECURITY TO THE TITLES AND RIGHTS OF PERSONS PURCHASING PROPERTY OR RECEIVING SUCH PROPERTY IN GIFT OR ADVANCING MONEY ON THE MORTGAGE OF IT OR TAKING IT ON LEASE.

- (B) TO PREVENT INDIVIDUALS BEING DEFRAUDED BY BUYING OR RECEIVING IN GIFT OR LENDING MONEY ON MORTGAGE OR TAKING ON LEASE ANY SUCH PROPERTY THAT MAY HAVE BEEN SO PREVIOUSLY DISPOSED OF OR PLEDGED.
- (C) TO OBVIATE AS FAR AS MAY BE PRACTICABLE LITIGATION RESPECTING THE AUTHENTICITY OF WILL, ADOPTION OF SONS.
- (D) AND TO KEEP AUTHENTICATED RECORD OF PRIVATE DOCUMENTS SO AS TO PROVIDE AGAINST ANY INJURY TO THE RIGHTS AND PROPERTY OF INDIVIDUALS ARISING FROM THE LOSS OR DESTRUCTION OF DEEDS RELATING TO TRANSACTIONS OF THE NATURE OF THOSE ABOVE SPECIFIED.

RULES REGARDING REGISTRATION OF DOCUMENT

1. The head registry Office, in Sikkim shall be at Gangtok and the registering Officer at the Head Office shall be known as "Registrar". The registration work at the 'HEAD Office shall be under the direct control of His Highness the Maharaja of Sikkim. Sub-Offices of the registry of deeds have been established at the following places in Sikkim;

- | | |
|-------------|---------------|
| 1. Rhenock | 7. Daramdin. |
| 2. Rongli | 8. Chakung. |
| 3. Namthang | 9. Yangthang. |
| 4. Turuk | 10. Bermiok. |
| 5. Sumbuk | 11. Yangang. |
| 6. Namchi | 12. Lingmoo |

The registering officers at the above places shall be known as Sub-Registrar,

2. Four District books shall be kept in every registration Office.

Book No. 1. Register of absolute transfers of property.

Book NO.2 Register of other transfer of immovable property i.e. mortgage etc

Book NO.3 Register of decrees and orders of court and award of arbitrators.

Book No. 4... General Register.

3. Entries made in such books would be numbered in a consecutive numerical series commencing and terminating with a year.

4. In addition to the said four books the Gangtok Registrar would keep two further books entitled.

- a) Register of deposit of will, and 'instrument adopting a son after death.
- b) Register of wills and instruments adopting a son after death.

5. Every Sub-Registrar in Sikkim shall perform the duties of his office under the control and superintendence of the Gangtok Registrar and latter would be authorized to issue (whether on complaint or otherwise) any orders he might consider necessary in respect of any proceeding or omission of any Sub-Registrar subordinate to him:-

6. The Registrar would be empowered to revise or alter any order of any Sub-Registrar refusing to admit a document if an appeal against such orders was presented to the Registrar within a month from the date of order.

PROCEDURE TO BE OBSERVED IN THE REGISTRY OF DEEDS

7. The person or persons executing the deed on' his or their authorised representative with one or more witnesses to the execution of it, shall attend at the Registrar's office and prove by solemn affirmation before the Registrar the 'due' execution of deeds upon which the Registrar shall cause an exact copy of the deed to be entered in the proper register and after having caused it to be carefully compared with the original shall attest the copy with . his signature and shall also cause the parties or their authorised representative in attendance to subscribe their signatures to the copy and shall then return the' original with a certificate under his signature endorsed thereon specifying the date on which such deed was so registered with REFERENCE to the book containing the registry thereof .and the page and number under which the same shall have been entered therein.

8. The registrar shall on application being made to him allow all persons to inspect the Register books as well as grant copies of all deeds registered by him to persons whom they may concern and such copies in the' event of original being lost. destroyed or not forthcoming. shall be received as sufficient evidence of such deeds.

9. The Registrars are required not only to preserve with care the powers of attorney which may be produced by person'; acting on behalf of others to procure deeds to be registered but to cause all such powers of attorney to be regularly entered in a separate book to be kept for that purpose.

10. All . erasures; or alterations appearing in the document must be attested by the parties to it with their signatures before such document could be accepted for registration.

11. An abstract of every document affecting immovable property registered in the Head Office of Gangtok with an endorsement showing the date on which it was registered and its number in the registrars book shall be forwarded within seven days from the date of the registration to the Elakhadar of the elakha wherein the property affected by the document is situated

12 Every sub Registrar is likewise required to forward to the Head Office a similar abstract of every document affecting immoveable property registered by him

13 A memorandum of every decree or order made by a Civil Court affecting the validity of any registered instrument relating to the immoveable property shall be sent to the office registering such instrument

14 Any person desirous of registering his wills or any instrument adopting a son may deliver such will or instrument either personally or by an authorised agent in a sealed cover subscribed with the name of the depositor and the nature of the instrument to the Registrar Gangtok who would satisfy himself as to the identity and authority of person presenting it

The Registrar shall then enter the receipt of such sealed: cover in the proper' register,

.15. A sealed cover could be withdrawn by the depositor upon 'obtaining an Order in that behalf from His Highness the Maharaja of Sikkim.

16. If on the death of depositor a sealed cover, an application is made to the Registrar to open the same, the Registrar upon satisfying himself that the depositor was dead shall in the presence of the person making such application and two other reliable witnesses, open the sealed cover and enter a copy of the contents thereof in the register of wills.

When such copy has been entered, the Registrar shall re-deposit the original will on instrument.

17. Ordinarily registration would be made at the proper Office, but on special cause being shown, the registering officer might in his discretion attend at the residence of any person desiring to register or deposit an instrument.

18. Every Sub-Registrar or Registrar. who refused to register a document shall record his reasons for such refusal and on the application of any party to the instrument, such officer shall give the party so applying a copy of the reasons so recorded.

19. If a document presented for registration is in a language not understood by the Registering Officer and not commonly used in Sikkim, it shall be accompanied by a true copy.

20. All instruments required to be registered (Excepting a will) shall be produced within four months from the date of execution thereof, but if any instrument owing to unavoidable. delay has not been presented within the time prescribed above, it would be lawful for the Registrar in cases where the delay in presentation has not exceeded six months to direct that on payment of a penalty not exceeding ten times the amount of the proper registration fee such instrument may be accepted for registration.

21. A document required to be registered shall be presented either by the person executing it or by the person claiming under it.

22. The Registration Officer after satisfying himself that the contents of the document do not conflict with, the existing land laws and rules regarding the holding of immovable property in Sikkim, shall proceed with the registering of the document in accordance with procedure specified in paragraph (7).

23. The Registering Officer in his discretion give a public notice of the fact of a document having been presented for registration and invite objections. In hearing objections raised against the registering of a document, the registering Officer shall make no enquiry into the merits of a disputed claims relating to any property mentioned in an instrument presented for registration. He shall adjourn, the proceeding in registration to enable the parties to move the courts.

24-. No document relating to immoveable property shall be accepted for registration unless it contains a description of the property sufficient to identify the same.

'25 If any person by whom the document purports to be executed denies its execution or if any such person appears to the registering officer to be a minor, an idiot. or lunatic or if any person by whom the document purports to be executed is dead, and his . representative denies its execution, the registering Officer if a Sub-Registrar shall refuse to register the document and refer the same to the registrar.

26. The Registrar on reference made to him under the preceding paragraph, shall is soon as convenient: enter into an enquiry;

- (a) whether the document has been executed
- (b) whether the applicant presenting the document for registration is entitled to the registration

If the Registrar finds that the document has been duly executed the applicant

is entitled to registration he shall order the document to be registered compulsorily.

27. The Registrar may for the purpose of enquiry as mentioned above, summon and enforce the attendance of witnesses as if he were, a Civil Court.

28 Documents (other than wills) remaining unclaimed in any registration office for a period exceeding three years may be destroyed.

29. Every court (including the Addas) granting a certificate of sale of immoveable property shall send a copy of such certificate to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate and such Officer shall file the copy in, his book No. 1.

30. Every Officers causing the grant of a loan from the Darbar to any person shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan and if such any property is mortgaged for the same purpose in the order granting the loan, a copy also of that order to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged situate.

31. In January of each year the following records of the previous year shall be transferred from sub-Registering Office to the Registrar's Office.

Completed Vols. of Register Book No. 1 to 4.

32. The following records shall be permanently preserved in the Registrar's Office whether they are already there or whether they are transferred thereto from the sub-Registering Office.

- (i) Register of documents and their indexes.
- (ii) Register of power of attorney.
- (iii) Reports of destruction of records and lists of the papers destroyed.

33. Every Registering Officer shall be responsible for the preservation and safe custody of all registration records, including those of previous years which have accumulated in or been transferred to his office.

34. No documents, books or papers whatever shall be destroyed at any registration office without the previous sanction of the Darbar.

Before any document is destroyed, an endeavor must always be made by the Registering Officer in whose Office the document is kept to induce the presentant thereof to take it back.

35. The practice of wiping out incorrect words and figures in Register books with the finger or scratching them out with a knife is prohibited in all Registration Offices. Correction in such books must always be made with a pen. They must not be made by altering one word or figures into another, but the pen must be drawn through the erroneous words or figures and the correct ones must be clearly written near or above these struck out of or opposite to them in the right hand margin.

36. All corrections and interlineations in such books must be attested by the Registering Officer's initials which must be written not in the middle of the erroneous words or figures but in a clear space close by.

37. When a Register book is closed, .certificate to that effect signed by the Registering Officer shall be appended at the end of the Written portion of the book and'. further certificate showing the number of pages written upon shall be entered': by the Registering Officer in his own hand on the first page of the book.

38. On the presentation of document for registration, the Registering, *Officer* shall first satisfy himself that:-

- a) it has been presented at 'the proper' office
- b) that it bears the proper stamp or is exempted from stamp' duty
- (c)that it is a language commonly used in Sikkim (Nepalese) or is accompanied by a true translation into English language and a true copy,
- (d)that in case of any interlineations, blank, erasure or alteration, ,rule has been, complied with,
- (e)that if the document relates to immoveable property, the description. 'of such property is sufficient
- (f) that if the document contains a map or plan, it is accompanied by the the copies of such map or plan,
- g) that the document has been presented within the proper ,time,
- h) that the document has been presented by the person authorised in that behalf.

39. When the executant of a document appears personally he shall be required to attest all interlineations; blanks, erasures and alterations that *are* discovered in the document sought to be registered or in its true copy.

a) When he appears by a representative the attestation of such a representative shall be accepted if the interlineations, blanks, erasures and alterations are of unimportant character or if due cause for such acceptance is shown.

40 When a document is presented to a registering Officer whose office is not the proper Office for its registration he shall return it to the presentant with the endorsement "Returned for presentation at the proper Office" .

41. Whenever it appears to a Registering Officer that a document presented for registration is not duly stamped, he shall' impound the document and require the presentant to stamp the document sufficiently in terms of Sikkim stamp rules, and if the presentant refuses to properly stamp the document or' refuses to pay the proper registration fee the document must. be returned at once to him with the endorsement "Registration refused"

.42. If any document in which a Registering Officer is personally interested either directly or indirectly, is presented to him for registration, he shall recommend the, parties to present 'the document at some other registration office and refuse. to register it. himself

43. If the requirements of the Law have been complied with in respect of all the particulars, the following certificates shall be endorsed on the face of the document and shall be signed and dated by ,the Registering Officer..

i) Presented for registration at.....A.M. (or P.M.) on the... day of 19..... at the.....Sub-Registry Office (or the Registrar's..., Office) by A B son of C. D. of. by caste. ' by profession , (or by attorney for E.F. one of the claimants under a power Nofor 19) authenticated by the Sub-Registrar of Signature of presentant Sign of Registering Officer.

ii) Executor is admitted by A.B. son of C.D. of caste. profession.....identified by E.F. son of' G.H of profession. and E.F (identified) Sd. Witness.:

(When the executant or his, agent. is personally known. to the Registering .Officer the words ,personally known to me should be substituted for the identification clause)

(When execution is admitted by an agent the following shall be added).

"Agent for K.L under power of attorney ,No. 193... .,) authenticated by the Sub- Registrar of)"

(When execution is admitted by the representative a deceased person the following words shall be added).

"Representative for K.G. whose right to appear in such capacity has been proved to my satisfaction,"

(When ,any payment of money or receipt of consideration is acknowledged the following clause shall be added).

(The receipt of Rupees.....,, as consideration is admitted by the above A.B.).

iii) Registered in Book No. Vol. No.

Pages. to, Book No.,.....,..... For the year.....

44 When a document occupies more than one sheet of paper, the seal and signature of the Registering Officer shall be attached to every sheet.

.45 After endorsing on the document the certificate referred to in the rules above, the Registering Officer shall enter the amount of Registration fee and fine (if any) on the document close to the said certificate and at the same time make the requisite entry in 'the fee book.

,46' All endorsements made in the document by the Registering Officer shall be made in red ink except that signature thereto shall be made in red ink.

47' When a person who cannot write signs his name by means of a mark or a thumb, mark, his name shall be recorded at length and the writer of his name shall also sign his own name in attestation that the mark was affixed in his presence.

48. When the executant or document is unable to write or is not personally known to the Registering Officer, he shall in addition to signing his name imprint the mark of his left thumb on the document to be registered. The said mark shall be made "by a slightly rolled impression of the executant's left thumb taken in printer's ink off a that piece of tin. properly prepared for the purpose.

49 The copy of every document in a Register book shall, be compared with the original. by some person other. than the 'Copyist and the comparer shall append their signature with that date, to the copy in the book using respectively the words "Copied by' and compared by.

50 . When there is not enough room on a document for the necessary endorsements, they shall be made on a separate sheet of papers which shall be attached to the document, (itself and) an explanatory note being at the same time made on the document itself and signed by the Registering Officer.

51' Documents must be promptly returned after registration to the present ants or other, persons authorised to receive them and the receipts taken from the parties must be pasted on to a receipt book.

52. When documents are ,presented for registration, the presentants must be in. formed by the 'Registering Officer on the probable date on which their documents will be ready for return. Every endeavor must be made to return the documents on such date,

53, Sealed covers containing wills deposited with a Registrar shall be examined monthly and their condition on such examination shall be noted.

54 The Register Book No. 1, 2, 3, & 4- shall have two margins.

On the left hand margin there shall be copied in red ink the value of the stamp on each document registered, the certificate of admissibility in receipt thereof and all the endorsements relating thereto made in the Office. In the centre the documents itself shall be copied in black ink and the right hand margin shall be left vacant for notes.

55. The following is the form in which Register Book recording reasons of refusal to register shall be kept.

REGISTER BOOK

RECORD OF REASONS FOR REFUSAL TO REGISTER.

Nature and date of instrument and names of executants.	Reasons for refusal No.	Date of application for copy of the reasons for refusal.
Date of presentation Name of the presenting party .	Registering Officers Date.....	Date on which copy was furnished to the applicant. Note of any order of Court.

SIKKIM STATE
GENERAL DEPARTMENT'
No 2341-4/G.

Sikkim: Darbar have approved of the following definition of the word "Heirs" as used in the opening para of the Patta lease of the various elakhas In Sikkim.

"The Word "Heirs".(as used in the opening paragraph. of. the Elakha lease) shall be deemed to mean one heir only, in the direct. male lineal descent. of a deceased lessee. e.g. son,. grandson, .great-grandson and so forth. It shall not. include collaterals- but an adopted heir may be deemed a valid. heir, provided such adoption. is made in. writing with the express consent of the Darbar. and tie deed of adoption is. registered according to. Law The Darbar would be guided in future by the said definition in the selection. of a lawful heir for the renewal of the Elakha leases on the demise of any lessee.

2. A printed draft of the 'said definition is being sent herewith, which may kindly be treated as an annexes to the lease.

By Order of His Highness the Maharaja of Sikkim.

Gangtok,
The 17th June,
.1930

RUP NARAYAN,
General Secretary to
His Highness the Maharaja of Sikkim.

"The word "Heirs" (as used in the opening paragraph of the Elakha lease) shall be deemed to mean one heir only, in the direct male lineal descent of a deceased lessee e.g. son, grandson, great-grandson and so forth. It shall not include collaterals , but an adopted heir may be deemed a valid heir, provided such adoption is made in writing with the express consent of the Darbar and the deed of adoption is registered according to law."

SIKKIM STATE
General Department
No. 669/G.

All Elakhadars and Managers of elakhas in Sikkim and the Chief Court, Gangtok.

It is hereby directed that you' must follow the Revenue Circular No. I of 1917 also in Revenue Suits, viz, that no Nepali can purchase Bhutia or Lepcha's land unless special permission has been accorded by His Highness the Maharaja of Sikkim. No attachment and sale in Revenue Suits therefore should offend the spirit of the said Circular.

By Order of His Highness the Maharaja of Sikkim.

Gangtok,
Sikkim. The 21
May, 1931.

C.E. DUDLEY,
His Highness the Maharaja of Sikkim.

**SIKKIM STATE
JUDICIAL DEPARTMENT**

Notification No. 2717/J

SUBJECT:- CASTE DISPUTES.

It is hereby notified for the information of the public as well as for the guidance of the Addas that the Sikkim Durbar do enjoin a strict "Laissez-faire" policy in matters not appertaining to the State religion. The landlord courts are warned never in future to take up the hearing of a dispute or try any civil or criminal case arising out of alleged breach of caste rules of the Nepalese. If any such case does arise in any Elakha the landlord must invariably refer it to the Chief Court who will take it up only if the case falls within the purview of British India law applicable to the facts. Disputes regarding breaches in the non-observance of caste practices are not taken up by courts in the District of Darjeeling. Such disputes are settled by the people themselves.

The previous notifications on this subject viz; NO. 2352-J., of 1923 and NO 3025-175-J., of 1935 are hereby cancelled.

By Order of His Highness the Maharaja of Sikkim.

**Gangtok, Sikkim,
The 7th October, 1936.**

**SONAM TSERING
for Judicial Secretary to
His Highness the Maharaja of
Sikkim**

**SIKKIM STATE
GENERAL DEPARTMENT
Notification No.2 756-2955/G.,**

Be it known to all concerned that in modification of the Darbar's Notification No. 1469-1769/G., dated the 28th July, 1936, the following Sections of the Indian Penal Code will apply literally in Sikkim territory namely, Sections 367, 370, 371 and 374 the Indian Penal Code. In particular the attention of the Landlords and State Officials directed to Section 374 of the Indian Penal Code which is quoted in extenso below:

Section 374-whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term, which may extend to one year, or fine. or with both.

It has also been ordered that compulsory labour, adequately paid on standardized scale (locally called "Jharlangi") shall be resorted to. only when it is required transport and for an administrative purpose, or on any ceremonial occasions, as explained in Darbar's Notification No. 4287/J., dated the 12th July, 1937.

By Order of His Highness the Maharaja of Sikkim.

**Gangtok.
The 9th October, 1937'**

**B. Karthak,
General Secretary to
His Highness the Maharaja of Sikkim
(Offg)**

OFFICE OF THE DEWAN. SIKKIM STATE
Notification No. 160/OS.

Whereas it is desirable to adopt a substantive, Criminal law. and the Indian Penal Code has hitherto) been used to guide the Courts, the Indian Penal Code as. it exist. on this date is now adopted and promulgated and will be enforced by the Courts throughout Sikkim with the modifications stated below:

- (i) Section 303 - deleted.
- (ii) Chapter 20 - deleted.

Gangtok,
The 10th July, 53.

TASHI NAMGYAL
Maharaja of Sikkim.

SIKKIM STATE
HOME DEPARTMENT
Notification No. 1396/O.S.

Whereas it is desirable to amend Notification No. 160/OS., dated the 10th July, 1953, regarding, the adoption of a substantive Criminal Law, it is hereby notified that portion (ii) Chapter XX - deleted" is withdrawn from the aforesaid Notification. The modification to the Indian Penal Code will; therefore, relate only to Section 303 and not to Chapter XX.

BY ORDER OF HIS HIGHNESS THE MAHARAJA.

Gangtok,
The 1st October,
1954..

N. K. RUSTOMJI I.C.S.,
Dewan, Sikkim State.

The following Proclamation issued by the Chogyal of Sikkim' is published;, for. general information:-

"PROCLAMATION' OF THE CHOGYAL OF SIKKIM DATED GANGTOK
THE 6TH AUGUST, 1971

WHEREAS it is expedient to amend the law of Sikkim as contained in the Indian penal Code, in particular Section 295

It is hereby enacted as follows:

- i. (1) Section 295' of the Penal Code is hereby repealed.
- (2) The following Sections shall replace Section 295 of the Indian Penal Code.
- (3) They shall extend to the whole .of Sikkim.
- (4)The amendment shall come into force as from the date of publication of this Proclamation.

295A. In. the. following Sections 295'B, 295C, 295D and 295E,

- (a) "a place of Worship that is ancient and established"; shall mean" building . used primarily for religious purposes, including for the study of religion, [that has been so used for the last)50 years immediately preceding an offence under. these Sections.

(b) "of national value" shall mean at least 50 years old and, in the opinion of the Government of Sikkim, of such historical or antique interest that it would be against *the* interest of the nation to permit the export of the object from Sikkim or an object under 50 years old but contained in a building gazetted for that purpose.

(c) "damage" shall include any damage done to the object or, in any case

where the object is not recovered the value of the object, the subject of any offence under these Sections, and also any damage done to the place of worship or any other building covered by these Sections, and to any other object or article appurtenant to such place building, during commission of the offence.

295-B. Any person who wilfully destroys, damages or defiles any sacred object or object of religious veneration or part thereof, or who removes such object or part thereof, with intent to steal, from any place of worship that is ancient and established, shall be punishable with imprisonment for a term not exceeding life or with payment of a sum not exceeding three times the amount of the damage.

295C. Any person who wilfully destroys, damages or defiles any object of national value or part thereof that is sacred or of religious veneration, or who removes such object or part thereof with intent to steal, from any building used for human habitation or for the purpose of an institution or, in whole or part, for a place of worship not falling within the provisions of Section 295B hereof, shall be punishable EITHER with a term of imprisonment not exceeding life OR with payment of a sum not exceeding three times the amount of the damage.

295D. Any person who wilfully destroys, damages or defiles any sacred object or object of religious veneration or part thereof, or who removes such object or part thereof with intent to steal, from any building used for human habitation or for the purpose of an institution or, in whole or part, for a place of worship not falling within the provisions of Section, ' 295B hereof punishable EITHER with imprisonment for a term not exceeding three years OR with imprisonment for a term not exceeding three years OR with payment of a sum not exceeding three times the amount of such damage or with both.

295E. Any person; body of persons or institution who has in his or its possession, whether as owner, trustee, executor, custodian, or in any other capacity, any object of national value that is sacred or of religious veneration, who sells or gives, or permits to be sold or given, such object to any person or body of persons or institution living or situate outside Sikkim.

OR .who sells or gives, or permits to be sold or given, such object when he knows or could reasonably ascertain that the buyer or donee intends to remove the object from Sikkim, OR who sells or gives, or permits to be sold or given,. such object outside Sikkim, WITHOUT the licence of the Government of Sikkim, shall be punishable with a term of imprisonment not exceeding life OR with a fine not exceeding three times the value of the object.

**SD/PALDEN THONDUP NAMGYAL
THE CHOGYAL OF SIKKIM**

**J.T. DENSAPA,
SECRETARY TO
THE CHOGYAL OF
SIKKIM.**

SIKKIM STATE
General Department
Notification NO. 2371-2470G.

All the-landlord. and managers of estates in Sikkim

You are hereby informed that in future if any Bhutia or Lepchas bustiwallas applies for permission to give up a part of his holding owing to his inability to do any further cultivation, you should first forward such a application to his office for obtaining the sanction of the Darbar certifying that the land in question is not worth any compensation and that the owner is giving up his land with his own free will and after the sanction of the Darbar you should treat such land as "partik" on which you can settle Nepali bustiwallas otherwise it will be treated as an illegal act liable to punishment

BY ORDER 'OF HIS HIGHNESS THE MAHA,RAJA SAHIB OF SIKKIM

**Dated Gangtok,
The 1st August,
1941.**

**B. Karthak,
General, Secretary to His Highness the
Maharaja of Sikkim.**

SIKKIM STATE .

Forest Department .
Notification No. 1546,
1645/F.

It is hereby notified for the information of the public that for the protection of trees and saplings ,indiscriminate use of explosives for blasting roads ,within Reserve forests in Sikkim is prohibited. Any one intending to remove stones by blasting rocks from Reserve forest areas must previously 'obtain ,permit from the ,Forest 'Department before actually blasting rocks or boulders and for purpose of checking the damage resulting from such blasting those blasting, them with such permit are required to mark the spots for identification.

Anyone ..convicted of' contravention of this order will' be liable. to punishment with a fine up to Rs:300

**GANGTOK,
The 21st August,
1947**

**'B. B. Pradhan,
Forest Manager,
SIKKIM STATE**

GOVERNMENT OF SIKKIM
Land Revenue' & Forest Department
'Office Order. No. 92/L&F.

With a view that Revenue Courts may start functioning immediately His Highness the Maharaja Sahib of Sikkim has been pleased to vest the Chief Judge and the Secretary' Land Revenue and Forest, with powers. of revenue, Court 1st, grade and .the , two Revenue Inspectors with that of Revenue' Court 2nd grade.

Revenue Court 1st grade is empowered to attach and sell the movable and immovable properties of defaulters for realization of khazana and ;also to detain them in civil prison.

,Revenue Court' 2nd grade, is empowered to: attach and sell movable and immovable properties only.

Appeals from the order of Revenue Court 1st grade will lie to His Highness the Maharaja, Sahib and from 'the ,order 'of' a 2nd grade Revenue Court. to the Chief Judge.

**Gangtok, Sikkim.
The 22nd November1948.**

**S 'TSERING.
Secretary
Land Revenue and Forest Department.**

GOVERNMENT OF SIKKIM**Notification No. 2883/L.F.**

The recent establishment of Tahsils and the measures introduced regarding payment of Khazana by the lessees, who had hitherto been exempted, has enabled me to take into consideration the question of the charge generally known as house tax. . So far as Bethi is concerned namely, the share of the Lessees, Mandals and Kamdaris amounting to Rs. 1/12⁰ per house, this charge is abolished altogether. So far as the old State charge of Rs.5/- per house is concerned, I have great pleasure in directing that it be reduced to Rs.2/- per house.

Gangtok, Sikkim, The
17th September. 1949,

TASHINAMGYAL,
Maharaja of Sikkim.

LAND REVENUE DEPARTMENT**Notification No. 1205/L&F**

Whereas it is necessary to establish a law for the determination of cases relating to land be it be notified as follows

I . Definitions:

- (a) Bustiwala- means a person with a primary interest in specified land. This tenure carries with it the right to possess and use, sell, mortgage and inherit the land.
- (b) primary holders - means lessees in their home farm areas, and bustiwalas, in their holdings.
- (c) Secondary Holders - means kutiadars and adhiadars, that is, persons. deriving In interest either from the lessees, in his home farm area, or a 'bustiwala, in his holding,
 - (i) Kutiadar - means a person who engages to cultivate on condition of rendering a stipulated amount of crop or cash to the primary holder.
 - (ii) Adhiadar - means a person who engages to cultivate on condition of rendering half the produce to the primary holder.
 Kutiadars and Adhiadars hold at the 'will of the primary holder, generally for each

N. B. agricultural year.**(d) Good Title :**

- (i) In respect of a lessee-means his rights and duties under his lease in respect of the .area leased to him, that is, his Elakha in respect of his home farm area the right of possession and use as a primary holder, or the area permitted in his case by the Darbar,

(ii)In respect of a bustiwala - means the right to possess and use specific land by chardam settlement, purchase, mortgage or succession,

- (iii) As a secondary holder means the contract, verbal or written between the primary and secondary holders.

(iv) Good title also derives from continuous adverse possession,. of over, 12 year.

- (e) Chardam- means the grant of the right to settle on specific land as a bustiwala.

N. B. This right has in the past, been granted by lessees. Pending a land revenue settlement, grants will hereafter be made only by the Tahsildar in writing.

(f) Agricultural Year means the period of .12 calendar from February 1 to January 31. The agricultural year will be termed fasli year, as follows: -

Fasli year 1949 will mean the period February , 1949 to ,January 31, 1960.

1. (i) A bustiwala will pay the Darbar Khazana for the land held by him at the rates approved by the Darbar.
- (ii) The Khazana will fall due on October the 15th and should be paid by January 31. If not paid by the later date, it becomes an arrear which may be realized by attachment and sale of the bustiwala's moveable and immoveable in that order. The last date for payment of Khazana may be extended according to agricultural circumstances, in which case Khazana will become an arrear after the date so fixed.
- (iii) A bustiwala will report to the Tahsildar any sale, mortgage or succession relating to his land within one month of such sale, mortgage or succession.
- (iv) If a bustiwala fails to report as required by the foregoing sub-section, a fine of 25 per cent- of the year's Khazana for the holding in question will be imposed and realized.

3 A person may move the Court for a declaration as

- (i) A lessee, in his home farm area.
- (ii) A bustiwala, in his holding.
- (iii) A Secondary holder of a specific kind, in his holding.

In the event of a declaration being made, the person concerned will enjoy the right of possession and use in the terms of the declaration..

- 4 (i) A primary Of secondary holder may move the Court for specific performance of a contract alleged the primary and secondary holders concerned.
- (ii) A primary holder may move the Court for ejectment of the secondary holder.

5 A lessee - in respect of his Elakha or home farm and primary or secondary holders in respect of their holdings, may move the Court for determination of boundaries

NB. Bazar areas are excluded from the operation of this section.

Boundary disputes relating to bazaar area will be decided in the Department of Bazaars

- 6 (i) The further settlement of Khas land has been forbidden by Notification No. 5093/L & F dated September the 13th 1948.

This prohibition continues to remain in force.

- (ii) Only the Tahsildar is authorised to settle, abandoned partik, and he will do so in writing, making an entry accordingly in the rent roll.

- 7 (i) All matters arising under this Notification will be disposed of by Tahsildars in the first instance on application by any person concerned.
- (ii) An appeal will lie to the Revenue Commission. The proceeding.. and orders of this Court may be written by one member, but both will be present. No appeal will be heard by one member without the permission of the Dewan;
- (iii) A second appeal may lie to the Dewan from the orders of the Revenue Commission.
- (iv) there will be no further judicial proceedings in cases covered by this Notification. .

Gangtok
20th may 1950

Tashi Namgyal
Maharaja of Sikkim.

SIKKIM STATE

Land Revenue Department

Subject :- Revenue Notification. NO .I209/L&F. of 1950

I have already discussed this notification with Tahsildars. The object is to establish a substantive law relating to land which will cover most of the ordinary cases that may arise before the authorities. Amendment of the law may be expected after the Coming revenue settlement. The present instructions are intended as comment and executive orders,

COMMENT

(a) The term bustiwala has not so far connoted a definite tenure. The tenure, along with its various attributes, has been defined in section 1 (a). The duties attached to this tenure are defined in section 2. In brief, the bustiwala, has a duty to: pay khazana and report changes, and compulsion has been provided for obvious reasons. Unless, for instance, changes in holdings are reported, khatians will be incomplete and difficulties will arise in the collection of khazana. Complete khatians will also be of assistance to the authorities in deciding land cases. .

(b) Sub-para (b) and (c) of section 1 introduce a distinction secondary holders. The distinction is an actual one.

(c) In general, the definitions should be closely studied. Section 1(d) relating to good title will repay close study as, all possible ways of acquiring rights in land are defined therein. When any person claims to be holding land in any manner, his title will have to be examined before a declaration is given.

(d) The term continuous adverse possession needs some explanation. The right of a person who has remained in continuous possession for over 12 years cannot be questioned by the person against whom such possession may be construed. The former will be deemed to have acquired good title by the lapse of time. For instance, if a lessee applies after 14 years for the ejection of a person who has been in continuous possession of a holding not in the approved home farm area, the person so holding will be deemed to have acquired rights as a bustiwala. Similarly, if a person originally came into possession as a secondary holder and the primary holder made no attempt to enforce the contract between them, and if, after this failure to enforce, the secondary holder remains in possession for over 12 years he will be deemed to have superseded the rights of the bustiwala. It may be that for some years the secondary holder holds as a secondary holder, and thereafter the primary holder fails to enforce the contract. If he challenges the possession of the secondary holder at any time within 12 years after his failure to enforce the contract, the secondary holder will not have gained good title through the operation of adverse possession. I shall explain these principles to tahsildars if there is any doubt.

(e) Chardam literally means four pice. It is paid as a kind of salami, but will of course not be taken in future either by the lessee or the Tahsildar.

f) Sections 3 & 4 should be quite clear ..

(g) Section 6. 'In' the absence of . accurate survey .maps Tahsildars will have: to rely on rough survey maps where available, description -of. boundaries . in transfer deeds and the fact of' possession. In most cases field boundaries are well known and accepted:. When there 'is' a dispute over boundaries . it will' generally be found that one of the parties has become the aggressor, or the dispute ,may-be due :to personal rivalry.. Evidence of possession of the parties themselves is unlikely to .be' reliable in such cases, and even the evidence of neighbors may be conflicting because of their being involved' on side in one way or other. In such cases Tashildars should follow the description. of boundaries in transfer deeds etc., and where evidence of even this sort 'is lacking; they will have to make a decision guided by their sense of enquiry taking all factors into consideration.

(h) 'Tashildars have been given certain rights and duties under section b, sub-section

(iii) & (iv). The object is to ensure that the full productive capacity of the land is achieved.

3 EXECUTIVE ORDERS

(a) Section 2.

(i) The rates of khazana are those that are in force at present.

(ii) Previously the khazana fell due on September the 1st, but this date anticipates the harvest by more than a month. The period October 15 to January 31 covers the harvest period and gives the bustiwala sufficient time to sell sufficient grain to pay his khazana. The period for payment has been extended up to March 15 this year owing to fact that three years dues had to be paid. During the period of payment khazana will be regarded as a due. After the period is over, unpaid khazana will be regarded as an arrear: and may be realized as provided in section 2, sub-section (iii). It will be the duty of tahsildars to report any. exceptional circumstances necessitating extension of the date for payment.

(iii) All changes .reported under section 2, sub-section (iii), Or ascertained by the tahsildar will be incorporated in the khatians. and Addas concerned. The Tahsildar will be responsible for seeing that these records are accurate and upto date. A clerk has already been assigned for these duties.

b) (i) Tahsildars should see that a person who acquires rights in land under section 1 (d) is not disturbed without due process of law. Any person who has not acquired rights in this manner is a trespasser and should be removed. In removing a trespasser, tahsildars should reimburse the rightful holder the net receipts from the land during the period of dispossession.

. Example. A. trespasser has been in possession of -4 pathis of panikhet for two years, The gross yield of this land is 10 maunds of grain. The trespasser has spent ;

. Seed.. ...one maund and labour... .Rs 10/

'He may also have incurred other charges, such as transport to the market etc. Compensa should be worked out for each agricultural year after taking the cost of these agricultural. . and allied operations into account.

In addition to the net receipts. tahsildars will realize a fine from the trespasser amounting to half the net receipts for. each year which will be credited' to the .public revenue Taking possession by,. a trespasser is. not only a violation of the. rights of others but a violation of ,public law, hence the need for a, fine.

(ii) The. term "due process of law" used in the foregoing sub-paragraph refers to the rightful acquisition of an interest in the land. So far as lessees are concerned, they enjoy rights to the possession of home farm areas, details of which are given in order No, 18 dated 19.2.5'0. Copies of this order are being sent to tashildars. Bastiwala may acquire rights under section I. In addition to the two classes of primary holders named ,above, there may be acquisition of rights as secondary holders, namely kutiadars and adhiadars, Such secondary holders may be entitled to possession on the basis of oral or written agreement. It is a question of fact whether such agreements exist but it is a question of judicial interpretation as to whether the agreements confer secondary rights.

(c) Secondary holders are generally removable at the end of the agricultural year. If a secondary holder does not remove him at the wish of the primary holder, the latter may move the tahsildar but if he does not do so within a month of the end of the agricultural year, it may be assumed that the primary holder has permitted the secondary holder to continue in possession for one more agricultural year on the same terms as before,

(d) Suitable time will have to be given for the limiting periods adopted in the notification and these orders to become known. A notice is being prepared in the Land Revenue Department. After it has been duly notified, both the notification and these orders should be strictly enforced.

(e) In settling partik, tahsildars should consider whether the land in question should not more appropriately form part of khas or reserved forest. In deciding this question, tahsildars should see whether the area is already wooded or whether it can be conveniently afforested. Unless either of these conditions are satisfied there would be no practical advantage in including such partik in khas or reserved forest. Tahsildars should consult their forest officials in deciding such cases.

(f) Mondals will report abandonment each year, and when land is abandoned for three complete agricultural years, the Tahsildars will settle it with another bustiwala, Preference will be given in the following order ;

(i) A holder of continuous land so that a compact holding is formed.

(ii) A bustiwala already holding .land, firstly, in that locality, and secondly in

that busty.

(g) In reporting abandonment under sub-clause (f), mandals will suggest persons to. whom the land may be let in the light of that sub-clause.

**GANGTOK 20th
May, 1950**

**Sd/. J.S. LALL,
I,CS. Dewan, Sikkim
State.**

HOME AND POLICE DEPARTMENT

NOTIFICATION No. '4081/HP.

Dated June,1956

Whereas it is expedient to provide for the control of undesirables within, the state of Sikkim and to provide for their removal from the State of Sikkim under certain 'circumstances .it. is hereby notified as follow.

1, In this Notification, the term 'Undesirables include 'a, hooligan or other rough 'and also such persons as. is likely to endanger the security of the State.

3 Whenever' it shall appear to the Superintendent' of Police" Sikkim .that any person :
(a) , is a undesirable or a member- of gang or- body of undesirables. and is residing within or habitually visiting or frequenting .the_State and
(b), that such person or such gang or body is committing 'or has committed or is about to commit or is assisting or abetting the commission of any of the following:

- (i) an offence against personal property;
- (ii) an offence of criminal intimidation;
- (iii) an offence involving a breach of the peace;
- (iv) an offence against the security of the State;
- (v) Espionages as to be a danger to or cause 'or be likely to cause alarm to the inhabitants or to any section of the inhabitants of the State, or to endanger the' security of the state the Superintendent of the Police shall make a report to the' Dewan about the existence of such a person, recommending that the person be' expelled from the - State or his movement 'be restricted to certain areas within the State.

(4)The Dewan, on receipt of the report of the Superintendent of the Police may pass "order expelling or restricting the movements of the person concerned, as may be deemed necessary .

. 5. If the person who is the subject of a proceeding under this notification evades the service of any notice or order on him, it shall be deemed sufficient service if a copy, of the notice or order is pasted at the place where the person is reported to he usually residing.

6 Any person who fails to comply with the orders passed as per. paragraph... of this notification or attempts to evade such orders shall be punished with rigorous imprisonment which may extend upto six months or with. fine whi.ch may' extend upto Rs.500, or with both. .

7. The orders passed under paragraph 3 shall continue to. stand after the conviction under rule 6.

By Order of His Highness the Maharaja of Sikkim.

**T. D. Densapa,
Chief Secretary,
Government of Sikkim.**

**GOVERNMENT OF SIKKIM .
DEPARTMENT OF BAZARS
Notification No.. 1660-499/B**

It is hereby notified for the information of the general public and merchants that it is strictly prohibited to Bath 'or Wash any Cloth ,Wool, Leather, Skin, Cooking utensils or other dirty and offensive things, Motor cars, Jeeps, Trucks, Carts, Dogs, Horses, or any other animals at or near any stand pipe or any other work erected, for the supply of drinking water within the premises of the Bazaars in Sikkim.

2. Anyone found acting in contravention of this order will be liable to a fine of Rs.100/-,
3. This notification comes into force with immediate effect 'and supersedes this office Notification No., 5723-199/B of February, the 18th, 1949.

By Order of His Highness the Maharaja of Sikkim

**Sd/- A.S. Dewan
9.1.56
Executive Department
Bazar Department**

+Added by Notice No. 5769-50/B dated 6th July,1954

**GOVERNMENT OF SIKKIM .
BAZAR DEPARTMENT
Notification No. 8161 -799/B**

It is hereby notified for the information of all shopkeepers in Sikkim and specially of Gangtok Bazaars that the throwing of refuse, sweepings, washing, filthy water collected from inside their shops into the Bazar drain and the street is strictly prohibited. The are required to provide themselves with tins or receptacles with proper lids for keeping sweepings etc., which shall not be exposed to public view and the contents thereof shall be caused to be removed by the owner at least once in twenty four hours, or deposited in the Bazar Dustbins provided by the Government for the purpose.

This Notification will take immediate effect.

If any person is found contravening this order, he will be liable to punishment which may extend upto Rs.500/- in each case in default simple imprisonment upto three month.

The Bazar. Police and Sanitary personnel are authorised to enforce this order with the utmost strictness.

Issued by Order of His Highness the Maharaja of Sikkim.

**Gangtok,
The 26th March, 195'9.**

**P. Hishey
Executive
Officer, Bazar
Department,**

GOVERNMENT OF SIKKIM

**REGULATIONS REGARDING PLYING
OF CARTS IN SIKKIM, 1959,.**

REGULATIONS REGARDING. PLYING OF CARTS IN SIKKIM

1. Persons. intending to ply bullock carts in Sikkim shall have *to* take out a licence permitting them' to do so. from the office *of* the Sikkim Transport Authority or from the places fixed *by* him, after paying a fee (prescribed in paragraph 3 below) with the Sikkim Government Bankers.

2. A licence for plying carts must be renewed in the month *of* March *of* each year after paying renewal fee *of* Rs. 8.00 per annum.

3. A fee *of* Rs. 8. per cart per annum shall be charged before a licence is issued.

4. The animals intended for the plying *of* a ,licensed, cart shall be produced before' the Veterinary Doctor ,Gangtok. Sikkim. Only the animals passed and approved by him shall he allowed to ply in Sikkim Territory. Animals replaced on account of death or sale shall also he produced and certificate taken.

5. The description of animals shall be given in the licence issued for the carts and the animals marked (5) as being declared fit for cart driving.

6. At the time of renewal, the fitness certificate of the animals duly obtained from the officers mentioned in rule 4-' should be' produced before the Licensing Officer.

7. If, at any time, it is found that unapproved or unfit animals are being worked *by* the cart pliers, the licence shall be liable to be cancelled. ' Animals having wounds shall be deemed 'to be unfit.

8. No persons below 18 years shall be allowed to drive a cart.

9. The name of the driver shall be .mentioned in the licence and he shall satisfy the officer issuing the licenses that he is acquainted with the 'rules *of* the road and other principles of cart driving.

10. No cart driver shall allow his cart *to* move on while he is 'asleep in the cart.

11. Whenever an owner *of* a licensed cart changes the driver, he shall have the name of his new employee inserted in the licence.

12. A charge *of* one rupee shall be made for the supply *of* licence booklets and, tinplates bearing the cart number.

13. The drivers *of* carts shall observe the following precautions:..... :...

- (a) Proper strings are' tied to the head *of* animal or animals or nose, strings' are used if the animals are frisky

(b) They should never let the cart go on without themselves being on or near it :
and, .

(c) They should provide themselves With hanging 'lights if carts are being
plied after sunset..

14. 'If at the commencement of the Financial Year (April) a cart licence found unrenewed, the cart shall be treated as being plied without licence.
15. No cart shall be allowed to load more than the capacity mentioned in the licence, which shall be fixed according to the type of carts and the carrying strength of the bulls.
16. ,Any cart that is not intended for traffic and for whom: no licence is intended to be taken out, shall be kept with their wheels off (not in working order). .
17. Carts discovered without licenses in Sikkim shall be stopped from traffic and their owners prosecuted for breach of rules.
18. No cart drivers shall want only or cruelly beat or abuse or torture and animal.
19. Every driver of a cart shall produce the cart licence at the spot when required to do so by any Police Officer.
20. Not more than three bullock carts shall move together (following each other) unless there is a distance of 50 yards between the two trains, Cartmen of carts behind the first three found' in one train shall be liable to be prosecuted.
21. All bullock carts shall have pneumatic tyres fitted to the wheels by 1st October, 1959. No bullock cart shall be allowed to ply after that date unless fitted with pneumatic tyres.
22. The bullock carts shall only be parked at the road at the following places :
 1. Songkhola
 2. Middle Camp
 3. Ranipool
 4. 5th mile (from Gangtok)
 5. Tadong
 6. Khanikhola
23. A breach of any of above rules shall be liable to a penalty not exceeding Rs. 300 and the cancellation of the permit to ply bullock carts in Sikkim Territory.
24. The Government may appoint special officers to try cases relating to the breach of the above rules, and such officers may be empowered. to inflict fines to the limit provided for in the rules. But if any party pleads on guilty and is not prepared to pay the fine, the case shall be sent to the regular Court .

Proclamation of

**HIS HIGHNESS SIR TASHI NAMGYAL KC.S .I, K.C.I.E.
MAHARAJA OF SIKKIM,
SIKKIM DABAR GAZETTE EXTRAORDINARY, FEBRUARY, 21, 1960**

Dated the 27th February - 1960.

Proclamation of His Highness Sir Tashi Namgyal K.C.S.I., KC.I.E., Maharaja of Sikkim , dated the 27th February, 1960.

WHEREAS it. is expedient to constitute and regulate a Corporation for the purpose of. developing the deposits of copper, lead, zinc and other minerals in Bhotang and. other places in Sikkim and for matters connected therewith or incidental thereto.

His Highness the Maharaja of Sikkim is pleased to proclaim and ordain as follows:

1. This: Proclamation may be cited as the Sikkim Mining Corporation Proclamation of' 1960.

2. In this Proclamation '

(a) "Board" means the Board of Directors of the Corporation.

(b) "Corporation" means the. Sikkim Mining Corporation. .

(e) "Financial year" means the year commencing on the 1st day of April

(d} Managing Director" means the Managing Director of the Corporation

(1)There shall be established a Corporation to be called the Sikkim Mining

Corporation

(2)The' Corporation shall be' a . body corporate., having perpetual succession and a common seal, with power to acquire, hold or dispose of, property, both movable And immovable, and shall by the said name, sue and be sued.

(4).. The authorised capital of the Corporation shall be one crore rupees, divided into one lakh fully paid up. shares. of hundred rupee each, of which 49000 shares of the total value of forty nine lakh rupees shall be issued to the Government of India and the remaining 5'1,000 shares of the total value of fifty one lakh rupees shall be issued to the Government of Sikkim or its nominee.

(5) Any holder of. a share may, with the previous approval of the Board, transfer that share

(6)Notwithstanding. anything contained in this Proclamation no shares of the Corporation shall be issued or transferred to any person who is not a citizen of Sikkim or a citizen of India

7. The general superintendence and direction of the affairs of the Corporation shall be entrusted to the Board of Directors, who may exercise all Powers and do all acts and things which may be exercised or done by the Corporation.

8(l) The Board of Director shall consist of the following, namely.

- (a) the Maharaja Kumar of Sikkim the Heir Apparent for the time being who shall be the Chairman of the Board;
- (b) one Director nominated by the Government of Sikkim;
- (c) three Directors nominated by the Government of India.

(2) Notwithstanding anything contained in sub-section (i) two, additional directors may be appointed on the Board, one by the Government of Sikkim and another by the Government of India.

9. The directors of the Board shall receive such remuneration for attending meeting of the Board as the Board may fix in this behalf

10. A nominated, director shall hold office during the pleasure of the authority nominating him.
11. The Board may, from time to time, appoint one or more committees for the purpose of assisting the Board in the efficient performance of its functions.
12. The Corporation may appoint such number of employees as it considers necessary.
13. (1) The Government of India may appoint any Director nominated by it on the Board to be the Managing Director of the Corporation.
- (2) The Managing Director shall exercise such powers and discharge such duties as may be delegated to him by the Board,
14. The Board and the committees constituted by it shall meet at such times and places and shall observe such rules of procedure including quorum in regard to the transaction of business at its meetings as may be determined by the Board :

Provided that the Board shall meet at least once in a period of three months .

15The Corporation may carry on and transact any of the following kind of business, namely:

- (i) to purchase, take on lease or otherwise acquire any mineral field mine and mineral

(ii) to search for, prospect, get, win, work, raise, beneficiate, smelt, refine or otherwise process, sell, dispose off and deal in, all minerals and substances and to manufacture and sell all products and to develop the resources of any lands, properties and rights and privileges to be at any time acquired by the corporation

(iii) to construct equip, develop and administer, manage or control, in Sikkim, mines quarries, ore treatment, smelting and refining plants and to improve them in a manner calculated to advance the interests of the Corporation

'(iii) to construct, equip, develop and administer, manage or control, in Sikkim, mines, quarries, ore-treatment; smelting and refining plants and improve them' in the manner calculated to advance the interests of the Corporation;

(iv) to provide for the welfare of its employees, or ex-employees of the Corporation and their families;

(v) to do all other, things as are incidental as, may be' thought conducive to the, attainment of the above objects or any of them.

16. (1) The Corporation shall constitute its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made there from.

(2) All moneys belonging to the fund shall be deposited in such manner as may be determined by the Board.

17 (1) The Corporation shall establish a reserve fund to such extent, in such manner and for such purposes as may be determined by the Board.

(2)' After making provision for reserve fund and for bad and doubtful debts, depreciation of assets and all other matters which may be specially provided in this behalf by the Board, the Corporation shall, out of its net annual profit, declare a dividend.

18 The affairs of the Corporation shall be' audited by auditors appointed by the Board.

(19) (1) A general meeting of the Corporation shall be held annually at a place which may be fixed in this behalf, by the Board.

(2) The share holders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the Board on the working of the Corporation throughout the year and the auditors' report and the manner in which the objections raised in the audit report have been dealt with;

20 The Board shall in October each year prepare in such form as it thinks fit a budget for the next financial year showing the estimated receipts and expenditure during the financial year.

21 The Corporation shall furnish to the Government of India and to the Government of Sikkim a monthly report of, its progress, and activities and such other information as any such Government may require

22 The Corporation shall furnish to the Government of India, and to

the Government of Sikkim, at the close of each financial year a, statement of its assets and liabilities as at the close of that year together with the profit and loss account for the year, the auditors' report how it has been dealt with by the Corporation and the report on the working of the Corporation during the year.

23 (1) The Corporation shall keep a register of the share holders in which shall be entered the following particulars so far as they may be

available :

(i) The names, addresses and occupations, if any, of the share holders and a statement of the shares held by each, shareholders distinguishing each. Share by its denoting number

(ii) the date on which each person is so entered as a shareholder;

(iii) the date on which any person ceases to be a shareholder; and
(iv) such other particulars as the Corporation may determine,

(2) the Corporation may maintain such other books or registers as it thinks fit.

2.4 No suit, prosecution or other legal proceeding shall lie against any Director of the Board or any other person in the employment of the Corporation for anything which is in good faith done or purported to be done under this Proclamation.

25. The Board may direct that any power or duty conferred or imposed upon the Corporation or the Board shall, in such circumstances and under such conditions, if any, as may be specified by the Managing Director or any employee of the Corporation,

26, The Board may make regulations not inconsistent with this Proclamation to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Proclamation.

**TSE TEN TASHI,
Private Secretary to
His Highness the Maharaja of Sikkim**

.Notification No. 2602A/H**The 25 th March, 1960****Rules and Regulations for the registration of various organisation in Sikkim**

Whereas it is expedient that provision should be made for consolidating the legal condition of societies established for the promotion of literature, science or the fine arts, or for the diffusion of useful knowledge, the diffusion 'of political education, or for charitable purpose; His Highness has been pleased to order as follows:

1. Any seven or more persons associated for any such purpose as described in para' 2 of this notification may by subscribing their names to a . memorandum of association,' and filing the same with the Chief Executive Officer, Government of Sikkim, form themselves into a society.

2. The following societies, may be registered, under this notification :

Charitable societies, the military orphan funds societies established for the promotion of science, literature, or the fine art, for instruction the diffusion of useful knowledge, the diffusion of libraries of reading room for general use among the members are open to the public, or public museums and galleries of paintings and other works of art, collection of natural history, mechanical and philosophical inventions, instruments, or designs.

3. The memorandum of association shall contain the following things (that is to say) .

the name of the society,
the object of the society,
the name, address, and occupation pf the governors, council, director, committee, or other governing body to whom, by the rules of the. society, the management of its affairs is entrusted,
emblems, etc., if any.

4. A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of the association.'

5. Upon such memorandum and certified copy being filed the Chief Executive. Officer, shall certify under his hand and seal of the Court that the society is registered. There shall be paid to the Government of, Sikkim for every such registration a fee of Rs. 50/-. Sikkim Darbar may direct the Chief Executive Officer, to with-hold registration of any society which in the opinion of the Sikkim Darbar does not appear to be covered by' categories enumerated in para 2 above. This decision shall be final.

6. Once in every year in the month of January, a list shall be filed with the Chief Executive Officer, of the names, addresses and occupation of the governors, council committee or other governing body then entrusted with the management of the affairs of the society.

7. The property, movable and immovable, belonging to a society registered as above shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings civil and criminal may be described as property of the governing body of such society by their proper title.

8..Every society registered. under this notification may sue or be sued in the name of the President or Chairman.

. 9 If a judgment shall be .ordered against the President or Chairman. such a judgment. shall be put in' force against the property of the society and not against the property of the person.

10.. No .suit proceeding shall abate or discontinue by reason of the person ,by or against ..whom such suit or proceedings .shall have been brought or continued, dying or ceasing to fit the character in the name whereof he shall have sued or being sued, but the .same suit or proceedings shall be continued in the name of or against the successor of such person.

11 . Any number not less than three fifths 'of the members *of* any society at a general meeting., convened for the purpose may determine by their votes delivered in person or by proxy. that it shall be dissolved and thereupon it shall be dissolved forthwith, or at the time then agreed. upon :

Provided that whenever the Sikkim Government is a member of, or a' contributor to, or otherwise interested in any society registered under this notification, such society shall not be dissolved without the consent of the Sikkim Government.

12. For the purposes of this notification a member of a society shall be .a person who having been admitted therein' according to the rules and regulations thereof shall have signed the roll or list of members, the members thereof, and shall not have resigned in accordance with such rules and regulations. .

13.The governing body of the society shall be the governors, council, directors committee, trustee, trustees or other. body to whom by the rules and regulations of the society the management of its affairs is entrusted.

Any society established and constituted prior to this notification for the purposes mentioned in para 2 above but not registered may at any time hereafter be registered as a , society under this notification if an assent to its being so registered has been given by three. fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body. In case of society not so registered if no such body shall have been constituted on the establishment of the society it shall be competent for the members thereof, upon the notice, to create for mice-forth. For obtaining registration under this notification it shall be sufficient that the governing body file with the Chief Executive Officer, a memorandum showing the name of the society, the object of the society and the name, address and occupation of the governing body and a copy of the report of the proceedings of a general meeting at which the registration was resolved on.

14-Any person may inspect all documents with the Chief Executive Officer, under this notification on payment of a fee of Re. 1 for such inspection and any person may require a copy of extract of any document or any part of document to be certified by the Chief Executive Officer, on payment of 25' np for every 100 words or part thereof for such copy *or* .extracts and such certified copy shall be prima-facie evidence of the matters therein contained in all legal proceedings whatsoever.

15-Any member of the society who shall steal, portion or embezzle any money or other property, or willfully and maliciously destroy or injure any property, of such society, or funds of the society may be exposed to loss, shall be subject to the same prosecution, and if convicted, shall be liable to be punished in like manner, as any person not a member would be subject and liable to -in respect of the like offence.

16. Any person including a member of the society who shall without the authority of the governing body, use either- the name .or the emblem of the society will. be liable to prosecution Upon a complaint filed by the President or the Chairman of the governing body and shall on conviction be punished with a fine upto Rs. 500, or in default simple imprisonment extending upto six months.

11'Government of Sikkim may suspend or cancel registration of my society registered under the provisions of this notification if in the opinion of the Government of Sikkim any of the action of the society is beyond the aims and objects of the society or is prejudicial to the interest of Sikkim.

By Order,

**D DAHDUL,
Chief Secretary,
Government of Sikkim.**

**GOVERNMENT OF SIKKIM
LAND REVENUE DEPARTMENT**

O.O.No. 105/ L.R.

Dated Gangtok the 25th February, 1961.

It is hereby informed for the general guidance of all the Darbar Officers dealing specifically with registration of documents in Sikkim, that the following procedures should be strictly followed and observed in cases of transaction relating to transfer of immovable properties. .

That it has come to the notice of the Darbar of late, that Nepalese .who are marrying Bhutia-Lepcha girls or Non-Sikkimese marrying-Sikkimese women are acquiring immovable properties of Bhutia-Lepcha cannot be alienated in favour of a non-Bhutia-Lepcha and that Non-Sikkimese are not entitled to acquire any immovable properties in Sikkim.

It ,is therefore, to be observed that whenever a transfer of a landed property in Sikkim happens to be women, the registering officer before allowing the registration of the document relating to such transfer, should make an enquiry as to from what source the money for the purchase of the property, where the transfer is by sale, is being obtained by her, It is also to be ascertained whether the. purchase money forms her actual property, or it is to be provided by her husband if she is married, in which case such other particulars of her husband including the community to which he belongs, his home address, what landed property he holds already in Sikkim etc., should be enquired into first. In the case of transfer otherwise than by sale also such as gift etc., similar particulars of the husband of the woman if she is married are to be furnished.. The Registering Officer is to undertake and complete all the preliminary enquiries as intended ..above, and should then refer the case to the Dewan of Sikkim with his forwarding report for a decision. Pending specific decision forthcoming from the authority concerned, the registration of such transfer documents should on no account be finalized.

By Order,

**D.Dahdul,
Chief Secretary,
Government, of Sikkim.**

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Land Revenue Department
Notification No. 28/L.R.

Dated Gangtok, the 21st April, 1969.

There has been some doubts about the right of a woman to purchase or sell land after her marriage to a person of other community due to restrictions imposed by Revenue Order No. I of 1917 and in order to clarify the position in this regard It is hereby notified as follows;

- (a) Women follows the nationality and community of her husband.
- (b) Bhutia- Lepcha women marrying a person of community other than her own community only if such land was acquired by her prior to her marriage.
- (c) Land acquired by her after her marriage to a non Bhutia Lepcha may be sold to any community.
- (d) Sikkimese of Tibetan and Bhutanese origin enjoy all rights and privileges of Bhutias

/Lepcha except that they may not buy land from the latter ,community

By Order

M.P. Pradhan
Secretary,
Land. Revenue Department

THE SIKKIM SUBJECTS REGULATION 1961

(As amended vide Notification No S/277/61 dated the 16th, January, 1962, Notification

No, S/252/65 dated the 26th July. 1965 'and 'Notification No. 790/H dated the 3rd December, 1970'

HOME" DEPARTMENT

Notification, No. 156/S-61

Dated Gangtok, 'the. 3rd July 1961

(Published in the Sikkim Darbar Gazette, Extraordinary: dated the, 3rd July 1961).

The following Proclamation of The Chogyal of Sikkim. is hereby notified

WHEREAS it is expedient to define clearly the status' of 'Sikkim Subjects 'and 'to make provision for. acquisition and loss of such aforesaid status:

NOW, THEREFORE'; The Chogyal of Sikkim has been pleased to make and promulgate the following' Regulation

I, Short title and extent

(i) This Regulation may be called the SIKKIM SUBJECTS REGULATION 1961.

(ii) It shall extend throughout the territory of SIKKIM

2 Commencement

This Regulation shall, come into force on such date as may be appointed for the purpose by The Chogyal of Sikkim.

3. Certain persons domiciled in Sikkim Territory at the commencement of the Regulation to be Sikkim Subjects -

(I) Every person who has his domicile in. the territory of Sikkim immediately before the commencement of this Regulation shall be a Sikkim Subject if he

(a) was born in the territory of Sikkim and is resident therein, or

(b) has been ordinarily resident in. the territory of Sikkim 'for a period of 'not less than fifteen years immediately preceding such commencement :

. Provided that in counting the said. period of fifteen years any absence from the said territory on account- of service under the' Government .of India shall be disregarded -or

(c) is the wife or minor child of a person mentioned in clause (a) or clause (b):

Provided that a person shall .not be a' Sikkim Subject under this section unless he makes a declaration to the effect that he is not a citizen of any other country at the time of. inclusion of his- name in the register of Sikkim Subjects to be maintained under this Regulation: .

Provided further that in the .case 'of a minor or a person of unsound mind, such. declaration may be made by his guardian.

Explanation : No person shall be deemed to have his domicile in ,the territory of Sikkim unless

- (1) he is a person who has made Sikkim his permanent home and has severed his connections with the country of his origin such as by parting with his property in that country or acquiring immovable property in Sikkim:

Provided that a person shall not be deemed to have a permanent home in Sikkim if he indicates an intention of returning to his country of origin, by keeping a live interest therein even though he might have parted with his property in his country of origin and the mere parting of such property will not be regarded as proof of a person's having acquired a permanent home in Sikkim.

(2) The wife and minor children of a person having his domicile in Sikkim shall be deemed to have domicile in Sikkim for the purpose of this section.

(3) In any case of doubt as to whether a person has domicile within the territory of Sikkim under this section, the matter shall be decided by The Chogyal with the assistance of a Board consisting of persons to be appointed in accordance with the rules made under this Regulation.

4. Certain persons, though not domiciled in Sikkim, to be Sikkim Subject :

Any person, who has not voluntarily acquired the citizenship of any other country, though not domiciled in Sikkim, may, on an application made to the authority prescribed by the rules made under this Regulation be registered as a Sikkim Subject if he is a person whose ancestors were deemed to be Sikkim Subjects prior to the year 1850

5. Sikkim Subject by Descent

Every person born after the commencement of this Regulation shall be a Sikkim Subject if at the time of his birth his father is a Sikkim Subject under this Regulation, whether or not the birth takes place in the territory of Sikkim.

6. Status of Women married to Sikkim Subjects

A woman of foreign nationality who is married to a Sikkim Subject after the commencement of this Regulation shall ordinarily be eligible to be registered as a Sikkim Subject, on making application therefor to the Government of The Chogyal in the manner provided by rules under this Regulation, and after renouncing her former nationality and on taking oath of allegiance:

Provided that the Government of The Chogyal after giving a reasonable opportunity to the person of making a representation may refuse such application.

7. Certain persons not to be Sikkim Subjects

- (a) Any person who renounces his status as a Sikkim Subject, or voluntarily acquires the citizenship of any other country, or; takes an oath of allegiance to a foreign country or Ruler thereof without the consent of The Chogyal's Government. ; or .
- (b) Any Sikkimese woman who marries a person who is not a Sikkim Subject; or
- (c) Any person, other than a person referred to in section 4. who severs his connection with Sikkim such as by parting with his property in Sikkim and migrates to a place outside Sikkim and India after the commencement of this Regulation, or has not been ordinarily resident in Sikkim for a continuous period of seven years, shall thereupon cease to be a Sikkim Subject.

8 Naturalized Subjects - .

(1) The Government of His Highness may; if application is made to, them in the manner provided by rules under this. Regulation by' any person of full age and capacity who at the .date of the commencement of this Regulation is a national of another State but otherwise fulfills the requirements, of section .3 of. this Regulation. to be. a. Sikkim. Subject, grant to him a certificate of naturalization if he renounces his former nationality ; and the person to whom such a certificate .is granted shall on taking. oath of allegiance, and on his name being entered in the Register to be maintained under this Regulation, be a. Sikkim Subject by naturalization from the date on which the certificate is granted

(2) If a certificate is granted to any person under the last foregoing sub-section his wife after renouncing her former nationality and his minor children may, on application made in this behalf and taking oath of allegiance be granted certificate of naturalization.

(3) The Government of His Highness shall also have the power to naturalize a person upon application made therefor in the manner prescribed by the rules, provided that the Government of His Highness are satisfied that -

- (a) he has been in the service of the Government of Sikkim for a period of not less than ten years immediately preceding the date of his application, or
- (b) he has rendered meritorious service to the State, and the person to whom such a certificate is granted shall, on taking oath of allegiance, and upon his name being entered in the Register of Subjects, be a naturalized Sikkim Subject from the date on which the certificate was granted.

(4) The Government of His' Highness may at the same time naturalize the wife and minor children of a person who is granted a certificate of naturalization if application therefor is made.

9. Loss and Deprivation of Nationality-Loss of Status of Naturalized Subjects

A naturalized subject shall lose his status. as a Sikkim subject if he ceases to reside ordinarily in the territory of .Sikkim or fails to comply with any of the conditions subject to which the certificate of naturalization may have been granted to him and thereupon his name shall be removed from the Register of Sikkim Subjects;

10. Deprivation of Status of Subjects

Subject to the provisions of this section, the Government of His Highness may by order deprive any Sikkim Subject who is such by .registration under section 4 or by naturalization under section 8 of this Regulation of his status if the Government are satisfied that such a subject,

- (i) during any war in which The Chogyal or the Government of India are engaged, unlawfully traded or communicated with an enemy or has been engaged in or associated with business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
- (ii) shown himself by act or speech to be guilty of disaffection or disloyalty towards The Chogyal ; or
- (W) obtained the certificate of naturalization by fraud, false. representation or concealment of material facts;

(iv) within five years of naturalization has been convicted of any offence in any country and has been sentenced to imprisonment for a term of not less than twelve months and such a person shall cease to be a Sikkim Subject with effect from the date on which such order of deprivation is passed

Provided that a person shall be afforded a reasonable opportunity of making representation before an order of deprivation is made.

MISCELLANEOUS

II. Offence and Punishment.

:" Any person who for the purpose of procuring anything to be done or not to be done under this Regulation makes any statement which he knows to be false in material particulars or recklessly makes any statement which is false in material particulars, shall be liable in summary conviction to imprisonment for a term not exceeding two years.

12. Evidence of Status as Sikkim Subject

The Government of His Highness shall prepare and maintain a Register of Sikkim subjects in accordance with rules to be framed under this Regulation and the entry of a person's name in such a register shall be prima facie evidence of the person's status as a Sikkim subject:

Provided that a person's name may be removed from the aforesaid Register of Sikkim Subjects and any certificate of status as a Sikkim Subject granted to him may be cancelled with effect from the date of the original grant when the Board constituted under section 3 (3) of Sikkim Subjects Regulation is satisfied that the said person's name had been wrongly entered in the Register at any time and submits a finding to that effect to the Government of Sikkim:

Provided further that an appeal shall lie to The Chogyal against any such finding by the aforesaid Board.

13. Power to make Rules

The Government of His Highness may make and promulgate such rules as may be necessary for carrying out the provisions of this Regulation.

14. Repeal

All rules, regulations, orders and instructions hitherto in force in Sikkim territory in relation to the definition, acquisition and loss or deprivation of the status of Sikkim Subjects are hereby repealed.

**TASHI NAMGYAL.
MAHARAJA OF SIKKIM.**

By Order,

**D. DAHDUL,
Chief Secretary,
Government of Sikkim.**

THE SIKKIM SUBJECT RULES, 1961**Notification No. S/294/61****Dated Gangtok, the 19th February, 1962.**

In exercise of the powers conferred by Section 13 of the Sikkim Subjects Regulation, 1961, the Government of His Highness the Maharaja of Sikkim are pleased to make and promulgate the following rules

1. Short title and commencement.
 - (1) These rules may be called Sikkim Subject Rules, 1961.
 - (2) They shall come into force with immediate effect.
2. Definition In these rules unless the context otherwise requires :
 - (a) 'Chief Executive Officer' means the Chief Executive Officer of the Government of Sikkim.
 - (b) 'Form' means a form given in the Schedule.
 - (c) 'Government' means the Government of His Highness the Maharaja of Sikkim.
 - (d) 'Regulation' means the Sikkim Subjects Regulation, 1961.
 - (e) 'Schedule' means the Schedule to these rules.

Declarations under Section 3 of the Regulation :

3. (i) Every person of full age who, is qualified to be Sikkim Subject by virtue of the provisions of Clauses (a) and (b) of Section 3 (1) of the Regulation shall make the declaration required under the 1st provision to Section 3 (1) of the Regulation in form I. A person of full age who qualifies to be Sikkim Subject only under Clause (c) of Section 3 (1) of the Regulation shall make the declaration in Form II. A declaration on behalf of a minor or a person of unsound mind made by his parents or guardian shall be in form III.

(ii) The declaration shall be submitted to the Magistrate in charge of the area where the person making the declaration ordinarily resides.

(iii) The Magistrate on receipt of the declaration in the prescribed form shall make such enquiries as he may think it fit to satisfy himself of correctness of the particulars given and statements made therein and shall thereafter submit his report to the Chief

Executive Officer together with his recommendations.

(iv) The Chief Executive Officer if he is satisfied that the person concerned qualifies to be a Sikkim Subject under Section 3 (1) of the Regulation shall cause his/her name to be entered in the Register of Sikkim Subjects to be maintained under Section 12 of the Regulation.

(v) The Chief Executive Officer shall in cases of doubt as regards the domicile of a person refer the matter to the Board constituted under Section 3 (3) of the Regulation and shall act in accordance with the decision of the Board on the question referred to it.

(vi) For the purposes of Section 3 (3) of the Regulation the Government shall constitute a Board consisting of six officials and non-official members.

(vii) The Chief Executive Officer or the Board, as the case may be, heard the person concerned if thought fit but if an order to his prejudice is likely to be made he shall be given an opportunity to be heard before the order is pronounced.

Registration under Sections 4 and 6 of the Regulation

4. An application for registration under Section 4 shall be in form V and shall be made to the Chief Executive Officer. An application for registration under Section 6 shall be made addressed to the Chief Executive Officer and shall be in form V.

Naturalization under Section 8 of the Regulation

5. An application for a certificate of naturalization under Section 8 (1) shall be made in form VI. and an application under Section 8 (3) shall be in form VII. Such application shall be made to the Chief Executive Officer.

6. (1) The Chief Executive Officer on receipt of an application for registration under Section 4 or under Section 6 or an application for naturalization made under Section 8 shall make such enquiries, as he thinks fit to satisfy himself of the correctness of the particulars given, and statements made in the application.

(2) The Chief Executive Officer may on being satisfied that he fulfils the conditions for being registered or naturalized as the case may be, under the Regulation and that the applicant is fit and proper person to be so registered or naturalized, accept his application and issue the necessary certificate for the purpose. The certificate of naturalization shall be in form IX.

(3) In cases where the Chief Executive Officer is not so satisfied he shall give an opportunity to the applicant to be heard and thereafter pass such order as he may think fit

Registration of Births after the Commencement of the Regulation

7. (i) The Magistrate in charge of an area of Sikkim on receiving information of birth of any child within his area whose father is a Sikkim Subject and on satisfying himself of the correctness of the information shall send a report to the appropriate officer of the Government for entry of the child's name in the Register of Sikkim Subjects to be maintained under section 12 of the Regulation.

(ii) The registration of births of children born in Sikkim Subject outside Sikkim shall be done only at the instance of the Chief Executive Officer and report of such births shall be sent to the Chief Executive Officer.

Loss of Status of Sikkim Subjects

8. (i) The Chief Executive Officer may upon receipt of report from a Magistrate in charge of an area or on his own motion institute an enquiry as to whether any person has ceased to be Sikkim Subject in the circumstances mentioned in Section 7 of the Regulation or has lost that status under Section 9 of the Regulation.

(ii) The Chief Executive Officer shall on being satisfied that the person concerned had ceased to be Sikkim Subject or had lost that status after giving him an opportunity to be heard may cause his name to be removed from the Register of Sikkim Subjects to be maintained under the Regulation.

Deprivation of the Status of Sikkim. Subjects

(i) The Chief Executive may upon receipt of a report from a Magistrate in charge of an area or on his own motion institute an enquiry against any person if he has reason to believe that there is sufficient cause for proceeding against him under section 10 of the Regulation.

(ii) The Chief Executive Officer upon holding enquiry and after giving the person concerned an opportunity of being heard may pass an order depriving him of the status of a Sikkim Subject if the Chief Executive Officer is satisfied that the person concerned has committed In of the acts mentioned in Section 10 of the Regulation, and his name shall thereupon stand removed from the Register of Sikkim Subject.

Maintenance of Register of Sikkim Subjects

10, (i) The Chief Executive Officer shall cause to be maintained a Register of Sikkim subjects which shall be kept in the custody of such officer of the Government as the Chief Executive Officer may direct.

(ii) The Register shall be kept in Form X and shall consist of 6 Parts. Part I, shall contain names of all persons who are Sikkim Subjects under Section 3 of the Regulation. Part II shall contain the names of persons who are Sikkim Subjects under Section 5 of the Regulation Part III shall contain the names of persons registered as Sikkim Subjects under Section 4 of the Regulation; Part IV, shall have the names of Foreign women registered as Sikkim Subjects under Section 6 Part V shall contain the names of the persons naturalized as Sikkim Subjects under Section 8(1) and 8(2) of the Regulation, and Part VI shall have the names of persons naturalized as Sikkim Subjects under Sections 8(3) and 8(4) of the Regulation.

(iii) Entries shall be made in the Register regarding the deaths of the Sikkim Subjects in the Remarks Column. Similar entries relating to loss or deprivation of the Sikkim Nationality shall be made in the Register.

(iv) The Register shall be a public record and certified copies or extracts from such record shall be given upon application made for the purpose and on payment of fee of Rs'5/ for each entry.

Appeal

11. An appeal shall lie to His Highness the Maharaja against any order passed by the Chief Executive Officer under these rules. Such appeals shall be disposed of in such manner as his Highness may direct.

Finality of orders and decisions

12. The orders passed or decisions made by the Chief Executive' Officer under these rules shall be final subject to the provision of an appeal under Rule 11. Such orders and decisions shall not be called in question in any Court of Law.

Miscellaneous

13. Any Magistrate the Chief Executive Officer or an officer of the Government acting on his behalf or the Board constituted under Section 3 (3). of the Regulation whilst holding a enquiry under these rules shall have power to issue summons, to enforce the attendance or witnesses, to administer oaths and record evidence in the same manner as Court of Original Civil Jurisdiction.

14. An offence under Section 11 of the Regulation shall be triable by a Magistrate in Sikkim as a cognizable case in accordance with the Code of Criminal Procedure.

15 The Government may from time to time authorize one more of its officers not below the rank of Gazetted Officer to act on behalf of the Chief Executive Officer in the performance of the duties and functions under these rules and orders made or decisions taken by the Chief Executive Officer for and on behalf of the Government of Sikkim under the Regulation. .

16 Fees

The fees which may be' specified from time to time by the Government shall be levied and collected in respect of matters relating to applications for registration and naturalization, issue of certificates, appeals and other matters connected therewith.

By Order,

**Sd/-D. Dahdul, Chief
Secretary to the
Government of Sikkim.**

PROCLAMATION OF HIS HIGHNESS
SIR. TASHI. NAMGYAL K.C.S I K.C.I.E.,
MAHARAJA OF SIKKIM

Dated Gangtok, the 13th November, 1962.

WHEREAS with the border hostilities between India and China a grave emergency exists whereby the security of Sikkim is threatened,

NOW, THEREFORE, His Highness the Maharaja of Sikkim has been pleased to promulgate the following Order :

I. (I) This Order may be called THE SECURITY OF SIKKIM ORDER 1962.

(1) It shall extend to the whole of Sikkim and it applies also

- (a) to subjects of Sikkim outside Sikkim and
- (b) to persons in the service of the Government wherever they may be.

2. Notwithstanding anything contained in any other previous Act or Order or Rule on the subject, the Sikkim Darbar may from time to time during the pendency of this emergency, by Notification in the Official Gazette, make such rule as it appears to it necessary or expedient for ensuring the security of Sikkim and civil defense, the public safety, the maintenance of public order or the efficient conduct of military operations.. or maintaining supplies and services essential to the life of the community.

3. No such rules shall be called in question in any Court.

4. No suit, prosecution or other legal ..proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of such rules.

5 No suit or other legal proceedings shall lie against the Government for any damage ..caused. or likely to be caused by anything in good faith done or intended to be done in pursuance of such rules.

Any authority or person acting in pursuance of such rules shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and the interest and the security of Sikkim and civil -defense.

TASHI NAMGYAL
Maharaja of Sikkim

HOME DEPARTMENT

Notification. No 1342/H.

Dated Gangtok, the 29th November, 1962.

THE SIKKIM PUBLIC SECURITY RULES, 1962.

His Highness the Maharaja of Sikkim is pleased to promulgate as follows:

1 Short title extent and commencement.

- (1) This rule may be called the Sikkim Public Security Rules, 1962.
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force at once.

(2) **Definitions.** In this rule, the expression "Government" means the Government of Sikkim.

3. Prohibited Places. (1) Government may declare any place as 'Prohibited Place

(2) No person shall without the permission, of the Government enter, or be on or in, or pass over, or loiter in the vicinity of, any prohibited place.

(3) Where any person is granted permission to, enter or to be on or in, or to pass over, a prohibited place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the Government.

(4) Any Police Officer or any other person authorised in this behalf by the Government, may search any, person entering or seeking to enter. or being. on or in, or leaving or passing over or seeking to pass over, a prohibited place, and any vehicle or article brought in by such person and may, for the purpose of the search, detain such person, vehicle or article

Provided that no female shall be searched in pursuance of this sub 'rule' except by a female.

(5) If any such person is in a prohibited place in contravention of this rule, then, without prejudice to any other proceedings which may be taken against him, he may be removed there from by any Police Officer. or by any other person authorised in this behalf by the Government.

(6),if any person is in a prohibited place in contravention of any of the provisions of this rule he shall be punishable with imprisonment for, a term which may be extended to three years or with fine, or with both.

4. Protected Places.- If in respects of any place. or class of places, the Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons, Government may by order declare that place, or, as the case may be, every place of that class, to be a protected place, and all the provisions relating to a prohibited place shall apply.

5. Protected Area.- (1) If the Government considers it necessary or expedient to regulate the entry of persons into any area, Government may without prejudice to the provisions of any other rule, by order, declare the area to be a protected area; and there upon; for so long as the order is in force, such area shall be a protected area.

(2) Subject to any exemptions for which provision may be made, no person who was not at the beginning of the day when the Government declares any area as a protected area resident in the area declared to be a protected area shall be therein except in accordance with the terms of a permit in writing granted to him by an authority of person specified in the order

(3) Any Police Officer or any other person authorised in this behalf by the Government may search any person entering or seeking to enter or being in or in, or leaving a protected area, and any vehicle, or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, and, article:

Provided that no female shall be searched in pursuance of this rule except by a female

(4) If any person is in or passes over a protected area in contravention of the provisions of this rule, then, without prejudice to any such proceedings which may be taken against him, he may be removed there from by or under the direction of any Police Officer or any other officer authorised in this behalf by the Government.

(5) If any person is in a protected area in contravention of any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years or with fine, or with both.

(6) **Forcing or evading a guard.** Any person who effect or attempts to effect into or passes over or attempts to pass over a prohibited place, protected place or protected areas

- (a) by using, or threatening to use, criminal force to any person posted for the purpose of protecting or of preventing or controlling areas to such place or area, or
- (b) after taking precautions to conceal his entry or attempted entry from any such person, shall be punishable with imprisonment for a term which may extend to seven years.

7 Orders for certain places and areas.- (1) Without prejudice to the generality of the foregoing provisions, the Government may make provisions

(a) 'for restricting the admission of persons to such place or area and for removing there from any person who is therein in contravention of the orders or who has been convicted of

- (i) any contravention of the provisions of these rules. or
- (ii) any offence, against public order or decency

(b)' for requiring the presence of any person or class of persons in such place or area to be notified to prescribed authority and for requiring any person who has been convicted of any such offence, as-mentioned in clause (a) of this sub rule to report his removal while in such place or area- and to observe any other condition imposed upon him by a prescribed authority

(c) for requiring any person or class of persons in such place or area to carry such documents by evidence of identity as may be prescribed

(d) for prohibiting any person or class of persons from being in possession or control of any prescribed article

8 Loitering near certain premises. . No person loitering in the vicinity of any prescribed place or protected place or any vehicle, shall continue to loiter in the vicinity after being ordered to leave it by any Police Officer or any other person acting on behalf of the Government or by any person being in charge of the said vehicle.

(2) If any person contravenes the provisions of the rule, he shall be punishable with imprisonment *for a* term which may be extendable to three years . or with fine or with both.

9. Powers to close roads.-(1) Government may by order, prohibit or restrict for such. period as may be specified in this order

- (a) the use of any road or pathway;
- (b) the passage of any persons ., animal or vehicle over any land.

(2) If any person .contravenes any order made under this rule, he' shall be punishable' with imprisonment which may .extend to six months or with fine, or with both,

10. Restriction on movements of suspected persons, restriction orders and detention orders

(1) The Government, if it is satisfied with respect to any particular person that with a view to prevent him from acting in any manner prejudicial to the security of Sikkim and civil defense, the public safety, the maintenance of public order, the maintenance of peaceful conditions in any. part of Sikkim or the efficient conduct of military operations, it is necessary so to do, may make an order

- (a) directing such person to remove himself from Sikkim in such manner by such 'time or by such route. as may be prescribed in the order, and prohibiting his return to Sikkim
- (b) directing that he be detained
- (c) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein he shall not be in such area or place in Sikkim as may be specified in the order;
- (d) requiring him to reside or remain in such place or within such area . in Sikkim as may be specified in the order or if he is not already there to proceed to that place or area within such time as may be specified in that order
- (e) requiring him to 'notify his movements Or to report himself or both to 'notify his movements and to report himself in such manner at such
- (f) times and to such authority or persons as may 'be specified In the order imposing upon him such restrictions as may be specified in the order in. respect 'of his employment or' business in .respect of his association Or communication With other persons or in .respect of his activities in relation to the dissemination of news or propagation of opinions

- (g) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order;
- (h) otherwise regulating his conduct in any such particular area as may be specified in the order.
- (2) An order made under sub-rule (1) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due performance of, or as an alternative to the enforcement of such restrictions of conditions made in the order as may be specified in the order.
- (3) If any person is in any area or place in contravention of the order made under the provisions of this rule, or fails to leave any area or place in accordance with the requirement of such an order, then, he may be removed from such area or place by any police officer or by any person acting on behalf of the Government.
- (4) So long as there is in force in respect of any person such an order as aforesaid directing that he be detained, he shall be liable to be detained in such place, and under such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline, as the Government may from time to time determine.

(5) If any person contravenes any order made under this rule he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both and if such a person has entered into a bond in pursuance of the provisions of sub-rule (2) his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting court why such penalty should not be paid.

11 Prevention of Prejudicial Act. and Control of information.

Definition

- (1) **Prejudicial Act.**-Prejudicial Act means any act which is intended or is likely
 - (a) to prejudice the maintenance of peaceful conditions in any area;
 - (b) to cause disaffection among, or to prejudice, prevent or interfere with the discipline, health or training of or the performance of their duties by any public servant;
 - (c) to render any public servant incapable of performing his duties as such or to induce any member of such forces or to induce any such public servant to fail in the performance of his duties as such;
 - (d) to prejudice the recruiting of, or the attendance of person or servants in the civil defense service or in police force or fire brigade or any other body of persons entered enrolled or engaged as public servants
 - (e) to bring into hatred or contempt or to excite disaffection towards His Highness the Maharaja of Sikkim and or his Government

- (f) to promote feelings of enmity or hatred between different classes of persons in Sikkim
- (g) to cause fear or alarm to the public or to any section of the public
- (h) to impede, delay, or restrict the means of transport or locomotion, any work necessary for the efficient conduct of military operations, handling or transport of any munitions or the supply or distribution of munitions or the supply or distribution of any essential commodity
- (i) to encourage or incite any person or class of persons or the public generally, to refuse or defer payment, or any land revenue, tax, or other dues or amount payable to the Government
- (j) to influence the conduct or attitude of the public or any section of the public in a manner likely to be prejudicial to the security of Sikkim and civil defense or the efficient conduct of military operations;
- (k) to instigate directly or indirectly the use of criminal force against public servants generally or any class of public servant or any individual public servant;
- (l) otherwise to prejudice the efficient conduct of military operations, the security of Sikkim and civil defense, or the public safety and interest

(2) "Prejudicial report" means, any report, statement or visible representation, whether true or false, which, or the publishing of which, is an incitement to the commission of a prejudicial act as defined in the rule above,

(3) "Press" means a printing press and includes all plant, machinery, duplicators, type, implements and other materials used for the purpose of or in connection with the printing or multiplying documents.

(4) "Essential Commodity" means food, water, fuel, light, power, or any other thing essential for the existence of the community which is notified in this behalf by the Government.

(5) "Information" means any information, whether true or false, or any document or other record, whatsoever containing or purporting to contain; or calculated to convey, directly or indirectly, any information, whether true or false, with respect to any of the following matters, that is to say

- (a) the number, description, armament, equipment, disposition, movement, sympathies or condition of any of the armed forces in Sikkim
- (b) any operations or projected operation of any of the armed forces in Sikkim
- (c) any measure, works, appliance, or arrangements for, or connected with, or intended for the defense or fortification of any place
- (d) the number, description or location of any prisoners ;
- (e) the condition of the subjects of Sikkim or of any class thereof or the sympathies of such citizens or class as regards matters relating to the conduct of military operations

- (f) the manufacture, quantity, supply., description, condition, disposition movement, storage, repair, testing, trial or use of any ammunitions or other things which can .be 'used in connection with the conduct_of military operations
- (g) any measures works appliances or arrangements for or in connection with, intended for. the protection of any munitions of war or other things which can be used . in connection with the conduct Of' military operations
- (h) any arrangements relating to the collection of means of transport or for the protection *of*
 - (i) transport or communications, or
 - (ii) the supply or distribution of any commodity;
 - (iii) any prohibited place, protected place or protected area or any: person or thing in, Or relating to any such place or area or anything used in or done or proposed to be done in, or in relation *to* any such place or area ;
- (j) any losses or casualties incurred *by* persons in the service *of* the Government;
- (k) any other matter whatsoever., information as to which would or might be, directly or indirectly prejudicial to the security and interest of Sikkim.

12. Prohibition of prejudicial acts, publications and communications.

- (l) No person shall, without Lawful authority or excuse
 - (a) do any prejudicial act
 - (b) obtain, collect, record, elicit, make print. or publish or distribute ,or .connected *by* any means whatsoever to any other person, any information likely to' be prejudicial .to the security and interest of Sikkim or,
 - (c) make; print, publish or distribute any' document containing, or spread by any other means whatsoever any prejudicial report
- (2) The author, editor. printer and publisher *of*, and any person who otherwise . makes or produces, any information likely to be prejudicial to. the security and interest *of* Sikkim, and any person who distributes .or sells any information or report *of* that nature, knowing it to be *of* such nature, shall be deemed to have contravened this rule.
- (3) *If* any person contravenes any, *of* the provisions *of* this rule, he shall be punishable with 'imprisonment for a term which may extend to five years, or 'with fine, or with both.

13 Sabotage (1) No person shall do any act with intent to impair the efficiency or impede the working of or to cause damage to

- (a) any building, vehicle, machinery, apparatus or other property used or intended to be used for the purpose of Government;
 - (b) any road, irrigation, works, waterway, bridge, culvert, causeway, any telegraph or telegraph line or post;
 - (c) any building or other property used in connection with the distribution or supply of any essential commodity, any mine or factory;
 - (d) any prohibited place or protected place.
- (2) if anyone approaches, or is in the neighborhood of any such building, place or property as is mentioned in sub-rule (1), in circumstances which afford reason to believe that he intends to contravene that sub-rule, he shall be deemed to have attempted a contravention thereof.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to seven years or with fine, or with both.

14.

(1) **Interference with postal and telegraphic communications**

- (a) No person shall knowingly cause interference with the sending or receiving of communications by post, or telegraphy; or
- (b) intercept any postal, telegraphic or telephonic communication.

(2) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both.

15 Prescription etc. of certain documents.-

(1) where in the opinion of the Government, any document made, printed or published, whether before or after the Rule came into force, contains any prejudicial report the Government may, by order,

- (a) require the editor, publisher or person in possession of such document to inform the authority, specified in the order, of the name and address of any person concerned in the supply or communication of such information or in the making of such report;
- (b) provide for the safe keeping by persons in possession of such document and copies thereof;
- (c) require the delivery of such documents and any copy thereof to an authority specified in the order.

(d) prohibit the further publication, sale or distribution of such document or any extract there from or of any translation thereof including, in the case of a newspaper or other periodicals, the publication, sale, or distribution of any subsequent issue thereof

(e) declare such document and every copy or translation thereof or extract there from, to be forfeited to Government.

(2) Where, in pursuance of sub-rule (1) any document is required to be delivered to a prescribed authority, that authority may enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(3) Where, in pursuance of sub-rule (1) any document has been declared to be forfeited to Government any Police Officer may seize any copy thereof wherever found in Sikkim, and any Magistrate may by warrant authorize any police officer not below the rank of a Sub-Inspector to enter upon and search any premises wherein such document or any copy thereof is or is reasonably suspected to be.

(4-) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both.

16. Control of processions, meetings etc.

(1) , The Government may, for the purpose of security of Sikkim and civil defense, the public safety, the maintenance of public order or the efficient conduct of military operations by general or special order prohibit, restrict or impose conditions upon, the holding of or taking part in public processions, meetings or assemblies.

(2) Any Police Officer may take such steps or use such force as may be necessary for securing compliance with any order made under this rule.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

17, Requisition of Movable Property (Movable property includes any vehicles)

(1) If in the opinion of the Government it is necessary or expedient so to do for securing the security of Sikkim and civil defense, the public safety, the efficient conduct of military operations or the maintenance of services and supplies essential to the life of the community, the Government may, by order in writing, requisition any movable property and may make such further orders as appear to it to be necessary or expedient with the requisition.

(2) Where the Government has requisitioned any property under sub-rule (1), it shall vest in the Government for the period of requisition and the Government may use or deal with it in such manner as may appear to it to be expedient.

18. Release from requisition.

(1) The Government may at any time release from requisition any property requisitioned under rule 17 and shall as far as possible, restore the property in as good condition as it was when possession thereof was taken. subject to the changes caused by reasonable wear and tear.

(2) The compensation payable in respect of requisitioning of any 'moveable' property shall be determined by the Government as considered proper

19.. Control of road transport.

The Government may *by general or special order*

(a) regulate, restrict or give directions with respect to the use of any animal or vehicle for the purpose of road transport or the sale or purchase of any animal or vehicle

- (b) require any person owning, or having in his possession or under, his control, any animal or vehicle to make to any person specified in this behalf a return giving such particulars as may be specified in the order with regard to such animal or vehicle and require such return to be verified as may be specified in the order;
- (c) require any person owning or employed in connection with, or having in his possession or under his control any animal or vehicle, to comply with any directions given by any person specified in, or duly authorized in, pursuance of the order and such directions may require the person owning, or employed in connection with or having in his possession or under his control, any animal or vehicle to use such animal or vehicle for conveyance of such persons or goods at such time and by such routes as may be set forth in the direction
- (d) prescribe the conditions subject to which, and the rates at which, any animal or vehicle may be hired for the purpose of road transport and persons or goods may be carried by road
- (e) provide for prohibiting any person or class of persons from travelling by any vehicle or class of vehicles
- (f) provide for the regulation of the priority in which person and goods are to be carried by road and vehicles to be used for the purpose of road transport:
- (g) make such other provisions in relation to road transport as appear to the Government to be, necessary or expedient for securing the security of Sikkim and civil defense, the public safety, the maintenance of public order or the efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community.

(2) If any person contravenes any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

20. The Chief Secretary to the Government of Sikkim is- authorised to make orders under these Rules.

By order

**D DAHDUL
Chief Secretary
Government of Sikkim.**

PART III

Rules, Orders, Press Notes etc.

HOME DEPARTMENT

Notification No. I 770/H.

Dated Gangtok, the 11th February, 1963.

The Sikkim Public Security (Requisitioning and Acquisition of Immovable Property) Rules, 1962

1 Short title.- These rules may be called the Sikkim Public Security' Requisitioning and Acquisition of Immovable Property) Rules, 1963.

2 Power to require delivery of possession of property.- Whenever any property is requisitioned, the Government of Sikkim may by order require the owner or person in possession of the property to deliver possession thereof, after removing there from any furniture or other articles, to such person and 'within such time as may be specified in the order.

3. Procedure for taking possession. - Where any person either remains in possession of any requisitioned property or fails to remove there from any furniture or other articles belonging to him in contravention of any order of requisition, the Government of Sikkim may enter into or take possession of the property and while taking possession of the property, the Government of Sikkim. shall make, in the presence of two witnesses, an inventory of the furniture or other articles found therein and after giving not less than 3 days notice for removing such furniture or other articles, may - dispose of such furniture or other articles by public auction. The sale proceeds, if any, shall, after deducting the. expense, of the sale, be paid to such person or persons as are entitled to receive the same.

4. A property requisitioned can be used for any. one or more purposes at the discretion of the Government.

5. (i) The Government of Sikkim may, by order in writing, require any person interested to execute such repairs to the property (being repairs which are necessary and are usually made by owners of properties in the locality in which the requisitioned property is situated) and within such time as may be specified in the order, and if the person interested fails to execute any repairs in pursuance of such order, the Government of Sikkim may cause the repairs specified in the order to be executed and the expense of such repairs shall be deducted from the compensation payable to him so, however, that the amount to be deducted shall in no case exceed the compensation payable for a month in any one year.

(ii) 'the Government of Sikkim does not consider it in the public interest to allow entry into the property by the person interested or his agents or workmen for carrying out the requisite repairs, such repairs may be carried out by the Government of Sikkim and the expenses thereof shall be deducted from the compensation payable in respect of the property in accordance with sub -rule (i).

6. Release from Requisition.- (i) Where any person to whom the possession .of any property to be released is to be given fails to accept delivery of the property, or cannot be found and has no legal agent or any other person empowered to accept delivery on his behalf. the Government of Sikkim shall cause a notice declaring that the property is released from requisition, to be served by registered post at the last known address of such person and a copy of such notice shall at the same time be fixed on some conspicuous part of the property and a purport of the notice shall be made public in the manner that the Sikkim Government may consider sufficient. Such property shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to the possession thereof and the Government of Sikkim shall not be liable for ,any compensation or other claim in respect of the property. for any period after the said date.

(ii) Where any requisitioned property or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for reasons beyond the control of the Government, the property or any such part thereof, shall at the option of the Government of Sikkim be deemed to have been released from requisition and the Government of Sikkim shall not be liable to restore the same in as good a condition as it was at .the time of requisition. making allowance for normal deterioration.

7. Compensation.- (i) Government of 'Sikkim shall, as soon as may be after the property has been requisitioned, determine the compensation payable and shall also apportion it where necessary among the persons being known or believed to be interested in the property or whom or of whose claim to compensation the Government has information. Such determination shall be communicated by the competent authority to the person or persons in whose favour the determination has been made.

(ii) The Compensation will be determined on the basis of a month rental worked out by the Sikkim Public Works Department and the finding of the Chief Engineer will be final.

(iii) The Compensation shall be payable on the expiry of every three month in respect of a building and on the expiry of every six months in respect of a rural land.

. 8. Orders on behalf of Sikkim Government under this rule will be passed by the Chief Secretary to The Government of Sikkim.

By Order

**D. DAHDUL
Chief Secretary
Government of Sikkim.**

**GOVERNMENT OF SIKKIM
HOME DEPARTMENT**

Notification NO.1520/H

Dated Gangtok, the 3rd January, 1963.

**His Highness the Maharaja of Sikkim is pleased to promulgate the
following rules**

*RULES TO PROVIDE FOR REGISTRATION AND SOLEMNIZATION OF A FORM OF
MARRIAGE IN SIKKIM*

Chapter I

1. Conditions relating to solemnization of marriages - A marriage between any two persons may be solemnized under this Rule if at the time of the marriage the following conditions are fulfilled, namely:

- (a) neither party has a spouse living;
- (b) neither party is an idiot or lunatic
- (c) The male has completed the age of 21 and the female the age of 18 years.

2. Notice of intended marriages - When a marriage is intended to be solemnized under this Rule the parties to the marriage shall give notice thereof in writing in the form specified in the First schedule to the Marriage Officer of the area in which at least one of the parties to the marriage must have resided for a period not less than thirty days immediately preceding such notice is given.

3. Marriage Notice Book and publication - (1) The Marriage Officer shall keep all notices given under Section 2 with the records of his office in a book prescribed for that purpose, to be called the marriage notice book and such book shall be open for inspection without fee by any person desirous of inspecting the same in the Office of the Marriage Officer ..and in his presence.

(2) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.

4 Objection - (1) Any person may, before the expiration of thirty days from the date on which such notice has been published under sub-section (2) of Section 3, object to the marriage in writing on the ground that it would contravene one or more of the conditions specified in Section 1.

(2) After the expiry of thirty days from the date on which notice of an intended marriage has been published under sub-section (2) of Section 3, the marriage may be solemnized if it has been previously objected to under sub-section (1).

(3) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained, if necessary, to the person making the objection and shall be signed by him

5'Procedure on receipt of objection-(1) .If an objection is made under section 4 to an intended marriage, the Marriage Officer shall not solemnize the marriage until he has inquired into the matter of the objection and is satisfied that it ought to prevent the solemnization of the marriage or the objection is withdrawn by the person making it; but the Marriage Officer shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.

(2) If the Marriage Officer upholds the objection and refuses to solemnize the marriage, either party to the intended marriage may, within a period of thirty days from the date of such refusal, prefer an appeal to the High Court and the decision of the High Court on such appeal shall be final and the Marriage Officer shall act *in* conformity with the decision of the High Court.

,6. Power of the Marriage Officer in respect of inquiries

(1) For the purpose of any inquiry under section 5, the Marriage Officer shall have all the powers vested in a civil court, when trying a suit in respect of the following matters, namely.

- (a) . summoning and enforcing the attendance of witnesses and examining them on oath
 - (b) discovery and inspection;
 - (c) compelling production of documents;
 - (d) reception of evidence on affidavits;
- and any proceeding before the Marriage Officer will be deemed to be a judicial proceeding.

(2)If it appears to the Marriage Officer or the Appellate Court that the objection made to an intended marriage is not reasonable and has not been made in good faith, he may impose on the person objecting costs by way of compensation not exceeding Rs. 1000 and award the whole or any part thereof to the parties to the intended marriage and any order for costs so made may be executed in the same manner as a decree passed by the Civil Court.

7. Before the marriage is solemnized the parties and two witnesses shall, in the presence of the Marriage Officer sign a declaration in the form specified in the Second Schedule and the declaration shall be countersigned by the Marriage Officer.

8(1)The marriage may be solemnized at the office of the Marriage Officer appointed by the Government of Sikkim or at such other places within a reasonable distance there from, as the parties may desire and upon such conditions and the payment of such additional fees as may be prescribed.

(2)The marriage may be, solemnized in any form which the parties may choose to adopt:

Provided that it shall not be complete and binding on the parties unless each party says to the other in the presence of the Marriage Officer and the two witnesses and in any language understood by the parties- "I, (A), take the (B), to be my lawful wife (or husband)" .

9. (1)When the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Third Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book and such Certificate shall be signed by the parties to the marriage and two witnesses.

(2) On a Certificate, being entered in the Marriage Certificate Book by the Marriage Officer, the Certificate shall be deemed to be conclusive evidence of the fact that as marriage under this Rule has been solemnized and that all formalities respecting the signature of the witnesses have been complied with.

10. **Restitution of Conjugal Rights.**- When either the husband or the wife has without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply by petition to the Chief Magistrate's Court for restitution of conjugal rights and the Court on being satisfied of the truth of the statements made in such petitions, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

11 **Judicial Separation** - (1) A petition for judicial separation may be presented to the Chief Magistrate's Court either by the husband or the wife.

(a) on any of the grounds specified under section 12 on which a petition for divorce might have been presented; or

(b) on the ground of failure to comply with a decree or restitution of conjugal rights; and the court, on being satisfied of the truth of the statement made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly.

(2) Where the Court grants a decree for judicial separation, it shall be no longer obligatory by the petitioner to cohabit with the respondent, but the Court may, on the application by petition of either party and on being satisfied of truth of the statements made in such petition, rescind the decree if it considers just and reasonable to do so.

12. **Divorce** .A petition for divorce may be presented to the Court of the Chief Magistrate either by the respondent or the wife on the ground that the respondent(a) has since the solemnization of the marriage committed adultery; or

(b) has deserted the petitioner without cause for a period of at least three years, immediately preceding the presentation of the petition; or

(c) is undergoing a sentence of imprisonment for seven years.. or more for any, criminal offence:

Provided that divorce shall not be granted on this ground, unless the respondent has prior to the presentation of the petition undergone at least three years imprisonment out of the seven years of imprisonment; or

(d) has since the solemnization of the marriage treated the petitioner with cruelty; or

(e) has been incurably of unsound mind for a continuous period of three years immediately preceding the presentation of the petition; or

(f) has for a period of not less than three years immediately preceding the presentation of the petition been suffering from venereal disease in a communicable form the disease not having been, contracted from the petitioner; or

- (g) has for a period of not less than three years. immediately preceding the presentation of the petition been. suffering .from leprosy, the disease not having been contracted from the petitioner; or
 - (h) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive; or
 - (i) has not resumed cohabitation for a period of two years or upwards after the passing of the decree for judicial separation against the respondent; or
 - (j) has failed to comply with a decree for restitution of conjugal rights for a period of .two years or upwards after the passing of the decree against the respondent and by the wife on the ground that her husband has since the solemnization of the marriage has been guilty of rape, sodomy or bestiality.
13. (1) A petition for divorce may be presented to the Chief Magistrate's Court by both the parties together on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.
- (2) On the motion of both the parties made not earlier than one year after the date of the presentation of the petition referred to in sub-section (1) and not later than two years after the said date, if the petition is not withdrawn in the meantime, the Chief Magistrate's Court shall, on being satisfied after hearing the parties and after making such enquiries as it thinks fit, that a marriage has been solemnized under this rule and that the averments in the petition are true, pass a decree declaring the marriage to be dissolved with effect from the date of the decree.
- 14 (1) No petition for divorce shall be presented to the Chief Magistrate's Court unless at the date of the presentation of the petition three years have passed since the date of entering the certificate of marriage in the Marriage Certificate Books:

Provided that the Chief Magistrate's Court may upon application being made to it, allow a petition to be presented before three years have passed on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the Chief Magistrate's Court at the hearing of the petition that the petitioner' obtained leave to present the petition by any misrepresentation or concealment of the nature of the case the Chief Magistrate's Court may dismiss the petition without prejudice to any petition, which may be brought after the expiration of the said three years period upon the same, or substantially the same, facts as those proved in support of the petition as dismissed.

- (2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of three-years from the date of the marriage, the Chief Magistrate's Court shall have regard to the interest of any children of the marriage, and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years.

15 Where a marriage has been dissolved by a decree or divorce, either party to the marriage may marry again.

16. **Void Marriages.**

- (I) Any marriage solemnized under this Rule shall be null and void and may be so declared by a decree of nullity if
 - (i) any of the conditions specified in clauses a, b, c., of Section 1 not been fulfilled, or
 - (ii) the respondent was impotent at the time of the marriage and at the time of the institution of the suit.

17. **Voidable Marriages.**- Any marriage solemnized under this Rule shall be voidable and may be annulled by a decree of nullity if

- (i) the respondent was at the time of the marriage pregnant by some other than the petitioner; or
- (ii) the consent of either party to the marriage was obtained by coercion or fraud:

Provided that, in the case specified in clause (i), the Court shall not grant decree unless it is satisfied -

- (a) that the petitioner was at the time of the marriage ignorant of the facts alleged
- (b) that proceedings were instituted within a year from the date of the marriage and
- (c) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the grounds for a decree .

Provided further that in the case specified in clause (ii), the Court shall not grant a decree if,

- (a) proceedings have not been instituted within one year ,after the coercion had ceased or, as the case may be, the fraud had been discovered; or
- (b) the petitioner has with his or her free consent lived with the other party to the marriage as husband and wife after the coercion had ceased or, as the case may be. the fraud had been discovered.

18 **Legitimacy of children of void and voidable marriage.**

Where a nullity is granted in respect of any marriage under Section 16 or Section 17, any child begotten before the decree is made who would have been the legitimate child of the parties to the marriage if it had been dissolved instead of being declared to be null and void or annulled by a decree of nullity shall be deemed to be their legitimate child notwithstanding the decree of nullity.

CHAPTER III

19. **Court to which petition should, be made.**

Every petition under Chapter II shall be presented to the Chief Magistrate Court, in Sikkim.

20. **Duty of Court in passing decrees.**

- (l) In any proceeding under Chapter II, whether defined or not, if the Court is satisfied that
 - (a) any of the grounds for granting relief exists and
 - (b) where the ground of the petition is adultery, the petitioner has not in any manner been accessory to or connived at or condoned the adultery; or, where the ground of the petition is cruelty, the petitioner has not in any manner condoned the cruelty and
 - (c) when divorce is sought on the ground of, mutual consent; such consent has not been obtained by force, fraud or undue influence, and
 - (d) the petition is not presented or prosecuted in collusion with the respondent; and
 - (e) there is no other legal ground why the relief should not be granted;

then and in such a case, but not otherwise, the Court shall decree such relief accordingly.

- (2) Before proceeding to grant any relief under this rule, it shall be the duty

of the Court in the first instance, in every case where it is possible so to do consistently with the nature and circumstances of the case, to make every endeavor to bring about a reconciliation between the parties.

21. If in any proceeding for divorce, the respondent opposes the relief sought on the ground of the petitioner's adultery, cruelty or desertion, the Court may give to the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief.

22. Where in any proceeding under Chapter II it appears to the Court that: the wife has no independent income sufficient for her support and the necessary expenses of the proceeding, it may, on the application of the wife order the husband to pay to her the expenses of the proceeding, weekly or monthly during the proceeding such sum as having regard to the husband's income it may seem to the Court to be reasonable.

23. (l) The Court exercising jurisdiction under Chapter may at the time of passing any decree or at any time of passing any decree or at any time subsequent to the decree, on application made to it for the purpose order; that the husband shall secure to the wife for her maintenance and support if necessary by a charge on the husband's property, such gross sum or such monthly or periodical payment of money for a term not exceeding her life; as, having regard to her life, as, having regard to her own property, if any, her husband's property and ability and the conduct of the parties; it may seem to the Court to be justified.

(2) If the Court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1) it may, at the instance of either party vary, modify or rescind any such order in such manner as it may seem to the Court to be just.

(3) If the Court is satisfied that the wife in whose favour and order has been made under this section has remarried or is not leading a chaste life, it shall rescind the order.

24. In any proceeding under Chapter II the Court may, from time to time pass such interim orders and make such provisions in the decree as it may seem to it to be just and proper with respect to the custody maintenance and education of minor children, consistently with their wishes wherever possible, and may, after the decree, upon application petition for the purposes, make revoke, suspend or vary from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree were still pending.

25 All decrees and orders made by the Court in any proceeding under Chapter II shall be enforced in like manner as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from under the law for the time being in force:

Provided that every such appeal shall be instituted within a period of ninety days from the date of the decree or orders.

26. The proceeding under this rule shall be conducted in camera if either party thereto so desires or if the Chief Magistrate's Court so thinks fit to do.

CHAPTER IV

27. Nothing contained in this Rule shall effect the validity of any marriage not solemnized under its provisions; nor shall this Rule be, deemed directly or indirectly to affect the validity of any mode of contracting marriage.

28. Every person who, being at the time married, procures a marriage of himself or herself to be solemnized under this Rule shall be deemed to have committed an offence under Section 494 or Section 495 of the Indian Penal Code (Act 45 of 1860), as the case may be, and the marriage so solemnized shall be void.

29. Every person whose marriage is solemnized under this Rule and who, during the lifetime of his or her wife or husband, contracts any other marriage shall be subject to the penalties provided in Section 494 and Section 495 of the Indian Penal Code (Act 45 of 1860), for the offence -of marrying again during the -lifetime of a husband or wife, and the marriage so contracted shall be void.

30 Every person making, signing or attesting any declaration of certificate required by or under this Rule containing a statement which is false and which he either knows or believes to be false or does not believe to be true shall be guilty of the offence described in Section 199 of the Indian Penal Code (Act 45 of 1860).

31 Any Marriage Officer who knowingly and wilfully solemnizes a marriage this Act

(1) without publishing a notice regarding such marriage as required by section 2, or

(2) within thirty days of the publication of the notice of such marriage. or

(3) in contravention of any other provision contained in this rule;

shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both:

32. (1) The Marriage Certificate Book kept under this Rule shall at all reasonable times be open for inspection and shall be admissible as evidence of the statements therein contained.

(2) Certified extracts from the Marriage Certificate Book shall on application be given by the Marriage Officer to the applicant on payment by him of the prescribed fee.

33. (1) Any Marriage Officer who discovers any error in the form or substance of any entry in the Marriage Certificate Book may, within one month of the person's marriage or, in case of their death or absence, in the presence of two other credible witnesses, correct the error by entry in the margin without any alteration of the original entry and shall sign the marginal entry and add thereto the date of such correction and the Marriage Officer shall make the like marginal entry in the certificate thereof.

(2) Every correction made under this section shall be attested by the witnesses in whose presence it was made.

34.. The Government of Sikkim may, by notification in the Official Gazette, make such other rules as it may consider expedient for the purpose of carrying into effect the provision of these Rules for which no provision or no sufficient provision is already made in these Rules.

D. DAHDUL.
Chief Secretary,
Government of Sikkim.

THE FIRST SCHEDULE

(See Section2)

Notice of intended marriage under Section 3 (I) of the rules to provide for registration and solemnization of a form of marriage in Sikkim.

To

The Marriage Officer.
Government of Sikkim.

We hereby give you notice that a marriage under the Rule to provide for registration and solemnization of a form of marriage in Sikkim is intended to be solemnized between us within three calendar months from the date hereof.

Name	Condition	Occupation	Age	Dwelling	Permanent dwelling < place if present dwelling, Place not :permanent	Length of residence
AB	Unmarried Widower divorcee			place		
CD	Unmarried Widow divorcee					

Witness our hands this.day of19

Sd. A.B.
Sd. C.D.

THE SECOND SCHEDULE:

(See Section 7)

Declaration to be made by the Bridegroom-,

I
A.B. hereby declare as follows:

1. I am at the present time unmarried (for a widower or a divorcee, as the case may be).
2. I have, completed. years of age.
3. I am aware that, if any statement in this declaration *is* false, and if in making such statement I either know *or* believe it to be false *or* do not believe it to be true, I am liable to imprisonment and also to fine.

Sd/- A.B. (the Bridegroom).

Declaration to be made by the Bride

I, .CD. hereby declare as follows:

1. I am at the present time unmarried (or a widow or a divorcee, as the case may be).
2. ,I have completed years of age.
3. I am aware that, if any statement in this declaration *is* false, and if in making such statement I either know or believe it to be false or do not .believe it to be true, I am liable to imprisonment and also to fine.

Sd/- C.D. (the Bride).

Signed in our presence by the above named A.B. and C.D. So far as we are aware there is no lawful impediment to the marriage.

(Sd) G.H. Two witnesses.

(Sd) I.J .
Countersigned E.F.
Marriage Officer.

Dated the day of..... 19

THE THIRD SCHEDULE

(See Section 9)

Certificate of Marriage

I, E.F..... hereby certify that on the day of..... 19.
A.B. and C.D.. + appeared before me and that each of them, in my presence and in the presence of two witnesses who have signed hereunder made the declaration required by Section 7 and that a marriage under this Rule was solemnized between them in my presence.

s./- E.F.

Marriage Officer for

Sd/- A.B.

Bridegroom

Sd/- C.D

Bride

Sd/-G.H. Two witnesses.

Sd/-I.J

Dated the..... day of. 19,6

*Herein give particulars' of the parties.

Notification NO'. I535/H

Dated Gangtok, the 3rd January, 1963

His Highness the Maharaja of Sikkim has: been pleased to appoint the following as Marriage Officer in Sikkim under Section 2 of the Rules to Provide for. Registration and Solemnization of a Form of Marriage in Sikkim:

1. Chief Secretary to the Government of Sikkim for the whole of Sikkim.
2. Chief Magistrate of Sikkim for the whole of Sikkim.
3. Magistrates in-charge of the East, West and Northern areas within their respective jurisdiction.

D. DAHDUL
Chief Secretary
Government of Sikkim.

GOVERNMENT OF SIKKIM

HOME DEPARTMENT

NOTIFICATION NO: 718/H., dated the 28th September, 1964..

The Sikkim Darbar has been pleased to exempt payment of court fees on plaints and all types of petitions filed by the Government of Sikkim in all courts of Sikkim. including scribing of plaints and all types of petitions on Darbar paper and also filing of process fees by way of stamps, from the date of this Notification.

This notification will also include all types' of .appeals and reviews filed ,by the Sikkim Government against the judgments or orders of lower courts.

BY ORDER

D. Dadhul
Chief Secretary
Government of Sikkim.

GOVERNMENT OF SIKKIM**BAZAR DEPARTMENT**

NOTIFICATION NO. 998-3'99/B-

It is hereby notified for the information of those license holders of all the Bazaars in Sikkim dealing in tea, thukpa, sweet-meat shops and dealers of other eatable articles that they shall not expose for sale all such prepared food-stuff, but shall keep the properly covered in boxes either with a glass or wire-mesh.

Anyone found acting against this order shall be severely dealt with and in addition their licence shall also be forfeited and cancelled.

BY ORDER

**Gangtok,
The 19th, June, 1965**

**P. HISHEY
EXECUTIVE OFFICER
BAZAR DEPARTMENT**

GOVERNMENT OF SIKKIM**BAZAR DEPARTMENT**

NOTIFICATION NO. 1868-2999/B

It is hereby notified for the information and guidance of the public in general and merchants in particular that His Highness the Chogyal of Sikkim has been pleased to introduce the METRIC system of WEIGHTS & MEASURES throughout Sikkim with effect from the 1st October, 1965.

Old weights & measures shall no longer be in use in future with effect from the above date.

Standard weights bearing marked "SKM" are available for purchase with conversion charts with Sikkim Government dealers Messer's. Biharilall Namchand of Gangtok for Eastern & North Sikkim and Shri Ram Badriprasad of Nayabazar of Western Sikkim as per Schedule of selling rates given hereunder.

**Gangtok :
The 11th August, 1965.**

**P. HISHEY
Executive Officer
Bazar Department.**

SELLING RATES OF, METRIC WEIGHTS

Sale Rate for North & East Sikkim:

50 Kg	26Kg	10Kg	5Kg	2kg	1Kg to .100 grams
Rs.45..87np	Rs.19.07np	Rs..10.03.np.	Rs. 6.. 83 np.	RS.3.41np.	Rs.5.85np

Sale Rate of South & West Sikkim:

Rs44.16np.	Rs.18.43np.	RS.10.03np	Rs.6.67np	Rs.3.34np	Rs.5.79np,
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Brass Weights for Sale in whole of Sikkim.

'l to 50 grams.....	Rs.2.84np per set.
10 to 50 grams.....	Rs.2.00 np per set.

GOVERNMENT OF SIKKIM**FOREST DEPARTMENT**

NOTIFICATION NO.3075/F.

In Notification of this Office Notification No. 1675/F dated the. 27th. June, 1955 it .is :hereby notified for -the information of the public in general that

1. Any animal found grazing, straying, camping or remaining within the areas specified below, will, subject to the provisions hereinafter contained, be sent to. the pound and the owner or owners of .such animals, will, in addition to the pound fees, pay a penalty of Rs. 10/- (Rupees ten) per head per animal which should be paid to and deposited with the Gangtok Bazar Committee or any other Officer authorised by the Sikkim Darbar, before release of such cattle from the pound: Provided that such animals are allowed to. be kept under Darbar Rules, by authorised residents, grazing, straying or remaining within the compound of the particular resident, will not come under the scope of the notification or the rules framed thereunder.

2. *Pigs* will be shot dead' and the carcass returned to the owner, after payment of penalty of Rs. 10/- (Rupees ten) per head, by him or on his behalf. If however, the carcass is not claimed within two hours after the pig has been shot dead, it will be sold, by public auction and the proceeds thereof credited the Darbar's account.

3. Chicken and other domestic birds found so straying will be caught or killed and sold by public auction and the sale proceeds credited to the Darbar's account.

4. . All animals that have been impounded under this notification will be sold by public auction and the sale proceeds will be credited to the Darbar's account, unless they are claimed and released within 7 days in accordance with the rules for the time being in force.

BOUNDARY OF PROHIBITED AREA:

Starting from the Jail Compound, along the Enchey Monastery compound, joining the Palace compound above Mintokgang and along the Eastern side of the .Palace compound including Sikkim Guards compound and Palace Guest House compound, joining the Tashiling Compound, along the, Eastern boundary of the Tashiling compound, along the main spur of the Gangtok hill to join the path between Kazi S. Dahdul's house and Mrs K.R. Pradhan, along Jhora by Star Cinema to the main Gangtok .Rangpo Highway, along the Gangtok-Rangpo highway including West Point School Highway, and Police line, down the Telephone exchange Jhora, near the forest nursery, along the lower boundary of the Forest nursery 'to the Jhora between .the house of Late 'Mr. Dakman Lama ,and the Paljor Stadium, upto this Jhora to meet the road leading to Paljor Stadium, along this road to Girls' School's Southern boundary, along this boundary to the Development Jhora, along foot path, leading to Sichey busty upto and including H.S. School compound and Sichey slip, joining and including Baluwakhani Forest Colony, along the North Sikkim Highway upto the P. T. Institute, Jhora, along this Jhora to the Jail along India House boundary.

In case of any doubt a map of the area is to be seen at the Tashiling.

The Taktse. Palace compound shall also come within the scope of this notification..

.. It is expected of all persons residing within these limits to cooperate with the Sikkim Darbar and render help in enforcing this rule if called upon to do so. This order will take effect from the 10th November, 1969.

BY ORDER,

**Gangtok,
The 31st October, 1969'**

**K. C. PRADHAN
Conservator of Forest,
Government of Sikkim, Gangtok.**

GOVERNMENT OF SIKKIM**INCOME AND SALES TAX DEPARTMENT**

NOTIFICATION NO. 1554-500 /IT & ST.

It- is hereby notified to the, public in general that incomes accruing or arising directly or indirectly from the properties situated in the Bazar area or from salaries received either from the services rendered to the Sikkim Government or to any private individuals, firm or companies will. be assessed to Income Tax at the following rates:

On the first	Rs.2400/-	Nil
Next	Rs.2400/	1 per cent
Next	RS.3600/	4- per cent
Next	RS3,600/	6 per cent
Next	Rs.6000/	3 per cent
Next	Rs.6,000/- and above	10 per cent

While computing Income Tax reduction of 20 per cent in the case of income arising out of House Properties will be given on account of House maintenance etc. *Note:* (Salary includes pay, Special Pay, Personal Pay, Acting Allowance, Charge Allowance, and all other 'allowances excluding House Rent, Rice Concession, Travelling Allowance and Laundry Allowance).

This. order shall take effect from the 1st of April, 1970

BY ORDER,

Dated .
Gangtok, the 21St April, 1970.

. Sd/ K. Sherab
Secretary, Finance
Income and Sales Tax Department,
Government of Sikkim.

GOVERNMENT OF SIKKIM
HOME AND POLICE DEPARTMENT

NOTIFICATION NO. I/HP.

Dated Gangtok the 29th Dec. 1971.

As precaution against fire, all shop premises within the Bazar areas and petrol pumps in Sikkim shall be equipped with effective fire extinguishers and fire fighting apparatus to be installed in a suitable and prominent place in the premises. The equipment shall be inspected at regular intervals and anyone contravening the provisions of this notification shall be liable to fine which may extend upto Rs .500/- .

The provisions of this notification shall come into force with effect from January 1 1972.

BY ORDER

Sd/ D. Dahdul
Chief Secretary
Government of Sikkim.

Memo No: 4058/HP

Dated 29th Dec 1971:

COMMISSIONER
SIKKIM POLICE

GOVERNMENT OF SIKKIM
INCOME & SALES TAX DEPARTMENT

NOTIFICATION NO. 27-300/IT &ST.

In continuation of Notification NO.1554-300/ IT&ST dated the 21st April, 1970, it is hereby notified to the public in general that Income Tax is made liable on the pay after deducting or giving exemption to the extent of the account deducted towards the premium of salary saving schemes and Government provident Fund.

This would be applicable from the pay of March, 1973

SD./ - K. Sherab, Secretary,
Finance, Income & Sales Tax
Department, , Government of
Sikkim.

Gangtok,
The 26th April, 1973

CHAPTER II

THE CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER No. XI

In exercise of the powers conferred by clause (0) of article 371 F of the Constitution of India and of all other powers enabling him in this behalf, the President is pleased to make the following order , namely:

- I. (1) This Order may be called the Constitution (Removal of Difficulties) Order No. XI.
- (2) It shall come into force at once.

2.The Governor of Sikkim shall, before entering upon his office, make and subscribe the oath of affirmation prescribed in. article 159 of the Constitution in the presence of the Judge appointed to perform the duties of the office of the Chief Justice of the High Court for that State, notwithstanding that such Judge has not made and subscribed, the oath or affirmation under article 2 19 of the Constitution.

3.The allowances and privileges of the Governor of Sikkim shall, until provision in that behalf is made by Parliament by law under clause (3) of article 158 of the Constitution, be such as the President may, by order, determine.

4.The Governor of Sikkim may authorize by one or more orders such expenditure from .the consolidated Fund of the State of Sikkim as he deems necessary for a period of not more than six months beginning with the 26th day of April, 1975 pending the sanction of such expenditure by the Legislative Assembly of the State of Sikkim.

5.The salaries and allowances of Ministers for the State of Sikkim shall, until they are determined by the Legislature of the State by law under clause (5) of article 164 of the Constitution, be such as the Governor of Sikkim may by order, determine.

6.The salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly of the State of Sikkim shall, until provision in that behalf is made by the Legislature of the State of Sikkim by law under article 186 of the Constitution, be such as the Governor of Sikkim may, by order, fix.

7.The salaries and allowances of the members of the Legislative' Assembly of the State of Sikkim shall, until provision. in that respect is made by the Legislature of the State of Sikkim by law under article' 195 of the Constitution, be such as the Governor of Sikkim may, by order, determine.

8.Until the Legislature of the State of Sikkim otherwise provides. by law, the English language shall continue to be .used for those official purposes within the State for which it 'was being used immediately before the 26th day of April, 1975.'

9.Article 2 10 of the Constitution shall have effect as if the following proviso were added to clause (2) thereof, namely:

. "Provided further that in relation to the Legislature of the State of Sikkim this clause shall have effect as if for the words 'fifteen years from the commencement of this Constitution occurring therein, the words "fifteen years from the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975, were substituted."

10. .Until rules are. made under clause (1) of article. 208 of the Constitution by the Legislature of the State of Sikkim the rules as to procedure and conduct of business in force immediately before the 26th day of April, 1975 with respect to the Sikkim Assembly shall have effect in relation to the Legislature of the State of Sikkim subject to such modifications and adaptations as may be made therein by the Governor of Sikkim.

11. Notwithstanding that no provision or insufficient provision has been made under clause (l) of article 371 F of the Constitution for the adaptation a law in force immediately before the 26th day of April, 1975, in the territories comprised in the State of Sikkim, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Sikkim, construe the law in such manner; without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Statutory order under the Constitution of India

(16/5/75)

In exercise of the powers conferred by clause (1) of Article 299 of the Constitution of India, the Governor of Sikkim is pleased hereby to direct that contracts and assurances of property made in the exercise of the executive power of the State of Sikkim may be executed on behalf of the Governor by the officers mentioned below:

1. Chief Secretary
2. All Secretaries to the Government of Sikkim.

Statutory order under the Constitution' of India

In exercise of the powers conferred by clause (2) of Article 166 of the Constitution of India, the Governor of Sikkim is pleased hereby to make the following rules, namely:

These rules may be called the Authentication (Orders and Other Instruments) Rules, 1975.

2.. . Orders and other instruments made and executed in the name of the Governor shall be Authenticated by the signature of the Chief Secretary, a Secretary a Joint Secretary, a Deputy Secretary, or an Under Secretary to the, Government of Sikkim or an officer of the Government of Sikkim specially empowered in this behalf by the Governor.

THE CONSTITUTION (THIRTY-SIXTH AMENPMENT) ACT,1975**AN ACT**

(16.5.75)

further to amend the Constitution of India. Be it enacted *by* Parliament in the Twenty-sixth Year of the Republic of India as follows

1. (1) This Act may be called the Constitution Amendment (Thirty sixth) Act1975
- (2) It .shall be deemed to have come into force on the date on which the Bill for this Act(introduced in the House of the People as the: Constitution Amendment Bill, (Thirty eighth 1975), as passed by the House of the People, is passed by the Council of States.
2. In the First Schedule to the Constitution, under the . heading "I. The STATES", after entry 2 I, the following entry shall be inserted namely:
 - "22. Sikkim The territories which immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975, were comprised in Sikkim".
3. After article 371 F of the Constitution, the following article shall be inserted, namely:
 - .. 3 71 F. Notwithstanding anything in the Constitution
 - (a) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members.
 - (b) as from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)
 - (i) The Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said election (hereinafter referred to as the sitting members) shall be deemed ,to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution.
 - (ii) the sitting members shall be deemed to be the member of the Legislative Assembly of the State of Sikkim duly elected under this Constitution. and;
 - (iii) the said Legislative Assembly of the State of Sikkim shall exercise the power and perform .the. functions of the Legislative Assembly of a State under this Constitution

(c) in the case of the Assembly deemed to be Legislative Assembly

of the State of Sikkim under clause (b) the reference to the period of five years. in clause (1) of article 172 shall be constituted as reference. to period of four years and the said 'period' of four years. shall be deemed to commence from the appointed day ;

(d) until other provisions are made by Parliament 'by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim

(e) the representative of the State of Sikkim in the House of the People in existence on the appointed day. shall be elected by the members of the Legislative Assembly of the State of Sikkim;

(f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim. make provision for the number of seats in the Legislative, Assembly, of the State of Sikkim which may be filled. by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates' belonging to such section alone may stand for election to the Legislative Assembly of the State of Sikkim'

(g) the Governor of Sikkim shall have- special responsibility for peace and for an elaborate arrangement for ensuring the social and economic advancement of all sections of the population of Sikkim and in the discharge of his special responsibility, under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion j

(h) all property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any person for the purposes of the Government of Sikkim shall as from the appointed day, vest in the Government of the State of Sikkim;

(i) the High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall on. and from the appointed day, be deemed to be the High Court for the State of Sikkim .

(j) all courts of civil, criminal and revenue jurisdiction all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provisions of this Constitution;

(k) all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority.

(l) for the purpose of 'facilitating the application of such law as referred to in clause .. (k) in relation to the administration of the State of Sikkim and for the purpose of bringing the provisions of any such law into accord with the provisions of this Constitution on, the President may, within two years from the appointed day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the additions and modifications as may be necessary and any such adaptation or modification shall not be questioned in any Court of law;

(m) neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement; engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143

(n) the President may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a state in India at the date of the notification

(o) if any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order; do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty:

Provided that no such order shall be made after the expiry of two years from the appointed day ;

(p) all things done and all actions taken in or in relation to the State of Sikkim comprised therein during the period commencing on the appointed day and ending on the date on which the Constitution (Thirty-sixth Amendment) Act, 1975, came into force shall, in so far as they are in conformity with the provisions of this Constitution as amended by the Constitution (Thirty-sixth Amendment) Act, 1975, be deemed to have been validly done or taken under this Constitution as so

4. In the Fourth Schedule to the Constitution, in the Table,

(a) after entry 21, the following entry shall be inserted, namely

22. Sikkim

(b) existing entries 22 to 25 shall be renumbered as entries 23 to 26 respectively;

(c) for the figures "23" the figures "24" shall be substituted

5 The following consequential amendment shall be ,made in the constitution

(a)article 2.A shall be omitted

(b)in article 80,in clause (1)the words and figures "Subject to the provisions of paragraph 4 of the Tenth Schedule "shall be omitted

(c) in article 81', in cause (1)the words and figures and paragraph.4. of the Tenth Schedule shall be' omitted .

(d) the Tenth Schedule shall be omitted.

Statutory orders issued under the Citizenship Act.

"S.O. 214 (E).-In pursuance of the notification of the Government of India in the Ministry of Home Affairs No. S.O. 208 (E) dated 16th May, 1975, the Central Government hereby appoints the 16th day of May, 1975 as the date on which the Citizenship Act, 1955 (57 of 1955), shall come into force in the State of Sikkim.

"S.O. 245(E).-In exercise of the powers conferred by section 18 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby directs that the Citizenship Rules, 1956 shall extend to and come into force in the State of Sikkim with effect on and from the 16th day of May, 1975.

"S.O. 216 (E) . -In exercise of the powers conferred by sections 18 (l), (2) (f) and 5(1) (b) of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby directs that the Citizens (Registration at Indian Consulates) Rules, 1956, shall extend to, and come into force in, the State of Sikkim with effect on and from the 16th day of March, 1975.

"S.O. 217 (E).-In exercise of the powers conferred by section 7 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby makes the following Order, namely:

1. This Order may be called the Sikkim (Citizenship) Order, 1975.
2. Every person who immediately before the 26th day of April, 1975, was a Sikkim Subject under the Sikkim Subjects Regulation, 1961, shall be deemed to have become a citizen of India on that day.

"S.O. 214 (E) .-In exercise of the powers conferred by Section 7 of the Citizenship Act, 1955 (57 of 1955) the Central Government hereby makes the following Order to amend the Sikkim (Citizenship) Order, 1975, namely:

1. This Order may be called the Sikkim (Citizenship) Amendment Order, 1975.
2. In the Sikkim (Citizenship) Order, 1975, to paragraph 2, the following proviso shall be inserted namely:

"Provided that any person whose name was eligible to be entered in the register maintained under the said regulation but was not so entered because of any genuine omission shall also be deemed to have become a citizen of India on that day if so determined by the Central Government.'

THE ADAPTATION OF SIKKIM LAWS (NO.1) ORDER, 1975.

(13/9/1975)

In exercise of the powers conferred by Clause (I) of Article 371F of the Constitution, the President hereby makes the following order, namely:

- I. (1) This Order may be called the Adaptation of Sikkim Laws (No. 1) Order, 1975.
 - (2) It shall be deemed to have come into force on the 26th day of April, 1975.
2. (1) I. this Order
 2. (a) "appointed day" means the 26th day of April, 19175,
 - (b) "existing law" means any law in force immediately before the appointed day in the whole or any part of the territories comprised in the State of Sikkim.
 - (c) "law" includes any enactment, Proclamation, Regulation, rule; notification or other instrument having, immediately before the appointed day, the force of law in the whole or any part of -the territory now comprised in the State of Sikkim.
 - (2) The General Clauses Act, 1897 applies for the interpretation of this Order as it applies for the interpretation of a Central Act'..
3. Whenever an expression mentioned in column I of the Table hereunder occurs (otherwise than in a title or preamble or in a citation or description of an enactment) in an existing law then, in the application of that law in relation to the administration of the State of Sikkim, or, as the case may be, to any part thereof, unless the context otherwise requires, there shall be substituted therefor the expression set opposite to it in column 2 of the said Table, and there shall also be made in any sentence in which that expression occurs such consequential amendments as the rules of grammar may require.

1

2

His Highness the Maharaja of Sikkim
 His Highness the Maharaja Sahib
 The 'Maharaja in Council
 Sikkim Darbar
 Darbar
 Sikkim Government

State Government

.4 As from the appointed day, the laws mentioned in the First Schedule to this Order shall stand repealed.

5'. The laws mentioned in the Second Schedule to this Order shall until altered, repealed or amended by a competent Legislature or other competent authority, have effect subject to the adaptations and modifications directed by that Schedule.

THE FIRST SCHEDULE

1. Office Order No. 45/P.S. dated the 22nd' September 1960 declaring the High Court of Judicature, Sikkim, as a vacation. Department.
2. The Sikkim Subjects Regulation, 1961.

THE SECOND SCHEDULE

1. The High Court of Judicature (Jurisdiction and Powers)' Proclamation of 1955..

Omit Sections 2, 3 and 5 and Sections 9 to 13.

Section 6.-For sub-section (I), substitute

(a) Subject to the provisions of the Constitution of India, the High Court shall be the final authority in all judicial matters, Civil or Criminal.

Sections 7 and 8 .-Omit "with the approval of the Maharaja."
Section 7 Omit "with similar approval."

2. Home and Police Department Notification No. 4081/HP regarding the control of undesirables within ,Sikkim

Paragraph, 3.

- (i) for the words "Superintendent of Police" in the two places they occur, substitute "Deputy Commissioner of Police,"
 - (ii) for" Dewan," substitute," District Magistrate"
- For Paragraph .4 substitute

"The District Magistrate, on receipt of the report from the Deputy Commissioner' of Police may, after giving the person concerned, a notice to show cause as to why his movements should not be restricted within the area or areas specified in the notice or why he should not be expelled from the State of Sikkim., direct him either to remove himself to the area specified in the order or from the State itself.

The order shall specify the route by which the person concerned shall remove himself into the area or out of the State as also the period within which the removal should be executed:

Provided that the person aggrieved by the order shall have a right of appeal to the State Government within such time as may be specified in the order and the Government may either rescind the order or confirm it."

3. Rules regarding registration of documents:
In paragraph 1 omit "The registration work at the head office shall be under the direct control of His Highness The Maharaja of Sikkim."
4. The Sikkim Government Service Conduct Rules, 1957:
Rule 10, omit the words "the Ruling family of the Darbar" in the two places. they occur.
5. Rules for the payment of Darbar witnesses in Courts:

1 (I) In rules 1 and VI, omit "Darbar".

2(2) Notwithstanding the direction in the Second Schedule for the omission of section 11 of the High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955, every memorial petition for the review of any case under that section pending immediately before the commencement of this Order shall, on such commencement, stand transferred to the High Court and the High Court shall dispose of such petition as of such petition were an application for review made to it.

Renumbered as sub-paragraph (I) of paragraph 5 by the Adaptation of Sikkim Laws (No: I).Amendment Order, 1975 with effect from 26.4.1975,.

Inserted by the Adaptation of Sikkim Laws (No. I) Amendment Order, 1975) with effect from 26./4/. 1975".

THE SIKKIM COOPERATIVE SOCIETIES RULES, 1980
CHAPTER, 1
PRELIMINARY

1. Short title and application:

- (1) These Rules may be called the Sikkim Cooperative Societies Rules, 1980
- (2) They shall extend to whole of the State of Sikkim.
- (3) They shall come into force with effect from the. 1980

2. Definitions

- (l) In these Rules, unless the context otherwise requires:
 - (a) "the Act" means the Sikkim Co-operative Societies; Act 1978 (Act No.12 1978)
 - (b) 'Borrowed Capital' means the Loans, deposits and other borrowings of a society including bonds issued by it
 - (c) 'Decree' means any decree of a civil court and includes any order, decision or award referred to in the Act.
 - (d) 'Decree holder, means any. society of person including the Government in whose favour a decree has been passed
 - (e) 'Default' means failure on the part of the society, member or other persons to repay to the Financing Bank or any other society, a loan or any other amount due to it within the time fixed for repayment or to return to the society within the time 'fixed for, finished goods. in respect of raw material advanced or- to keep any other obligation for the- fulfillment of which time limit has been specified in the bye-laws
 - (f) 'Defaulter' means any society, member or other person committing default;
 - (g) 'Defunct society' means a society classified as such during the course of an enquiry or inspection or after reasons to be recorded in writing declared as such by the Registrar
 - (h) 'Financing bank' means the- State Co-operative Bank, registered under the Act
 - (i) 'Form' means a form appended to these Rules;
 - (j) 'General Body' in relation to any society means all the members of the society in relation to a co-operative society which has provided for the constitution of a representative general body' all the delegates or representatives constituting the representative general body elected in accordance with the provisions of the Bye-laws of such a co-operative society or the rules approved by the Registrar and the word 'member, in relation to general body or. general meeting wherever occurring in these rules or bye-laws of such a co-operative society shall always be constituted as such delegate or representative
 - (k) "Government dues" include (i) audit fee leviable ,for audit under section 64 (ii) cost of enquiry leviable under section 68 (iii) loans, share capital, subsidy and grant-in-aid refundable under the terms of any agreement executed between a society and the Government, (iv) arbitration fee etc.

(v) any other amount to be spent by the Government on conducting elections of a committee process fees. diet charges for civil arrests and civil confinement of defaulters, etc.

- (l) 'Judgment debtor means any person against whom a decree has been passed.
- (m) 'Net Profit of a Society means the profit remaining after allowing for the following charges, namely
 - (a) Establishment charges, contingent charges, interest payable on loans and deposits at approved rates and audit fee approved by the Registrar

Explanation - Where the Registrar has powers under the rules to prescribe the qualification number and the pay and allowances of the employees of a society, the 'Establishment charges' shall mean the Establishment Charges' determined on the number of employees fulfilling the prescribed qualifications on the rates as may be determined by the Registrar from time to time.

- (b) An usual working charges such as repairs rent, taxes and. the like, bounties or subsidies received depreciation irrecoverable book debts written off with the prior approval of the Registrar
- (c) Capital expenditure' written off either wholly or in part;
- (d) Capital loss actually incurred and not adjusted against funds created out of profits;
- (e) Provisions' for estimated bad debts, if any;
- (f) Any other, charges allowed by the Registrar in writing
- (g) Owned capital means the total of the paid up share capital accumulated reserves and other funds created out of profits of a society.
- (h) 'Record of rights' means the record of rights maintained under the law relating to land revenue in force in the State.
- (i) 'Recovery Officer' means any person empowered to exercise 'the power of the Registrar under section 80.
- (j) 'Section' means a section of the Act;
- (k) 'Schedule' means the schedule appended to these rules;
- (1) 'Working Capital' means the total of the borrowed capital and owned capital.
- (2) Words and expressions used in these Rules but not defined shall bear the meaning respectively assigned to them in the Act.,

Explanation :

With reference to a person who is unable to sign his name, the word 'signature' shall include his "Thumb impression" or other mark duly attested to signify his signature.

CHAPTER II**REGISTRATION OF SOCIETIES****3. Application for Registration**

- (1) Every application for-registration of a society under sub-section (1) of section 6 shall be made in triplicate in Form A, in Hindi, English or local language and shall be subject to the provisions of sub-rules (2) and (3), be duly signed by the applicants in accordance with the provisions of clauses (a) and (b) of sub-section (2) of section 6 and be accompanied by:
 - (a) four copies of the proposed bye-laws of the society,
 - (b) a certificate from the financing bank stating the credit balance in favour of the proposed society therein
 - (c) a list of persons who have contributed to the share capital, together with the amount contributed by each of them and the entrance fee paid by each of them,
 - (d) a scheme showing the details explaining as to the economic soundness, of the proposed society
 - (e) such other documents as may be specified by the Registrar by a special or general order.
- (2) Where any member of society to be registered is a registered society, a member of the committee of such registered society shall be authorised by the committee by a resolution to sign on its behalf the application for registration and the byelaws for registration and a copy of such resolution- duly certified by the Secretary of the society shall also be appended to the application.
- (3) Where any member of a society to be registered is a firm, company, corporate body, society registered under the Societies Registration Act, 1860 or a public trust registered under any law for the time being in force or a local authority, then such firm, company, corporate body, society, public trust or local authority shall duly authorize any person to sign on its behalf the application for registration and the bye-laws and a duly certified copy of the resolution giving such authority shall be appended to the application.
- (4) The application for registration shall mention the name and address of one of the applicants to whom correspondence may be addressed by the Registrar.
- (5) The application shall be sent to the Registrar by registered post or be delivered in his office by hand.

4. Registration

- (1) On receipt of an application under rule 3, the Registrar shall enter particulars of the application in the register of applications to be maintained in Form B, give a serial number to the application and issue a receipt in acknowledgement thereof.
- (2) The Registrar may give, wherever necessary, opportunity to the promoters or modify the proposed bye-laws before finally registering the society or rejecting the application for registration of the society.

- (3) On registering a society and its bye-laws under sub-section (1) of section 8 the Registrar shall within six months from the date of registration notify the Registrar of a society in the official Gazette and grant to the society a certificate of registration signed by him and bearing the official seal and containing the registration number of the society and the date of its registration. The Registrar shall also furnish the society with a certified copy of the bye-laws approved and registered by him.

5 Refusal to register

If the Registrar refuses to register a society, he shall communicate the refusal together with the reasons therefor, by registered post to the applicant referred to in sub-rule (4) of rule 3.

6. Matters in respect of which Registrar may direct a society to make bye-laws or a society may make bye laws.

- (1) The Registrar may require a society to make bye-laws in respect of all or any of the following matters, namely
- (a) the name, address and branches of the society
 - (b) area of operation of the society
 - (c) objects of the society
 - (d) the manner in which and the limit upto which funds of the society may be raised, the maximum share capital which any one member may hold and the purpose to which funds may be made applied
 - (e) terms and qualifications for admission to membership including entrance fees, if any
 - (f) privileges, rights, duties and liabilities of members including nominal members
 - (g) consequences of default in payment of any sum due by a member to the society
 - (h) conditions regarding sale or of produce of members, wherever applicable
 - (i) in case of credit societies
 - (i) maximum loan admissible to a member
 - (ii) maximum rate of interest on loans to members
 - (iii) conditions on which loans may be granted to members and penalties for misapplication of loans so advanced
 - (iv) procedure for granting extension of time for repayment of loans and advances
 - (v) consequences of default in payment of any sum due
 - (vi) circumstances under which a loan may be recalled
 - (j) in case of non-credit societies, the mode of conducting business such as manufacture, purchase, sale, stock taking and other like matters
 - (k) in case of a composite society, that is to say, a society having both credit and non-credit functions, matters referred to in clauses (i) and (j)

- (1) mode of holding general body and committee meetings
- (m) Procedure for. expulsion of members
- (n) manner of making, altering and amending bye-laws
- (o) mode of appointment, either by election or otherwise, removal of members of committee and other 'officers, their duties and powers ..
- (p) chairman's powers, duties and functions and his removal
- (q) method of recruitment, conditions of service and the authority competent to fix, revise or regulate scales of pay and allowances of employees (including officers) and servants of the society and procedure to be followed in disposal of disciplinary cases against them
- (r) mode of custody and investment of funds and mode of keeping accounts and records; .
- (s) disposal of net profits;
- (t) manner in which penalty should be levied on a member who is found to be guilty of breach of the bye-laws;
- (u) appointment of ,a provisional committee, where necessary
- (v) mode of convening annual and special general meetings, issue of notices and the business which may be transacted thereat
- (w) in the event of winding up of the Society the manner in which surplus assets, if any, shall be utilized
- (x) conduct of elections to committee and other bodies of a society, number of members to be elected by different constituencies and appointment of. Returning Officer
- (y) any other matter. incidental to the management of business of .a society.
- (2) A society may also make bye laws in respect of all or any of the following matters:
 - (a) the circumstances under which withdrawal a from membership may be permitted
 - (b) procedure to be followed in cases of withdrawal, ineligibility and death of members
 - (c) conditions under which transfer of share or interest of a member may be permitted
 - (d) method of appropriating payments made by members from whom moneys are due
 - (e) authorization of an officer ,or officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society;
 - (f) constitution and maintenance of various funds required to be maintained under the provisions of the Act and these Rules;
 - (g) constitution of representative body consisting of delegates of members of a society and mode of election of such delegates to exercise powers of the general body of members and to specify the powers which may be exercised by such smaller body. .

7. First bye-Laws of a society

When a society has been registered, the bye-law of a society as approved and registered by the Registrar shall be the bye-laws of a society.

8 ..Model bye-laws

The Registrar may prepare model bye-laws of each class or sub-class of societies which may be adopted by societies with or without charges.

9 Classification of societies :

- (i) After Registration of a society the Registrar shall classify a society into one or other of the following classes and sub-classes of societies according to the principal object provided in its bye-laws;
 - (a) "Resource-society" means a society formed with the object of obtaining for its members the credit, goods or services required by them such as
 - (i) Thrift, and Urban Credit Society.
 - (ii) Agricultural Credit Society.
 - (iii) Agricultural Non-Credit Society.
 - (iv) Multi Purpose society which includes amongst its primary object; the object 'of societies referred in (ii) and (iii) above.
 - (v) Urban Thrift & Co-credit Cooperative Bank.
 - (vi) Co' operative Bank
 - (b) "Producers Society" means a society (such as, (i) Industrial Producers society, (ii) Weavers' Society (iii) Labour and Construction Society, (iv) Motor Transport Society, (v) Industrial Service Society,) formed with the object of producing and disposing of goods as the collective property of its members and includes a . society formed with .the object of the .collective .disposal of the labour of the members of such society
 - (c) "Consumers Society" means a society formed with: the object of. obtaining and distributing good or of performing services for its members, as .well as to other consumers within the area of operation specified in the bye-laws and of dividing among its members .and customers in a proportion prescribed by the rules or by the bye-laws .of such ,society, the .profits accruing from such ,supply and distribution
 - (d) "Processing Society" means a society the object of which is the processing of goods by mechanical or manual process.
 - (e) "Marketing. Society" means a society formed for. the ,purpose of marketing. agricultural or other produce and includes. amongst' its objects. the supply of ' the requisites of such production
 - (f) "Joint Farming society" means. ,a society, in which. the object of increasing agricultural production, employment, income and better utilization of resources, land held by members is pooled together and is jointly cultivated by the members on behalf of the 'society

- (g) "Collective Farming Society" means a society in which the object of increasing agricultural production and is acquired from outside in the name of the society and is collectively and jointly cultivated by the members, themselves on behalf of the society
- (h) "Co-operative Union" means a society which has as its principal object the undertaking of co-operative education, propaganda and training
- (i) Others.

Note If any society classified as above is a federal society it may be classified as apex society.

- (2) If the Registrar alters the classification of a society from one class of society to another, or from one sub-class thereof to another, he shall issue the society a copy of his order provided that no such order shall be made without sufficient opportunity being given to the society to express its views in the matter and the views so expressed are taken into consideration by the Registrar'

(3) A society may, in its general body meeting resolve by a two thirds majority to convert itself into a society of a class different from the one to which it belongs. Such resolution shall also include amendments to the bye-laws proposed for adoption by the society on such conversion and a copy of the resolution shall be sent to all members and creditors of a society.

(4) Any member or creditor may, within a period of one month from the date of receipt by him of the resolution mentioned in sub-rule (3) intimate in writing his intention to withdraw his share or interest in a society.

(5) After the expiry of two months from the date of dispatch of the resolution referred in sub-rule (3) to its members and creditors, the society shall convene a general meeting by giving fifteen days notice for considering such resolution, if, at such meeting the- said resolution is confirmed by two-thirds of the members present and voting, either with or without changes, the Registrar, on receipt of a copy of such resolution duly certified, and after satisfying himself that the claims of members who desire to withdraw their shares or interest under sub-rule (4) have been met in full register the amendment to the byelaws and on such registration the conversion shall be deemed to have taken effect.

10. Maintenance of Registers:

(1) The Registrar shall maintain a register of all societies registered or deemed to be registered under the Act in Form C.

(2) The Registrar shall assign for each class or sub-class of societies a code symbol for giving registration number to societies and the societies shall be registered from the dates specified by him.

11 Registration File

(1) Every society shall keep at its registered office a registration file containing:

- (a) Registered bye-laws of the society-
- (b) An index of amendments of bye-laws.
- (c) All registered amendments to the bye-laws duly entered in the index along with certificates of registration of amendments
- (d) Certificate of registration.
- (e) A copy of the Act.
- (f) A copy of the Rules.

(2) The above file for inspection for inspection at all times during working hours to the Registrar or any other officer authorised by member of the society.

12, Amendment, of Bye Laws

(1) Subject to the provision of this rule and section 11 (1) of the Act, the bye-laws of a society amended by passing a resolution at the general meeting of the society held for that purpose

(2) The society shall give notice of not less than 14 days of the proposed amendments to all the members for their consideration.

(3) An amendment shall be deemed to have been duly passed if a resolution in that behalf is passed at a general meeting by not less than two-thirds of the members present and voting

(4) After the resolution is passed a copy thereof shall within a period of two months from the date of the meeting at which the resolution was passed, be furnished to the Registrar along with

- (a) a copy of the relevant bye-laws in force with amendments proposed to be made in pursuance of the resolution together with reasons for such amendments
- (b) four copies of the text of the amendments, certified by officers duly authorized in this behalf by the committee of a society
- (c) a copy of notice given to members of the society of the proposal to amend the bye laws and
- (d) such other information as may be required by the Registrar.

(5) On receipt of a copy of the resolution and other particulars referred to in sub-rule (4) the Registrar shall examine the amendments proposed by the society and if he is satisfied that the amendments are not contrary to the provisions of the Act and these Rules, he may register the amendments and issue to the society a copy of the registered amendments together with a certificate signed by him under sub-section (3) of section 11 where the Registrar is of the opinion that the proposed amendment may be accepted subject to any modification he may indicate to a society such modification after explaining in writing the reasons therefor and require the general body to pass a fresh resolution adopting the modified amendment.

(6) Where the Registrar refuses to register the proposed amendments to the bye laws, he shall issue an order stating the reasons for the refusal and such order shall be sent by registered post to the society.

(7) An appeal against the registrar's order refusing to register any amendments to the bye-laws of a society shall be made after a meeting of the general body or the society has reconsidered the matter and has decided to prefer an appeal which shall be signed by an officer of a society authorized in this behalf by the general meeting. A copy of the resolution of the general body shall be attached with the memorandum of appeal.

13 Procedure for direction by Registrar for amendment of bye-laws:

(1) Where it appears to the Registrar that an amendment of the bye-laws of a society is necessary, he shall indicate the reasons therefor and issue a notice calling upon the committee of such society to convene a general meeting to consider such amendment.

(2) The motion referred to in sub-rule (1) shall specify

- (a) the text of the existing byelaw and the amendment proposed to it, or the text of the existing bye-law which is proposed to be deleted and,
 - (b) the period within which such amendment should be sent to the Registrar for registration after getting it passed by the general meeting.
- (3) Where a society files an objection to the proposed amendment, such an objection shall be duly considered by the registrar and if the committee desired to be heard, it shall be given an opportunity of being heard. The Registrar may, after considering the representation of the society, register the amendment with or without any modification as he shall deem fit.

14 Change in name of Society:

- (1) The name of a society may be changed under Section 14- so however that it does not refer to any caste or religious denomination and is not, inconsistent with the objects' of a society,
- (2) Every change in the name of a society shall be made by an amendment of its' bye-laws and shall be notified in the Official Gazette.
- (3) After the change in the name is approved, by the Registrar, the society shall send to the Registrar original certificate of registration for amendment. The Registrar shall return the certificate to the society after duly amending the same..
- (4) The Registrar shall enter the new name in the register of societies maintained by him.

15. Change of Liability

- (1) An amendment to the bye-laws of a society to change the form and extent of its liability shall be made by passing a resolution in that behalf at a general meeting of the society. Thirty days notice in writing of such meeting shall be given to all its members together with copies of the resolution proposed to be moved at the meeting: After the resolution is duly passed, a copy thereof shall be sent to the Registrar within thirty days' of its passing.
- (2) The notice to be given by a society under sub-section (3) of Section 15 shall be sent by post under certificate of posting to the address of each of its members and creditors as recorded in the books of the society. A copy of such notice shall be exhibited on the notice board of the society and a copy shall also be sent to the registrar for exhibition on the notice board in his office, and thereupon, the notice subsection (3) of Section 15 shall be deemed to have been duly given to all its members and creditors, notwithstanding that any of them has not received the notice for any reason whatsoever.
- (3) For the purpose of determining the claims of a member, under clause (b) of sub-section (4) of Section 15 the value of the shares of a member in the society shall be ascertained, as follows:

(a) In the case of a society with unlimited liability, the value of the share shall be the actual amount received by a society in respect of such share.

- (b) In the case of a society, with limited liability, the value of the share shall be the amount arrived at, by a valuation based on the financial position of the society as shown in the last audited balance sheet, provided that it shall not exceed the actual amount received by a society in respect of such share.

(4) Any member or creditor desiring to exercise his option under sub-section (2) of section 15 shall inform a Society accordingly in writing and when he does not propose to withdraw his entire shares, deposits or loans, the member or creditor shall clearly indicate in writing the extent of his withdrawal. A society shall examine and draw up a scheme for orderly payment of all claims in an equitable manner including shares. The scheme may also provide for settlement of claims by mutual agreement. Where the Registrar does not approve the scheme, on the ground of impracticability or undesirability, the resolution passed by a society under sub rule (1) shall be ineffective and the form and extent of liability of a societies be changed in accordance with resolution passed aforesaid.

(5) After the Registrar approves the scheme, a society shall make payments to members and creditors as provided in clause (b) of sub-section (4) of section 15 make a report to that effect to the registrar and furnish the Registrar with a proposal to amend the bye-laws of a society duly passed in that-behalf, On receipt of the proposal, the Registrar shall register amendment in accordance with the provisions of section 15.

16. **Amalgamation, transfer of assets and liabilities or division of societies**

(1) Every society desiring to effect amalgamation, transfer of assets and liabilities or division shall make an application to the Registrar in that behalf giving full details about such amalgamation, transfer or division as the case may be.

(2) On receipt of such application the Registrar may, after examining the details furnished in the application and other particulars which he may can upon the society to furnish, give his approval to the proposal ,if he is satisfied that the proposal is in the interest of the society.

(3) After the receipt of Registrar's approval under sub-rule (2) the society shall convene a special general meeting by giving 11 days notice to all its members and pass a resolution for such amalgamation, transfer of assets and liabilities or division, as the case may be. by two-thirds majority and the resolution so passed shall contain all the details' as provided in sub-section (3) of section 16.

(4.) The society shall on complying with all the requirement of sub-sections (4-), (5) and, (6) of section 16 of the Act, submit a report to the Registrar of such compliance and request him to give effect to its 'decision for amalgamation, transfer or division, as the case may be, by registering the resulting new society, if any, and canceling the registration of the societies which have been amalgamated or whose whole of the assets and liabilities have been transferred.

(5) On receipt of the report from the society under sub-rule (4.) the Registrar shall after satisfying himself that the society has complied with all the requirements of section 16, register the amalgamated or divided society/societies and cancel the registration of the societies which have been amalgamated or divided or whose whole of the assets and liabilities have been transferred.

17. Direction :by Registrar for amalgamation and organisation of societies:

(1) Before issuing any order under sub section (1) of section 17 providing for amalgamation or reorganization of any society the Registrar shall prepare a draft scheme in respect of such amalgamation or reorganization, stating in particular the manner in which the new committee or committees of the society or societies resulting from such amalgamation or reorganization, shall be constituted and the bye-laws, which such society or societies shall follow. The Registrar shall simultaneously send a copy of such order and, notice, by registered post to such society or societies.

Every society receiving a copy of an order and notice shall, exhibit it on its notice board calling for objections or suggestions, if any, to the scheme from the members, depositors, employees, creditors or other persons concerned within 15 days from the date the notice is put on the notice board.

The society or societies concerned shall submit to the Registrar such objections, or suggestions together with its own suggestions or objections: if any, within a period of two months from the date of which a copy of the draft aforesaid was received by it

(2) The Registrar shall also expeditiously send a copy of such order to the financing bank of which such society or societies may be member or members

(3) The Registrar shall consider, all such suggestions, and objections and then make the modification in the draft order as it may seem to be desirable in the light of those suggestions and objections; and, then issue a final order under, sub-section (1) of section 17.

CHAPTER: III

MEMBERS OF SOCIETIES AND THEIR RIGHTS AND LIABILITIES
Conditions' to be complied with for admission for membership etc.

18. No person shall be admitted as a member of a society unless .

(i) he has applied in writing in the form, if any, prescribed, by a society or in the form, if any, specified . by the Registrar' for membership

(ii) . in the case of societies other than primary agriculture credit societies, application. by approved ,by the committee of a societies and in the case of nominal member by an officer of the society authorised in that behalf by the committee

(iii) he hits fulfilled all other conditions laid down in the Act and these Rules and the bye laws of the. society

(iv) in the case of a firm, company or body corporate a, society registered 'under the societies Regulation Act, 1860 the application for, membership. is accompanied by a resolution authorizing it to. apply for such 'membership.

19. **Disqualification for membership:**

(1)'If any question: as. to whether a member has incurred any of the disqualifications referred to in sub-section (1) of section 21 arises, it shall be referred to the Registrar and the decision thereon shall be final and binding on all concerned.

(2) A member who ceases to be a member of a society under sub-section (2) of section 21 shall not be entitled to exercise rights of membership or incur liability as member with effect from the date mentioned in the said, sub-section.,. but shall be entitled to the payments within six months from the date mentioned in the said sub-section by the paid-up value of the shares' registered in his name and deposits, if any, made by him with the society.

20 **Withdrawal of membership**

(1) Subject to the provisions of the ,Act, these Rules and bye-laws of a society, a member may withdraw from a society after giving three 'months notice to the society of his intention to. resign from the society.

(2) No resignation of a member shall be accepted by a society unless the 'members has paid in full his dues, if any to the society and has also cleared his liability to the ,society, if any, as surely to any other member or otherwise.

. (3) Any. member, whose resignation has been accepted. by a society or any heir .or legal representative of a deceased member, may demand refund of share capital held by such member or deceased member and the society shall, subject to the provisions of the bye-laws of-the society, refund the amount within six months .from the .date of acceptance by the society. of. the resignation or the date of demand made by the heir or legal representative of a, deceased member, as the case may be.

(4). In all such cases where share capital is to be refunded, valuation of shares to be refunded shall be made in accordance with the provisions contained in rule 22.

21. Valuation of shares:

(1) Where a member of a society resigns or ceases to be a member thereof, the sum representing the value of his share or interest in a society to be paid to him or his nominee, heir or legal representative, or a person claiming on his behalf, shall be ascertained in the following manner namely:

(i) In the case of a society with unlimited liability shall be the actual amount received by a society in respect of such share or interest

(ii) In the case of a society with limited liability, it shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet:

Provided that the amount so ascertained shall not exceed the actual amount received by a society in respect of such share or interest.

(2) Where a person is allotted a share by a society, the payment required to be made therefor shall not exceed the face value of a share notwithstanding anything contained in the byelaws of a society.

(3) When a share is transferred by a member to another person duly-admitted as a member of a society, the transferee shall not be required to pay anything in excess of the value of the share determined in accordance with the provision in sub-rule (1).

23. Procedure for transfer of shares:

- (1) No transfer of shares in a society shall be effective unless,
- (a) it is made in accordance with the provisions of the bye-laws;
 - (b) a clear fifteen days notice in writing is given to the society indicating therein the name of the proposed transferee, his consent, his application for membership, where necessary, and the value proposed to be paid by the transferee
 - (c) all liabilities of the transfer or due to the society are discharged; and
 - (d) the transfer is registered in the books of the society.

(2) Any charge in favour of a society on the shares so transferred will continue unless discharged otherwise.

24. Nomination of persons:

(1) For the purpose of transfer of his share or interest under sub-section (1) of section 28 a member of a society may, by a document signed by him nominate a person or persons to whom in the event of his death his share or interest in the society shall be transferred. Such document shall be deposited with the society during the member's life time.

(2) The nomination made under sub-rule (1) may be revoked or varied by the member

(3) A nomination made by a member shall not be valid and shall not in the event of the death of the member, have effect unless -:

- (a) it is made in writing: and is signed by the member in the presence of two witnesses attesting the same' and
- (b) it is recorded in the book, of the society kept for the purpose.

(4-) Where a member of a society has not made any nomination, the society shall, on the member's death, by a notice exhibited at the office of the society, invite claims or objections for the proposed transfer of the share or interest within the time specified in the notice.

(5) After 'taking 'into consideration the claim or objections received in - reply to the notice or otherwise and after making such inquiries as the committee considers proper in ' the circumstances prevailing the committee shall decide as to the person who in its opinion is the heir or the legal representative of a deceased member and proceed to take action' under section 28.

25. Registration of nominations:

The name and address of every person nominated for the purposes of sub-section (I) of section 28 and any revocation or variation of such nomination shall be entered in the register of members prescribed under rule 38.

26. Supply of copies of documents by societies and fees there for:

A member of a society requiring a copy of any of the following documents namely, the bye-laws, last audited annual balance sheet, profit and loss account, a list of members of the committee of the society, register of members, minutes of general meetings or committee meetings and the portions of the books and records in which his transactions with the society have been recorded, may apply to the society for the same. Every such application shall be accompanied by a deposit of such amount as may be decided by the committee, towards the cost of preparing the copies. On receipt of the deposit the society shall issue a receipt for the copies duly certified in the manner prescribed in rule 40.

27. Expulsion of members:

Any member who has been persistently defaulting in payment of his dues or has been failing to comply with the provision or the bye-laws in any manner or who in the opinion of the committee, has brought disrepute to the society or has done other acts detrimental to the interest or proper working of a society may, by a resolution passed by a majority of not less than three-fourths of the members entitled to vote who are present at the general meeting held for the purpose, be expelled from the society.

28. Procedure for expulsion of members:

(I) Where any member of a society proposes to bring a resolution for expulsion of any other member, he shall give a written notice thereof, to the chairman of a society. On receipt of such notice or when the committee itself decides to bring in such resolution, the

consideration of such resolution shall be included in the agenda for the next general meeting and a notice thereof shall be given to the member against whom such resolution is proposed to be brought, calling upon him to present at the general meeting to be held, on a date to be specified in the notice (which shall not be less than one month from the date of such notice) and to show cause against expulsion to the general body members. After hearing the member, if present, or after taking into consideration any written representation which he might have been sent, the general body of members shall proceed to consider the resolution

(2) When a resolution is passed in accordance with sub-rule(1), it shall be sent to the Registrar for his consideration and approval. The Registrar may after making such inquiries as he may deem fit, give his approval and communicate the same to the society and the member concerned. The resolution of the society shall become effective from the date of such approval.

29. **Inspection of the documents in the office of the Registrar and the scale of fees for supply of copies of Documents:**

A member of a society or any member of the public may inspect the following documents in the office of the Registrar free of charge and may obtain certified copies thereof on payment of the following fees :

	Paisa
(i) Application for registration of a society	20 each
(ii) Certificate of registration	20 each
(iii) Bye-laws of societies	20 per 200 word part thereof.
(iv) Amendment of bye-laws of a society	20 ---do-
(v) Order of cancellation of the registration of a society	20 -do-
(vi) Audit memorandum of a society	20 --do--
(vii) Annual balance sheet	20 -do--
(viii) Order referring a dispute for decision	20 --do-
(ix) Order of super session of a committee or removal of any member thereof	20 -do-
(x) Any other order against which an appeal is provided	20 -do-
(xi) Order under section 70	20 ,do-

CHAPTER IV

MANAGEMENT OF SOCIETIES

30 Prohibition against being interested in contracts etc.

'No officer' of 'society shall have any interest. directly or indirectly otherwise than as such. officer

(a) in any contract made with, or by a society,

(b) in any property sold or purchased by a society; or

(c) in any other transaction of a society except as loan taken from a society. or the provision of residential accommodation by a society to any paid employee of a society.

(2) No Officer of a society shall purchase.. directly or indirectly. any property of a member .of the society sold for the recovery of his dues to the society.

31. Manner of election of Committees :

Notwithstanding anything contained in these Rules or 'bye-laws and without prejudice .the generality of the powers of the Government under sub-section (1) of section 34, election of members of the committees of different types of societies shall be conducted in. the manner as may be 'specified by the Registrar by a general or special order.

32. First General Meeting

(1) Within three months from the date of registration of a society. the chief promoter thereof shall convene under intimation to the Registrar, the first general meeting of all persons who had joined in the application for registration, of that society. Where the chief promoter fails to convene a meeting as aforesaid, it shall be convened by any person authorised in that behalf by, the Registrar.' The Registrar or any other person duly authorised by him in this behalf may attend such meeting.

(2) At the first general meeting the following business shall be transacted

(a) Election of a president of the meeting;

(b) Admission of new members

(c) Receiving a statement of accounts and reporting all transactions entered. by the promoter up to 14 days before the meeting; -

(d) Constitution of a provisional committee until regular elections are held under the bye-laws. The provisional committee shall have the same powers and functions as the committee elected in accordance with the bye laws

(e) Fixing the limit-up to which funds, may be borrowed

(f) Any other matter which has been specifically mentioned in the bye-laws.

34-General Meetings :

(1)The secretary or in his absence any other person authorized in this behalf by the byelaw by giving not less .than 14 days notice in writing,. shall convene the General Meeting of the .member of the society' every- year in accordance with the. bye-law and the Genera Meeting shall transact such business in such manner as may. be-laid down in the bye laws

34. Constitution of the representative general body:

(1) A society with limited liability including the State cooperative Bank may, if its area of operation extends to the whole of the State of Sikkim provide in its bye-laws for the constitution of a representative general body:

(2) Where a society so provides in its bye-laws to constitute a representative general body, it shall, with the permission of the Registrar, divide its members into different groups on a territorial or other basis.

(3) The bye-laws of such society may specify the number or proportion of the members of the representative general body their election and their voting rights. The members

of the representative general body, shall represent each group referred to above and shall be elected..

- (a) by all the members of the society;
- (b) by only that particular group of members of the society to which such representatives belong.

(4) The members who are elected to represent each such group shall be called 'delegates. A delegate shall hold office and attend general meetings of the representative general body till fresh delegates are elected in their places:

Provided that a delegate shall continue for a term of not more than 3 years after which fresh delegates will be elected.

(5) Each delegate shall have one vote.

(6) A member shall cease to be a delegate if he

- (a) ceases to be a member of the society
- (b) resigns his office as delegate.

(7) A casual vacancy in the office of the delegate in any area or group shall be filled by election by members in the area or group concerned and the new delegate so elected continue in office for the remaining period of the representative general body

Provided that failure to fill any casual vacancy shall not invalidate the proceedings in the general meeting.

(8) Notwithstanding anything contained in this rule (a) the State CO-operative Bank shall hold its general meetings of, delegates of sections or categories, as the case may be., instead of summoning of all members in person, on the following basis, viz :

- (a) 4 nominees of the Government
- (b) 1 delegate representing each society
- (c) 1 delegate of bank defined in the Act
- (d) for any other members 1 delegate for every 25 members (fractions being neglected)

(9) A federal society may summon on its general meetings by: convoking representative as per its bye-laws as approved by the Registrar:

Provided that in respect of any federal society the delegates of individual members on the committee or Board of Directors as the case may be shall not at any time exceed one fourth of the number of representatives of societies fractions to be neglected admitted to membership on the 30th June of the preceding year, whichever is less

35 Closing of accounts:

Every Society shall maintain accounts and books for the purpose of recording business transacted by it and close them every year on the 30th June by the, 15th July. Each closing entry in the cash book in each ledger account shall be signed by the president/chairman, the secretary and the treasurer or any other approved member of a 'society authorised by its managing committee. The closing balances which are thus authenticated shall be carried forward' to the following year commencing on the 1st July.

36. Annual statements of accounts:

(1) Within four-five days of the close of every co-operative year or within such extended period as may be allowed, by the Registrar, in the case of any society or class of societies, the committee of every society shall prepare annual statement of account showing :

- (i) receipts and payments during the previous co-operative year in Form D
- (ii) the profit and loss account for the year, in Form E, and
- (iii) the Balance sheet as at the close of the year in Form F:

Provided that it shall be open to the Registrar to permit a society or class of societies to adopt such other form as he may deem fit.

(2) Copies of the balance sheet and profit and loss account to be presented at the annual general meeting and a copy of the report of the committee shall be circulated amongst the members of the general body and also fixed on the notice board of a society at least fourteen days before the date of the annual general meeting and shall be submitted to the Registrar within 15 days of their adoption by the general body.

37. Super session of the committee:

(1) Before making any order for super session of the committee of society under sub-section (1) of Section 39, the Registrar shall consult the federal society or the State Co-operative Bank to which the society is affiliated and give an opportunity to the committee concerned to show cause within fifteen days from the date of issue of notice, why such an order shall not be made.

(2) Immediately after the new committee is elected or an administrator or administrators appointed, the committee in whose place such appointment is made and officers of the society shall hand over the new committee or the administrator or administrators, as the case may be, the charge of property, documents and accounts of a society.

38. Accounts and other books to be maintained by societies :

Every society shall, maintain the following accounts' and books

- (i) A register of members in Form G.
- (ii) Register of share.
- (iii) A register of bonds, where necessary.

- (iv) Minute book recording proceedings of general meetings.
- (v) Minute book recording proceedings of committee ,meetings.
- (vi) Cashbook.
- (vii) General ledger and personal ledgers.
- (viii) Stock register, where .necessary.
- (ix) Property register where necessary.
- (x) Register of audit. objections and their rectifications.
- (xi) Liability register, where necessary.
- (xii,) Such other accounts and books as may be necessary and as from time to time be specified by the Registrar.

39 **Power of Registrar to direct accounts and books to .be written up :**

. The Registrar. may, by order in writing, direct any society to get any or all of the . accounts and books required to be maintained by it under rule 38 written. up to such . date in such form and within such time as he may direct. In case the society fails *to* do so, the Registrar may depute an 'officer, sub-ordinate to him to write up the accounts and books. In such case it shall be competent; for the Registrar to determine, with reference to the time involved in the work and the emoluments of the officer deputed to do so, the 'charges which the society shall pay to the Government and direct its recovery from the society.

40 **Certifying copies of entries in. books :**

For the purpose specified in sub-section (I.) of section 51 and rule' 26 copies of any document or entry in a books of a society shall be certified-

- (i) by the president or secretary or any other officer authorised by the committee in this behalf ;
- (ii) , where an order has been passed under section 39, dissolving a. committee and appointing an administrator, 'by the administrator;
- (iii) where an order. has been passed under sub-section (I) of section 76 appointing a liquidator of a society, by the liquidator.

41 . **Preservation and destruction of books and records, etc**

The books and records of a society shall be preserved as per Schedule I. A. list. of records destroyed from time to time shall be prepared and kept by the secretary.

42. **Qualifications of paid staff**

(I) In the following kinds of societies, appointment of paid staff shall be subject: to such directions as the... Registrar may from time to time issue in. regard to their technical educational qualifications, in regard to their minimum number and their pay and allowances security deposit. namely

- (i) State Co-operative bank.

- (ii) Credit resource societies
- (iii) Consumer societies
- (iii) Agricultural society
- (iv) Producers' societies

(2) No society of the class referred to in sub-rule (1) shall appoint any person as its paid officer or servant in any category of service unless he possesses the qualifications prescribed by the Registrar from time to time. No society shall retain in its service; any paid officer or servant if he does not acquire the qualifications within such time as the Registrar may direct. The Registrar may, for special reasons to be recorded in writing, relax in respect of any paid officer or servant the provisions of this rule in regard to qualifications, etc.

(3) Except with the previous approval of the Registrar no relative of any member of the committee or the secretary/treasurer of a society or a member of the committee of financing bank to which a society is indebted shall be appointed as its paid staff:

Provided that nothing contained in this sub-rule shall apply to the paid staff of any society who are appointed prior to the coming into force of these Rules.

CHAPTER V

43. RIGHTS AND PRIVILEGES OF SOCIETIES

Form of Declaration to be made by Members Borrowing Loans:

(1) A declaration required to be made under sub-section (1) of section 43, shall be in Form H.

(2) A register of such declarations shall be kept by the society in Form I.

(3) A charge on any immovable property created by a member in favour of a society for amounts borrowed or to be borrowed by him, from time to time shall subject to the provisions of sub-section (2) of section 43 continue in force till all the sums secured by such declaration are fully repaid to the society.

(4) If a member commits default in repayment of the principal or payment of interest and other charges to a society, which payment and repayment are secured by a charge under section 43, the society may, for the purpose of recovering the said sums

- (a) dispose off in the manner prescribed, either in whole or in part, the property charged and recover the sums due to it; or
- (b) take possession of such property in the manner prescribed and let out the same to such person or persons in such rental as the society may deem fit or use the property itself for its business purpose on rental basis and appropriate the rents towards the repayment of the principal and payment of interest and other charges due to itself

Provided that where the society lets out the property or otherwise uses the property itself, the member to whom the said property belongs or any person claiming through him shall not be entitled to recovery possession of the property until all sums due to the society are fully adjusted from the rents of the said property or otherwise. Upon such adjustment the lease granted by the society in respect of the said property shall be deemed to have been determined and the Lessee shall, notwithstanding anything contained in the lease deed, hand over vacant possession of the property to the member or any person claiming through him on a written requisition from the society in that behalf.

44 Restrictions on Borrowing by Society with Limited Liability:

No society shall receive deposits or borrow with or without security by way of loans or advance or overdrafts from members or non-members in excess of the maximum amount fixed in its bye-laws subject to the approval of the Registrar:

Provided always that the Registrar may at any time reduce such maximum so fixed and such conditions as he may deem fit, subject to which the society may receive deposits or borrow money.

45 Issue of Bonds:

(1) Any society, which is authorised under its bye-laws to raise funds by the issue of bonds may, with the prior approval of the Registrar, frame regulations governing the issue and management of such bonds.

(2) The total amount of bonds issued at any time together with the other liabilities incurred by the society, shall not exceed the maximum amount which the society can borrow under the provisions of Rule 44

46. Bonds Redemption Fund:

Every society which raises resources by issue of bonds shall constitute and maintain a Bonds Redemption Fund in such manner as may be specified by the Registrar from time to time.

47. Maintenance or Liquid Resources and Distribution of Assets:

Every society which obtains any portion of its working capital by deposits, shall:

- (i) maintain such liquid resources in such forms as may be specified from time to time by the Registrar, and
- (ii) utilize only such portion of its working capital in lending business and distribute its assets in accordance with such standards as may be specified from time to time by the Registrar.

48 Restrictions on Loans to be granted by societies:

- (i) No society make a loan to :
 - (a) any person who is not a member;
 - (b) any member on the security of its own share'
 - (0) any member on the surety ship of a non member .

Provided that the Registrar may for special reasons permit a society to make loans to a member on the surety ship of non-members.

(2) Every society shall while granting loans against security or movable or immovable property, maintain such margins as the Registrar, by general or special order, direct from time to time with reference to different commodities, securities or classes of societies.

(3) It shall be lawful for a society to grant loans without taking security of movable or immovable property if the purposes for which the loans given is considered production worthy or credit-worthy and reasonably expected that the loans will be repaid by the loanees. The Registrar may issue direction to the societies to ensure that credit-worthy purposes indicated above ' receive finance from the societies without, any difficulties on the one hand, and without being detrimental to the financial interests of the societies on the other.

(4) Except with the general or special permission of the Registrar, the loan advanced to a member by a society, or to a society by the financing bank shall be subject to such conditions as may be laid down by the Registrar, with the approval of the financing bank, including the maximum amount to be advanced and period of repayment, both in regard to total advances to members and societies as also against different types of securities

(5) No society shall carry on transactions on credit or sanction trade credit to its members or to non-members except in accordance' with the general directions that may be issued by the Registrar in that behalf.

(6) In the matter of grant of loans to societies by the State Co-operative Bank or to members by primary co-operative societies, the Registrar may lay down, in consultation with the financing bank, the procedure regarding receiving applications, assessing credit needs, making inquiries in respect of the production programme for which such loan is required and the procedure for finally sanctioning the loan as also the rates of finance to be followed from year to year and the nature of inquiries to be made for the purpose of financing of different crops and imposition of certain conditions regarding proper utilization of loan and sale of agricultural produce specified by co-operative organisation, before such finance is granted.

(7) The Registrar may by general or special order prohibit or regulate grant of loans by the financing bank or a society where such grant is considered neither in the interest of the society nor in the interest of the development of co-operative movement on sound lines.

49. **Conditions to be complied with by members applying for Loans:**

(1) Every member of a society. applying for a loan from the society shall be required to hold shares in such manner and in such proportion to the amount of loan applied for by him as may be specified in the bye-laws 'of the society.

(2) Subject to such maximum limit as may be specified in the bye-laws, the loan to a member by a resource society, and the period of its repayment shall be, in accordance with the instructions as may, from time to time be issued by the Registrar: Provided that a loan in excess of the maximum prescribed in the bye-laws may be granted to a member with the previous sanction of the Registrar.

50 **Credit Limits 'by non-credit societies:**

(1) . No society whose objects do not include grant of loan or .financial accommodation to its member shall grant loans or sanction credit to any member without sanction of the Registrar:

Provided that if any *of* the objects of a society relate to supply of goods *or* services required by its members for manufacture *or* trade *or* production purpose, its bye-laws may provide for supply of goods or provision of services on credit against sufficient security and on condition that the cost of the goods supplied *or* services provided shall be recoverable from the amount of the sale proceeds of the agricultural produce or other goods produced *or* manufactured by the members.

(2) A consumer society may, notwithstanding what is contained in sub-rule (1), sell goods on credit to its members and other customers upto the extent of deposits received from them.

51. Manner of recalling of Loans:

(1) Notwithstanding anything contained in an agreement *or* document with its members the committee of a society shall be entitled, after giving a week's notice to such member, to recall the entire loan amount immediately, when it is satisfied that the loan given has not been applied for the purpose for which it was given *or* there has been breach of any of the conditions for grant of such loan.

(2) Notwithstanding anything contained in any agreement or document, the Registrar may, after making such inquiries as he may deem necessary and after satisfying himself that a loan granted by a society has not been utilized for the purpose for which it has been granted, and in consultation with the financing bank, direct a society to recover the loan. The directions issued by the Registrar in this respect shall be complied with *by* the society.

52. Directives *by* Registrar for the successful conduct of business:

The Registrar may, from time to time, issue such directives as he considers necessary for the successful conduct of the business of a society or class of societies.

53. Loans and subsidies *by* Government:

(1) Loans and subsidies to a society *or* class of societies may be granted *by* Government subject to such terms and conditions as may be stipulated *by* it.

(2) An application *by* a society for a loan or subsidy or both from a Government Department or a Government sponsored agency shall be made through the Registrar. While forwarding the applications, the Registrar shall record his opinion regarding the eligibility of the society for the said loan or subsidy or both, its financial position and the desirability or sanctioning to the society the said loan or subsidy or both.

(3) A society receiving Government loan or subsidy or a society in which a share *or* shares have been subscribed *or* liability *by* way of guarantee has been undertaken *by* the Government, shall furnish such information and submit such returns as the sanctioning authority or the Registrar may from time to time require.

CHAPTER VI

PROPERTIES. AND FUNDS OF SOCIETIES.

54 **Distribution of profits**

- (1) No, society shall ,declare any dividend ,or bonus to its members
- (a) unless the audit of its accounts is completed and an audit certificate is issued specifying the net profits available for 'distribution. among the members;
 - (b) Without the prior approval of the general body and
 - (c) in excess of nine per cent per annum of the paid up share capital.

(2)The dividend or bonus shall be paid to the members within three months from the date of declaration by the general body:

Provided that no dividend as declared by the general body shall be paid to a member who is in default in payment of any sums due to the society and the society shall be entitled to appropriate the dividend of such member. towards such sums in default.

(3) . Notwithstanding anything contained in these Rules and the byelaws, the Registrar may by a general 'or special order direct that any society or class of societies any dividend or shall pay dividend at a reduced rate. for such period. or periods as he may specify in the order. .

(4-)In the case of the State Co-operative Bank ,not less than 10 percent of the net profit after contribution to the reserve fund under the provision to section 57 shall be credited to the Agricultural Stabilization Fund to be utilized for enabling the borrowers to make postponement of repayment of loans on account of famine, drought or such other' unforeseen causes. Any subsidy for the purpose given by the Government shall also be credited to this Stabilization Fund.

(5)Any distribution of the remaining -balance of profits under section 57 ,and after the distribution of dividend under sub-rule (1) shall be in accordance with the bye-laws of the society regarding such distribution. It shall be in proportion to the wages earned by each member in. the case of a producer's society and to the amount of goods purchased by each member or where it is so provided m the byelaws by each member or ,consumer in case of consumers' society. It shall also be in proportion to the amount of rent paid by each member in the case of a Housing Society, may be in proportion to the goods obtained or sold through the society by each member or to the loans borrowed from and the deposits made with the society by each member.

55 **Cooperative Education Fund**

(1)The Registrar shall constitute and maintain with the State Co-operative Bank a Fund to be known as "Co-operative Education Fund" and administer it subject to such regulations as he may frame with the prior approval of the State Government.

(2)Every society shall make an annual contribution to the Co-operative -Education Fund a sum calculated at two per cent of its net profits during the year subject to a maximum of RS.2500. Such contribution shall be made within 3 months from the date on which the accounts are duly audited and certified in accordance 'with the provisions of the Act and' these Rules.

56. **Objects and Investment of Reserve Fund:**

(1) A reserve fund maintained by a society belong to the society and shall be utilized to meet unforeseen losses. No member shall have any claim to a share in it;

(2) A society shall invest or deposit its reserve fund in one or more of the modes mentioned in Section 60.

(3) A society may subject to the approval of the Registrar and subject to such conditions as he may impose, use in its business;

(i) upto one-fourth of its reserve fund, if the owned capital is less than the borrowed capital

(ii) upto one-half of its reserve fund, if the owned capital exceeds the borrowed capital

(iii) the entire reserve fund, if there is no borrowed capital

(4) No society shall draw upon, pledge or otherwise employ, the reserve fund; except, with the previous sanction in writing of the Registrar.

57 **Writing off of Debts and other sums due.**

No society shall write off in whole or in part any debt or other sums due to it without the previous sanction of the Registrar.

58 **Restrictions an transactions with non-members**

On the application of a society, or a member of any society or of his own motion when it appears to the Registrar that it is necessary in the interest of the working of any particular society, to regulate or restrict transactions of such society with any non-member the Registrar may, after giving an opportunity to the society of being heard, issue such directions as he may consider necessary, regulating or restricting such transactions.

CHAPTER VII

AUDIT INQUIRY INSPECTION AND SURCHARGE

59. **Procedure, for appointment of Auditors and for conducting Audit**

(1) The audit of a society shall be conducted by any of the Departmental Auditors appointed by the Registrar or by a certified auditor approved by the Registrar from time to time on such terms and conditions as he deems fit.

Explanation

(i) For purpose of this Chapter; audit shall include annual or periodical audit continuous or concurrent. audit and test or super audit and re audit.

(ii) For purpose of this rule a certified auditor includes

(a) a Chartered Accountant within the meaning of the Chartered Accountants

Act, 1949

(b) a person who holds a Government diploma in co-operative accounts or a Government diploma in co-operation and accountancy, or

(c) a person who has served as an auditor in the Co-operation Department of any State Government or under the Registrar and whose name has been included by the Registrar in the panel of certified auditors maintained and published by him in the Official Gazette at

least once in every year.

(2) The audit under sub-section (1) of section 64- shall in all cases extend back to the last date of the previous audit and shall be carried out upto the last date of the co-operative year immediately preceding the audit or where the Registrar so directs in the case of any particular society or class of societies such other date as may be specified by the Registrar

(3) Unless the Registrar directs otherwise the audit of a society shall be conducted in the registered office of the society.

(4) Previous intimation shall be given to the society before the audit is commenced.

(5) The officers and employees of the society shall give the audit officers all assistance necessary for the completion of the audit and for this purpose, prepare such statements and take such action with regard to the verification or examination of its accounts as he may require.

(6) The audit report shall state :

(a) whether or not the audit officer has obtained all the information and explanations which he requires

(b) whether or not in his opinion the balance sheet and the profit and loss accounts referred to in the report are drawn up in conformity with the law

(c) whether or not such balance sheet exhibits a true and correct account of the state of affairs of the society according to the best of his information and the explanations given to him and as shown by the books of the society :

(d) whether, in his opinion, books and accounts have been kept by the society as required under the Act, the Rules and the bye-law

(e) whether there has been an material impropriety or irregularity in the expenditure or in the realization of money due to the society and

(f) whether any net profits are available for distribution amongst the members

(ii) Where any of the matters referred to in sub clauses (a), (b), (c) or (d) of sub clause (i) of clause (6) is answered in the negative or in the affirmative with any remarks, the report shall state the reason for such answer with fact and figures, in support of such reasons.

(7) The audit report shall also contain schedules with full particulars of :

(i) all transactions which appear to be contrary to the provisions of the Act, the Rules or the bye-laws of the society

(ii) all sums which brought to have been but been not been brought into account by the society

(iii) any material impropriety or irregularity in the expenditure or in the realization of money due to the society.

- . (iv) an estimate of the over dues of the society and its proportion to demand;
- (v) any money or property belonging to the society which appears to the auditor to be bad or doubtful debt; and
- . (vi) any other matters specified by the Registrar in this behalf.

(8) The summary of audit report as prepared by the auditor shall be read out in the annual general meeting next following audit. The audit report together with its accompaniments shall be open to inspection by any member of the society. The Registrar may, however, direct that any portion of the audit report which appears to him to be of objectionable nature or not justified by facts shall be expunged and the portion so expunged shall not form part of the audit report.

(9) If the result of the audit held under the last proceeding rules discloses any defects in the working of a society, the society shall, within three months from the date of audit report, explain to the Registrar the defects or the irregularities pointed out by the auditor, and make steps to rectify the defects and remedy irregularities, and report to the Registrar in Form J the action taken by it thereon. This compliance report shall continue to be submitted at such intervals as the Registrar may direct, till all the defects are rectified or irregularities remedied to the satisfaction of the Registrar. The Registrar may also make an order directing the society or the officers of the society to take such action as may be specified in the order to remedy the defects, within the time specified therein.

60. **Audit Fee:**

- (1) A society shall pay on or before the 31st March of each year, an audit fee at such rates as may be fixed by the Registrar with the prior approval of the Government.
- (2) The Registrar shall have power to increase the prescribed audit fee in special cases, for reasons to be recorded in writing.
- .(3) The Registrar may, at his discretion, remit either wholly or in part the audit fee payable by any society .

61. **Procedure for the conduct of inquiry and inspection:**

(1) An order authorizing inquiry under section 66 or inspection under section 67 shall, among other things, contain the following :-

- (a) the name of the person authorised to conduct the inquiry Inspection;
- (b) the name of the society whose affairs are to be inquired into or whose books are to be inspected
- (c) the specific point or points on which inquiry or inspection is to be made, the period within which the inquiry or inspection is to be completed and report submitted to the Registrar
- (d) cost of inquiry
- (e) any other matter relating to the inquiry or inspection.

(2) A copy of every order authorizing inquiry under section 66 or inspection under section 67 shall be supplied to the financing bank.

(3) If the inquiry or inspection cannot be completed within the time specified in the order referred to in sub-rule (1) the person conducting the inquiry or inspection shall submit an interim report stating the reasons for failure to complete the inquiry or inspection and the Registrar, if he is satisfied, grant such extension of time for the completion of the inquiry or inspection as may deem necessary or he may withdraw the inquiry or inspection from the officer to whom it is entrusted and hold the inquiry or inspection himself or entrust it to such other person as he may deem fit.

(4) On receipt of the order referred to in sub-rule (1) the person authorised to conduct the inquiry or inspection shall proceed to examine the relevant books of account and other documents in possession of the society or any of its officers, members, agents or servants and obtain such information or explanation from any such officers, members, agents or servants of the society in regard to the transaction and working of the society as he may deem necessary for conduct of such inquiry or inspection.

(5) The person authorised to conduct the inquiry or inspection shall submit its report to the Registrar, on all the points mentioned in the order referred to in sub-rule (1). The report shall contain his finding and the reasons therefore supported by such documentary or other evidence as recorded by him during the course of his inquiry or inspection. He shall also specify in his report the cost of the inquiry or inspection together with reasons and recommend the Registrar the manner in which the entire cost or a part thereof may be apportioned, amongst the parties/-specified in section 68. The Registrar shall pass such orders thereon as may be considered just after giving a reasonable opportunity of being heard to the parties concerned.

(6) If the result of any inquiry held under section 66 or an inspection made under section 67 discloses any defects in the working of the society, the Registrar may bring such defects to the notice of the society and if the society is a member of the financing bank, to the notice of that bank. The society shall submit a rectification report in form J and shall continue to submit such rectification reports to the Registrar till all the defects are rectified or the all irregularities are remedied to the satisfaction of the Registrar.

(7) The Registrar may also make an order, directing the society or its officers or the financing bank to take such action, as may be specified in the order to remedy the defects within the time specified therein.

62 Procedure for assessing damages against delinquent promoters, etc under section 70 :

(1) On receipt of the report made by the auditor, or person authorised to make inquiry under section 66 or inspection under Section 67 or by the liquidator or otherwise, the Registrar or any person authorised by him may make such further inquiries as he may deem necessary regarding the extent to which the person who has taken any part in the organisation or management of the society or any deceased, past or present officer of the society has misapplied or retained, or become liable or accountable, for any money or property of the society, or has committed misfeasance or breach of trust in relation to the society.

(2) On the completion of the further enquiries, if any under sub-rule - (1), the Registrar or the person authorized by him shall issue a notice. to the person or persons concerned furnishing him or them with particulars of the acts of misapplication, retention, misfeasance or breach of trust and the extent of his or their liability involved therein and calling upon him or them to show cause' within fifteen days of the date of issue of the notice as to why he or they should not reimburse the society or action should not be taken against him or them under law.

(3) On, receipt of the explanations referred to in sub-rule (2) the Registrar or the person authorised by him, if he is satisfied that there. are reasonable grounds for holding the person or persons liable, shall frame charges.

(4) The person or persons so charged shall be afforded sufficient opportunity to submit in writing his or their statements in defense and produce such documentary or oral evidence as he or they may like to produce in his or their defense. The Registrar or the person authorised by him may, in his sole discretion permit production of any other documentary or oral evidence, if considered necessary, subsequently.

(5) The Registrar or the person authorised by him shall thereafter record the evidence led. .by the society or the liquidator or the person or persons concerned and take on record the document proved by them and shall thereafter fix a date for hearing arguments of the. parties. .

(6) On the day fixed for hearing under sub-rule (5),the Registrar or the person authorised by him, shall hear the arguments and may pass his final order on the same day or on any day fixed by him within twenty days from the date on which the hearing was completed. On the day so fixed the Registrar or the person authorised by him, as the case may be, shall make his final order either ordering repayment of the money' or return of the property to' the society together with interest at such rate as may be specified by him or to contribute such amount to the assets of the society by way of compensation in regard to misapplication, retention, misfeasance or breach of trust as may be determined or may reject the claim submitted on behalf of the society.

(7) The Registrar or the person authorised by him, may also provide in his order for payment of the costs of the proceedings under this rule or any part of such -cost as he thinks just .

(8) The Registrar or the person authorised by him shall furnish a copy of his order, under sub-rule (6) to the parties concerned within ten days of the date on which he makes his final order.

CHAPTER VIII
SETTLEMENT OF DISPUTES

63. Procedure for referring the disputes:

(1) Where a party to a dispute referred in sub-section (1) of section 72 desires to have the dispute determined in accordance with the said section, the party shall apply to the Registrar in writing in Form K' stating inter alia (i) all the facts constituting the cause of action. (ii) names and addresses of the parties concerned (iii) facts showing that the subject matter of dispute is not barred, by limitation (iv) relief claimed in terms of money or otherwise. The application shall be duly verified by the applicant

(2) A party referring the dispute under sub-section (1) of section 72 shall pay a fee

of Rs. 2 which shall be deposited in advance in the financing bank to the credit of "the Registrar-Settlement and Execution Expenses Fund", and attach to the application the original pay-in-slip for the deposit before it is delivered in the office of the Registrar personally, or before sending it by registered post along with as many copies of the application as there are parties on the opposite side. The receipt of the application shall be duly acknowledged by the Registrar.

(3) On receipt of the application, the Registrar shall enter it in a register in Form L and allot case No. on the application. Thereafter the Registrar shall issue summons or notice of at least fifteen days to all parties for a preliminary hearing of the application. Each of the parties shall be supplied with a copy of the application along with this notice.

(4) On the date fixed for the preliminary hearing the Registrar shall, after hearing the parties if any present, determine the maintainability of the application and his finding on the following :

- (i) whether there is dispute
- (ii) whether the dispute comes within the purview of sub-section (1) of section 72
- (iii) whether the dispute is between the parties mentioned in clauses (a) (b), (c), and (d) (e) and (f) of sub-section (1) of section 2-
- (iv) whether the dispute is within time according to sub-section (4) of section 72.

If the Registrar is satisfied that the application is maintainable, he shall by order admit the application for decision of the dispute in accordance with the provisions of the Act and Rules.

(5) The Registrar shall thereafter, require claimant to deposit the arbitration fee in the manner and according to the scales of fees prescribed in Rules 67 and shall upon such payment by the claimant, refer the application along with his orders thereon for arbitration.

(6) The Registrar or the arbitrator" as the case may be, shall have power to appoint or remove a guardian for the party to the .dispute who is a minor or who by reason of unsound mind or mental infirmity, is incapable of protecting his interest.

(7) The arbitrator shall fix the date, hour and the place of hearing of the dispute

(8) The arbitrator may 'issue summons or notices at least fifteen days before the date fixed for the' hearing of the dispute requiring

- (i) the attendance of the parties concerned and of witnesses and
- .(ii) the production of all books and document: relating to the matter' in dispute.

(9) Summons or notices may ,be served

- (a.) by giving or tendering them to the person concerned; or
- (b) if such person is not found, by leaving it at his last known place of a bode or business or by giving or tendering it to some adult member of his family; or
- (c) by sending it by registered post or
- (d) if some of the means aforesaid are available by affixing it in some 'conspicuous part of his last known place of abode or business.

(10) Service of summons or notice on the secretary or principal executive officer by whatever designation known" of a society shall be regarded as service in that society.

(11) Where the serving officer delivers or tenders a copy of the summons personally to the person summoned or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered in token of acknowledgement of service endorsed on the original summons.

(12) The serving Officer shall in an cases, in which the summons have been served under sub-rule (11) make an endorsement on, or annex to, the original summons, a return stating the time when and the manner in which the summons was served and the name and address' .of the person, if any, identifying 'the person concerned and witnessing the delivery or tender of the summons.

(13) The sufficiency of proof of service .of the summons or notice shall be decided by the authority which issued the same.

(14) Incase any party to the dispute, who is duly summoned absents himself at the hearing ,the dispute may be decided ex-parte.

64 **Award or Decision:**

- (i) The Registrar, the arbitrator or . other person deciding the dispute shall record a

brief note of the evidence of the parties and witnesses who attend and upon the evidence so recorded and after consideration of any documentary evidence produced by either party shall make an award in accordance with justice, equality and good conscience, he shall record his award in writing, sign and date it and shall communicate it to the parties.

(2) The award shall contain the number of reference, the names and description of the parties, and particulars of the disputes and shall specify clearly the relief granted, the amount decreed, the future interest allowed if any, and the costs awarded.

(3) If no award is made immediately upon the conclusion of the hearing of the parties, the arbitrator shall fix the date and place of delivery of the award and shall, except for reasons to be recorded in writing, deliver the award on the date so fixed.

(4) The award shall be communicated to the parties by

- (a) pronouncement of the award in the presence of the parties to the dispute; or
- (b) registered post to any party which may be absent on such date.

(5) The arbitrator shall have power to order the expenses of determining a dispute or the cost of either party to be paid by such parties or parties to the dispute as he may think fit

Provided that the expenses or the costs so awarded shall not exceed 2-1/2 per cent of the awarded amount over the arbitration fee deposited by the claimant with the Registrar.

(6) The original records of the dispute and the proceedings before the arbitrator shall be delivered to the Registrar by the arbitrator; after the decision or award has been delivered.

(7) Any document or record tendered by a party may on application be returned to the party after the disposal of the appeal, if any, or after the period of appeal.

(8) A copy of the decision or award shall, on application, be given to a party by the Registrar duly certified on payment of the prescribed fee.

65 Withdrawal of a reference by the Registrar

On an application by any party to the arbitration proceedings pending before an arbitrator, the Registrar may for reasons to be recorded in writing, withdraw the reference from the arbitrator appointed and may decide the dispute himself and give an award in the manner provided in rule 64 or entrust the reference for decision to another arbitrator

66 Appointment of persons as arbitrator

(1) For the purpose of clause (c) of sub section (1) of section 73, the Registrar may appoint any person who fulfill such qualification as may be specified by the Registrar to perform the duties of the arbitrator for dispute for a period specified in the order, which shall not ordinarily exceed one year but may be extended by the Registrar by further special order for further periods not exceeding one year at a time

(2) For purposes of sub rule 66 the Registrar may appoint an arbitrator from

- (a) Officers of any department of Government, or
- (b) Officers, paid staff or members of any society

- (c), 'Members of Metropolitan Council and local bodies
- (d) Certified Accountants.

67. **Arbitration Fee:**

(1) The Registrar shall have power to require the person referring a dispute under sub-section (l) of section 72 to deposit in advance with the financing bank to the credit of Settlement and Execution Expenses Fund a fee at the rate specified in the Table below which may be revised by the Registrar from time to time.

TABLE A

(Schedule of fee for an arbitration)

- | | | |
|------|---|--|
| (l) | In respect of disputes relating to claims of money referred to under section 72. | |
| (i) | (a) | in case of claim below Rs. 100 |
| | | Rs.10 |
| | (b) | in case of claims for Rs. 100 or above |
| | | 2 1 /2 per cent of the claims subject to minimum Rs. 10 and maximum Rs 500 |
| (ii) | In case of dispute of non-monetary nature. a fee of not less than Rs. 100 and not more than Rs500 in each case, as may be considered reasonable by the Registrar. | |

(2) The arbitrator may be paid out of the fee recovered under sub-rule (l), such fee as the Registrar may think proper.

(3) No fee shall be payable to an arbitrator till the dispute referred to him is finally decided.

(4) The Registrar may, in his discretion remit the whole or any part of the fees collected under sub rule (l).

(5) All fees deposited in the financing bank to the credit of "Settlement and Execution Expenses Fund" shall be administered by the Registrar in accordance with the Regulations contained in Schedule II.

68. **Appearance of professional practitioners etc:**

In the proceedings under Rule 64 any party to the dispute may take the assistance of any other person to represent the case on his behalf, but may not engage a legal practitioner for the purpose.

If a legal practitioner is a member of a society and represents the society in the proceeding, the other party to the dispute shall have a right to be represented by a legal practitioner.

CHAPTER IX

WINDING UP OF SOCIETIES

69. Procedure for Issue of Winding up order:

(1) Before passing an order under section 75 the Registrar shall give an opportunity to the society to show cause against the proposed order. The show cause notice shall be sent to the president of the society at its registered address by registered post acknowledgement due. The notice shall state the grounds on which the order under section 75 is proposed to be made.

(2) After considering the reply from the society, if any, which shall be supported by the resolution of its committee, or if no reply is received by the Registrar within fifteen days of the service of the notice under sub-rule (1), he shall proceed to pass the order for winding up the society.

(3) The order passed under section 75 and sub-section (1) of section 76 shall be communicated to the president of the society in the manner specified under sub-section (4) of section 75 at the registered address of the society. The communication will be complete as soon as the letter containing the order is posted.

(4) The order referred to in sub-rule (3) shall also be published in the Official Gazette;

(5) The order referred to in sub-rule (3) shall take effect from the date of order notwithstanding whether or not it is published in the Official Gazette and shall operate in favour of all creditors, contributors, debtors and any person having custody, possession and control over any asset or record of the society.

70. Appointment of a Liquidator:

(1) Where a liquidator is appointed under sub-section (1) of section 76, the Registrar may limit or restrict his power by order appointing him or by subsequent order but, otherwise, he shall have the same powers as a liquidator as given in the Act.

(2) The Registrar may remove the liquidator at any time without assigning any reasons and may be appointed another liquidator. The liquidator on his removal shall hand over all the property, documents, record etc. relating to the society under liquidation to his successor. A charge report to be signed by the relieved and relieving liquidators shall be drawn and a copy of the same duly signed shall be forwarded to the Registrar.

(3) The liquidator shall be described as the liquidator of particular society in respect of which he acts and not by his individual name.

71. Procedure to be followed by the Liquidator,:

(1) The liquidator shall, as soon as the order of winding up of a society takes effect, publish by such means as he may think proper, a notice requiring all claims against the society to be submitted to him within one month of the publication of the notice.

All liabilities recorded in the account books of a society shall be deemed if so facts to have been duly submitted to him under this sub-rule.

(2) The liquidator may fix time, within which the creditors are to prove their debts or claims. If no claim is made within two months of the order of winding up, the liquidator may refuse to entertain such claims.

(3) The liquidator soon after his appointment shall take charge of the books of accounts and other documents of the society and all its assets. There shall be prepared immediately, on the relevant date a statement as to the affairs of the society containing the following particulars:

- (a) the assets of the society stating separately the cash balance in hand and bank, if any, and the negotiable securities if any, held by the society.
- (b) its debts and liabilities
- (c) the names and addresses and occupation of its creditors stating separately the amount of secured and unsecured debts and in the case of secured debts, particulars of the securities given
- (d) the debts due to the society and the names residences and occupations of the persons from whom they are due and amount due; and
- (e) Such other information as may be required by the Registrar.

(4) The statement required to be prepared under sub-rule (3) shall be made on the basis of the records of the society, audit reports, and on the basis of the statements made by the member of the committee at the relevant date or by the person who is at that date; the Manager, Secretary or Treasurer or other officer of the society. The liquidator shall examine them on oath. This statement shall be submitted by the liquidator to the Registrar within twenty one days of the date of his appointment or within such extended time not exceeding three months from the date of the said order.

(5) The liquidator shall after setting the assets and liabilities of the society as they stood on the date on which the order for winding up is made, proceed next to determine the contribution to be made by each of its members or by the estates of deceased members or nominees, heirs or legal representative of the deceased members or by any officers or former officers to the assets of the society under clauses (b) and (c) of sub-section (2) of section 77. Should necessity arise; he may make a subsidiary order regarding such contributions and the order shall be enforceable in the same manner as the original order.

(6) As soon as practicable after orders under sub-rule (5) have been passed, the liquidator shall settle a list of contributors with power to rectify the membership register in pursuance of any order which may be passed by the arbitrator or the Registrar in accordance with the provisions of the Act and Rule: and shall cause the assets to be collected.

(7) In setting the list referred to in sub-rule (6), the liquidator shall distinguish between those who are contributors in their own right and those who are contributors as representatives of or liable for the debts of others.

(8) The liquidator may at any time after his appointment require any contributor for the time being of the list of contributors, any trustee, banker, agent or officer of the society to pay, deliver surrender or transfer forthwith to the liquidator any money, property or books or paper in his hands to which the society is prima-facie entitled.

(9) No contributor for the time being on the list shall be allowed by way of set off any money claimed to be due to him or to the estate he represents, from the society in respect of any independent dealing or contract with the society.

(10) All funds in charge of the liquidator shall be deposited in the financing bank in a current account be opened in the name of the society under liquidation which shall be operated upon by the liquidator. All funds received by him and relating to the society under liquidation' shall be deposited by him in this account within 24 hours of the receipt. of . All payment on account of the society shall, be made. by cheques drawn by the liquidator in favour of the payee. The liquidator may keep with him a cash balance' of Rs.20 to meet petty expenses on liquidation proceedings

(11) Any order passed by the liquidator under. clauses (b)and (c) of sub section (2)of section 77 shall be submitted by him to the Registrar for his approval. The Registrar may confirm or modify such order or refer it back to the liquidator for further enquiry or action.

(12) Any person falsely claiming himself as the. creditor or the contributory of society shall be guilty of the offence under section 182 of the Indian Penal Code (Act XIV of I 860) and shall on the application to the liquidator be punished accordingly

72. **Application of Assets of the Society:**

Subject to the provisions of rule 73 the assets of the society shall be applied in order of priority indicated below.

- (i) Pro-rata payment .of all outside liabilities
- (ii) Pro-rata payment of-loans and deposits of members '
- (iii) Pro-rata refund of share capital
- (iv) Pro-rata payment of dividend' on the shares at the rate not exceeding nine per cent per annum for the period of liquidation

73. **Preferential Payments:**

(I) In the winding up proceedings, there shall be paid in priority to all other. debts and liabilities of the society under liquidation:-

- (a) All Government dues, all revenues, taxes, cess and rates due from the society to the Central/State Government or to the local authority at the relevant date and having become due and payable within two years next before that date.
- (b) All wages or salaries of any employee in respect of services rendered to the society and due .for a period not exceeding two months Within the twelve months next before the relevant date subject to maximum of Rs.500.
- (c) The debts mentioned in .the clauses (a) and (b) shall rank equally amongst . themselves and be paid in full unless the assets are insufficient to them in . which case they shall abate in equal proportion.

(2) Subject to retention of such sums as may be necessary for the costs and expenses of the winding up, the foreign debts mentioned in sub-rule (I) shall be discharged forthwith to the extent the assets are sufficient to meet them.

74 Interest on amount-due from a Society under liquidation

The creditor of a society under liquidation may apply to the liquidator for payment of interest on any debts due to him from the society up to the date of order of the Registrar for winding up. The rate at which the interest may be paid shall be, in the case of the financing bank, the contract rate and in any other case, the rate which may be fixed by the Registrar which shall not exceed the contract rate: Provided that if any surplus assets remain after all the liabilities including the liabilities on share have been paid off, further interest at rate not exceeding contract rate may be allowed by the Registrar to the creditors from the date mentioned above, till the date of repayment of the principal.

75 Liability due to claimant whose whereabouts not known:

The amount representing the undischarged liabilities of the society due to creditors whose whereabouts are not known or who could not be paid for any reason whatsoever shall be deposited in the name of the Registrar with the financing bank being paid to the creditor as and when claimed by him but within a period of three years for the date of winding up order thereafter, the amount shall be treated as surplus amount and shall be utilized in the manner in rule 81. The Registrar may, under special circumstances, pay the liabilities claimed even after the stipulated period of three years.

76 Maintenance of accounts and submission of reports by the Liquidator:

(1) The liquidator shall keep such books and accounts as may be laid down by the Registrar or audit officer.

(2) The liquidator shall prepare as at the close of each half year an account of his receipts and payments as a liquidator. A senior auditor shall be appointed by the Registrar as the audit officer who shall audit these accounts on behalf of the Registrar. When accounts are to be audited by the audit officer, one copy shall be kept by the audit officer and the other returned to the liquidator with his report. The liquidator shall produce for purposes of audit all vouchers, accounts and shall furnish such information as may be required by the audit officer. The liquidator shall rectify all irregularities and defects pointed out by audit officer to the satisfaction and shall submit to him a rectification report.

(3) No audit fee shall be charged for audit of the account under this rule.

77 Services of Legal Practitioner:

Whenever it is considered necessary by the liquidator to defend or to institute any legal proceedings for and on behalf of the society under liquidation, he shall approach the Registrar who shall after considering all the facts and circumstances of the case, provide the services of the legal practitioner at the cost of the society under liquidation. If the Registrar or the Government has been impleaded in such proceedings the cost of defending them by the Registrar or the Government shall also be paid out of the Funds of the society. If no funds are available with the liquidator arrangements shall be made at Government expenses but the cost of such arrangements shall be ultimately recovered from the contributories and paid to the Government as a preferential debt under clause (a) of sub-rule (I) of rule 73.

78. Action against the delinquent promoters or members of the committee:

.The liquidator shall make a report to the Registrar for purposes of taking action under section 70, where, in his opinion, any fraud has been committed in relation to the society by any person in the promotion, organisation, registration or management of the society under liquidation since its registration or any deficiency in the assets of the society has been caused by the breach of trust, or willful negligence or by retaining any money or other property belonging to the society. This report shall be submitted to the Registrar as soon as practicable after preparation of the statement referred to in sub-rule (3) of rule 71. On receipt of this 'report, the Registrar shall proceed to take action under Section 70.

79 Effect of winding up order on Antedcent Transactions:

(1) Any transfer of shares in 'a society under liquidation made within six months next before the relevant date except transfer of shares to the deceased members, heirs or nominee, shall be void and not binding upon the liquidator notwithstanding anything contained in the Act, Rules or the bye-laws of the society.

(2) Where a society has been ordered to be wound up, no member shall alienate his property, movable or immovable, from the date of the date of the order of winding up and until after the expiry of 15 days from the date of such order takes effect. Any alienation of the property made by a member in contravention of this section is voidable at the option of the liquidator.

Provided that the provisions of this section shall not apply to any member who furnishes adequate security to the satisfaction of the liquidator:

80. Termination of Liquidation Proceedings:

(1) The winding up proceedings of a society shall be completed within one year from the date of the order of the winding up, unless the period is extended by' the Registrar:

Provided that the Registrar shall not grant extension for a period exceeding six months at a time and three years in the aggregate, and shall immediately after the expiry of one year or. such extended period, as the case may be, deem that the liquidation proceedings have been terminated if there are no amounts due to the Government or the financing bank by the society and pass an order terminating the liquidation proceedings. .

Explanation:

In the case of society which is under liquidation at the time of commencement of the Act, the order for winding up of the society shall be deemed for the purpose of this rule to have been passed on the date of such commencement.

(2) Notwithstanding anything contained in the foregoing sub-rule, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the liquidator. The final report of the liquidator shall state that the liquidation proceedings of the society have been closed and how the winding up has been conducted and the property and the claims of the society have been disposed of and shall include a statement showing a summary of the account of the winding up including the cost of liquidation, the amount (if any) standing to the credit of the society in liquidation, after paying off its liabilities the share or interest of members, and. suggest how the surplus should be utilized.

- (3.) The liquidator before submitting the final report of the Registrar under sub-rule (2) may call a meeting of general body of the society and place the report before it.

81 Disposal of Surplus Assets

The surplus assets, as shown in the final report of the liquidator of a society which has been wound up may either be divided by the Registrar, with the previous sanction or the Government amongst its members in such manner as may be specified or be devoted to any object or objects provided in the bye-laws of the society. Where the surplus is not so divided amongst the members and the society has no such bye-laws, the surplus shall vest in the Registrar, who shall hold in-trust and shall transfer it to the reserve fund of new society registered with a similar object, and serving more or less an area which the society to which the surplus belonged' was serving if considered feasible and advisable by the Registrar:

Provided that, where not such society exists or is registered within three years of the cancellation of registration of the society whose surplus is vested in the Registrar or where the Registrar does not think it desirable and feasible to do so he may distribute the surplus in the manner he thinks, best, among any or all of the following:

- (a) an object of public utility and of local interest as may be recommended by the members in general meeting;
- (b) the financing bank or a federal society with similar objects to which the society of which registration has been cancelled, was eligible for affiliation; and
- (c) any charitable purpose as defined in Section 2 of the Charitable Endowments Act, 1890.

82. Relevant Date:

The expression "relevant date" as appearing in this Chapter shall mean the date of order of winding up made under sub-section (1) of Section 75.

83. Disposal of Record:

All the books and record of a society whose registration has been cancelled may be destroyed under the orders of the Registrar after, the expiry of a period of three years from the date of cancellation.

84 Final Order of Cancellation

The order made by the Registrar under sub-section (1) of Section 79 also be published in the Official Gazette.

CHAPTER X EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS PART I, ENFORCEMENT OF CHARGE

85. Application under Section 80

(1) Every application under Section 80 shall be made in 'Form M and shall be signed by person authorised by the committee of a society. It shall be accompanied by an inventory of the property to be sold containing a reasonably accurate description of the same.

(5) Each bailiff shall deposit the amount recovered by him in the financing bank in the current account of Recovery Officer. Each bailiff shall render to the Accountant appointed by the Recovery officer a true and faithful account of all receipts and deposits made by him which shall be entered in the cash book with full clarity and all the entries made in the cash book shall there be attested by the Recovery Officer. Any unusual delay in deposit of the amount in the financing bank by any bailiff shall be brought to the personal notice of the Recovery Officer by the Accountant.

(6) The Recovery Officer shall be responsible for the maintenance of true, and correct, accounts of the recoveries and deposits. He shall also act as the controlling officer in respect of the staff maintained and paid out of the "Settlement and Execution Expenses Fund" in accordance with the regulations of the Fund.

88. Mode of payment of Decretal Amount:

- (1) All money payable under the certified award shall be paid as follows.
- (a) with the Recovery Officer or with any person authorised by him against official receipt;
 - (b) out of the court to the decree-holder where any payment is made under clause (a), notice of payment shall be made by the Recovery Officer to the decree-holder.

(2) Where any money payable under an award under execution is paid by the judgment debtor to the decree-holder or the award is, other wise adjusted in whole in or part to the satisfaction of the decree-holder the decree-holder shall certify. payment or adjustment to Recovery Officer and he shall record such payment or adjustment in the personal ledger account maintained by him.

(3) The judgment debtor may also inform to Recovery Officer of payments or adjustments and apply to him to issue a notice in Form R to the decree-holder to show cause, on a day to be fixed by the Recovery Officer, why such payment or adjustment should not be recorded in the personal ledger account of the decree-holder as having been paid or adjusted in the execution proceedings, and if after service of such notice, the decree-holder fails to show cause the Recovery Officer may record the payment or adjustment in the above manner. A payment or adjustment which has not so been recorded as aforesaid, shall not be recognised by the Recovery Officer executing the award.

89 Cost of Execution:

The recovery Officer executing the award may recover from the judgment-debtor, in addition to the decretal amount, the cost of execution as arrears, of land revenue and pay the same to the decree-holder.

90 Transfer of Decrees:

Where any property to be sold in realization of any decree is situated outside the State of Sikkim, the decree shall be forwarded for execution in accordance with the provisions of the Revenue Recovery Act, 1890 to the Collector of that District where the property of judgment-debtor/defaulters is situated.

PART III**EXECUTION OF DECISION; AWARD OR ORDER BY THE REGISTRAR****91. Procedure in Execution:**

(1) Where any decree-holder desires to have the decree executed under provisions of clause (b) of section 81, he shall apply to the Registrar or the officer authorised by the Registrar in that behalf by a special or general order (hereinafter referred to the "Recovery Officer"), in Form S which shall be signed by the decree holder.

The decree-holder shall indicate whether he desires to proceed against the person of the defaulter against his movable or immovable property or both and shall state in what way he wants the assistance of the Registrar according to the Act and Rules

(2) On receipt of the application referred to in sub-rule (1), the Recovery Officer shall call for original record and shall verify the correctness and genuineness of the particular set forth in the application with the records.

(3) The Recovery Officer shall, on being satisfied about the correctness and genuineness of the application received by him, order execution of the decree:

- (a) by delivery of any property specially decreed;
- (b) by attachment and sale or sale without attachment of any property
- (c) by arrest and detention of person

(4) Where in the proceeding under clause (b) of Section 81, any person require the issue of any process or object to any process to be issued, or requires the adjournment of any proceedings, he shall pay the fee as fixed in Schedule II which may be revised by the Registrar from time to time. Thereafter the Recovery Officer shall issue processes.

(5) The provisions of Sections 36 to 74, 135, 135 A and Order XXI in the First Schedule of the Code of Civil Procedure, 1908 shall mutatis mutandis apply to the execution ordered under clause (b) of Section 81 and the Registrar or the Recovery Officer as the case may be shall be deemed to be the executing court for the purposes of those sections.

(6) Without prejudice to the generality of the foregoing sub-rule, a demand notice stating therein the relief claimed by the decree holder shall be prepared in duplicate in Form T. by the Recovery Officer who shall send it to the defaulter together with a copy of the application filed by the decree-holder and obtain the signature of the defaulter on the duplicate in token of his having received the demand notice with the copy of the application.

92. Order in which proceedings shall be taken:

Unless the decree-holder has indicated under sub-rule (4) of rule 91 the order in which the property of the defaulter shall be proceeded against, the execution shall ordinarily be taken in the following manner, namely;

- (i) Movable property of the defaulter shall be first proceeded against, but nothing in this clause shall preclude the immovable property being, proceeded against simultaneously in case of necessity
- (ii) If there is no movable property, or if the sale proceeds, of the moveable property, or properties attached and sold are insufficient to meet in full the demand of the decree-holder, the immovable property mortgaged to the decree holder or order immovable property belonging to the defaulter, may be proceeded against.

93. Rules for seizure and sale of movable property :

In the seizure and sale of movable property the following rules shall be observed:

(i) The Recovery Officer shall, after giving previous notice to the decree-holder, proceed to the village where the defaulter resides or the property to be distrained, is situated and serve the demand upon the defaulter in Form U. If the demand together with the interest and all expenses is not at once paid, the Recovery Officer shall make the distress and shall immediately deliver to the defaulter a list of inventory of the property distrained and an intimation of the place, day and hour at which the distrained property will be brought to sale if the amounts due are not previously discharged. If the defaulter is absent, the Recovery Officer shall serve the demand notice on some adult member of his family, or on his authorised agent, or when such service cannot be effected shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix list of the property attached on the usual place of residence of the defaulter: endorsing thereon the place where property may be lodged or kept and an intimation of the place, day and hour of sale if the amounts due are not previously discharged.

(ii) After the distress is made, the Recovery Officer may arrange for the custody of the property attached with the decree-holder or otherwise.

(iii) If the Recovery Officer requires the decree-holder to undertake the custody of the property, he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree-holder. If the attached property is livestock the decree-holder shall be responsible for providing the necessary food therefor.

(iv) The Recovery Officer may, at the instance of the defaulter or of any person claiming an interest in such property leave it in the village or place where it was attached, in the charge of such defaulter or person if he enters into a bond in Form V with one or more sureties for the production of the property at the place of sale when called for.

(v) the distress shall be made after sunrise and before sunset and not any other time.

(v) The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distraint, detention and sale.

(vi) If crops attached are standing- crops belonging to a defaulter the Recovery Officer

may cause them to be sold when fit, for reaping or gathering or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. In the latter case the expenses of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

(viii) The Recovery Officer shall not work the bullocks of cattle or male use of the goods or effects distrained, and shall provide the necessary food for the cattle or the livestock distrained until the same are sold and the expenses incidental thereto shall be defrayed by the owner upon his redeeming the property, or from proceeds of the sale in the event of its being sold.

(ix) The Recovery Officer may force open any stable, cow house, granary, godown, outhouse, or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein provided always that it shall not be lawful for the Recovery Officer to break open, or enter any apartment in such dwelling house appropriated for the occupation of women except as hereinafter provided.

(x) Where the Recovery Officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut, or within any apartment appropriate to women which, by the usage of the country, are considered private, the Recovery Officer shall represent the fact to the officer-in-charge of the nearest police station. On such representation, the officer-in-charge of the said station shall send a Police Officer to the spot in the presence of whom the Recovery Officer may force open the outer door of such dwelling house in like manner as he may break open the door of any other room within the house. The Recovery Officer may also in the presence of the Police officer, after due notice given for the removal of women and, after furnishing means for their suitable manner (if they be women of rank with according to the customs of the country removal in cannot appear in public) enter the rooms for the purpose of distraining the property of the defaulter, if any, deposited therein but such property, if found, shall be immediately removed from such rooms, after which they shall be left free to the former occupants.

(ix) The Recovery Officer shall on the day previous to and on the day of sale cause proclamation in Form W as also by beat of drum in the village in which the defaulter resides and in such other place or places as the Registrar may consider necessary to give the publicity to the time and place of sale of the property distrained.

(xii) No sale shall take place until after the expiration of the period of fifteen days from the date on which the sale notice has been served or affixed in the manner specified. In clause (i), provided that where the property seized is, subject to speedy and natural decay, or where the expenses of keeping it in custody are likely to exceed its value, the Recovery Officer may sell it at anytime before the expiry of the said period fifteen days unless the urgent due is sooner paid.

(xiii) at the appointed time, the property shall be put up in one or more lots as the Recovery Officer may consider advisable and shall be disposed of to the highest bidder:

Provided, it shall be open to the Recovery Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other sufficient reason.

Provided further, that the Registrar or the Recovery Officer may, in his discretion, adjourn the sale to a specified day and how recording his reasons for such adjournment.

(xiv) Where the property is sold for more than the amount due, the excess amount, after reducing the interest and the expenses of process and other charges shall be paid to the defaulter.

(xv) The property shall, be paid for in cash at the time of sale or as soon thereafter .as the officer holding the sale shall appoint and permit on such terms and conditions, as may deem fit to impose and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full.

(xvi) Where the purchaser fails in the payment of the purchaser money, any counter deposit made by the purchaser shall be forfeited and credited towards the sale proceeds and the property shall be resold.

(xvii) Where it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been distrained under' these Rules has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to the Recovery Officer.

(xviii) Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property attached, pays the full amount due, including interest and other costs incurred in attaching the property, the Recovery Officer shall cancel the order of attachment and release the property forthwith..

(xix) No member of the committee of a society or recovery of whose dues the sale is being made, shall without the express permission of the Registrar bid either directly or indirectly for the purchase of the property which is subject to charge under section 42.

(xx) No officer or other person having a duty to perform in connection with any sale, whether directly or indirectly bid for, acquire or attempt to bid or acquire any interest in the property sold.

(xxi) Where the property is sold, of which actual seizure has been made, it shall be delivered to the purchaser. Where the property sold is in the possession of any person, delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him delivering possession of the property possession any other person except the purchaser.

94. **Attachment of salary or allowances of public officer or of servant of a Railway Administration or Local Authority or Firm:**

Where the movable property to' be attached is the salary or allowance or wages of a public officer or of a servant of railway administration or local authority or a firm, or company, the Recovery Officer may issue an order in Form X directing the officer or other person responsible to. disburse the salary, that the amount shown in the order .shall, subject to the provisions of section 60 of the Code of Civil Procedure, 1908, be withheld from the salary or allowance or wages either in one lump sum or by monthly instalments as the Recovery Officer may direct and upon service of the order, the officer or other person responsible to disburse such salary or allowance or wage shall withhold and remit to the Recovery Officer, the requisite amount.

95. **Attachment of Decree:**

(I) Where the property to be attached is a decree either for the payment of money or for sale in enforcement of mortgage or charge, the attachment shall be made

- (a) 'if the decrees sought to be attached was passed by the Registrar or by any person to whom a dispute was referred by the Registrar under Section 73 by an order of the Registrar on the application made by the Recovery Officer in this behalf.
- (b) if the decree 'sought to be attached was passed by a Court and has not been sent for execution to any other Court by the issue to such Court of a notice by Recovery Officer, requesting such Court, to stay the execution of its decree unless and until
 - (i) the Recovery Officer cancels the notice, or
 - (ii) the holder of the decree sought to be executed by the or the judge ment-debtor there of applies to the Court receiving such to execute its' own decree; and
- (c) if the decree sought to be attached is Fending execution in a Court which did not pass the same, by the Recovery Officer seeking to attach such decree in execution by sending notice referred to in clause (b) to such Court, where-upon the provisions of that clause shall apply in the same manner as If such Court had passed the decree and the said notice had been sent to it in pursuance of the said clause

(2) Where the Registrar makes an order under clause (a) of sub- rule (1) or when Court receives a notice under clause (1) or (c) of the said sub-rule, the Registrar or the Court shall, on the application of decree-holder who has got the decree attached or his defaulter proceed to execute the decree and apply the net proceeds in satisfaction of the decree being executed by the Recovery Officer.

(3) The holder of decree sought to be executed by the attachment of another decree of the nature specified in sub-rule (1) shall be deemed to be the representative of the holder of the attached decree to be entitled to execute such attached decree in any manner lawful for the holder thereof.

(4) The holder of decree attached under this rule shall give the Court or the Recovery Officer executing the decree such information and aid as may responsibly be required.

(5) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Recovery Officer shall give notice of the order of attachment to the Judgment-debtor bound by the decree attached, and no payment or adjustment of the attached decree made by the judgment-debtor after receipt of notice thereof, shall be recognised so long as the attachment remains in force.

.96 Attachment of debt, share and other property not in possession of defaulter:

- (1) Where the movable property to be attached is
 - (a) a debt due to the defaulter in question,
 - (b) a share in capital of, a corporation or a deposit invested therein, or
 - (c) other movable property not in the possession of the defaulter except property deposited in or in the custody of any Civil Court, the attachment shall be made by a written order signed by the Recovery Officer prohibiting;
 - (i) in the case of the debt, the creditor from recovering the debt and debtors from making payment thereof until further order of the. recovery Officer

- (ii) in the case of the share or deposit, the person in whose name the share or the deposit may be standing from transferring the share or deposit or receiving any dividend on the shares, the deposit or interest on the deposit;
- (iii) in the case of the other movable property except as aforesaid, the person in possession of it from giving it over to the defaulter.

(2) A copy of such order shall be sent in the case of the debt, to the debtor, in the share or deposit, to the proper officer of the corporation and in the case of the other movable property, (except as aforesaid), to the person in possession of such property. As soon as the debt referred to in clause (a) of sub-rule (1) or the deposit referred to in clause (b) of that sub-rule matures, the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable, the Recovery Officer shall arrange for its sale through a broker. Where the share is withdrawable its value shall be paid to the Recovery Officer as soon as it becomes payable. In the case of the other movable property referred to in clause (c) of sub-rule (1) the person concerned shall place it in the hands of the Recovery Officer, as soon as it becomes deliverable to the defaulter.

(3) A debtor prohibited under clause (a) of sub-rule (1) may pay the amount of his debt to the Recovery Officer and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

97. Procedure in attachment and sale of Immovable Property:

In the attachment and sale or sale without attachment of immovable property the following procedure shall be observed :

- (i) The application presented under rule 9 I shall contain a description of the immovable property to be proceeded against, sufficient for its identification and in case such property can be identified by boundaries or numbers in record of settlement or survey, the specification of such boundaries or numbers and the specification of the defaulters share or interest in such property to the best of knowledge and behalf of the decree holder and so far as he has been able to ascertain it.
- (ii) The demand notice issued by the Registrar under sub-rule (6) or rule 91 shall contain the name of the defaulter, the amount due including the expenses, if any, and the time allowed for payment and in case of non-payment, the particulars of the properties to be attached and sold or to be sold without attachment as the case may be. After receiving the demand notice, the Recovery Officer shall serve or cause to be served a copy of the demand notice upon the defaulter or upon some adult male member of his family at his usual place or residence or upon his authorised agent, or if such personal service is not possible shall fix a copy thereof on some conspicuous part of the immovable property about to be attached and sold or sold without attachment as the case may be :

Provided that where the Recovery Officer is satisfied that, a defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property, the demand notice issued, by the Registrar under sub-rule (5) of rule 91 shall not allow any time to the defaulter for the payment of the amount due by him and the property of the defaulter shall be attached forthwith.

- (iii) If the defaulter fails to pay the amount specified in the demand notice within the time allowed, the Recovery Officer shall proceed to attach and sell or sell without attachment, as the case may be, the immovable property noted in the application for execution in the manner hereinafter - specified.
- (iv) Where the attachment of immovable property is required before sale, the Recovery Officer shall, if possible, cause a notice of attachment to be served on the defaulter personally. Where the personal service is not possible, the notice shall be affixed in some conspicuous part of the defaulter's last known residence, if any. The fact of attachment shall also be proclaimed by beat of drum or other customary mode at some place on or adjacent to such property and at such other place or places as the Registrar or the Recovery Officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that unless the amount due with interest and expenses be paid within the date therein mentioned the property will be brought to sale. A copy of the notice shall be sent to the decree-holder. Where the Recovery Officer so directs, the attachment shall also be notified by advertisement in a local newspaper.
- (v) Proclamation of sale shall be published by affixing a notice in the office of the Registrar at least thirty days before the date fixed for the sale. Such proclamation shall state the decree-holder and the defaulter the time and place of sale and also shall specify as fairly and accurately as possible :
 - (a) the property to be sold;
 - (b) any encumbrance to which the property is liable;
 - (c) the amount for the recovery of which the sale is ordered; and
 - (d) every other matter which the Recovery - Officer considers material for a purchaser to know in order to judge the nature and value of the property.
- (iv) When any immovable property is sold under these Rules, the sale shall be subject to the prior encumbrances on the property, if any. The decree holder shall, when the amount for the realization of which the sale is held, exceeds RS.100, furnish to the Recovery Officer within such time as may be fixed by him or by the Registrar an encumbrance certified from the Registration department for a period of not less than twelve years prior to the date of attachment of the property sought to be sold. The time for production of the encumbrance certificate may be extended at the discretion of the Recovery Officer or the Registrar. The sale shall be by public

suction to the highest bidder ,provided that' it shall be open to the Recovery Officer to decline to accept the highest bid. where the price offered appears to be unduly low or for other reason and provided 'also, that the Recovery Officer may in his discretion., adjourn the sale to specified day and hour recording his reasons for such adjournment. Where a sale' is so adjourned for a longer period than seven days. fresh notice shall be issued unless the defaulter consents to waive it. The sale shall be held after the expiry of not less than, thirty. days calculated from the date on which notice of the proclamation was affixed in the office of the. Registrar and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the Recovery Officer.

- (vii) A sum of money equal to 25 percent of the bid, shall be deposited by the auction purchaser with the Recovery Officer as soon as his bid is accepted and in default of such deposit, the property shall forthwith be resold.

- (viii) The remainder of the purchase money and the amount required for the certificate of sale shall be paid within fifteen days from the date of sale :

Provided that the. time for payment of the cost of the stamp, may for good and sufficient reasons, be extended at the discretion of the Recovery Officer upto thirty days from the date of sale:

Provided further that in calculating the amount to be paid under this clause, the 'purchaser shall have the advantage of any set-off to which he may be entitled.

- (ix) In default of payment within the period mentioned in clause (viii) , if the Registrar thinks fit, after defraying the expenses of the sale be for: forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or. to any part of the sum for which it may subsequently be sold.
- (x) Every resale of immovable property in default of payment of the amounts mentioned in clause (viii) within the period allowed for such payment shall be made after the issue of fresh proclamation in the manner and for the period here in before specified for the sale.
- (xi) Where a decree-holder purchases the property, the purchase money and the amount due on the decree shall be set off against one another and the Recovery Officer shall enter satisfaction of the decree in whole or in part accordingly. Any surplus of the proceeds of the sale - after meeting decretal amount, expenses of sale and other incidental costs or charges shall be paid to the defaulter..
- (xii) Where prior to the date fixed for sale the defaulter or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest:..and other expenses incurred in bringing the property to sale, including the expenses of attachment, if any, the Recovery Officer shall forthwith release the property after canceling the order of attachment, if any.

98 Application to set aside sale on deposit:

(1) Where immovable property has been sold by the Recovery Officer, any person either owning such property or holding an interest therein by Virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer

- (a) for payment to the purchaser, a sum equal to 2 per cent of the purchase money, and
- (b) for payment to the decree-holder, the amount of arrears specified in the proclamation of sale together with interest thereon and the expenses to attachment, if any, and sale and other costs due in respect of such amount less any amount which may since the date of such proclamation have been received by such decree-holder.

(2) If such deposit and application are made within thirty days from the date of sale, the Registrar shall pass an order setting aside the sale and shall repay to the purchaser the purchase money so far as it has been deposited, together with the 2 per cent deposited by the applicant:

Provided that if more persons than one have made deposit and application under this rule, the application of the first depositor to the Recovery Officer shall be accepted.

99. Application to set aside sale on ground of irregularity of fund

(1) At any time within thirty days from the date of the sale of immovable property, the decree-holder or any person entitled to share in a rate able distribution of the asset or whose interests are affected by the sale, may apply to the Registrar to set aside the sale, on the ground of material irregularity of mistake or fraud in publishing or conducting the sale

Provided that no sale shall be set aside on the ground aforesaid unless the Registrar is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(2) If the application is allowed, the Registrar shall set aside the sale and may direct a fresh one.

100. Sale when to become absolute:

(1) On the expiration of thirty days from the date of sale, if no application to have the sale set aside is made under rule 98 or 99 or if such application has been made and rejected, the Registrar shall make an order confirming the sale:

Provided that if he shall have reason to believe that the sale ought to be set aside notwithstanding that no such application has been made on grounds other than those alleged in any application which has been made and rejected, he may after recording his reasons in writing set aside the sale.

(2) Whenever the sale of any immovable property is not so confirmed or is set aside the deposit or the purchaser money, as the case may be, shall be returned to the purchaser.

(3) After the confirmation of any such sale, the Recovery Officer shall grant a certificate of sale to the purchaser, specifying therein the property sold and the name of the purchaser at the auction and bearing Recovery Officer's seal and signature.

(4) Such certificate shall be conclusive evidence of the fact of the purchase and no proof of the sale or signature of the Recovery Officer shall be necessary unless the authority before whom it is produced shall have reason to doubt its genuineness .

101. Delivery of possession

Where the purchaser of immovable property under the foregoing rules. is resisted or prevented by any person other than the defaulter claiming to be in lawful possession of the , property'; from obtaining possession of the immovable property purchases, 'any court of competent jurisdiction on an application and production of the certificate of sale shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the immovable property purchased has been decreed to the purchaser by a decision of the court.

102. Sale of immovable property to be proportionate to the amount due:

The Recovery Officer may sell the whole or any portion of the immovable property of a defaulter in discharge of money due provided always that so far as may be practicable, on large portion of the immovable property shall be sold that may be sufficient to discharge the amount due with interest, and expenses of attachment, if any, and sale.

103. Private alienation of property after attachment. to be void:

Where an attachment has been made under these Rules, any transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment shall be void as against all claims enforceable under attachment.

Explanation:

For the purposes of this rule, claims enforceable under an attachment include claims for the rate able distribution of assets.

104. Receipts for Payment of amount due:

Every person making a payment towards any money due for the recovery of which application has been made under these Rules shall be entitled, to a receipt for the amount signed by the Recovery Officer or other Officer empowered by the Registrar. Such receipt shall state the name of the person making the payment and the' subjects matter in respects of which the payment is made.

105. Investigation of claims and objections to attachment of property :

(1) Where any claim is preferred, or any objection is made to the attachment of any property under these Rules on the ground that the property is not liable to such attachment, the Recovery Officer shall investigate the claim or objection' and dispose it of on merits.

(2) ,Where the property to which the claim or objection relates; has been advertised for. sale, the Recovery Officer may postpone the sale pending the investigations of the claim or objection.

106. Determination of attachment

Where any property had been attached in execution of a decree, but by reason of the decree-holder's default, the Recovery Officer is unable to proceed further with the application for execution, he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application the attachment shall cease.

101. Attachment in execution of decree of civil courts and rate able distribution of assets

Where assets are held by the Recovery Officer and before realization of such assets demand notices in pursuance of applications for execution of decree against the same defaulter - have been received from more than one decree-holder and the decree-holders have not obtained satisfaction, the assets after deducting the cost of realization, shall be rateably distributed by the Recovery Officer among all such decree-holder in the manner provided in section 73 of the Code of Civil Procedure, 1908.

108. Attachment before judgment:

(1) Attachment of property prior to award or decree shall be made in the manner provided in the foregoing rules of this Chapter.

(2) Attachment made under sub-rule (1) shall not affect the right existing prior to such attachment, of those who are not parties to the proceeding in which the attachment was made, nor bar any person holding decree against the person whose property is attached from applying for the sale of property under attachment in execution of his decree.

(3) Where property is under attachment by virtue of the provisions of this rule and a decree is subsequently passed against the person whose property is attached, it shall not be necessary to file an application for reattachment of the property.

109. Arrest and detention:

(1) A judgment debtor may be arrested in execution of a decree at any hour and on any day, shall as soon as practicable, be brought before the Recovery Officer and his detention may be in the civil prison or in the Central Jail :

(a) Provided that for the purpose of making an arrest under this rule no dwelling house shall be entered after Sunset and before sunrise

(b) no outer door of dwelling house shall be broken open unless such dwelling house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access there to, but when the officer authorised to make the arrest has duly gained access to any dwelling house he may break open the door on any room in which he has reason to believe that the judgment-debtor would be found

(c) if the room is in the actual occupancy of a woman who is not the judgment debtor and who according to the country does not appear in public, the officer authorised to make the arrest shall give notice to her that she is at liberty to withdraw, and after allowing a reasonable time for her to withdraw, and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest; and

(d) Where the decree, in execution where of the judgment debtor is arrested is a decree for the payment of money and the judgment debtor pays the amount of the decree and the cost of the arrest to the officer arresting him, such officer shall at once release him.

(2) The Government may, by notification in the official Gazette, declare that any person or class of persons whose arrest might be attended with danger, or inconvenience to the public shall not be liable to arrest in, execution of a decree otherwise than in accordance with such procedure as maybe prescribed by it in this behalf.

(3) A judgment-debtor, who is arrested under this rule, makes an application before the Recovery officer expressing his intention to apply within one month before a court of competent jurisdiction to be declared an insolvent and furnishes two sureties to the satisfaction of the Recovery officer to ensure his appearance before the Recovery officer whenever required, may be released.

(4) In case a judgment debtor who is released under sub-rule (3) fail to apply for insolvency within one month or fails to appear before the Recovery officer, the Recovery Officer may proceed to arrest and detain his sureties in the civil prison as though the sureties themselves are the judgment-debtors.

110. Prohibition of arrest or detention of women in execution of decree for money:

Notwithstanding anything in this Part, the Recovery officer shall not order the arrest or, detention in the civil prison of a woman in execution of a decree for the payment of money.

111 Detention and release:

- (1) Every person detained in the civil prison in execution of a decree shall be so detained
- (a) where the decree is for the payment of a sum of money exceeding fifty rupees, for a period of six months, and
 - (b) in any other case, of a period of six weeks: Provided that he shall be released from such detention before the expiration of the said period of six months or six weeks as the case may be,
 - (i) on the amount mentioned in the warrant for his detention being paid to the Recovery Officer,
 - (ii) on the decree against him being otherwise fully satisfied, or
 - (iii) on the request of the person, on whose application he has been so detained and if the Recovery officer is fully satisfied that the decree was satisfied,
 - (iv) on the omission of the person, on whose application he has been so detained, to pay subsistence allowance:

Provided also that he shall not be released from such detention without the order of the Recovery officer.

(2) A judgment debtor released from detention under this rule shall not merely by reason of his release be discharged from his debt, but shall not be liable to be rearrested under the decree in execution of which he was detained in the civil prison.

**PART. IV
GENERAL**

112. Procedure for recovery of sums due to Government:

The provisions of Part III shall apply in regard to the recovery of any sum due to the Government from a society or from an officer, former officer, member or past or deceased member of a society in pursuance of a demand issued by the Registrar or by any authority competent to issue such demand including any costs awarded to the Government in 'proceedings under. the Act as if the Government' were a decree holder and the society or officer, former officer, member or past or deceased member of a society, as the case may be, was .a defaulter subject to the following modifications namely

- (1) The Registrar may, be his own motion, take any steps which he may deem suitable in the matter of such recovery in accordance with the provisions of these Rules and without any application having been made to him in that behalf under these Rules.
- (2) It shall not be necessary to' deposit any sum by way of costs as required by these Rules.
- (3) It shall not be necessary for the Recovery Officer to give the decree-holder previous notice.
- (4) It shall not be necessary to send a copy of the attachment notice to the decree-holder.
- (5) It shall not be necessary to give notice of the proclamation of sale to the decree-holder.

113. Recovery Officer not to go behind the decree and the certificate:

The Recovery Officer shall not go behind the decree or the certificate issued by the Registrar. He shall not alter it nor shall entertain any objection as to validity or legality or correctness of the decree or the certificate under execution:

Provided that a decree passed against a person who was dead at the time of passing the decree without bringing his legal representative on the record shall not be executed:

Provided further that where terms of a decree are ambiguous it will be competent for the Recovery Officer to ascertaining its precise terms first before issuing any process for execution.

114. Questions relating to execution, discharge or satisfaction:

(1) All questions arising between the parties to the arbitration proceedings in which award was made or amount certified 'to be recovered as arrears of land revenue and relating to execution, discharge or satisfaction of the decision, award or order under execution shall be determined by the Recovery Officer, executing the decree, award, decision or order.

(2) Where a question arises as to whether a person is, or is not be the legal representative of a party, such question .shall he decided by the Recovery Officer, for the purposes of execution, discharge or satisfaction of the decree,. award, decision or order .under execution.

115. Limitation for execution

A decree holder may make an application or applications. in succession for execution of his decree. , The 'Recovery Officer shall not refuse execution unless the application is barred by article 136 of the Indian Limitation Act, 1963.

116. Execution by society under liquidation

(1) The liquidator shall take necessary action to get executed the decree in favour of a society in respect of which he has been appointed the liquidator, in accordance with the provisions of this Chapter.

(2) Any order issued by the liquidator against *any* contributory shall .be executed in the manner prescribed in rules 86 to 90 provided that he shall not be required to deposit the execution charges along with the application for execution.

117. Assistance and information:

A decree-holder applying to execute a decree shall give the Registrar and the Recovery Officer such information and aid as may reasonably be required.

CHAPTER IX**APPEALS AND REVISIONS****118 Procedure regarding appeals and application for revision:**

(1) An appeal under sub-section (2) of section 98 or an application for revision under section 99 shall be either presented in person or sent by registered post to the appellate or revising authority.

(2) The appeal or the application for revision shall be in the form of a memorandum and shall be accompanied by the original or certified copy of the order appealed from or sought to be revised.

(3) Every appeal or application for revision shall

- (a) Specify the name and address of the appellant or applicant and also the name and address of the respondents, as the case may be
- (b) state by whom the order appealed from or sought to be revised was made:
- (c) set forth concisely and under distinct heads, the grounds of objection to the order appealed from or sought to be revised together with a memorandum of evidence
- (d) state precisely the relief which the appellant or the applicant claims; and
- (e) give the date of the order appealed from or sought to be revised

(4) Where an appeal under sub-section (2) of section 98 is preferred after the said expiry of sixty days specified in sub-section (2) of the said section, it shall be accompanied by a petition supported by an affidavit setting forth the acts on which the appellant relies to satisfy the appellate authority that he had sufficient cause for not preferring the appeal -within the said period of sixty days.

(5) On receipt of the appeal or the application for revision, the appellate, or revising authority shall as soon as possible examine it and ensure that

- (a) the person presenting the appeal or the application has the locus standi to do so;
- (b) it is made within the prescribed time-limit; and
- (c) it conforms to all the provisions of the Act and these Rules.

(6) The appellate or revising authority may call upon the appellant or the applicant for revision to remedy the defects, if any or furnish such additional information as may be necessary, within a period of fifteen days of the receipt of the notice to do so.

If the appellant or the applicant for revision fails to remedy the defects or furnish additional information called for within the said period, the appeal or the revision petition may be dismissed. .

(7) The appellate or the revising authority may before passing orders on the application may call for and obtain from the parties connected with the appeal or revision such further information as is necessary with reference to the examination of the records of enquiry or proceedings.

(8) In the proceedings before the appellate or revising authority, legal practitioners shall be entitled to appear to represent the parties.

(9) The appellate or revising authority shall on the basis of the enquiry conducted with reference to the records examined pass such order on the appeal or on the application revision as may seem just and reasonable.

(10) Every order of the appellate or revising authority shall be in writing and it shall be communicated to' the appellant or applicant, to such other parties as in the opinion of that authority are likely to be affected by the a decision or order and to the officer concerned against whose order the appeal or the application for revision was made.

CHAPTER XII MISCELLANEOUS

119 **Forms of processes:**

The forms of various. processes to be issued by any authority in exercise of its powers under sub-section (i) of section 118 shall be those given in Schedule III and may be modified or altered by such authority according to exigency.

(I) The following documents shall be treated. as public documents

- (a) The Registration Register.
- (b) The registration certificate of a society.

- (c) The registered by-laws of a society including registered amendments
- (d) Any order -canceling the registration of a society.
- (e) Annual accounts of a society .audited by the Registrar.
- (f) Any decision of the Registrar or award of the Arbitrator

(2) Without prejudice to the provisions of sections 123, 124, 128 and 131 of the Indian Evidence- Act, 1872, all the public documents shall be open to inspection by any of the public on payment of a fee of Re 1 /.. for each occasion for any lawful purpose.

121. Special rule :

(1) Notwithstanding anything contained in the Rules, the procedure laid down in sub rule .. (2) shall apply to society in which either share have been subscribed by the Government of liability by way of guarantee for borrowing exceeding fifty per cent of the work capital of the society has been undertaken by the Government:

Provided that it shall not be incumbent upon such a society to follow the procedure laid down in clauses (i) and (ii) of sub rule (2) if its working capital does not exceed Rs100000 or it does not have another society as its member.

(2) (i) Notice of all general body meetings shall be given to the Registrar .The Registrar may, of his own motion or on a reference made to him, declare the proceedings of the general meeting as invalid, if he is satisfied that the meeting was held without proper notice or without all the members receiving the notice for the meeting if the meeting was not conducted at the appropriate place and time.

(ii) No matter shall, except with the permission or direction or directions of the Registrar be considered either in a meeting of a general body or committee or in a meeting of any smaller body set up under the bye-laws and without the agenda of the meeting being circulated to all members at least fifteen clear days in the case of smaller body thereof and seven days in advance in other cases.

(iii) Should a difference of opinion in respect of any matter arise between a nominated member of the committee and other members thereof, the opinion of the nominated member shall be recorded in the minutes of the proceedings of the meeting and the proceedings shall also be got signed by the nominated member. The chairman, shall as soon as possible, make a reference to the Government on the difference of opinion and seek its decision in the matter. If no such reference is made within seven days of the date of the meeting, the Registrar may, on receipt of a report from a nominated member made a reference to the Government for obtaining its decision which shall be final on the issue on which difference of opinion was so recorded. .

(3) In a society in which shares have been subscribed by the Government the Registrar may, after such inquiry as he may deem fit and after giving the person concerned a reasonable opportunity of showing cause, remove any member of the committee who has been guilty of any act or omission resulting in financial loss of the society.

122. Power to exempt from Rules:

The Government may, by general or special order, exempt any society or any class of societies from any of the provisions of these Rules or may direct that such provisions shall apply to such society or class of societies with such modifications and or conditions as may be specified in the order.

123. **Financing Bank to render banking services :**

(1) The financing bank shall render free of charge such banking services to the Registrar as he may require to carry out the Purposes of the Act and the Rules.

(2) Without prejudice to the generality of the foregoing sub. rule (1), the financial

bank shall render following banking services to the Registrar, namely

- (a) maintenance of " Audit Fee Recovery Fund in which all receipts and payments on account of audit fee leviable under the Rules shall be recorded.
- (b) maintenance of Settlement and Execution Expenses Fee Fund. in which all receipts relating to the fees leviable under Rules for settlement of disputes and execution of decrees and the payment from the Fund shall be recorded;
- (c) current account to be opened in the name of societies under liquidation to be operated upon by the liquidator.
- (d) current account of the Recovery Officer for temporary credit of dues on account of and payment to decree holder
- (e) current account of the Registrar relating to surplus funds of society whose registration has been cancelled. This account shall be called "Registrar Cooperative Societies Liquidation Account
- (f) "Registrar Co-operative Societies Suspense Account". -for keeping account of unclaimed amount from the assets of society under liquidation and
- (g) Suspense Accounts of Societies under registration.

(3) All the above Funds shall be administered by the Registrar, in accordance with the Regulations contained in Schedule II.

(4) The financing bank shall have no claim to the amount standing to the credit of the above accounts and funds from time to time. The Registrar may, however, allow in his discretion some service charges.

(5) The financing bank shall issue pass books separately for each fund and account and shall supply the information of the transactions as may be required by the Registrar.

(6) The provisions of these Rule shall apply to all funds held by the financing bank at the commencement of these Rules relating to deposits held by it under the above heads

114' **Removal of Doubts:**

If any doubt arises as to the interpretation of any of the provisions of these Rules the matter may be referred to the Government for decision.

By Order

Secretary

SIKKIM CO-OPERATIVE SOCIETIES RULES 1980**FORM 'A****Rule 3 (I)****Application for registration of a Co-operative Society under the Sikkim Co-operative Societies Act, 1980**

To
 The Registrar of Co-operative Societies
 Government of Sikkim
 Gangtok.

Sir,

I/We, the undersigned being eligible to become members apply for the registration of a co-operative society with liability under the title of having its registered office at taluk. District. and its bye-laws.

2. We are enclosing four copies of the said bye-laws duly signed by us together with the following documents:

- (a) a certificate from financing bank as required in sub-rule (i) (b) of rule 3;
 - (b), a list of persons who have contributed to the share capital together with the amount contributed by each of them and the entrance fee paid by them;
 - (c) a scheme showing the details explaining as to the economic soundness of the society;
 - (d) a copy of resolution authorizing a member of the society to sign the application on behalf of the society (in case the applicant is itself a registered society)
 - (e) A resolution (of the firm, company, society registered under the Societies Registration Act, 1860, public trust or local authority as the case may be) duly authorizing a person to sign the application on its behalf.
 - (f) the name and address of the Chief Promoter to whom correspondence regarding registration or other matter may be addressed.
3. We also declare that the information given above, including that in the enclosures is correct to the best of our knowledge and belief.

Signature :

1	Chief Promoter	6.
2		7
3.		8.
4		9.
5.		10

Notes

- (a) .where all the applicants are individuals . not less than ten who have attained the age of majority and are of sound mind and each being a member of a different family should attest the application and the bye-laws.
- (b) where the applicant is a society the application and the bye-laws should be signed by a member duly authorised in this behalf by every such society ,and
- (c) where the applicants comprise of societies and individuals; by a member duly authorised in this behalf by every such society and ten other members, or where there are less than ten other members, by all of them.

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

FORM 'B'

(RULE 4)

Register of applications for registration received in the office of the Registrar

Additional /Joint/Deputy/Assistant Registrar.

Sl No	Name of the proposed society	Place, village, and District	Date of receipt	Date of Acknowledgement	How received (by post/ hand delivery)	No. and date on which additional information is called
1	2	3	4	5	6	7
.Prescribed day by which information is called	Date on which information received	No. and date of the report if any, sent to Government if the Society is not registered	Name. and date of registration	Order under which registration is refused	Initial	Remarks
8	9	10	11	12.	13	14

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

FORM 'C

(See sub-rule [I] of rule 10)

Register of Co-operative Societies registered or deemed to be registered under the Act.

Part

District

Registered Sr. No.	Full name and address of the society	Area of operation	Date of Registration	Application No.	Class of societies as per rule.	Sub-classes
1	2	3	4	5	6	7

Page No. and date of Govern- ment notifying Registration	Initials of Registrar	Date of winding up by the Registrar	Page No. and date of Govt. Gazette noti- fying winding up	No. and date of cancellation	Initials of the officer authorised by the Registrar to keep the register	Remarks
8	9	10	11	12	13	14

SIKKIM COOPERATIVE SOCIETIES RULES, 1980

FORM 'D'

(See Rule 36)

Name of the Co-operative Society:

Address:

Registration No.

Receipt and Expenditure Account for the year ending 30th June 19

(from 1. 7 19..... to 30. 6. 19.....)

Receipts		Expenditure	
1. Share receipts	Rs. P.	1. Share capital withdrawn	Rs. P.
2. Loans and deposits- by members		2. Members' deposits withdrawn	
3. Loans and deposit from non-members,		3. Loans repaid to -Government	
4. Loans and deposits from Primary Societies		4. Loans - repaid to Central societies	
5. Loans and deposits from Government		5. Loans repaid to other societies	
6. Loans and deposits from Central Societies .		6. Loans repaid to non-members	
7Loans -and deposits repaid by members		7. Loans granted to members (individuals)	
8. Loans and deposits repaid by banks and Societies:		8. Loans granted to bank and societies:	
(a) Banks		(a) Central Societies	
(b) Other Societies		(b) Other Societies	
9. Interest received		9. Interest paid on loans and deposits	
10. Sale of good to :	(a) Members	10. Dividend and bonus paid	
	(b) Non-members	11. Stock bought	
11. Other Income		12 . Purchase of :	(a) Members' Products
Total			(b) Non-members' Products
Opening balance cash in hand		13. Establishment and contingent charges	
cash in Bank		14. Other items	
Grand total		15. Carried to Reserve Fund	
		Total	
		Closing balance cash in hand	
		cash in -Bank	
		Grand Total	

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980
FORM 'E'
(See Rule 36)

Name of the Society:

Address: .

Registration No.

PROFIT AND LOSS ACCOUNT

for the year ending the 30th June 19

Last years figures	Expenditure	This years figures	Last years figures	Income	This ye ars figures
1	2	3	4	5	6
R&. P.		Rs. P.	Rs .P.		Rs. P
	1. Interest			1. Interest received	
	(a) Paid Rs			(a) On loans and advances	
	(b) Payable Rs			(b) On investments	
	2. Bank charges .			2. Dividend received on shares	
	3. Salaries & allowance of staff			3. Commission	
	4 Contribution to staff			4 Miscellaneous income	
	Provident Fund			(a) Share transfer fees	
	5. Salary & allowance of Managing Director			(b) Rent	
	6. Attendance fees and Travelling expenses of Directors and Committee Members			(c) Rebate on interest	
	7. Travelling expenses of staff			(d) sale of forms	
	8 . Rent, rates and taxes			(e) Other items	
	9. Postage, telegram and telephone . charge			Land income and expenditure accounts	
	10. Printing & Stationery				

1	2	3	4	5	6
Rs P		Rs. P.	Rs. P.		Rs. P.

- 11 Audit fees
- 12. (Contingencies) General expenses
- 13 . Bad debts written off or provision
made . for bad debts
- 14. Depreciation on fixed assets
- 15 Land income and expenditure
account
- 16. Other items
- 17. Net profit carried to Balance. Sheet.

Note: In the case of marketing societies, consumers' societies and similar other societies have undertaken trading activities, the Profit and Loss Account, shall be divided into two parts showing separately the Trading Account and the Profit and Loss Account. In case of producer societies, processing societies forest laborers ,societies and other societies which have undertaken production activities, the manufacturing account shall also be prepared in. addition.

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

FORM 'F'
(See rule 3)

Balance sheet of Cooperative Society

Ltd., as .on 30th June, 19

	Liabilities			Assets	
Instructions in accordance, with which liabilities should be made out 1	Figures for the previous year 2	Figures for , the 'Current Year 3.	Figure for the previous year 4-	Figures for the current year 5	Instruction in accordance -nce with which assets should be made out 6
1. Contributed by Government and by co-operative societies and different classes of individual members shall be shown separately. Terms of redemption or conversion of any redeemable preference shares should be mentioned.	Rs. Share Capital: Authorised shares of Rs each. subscribed (distinguishing between the various classes of capital and stating the particulars of each class.) Shares of Rs .each. Less.. Calls in arrears. Add.. calls-in advance.	Rs. Authorised shares of Rs each. subscribed (distinguishing between the various classes of capital and stating the particulars of each class.) Shares of Rs .each. Less.. Calls in arrears. Add.. calls-in advance.	Rs. I. Cash and Bank Balance (a) Cash in hand (b), Cash in Bank (i) Current Account '(ii) Savings Bank Account (iii) Call Deposit Account	Rs. I. Cash and Bank Balance (a) Cash in hand (b), Cash in Bank (i) Current Account '(ii) Savings Bank Account (iii) Call Deposit Account	I. Fixed deposits and call deposits with State Coop. Bank and other approved bankers should be shown under the heading Investments and not under the heading" Cash and bank balance".
II. (a) Statutory Reserve Fund and other reserves and 'funds shall be , shown separately. (b) Additions and deductions since last Balance sheet to be shown under each of the specified heads. (c) Funds in the nature of reserves and funds created out' of any profits for specific purposes should. be shown separately.	A. Subscription towards shares II. Reserve fund and other funds: (a) Statutory Reserve fund (b) Building Fund. (c) Special development fund. (d) Bad and doubtful debts reserve (e) Investment Depreciation Fund. (f) Dividend Equalization Fund. (g) Bonus Equalization fund. (h) Reserve, for overdue interest. (i) Other funds. (specify)	A. Subscription towards shares II. Reserve fund and other funds: (a) Statutory Reserve fund (b) Building Fund. (c) Special development fund. (d) Bad and doubtful debts reserve (e) Investment Depreciation Fund. (f) Dividend Equalization Fund. (g) Bonus Equalization fund. (h) Reserve, for overdue interest. (i) Other funds. (specify)	II Investments: (a)Government Securities (b)Other Trustee Securities (c) Non-Trustee Securities (d) Shares of other co-oper ative societies. (e) Shares or Bonds of Companies registered under the Companies Act (f) Fixed deposits.	II Investments: (a)Government Securities (b)Other Trustee Securities (c) Non-Trustee Securities (d) Shares of other co-oper ative societies. (e) Shares or Bonds of Companies registered under the Companies Act (f) Fixed deposits.	I. The nature of each invest -ment and the mode of valuation (cost of market value) should be mentioned. If the book value of any security, is less than the market value a remark to that effect should be made against, each . item

1	2	3	4	5	6
<p>II Staff Provident Fund and any other insurance or Bonus Funds maintained for the benefit of the 'employees should be shown separately.</p>	<p>III. Staff' Provident Fund</p> <p>IV. Secured Loans (a) Bonds (b)Loans, overdrafts and cash credit from Bank (c) Loans from Government (d) Other secured loans</p>	<p>III. (1) Investment of Staff Provident fund (2) Advances against staff Provident Fund.</p>	<p>III Quoted and unquoted securities should be shown separately.</p>	<p>IV. In case of banks and other federal societies, loans due by societies and individual members should be shown separately</p>	V.
<p>IV. The nature of the security should be specified in each case where loans have been granted by Government or State Co operative Bank. A mention thereof should also be made together with the maximum amount of such guarantee loans from (I) Government (2) State Co-operative Bank should be shown separately.</p>	<p>V. Unsecured Loans (a) Loans, cash.. credits and overdrafts from Bank (b) From 'Government (c) From others (d) Bills payable</p>	<p>IV. Loans and Advances (a) Loans (b) . Overdrafts. (c) Cash credits: (i) Against pledge of goods (ii) Clean (of which overdue Rs.. ..) (d) Loans due by managing committee members Rs-. loans due by Secretary and other employees Rs. . . .</p>	<p>VI. Mode of valuation and stock shall be stated and the amount in respect of raw materials, partly finished and finished' goods and store required for' consumptions should be stated separately. Mode-of valuation.. of works in progress' shall. be stated.</p>	V.	<p>V.' Sundry debtors: (I) Credit Sales (2) Advances (3) Others</p>
<p>VI. Deposits from societies and individuals should be shown separately.</p>	<p>VI. Deposits (a) Fixed deposits (b) Recurring deposits (c) Thrift or .Savings . Deposits (d) Current deposits (e) Deposits at call (f) Other deposits (g) Credit balance in each credit and over drafts accounts</p>	<p>VI. Current assets . (I) Stores spare parts (2) Loose tools . (3) Stock in trade (4) Work in progress</p>			

1	2	3	4	5	6
VII.	VII. Current liabilities and provisions: (a) Sundry creditors (b) Outstanding creditor (i) for purchases (ii) for expenses including salaries of staff, rent, taxes, etc. (c) Advances, recoveries for the portion for which value has still to be given viz. unexpired subscriptions, premiums, commission, etc.	VII. Fixed Assets. (a) lands and Buildings (b) Lease-holds (c) Railway siding (d) Plants and machinery (e) Loose ' tools, 'tackles. and other equipments. (f) Dead stock (g) Furniture -&-fitting (h) Livestock (i) Vehicles, etc.	VIII. Miscellaneous expenses and losses: (1) Goodwill (2) Preliminary expenses (3) Expenses connected with the issue of shares and bonds (4) Deferred revenue expenditure.	VII Under each -head the original cost and the additions there to and deductions -there from made during the year and the total depreciation on written off or 'provided up to the end of the year should be stated	VIII.
VIII.	VIII. Unpaid dividends	IX. Other items : (a) Prepaid expenses (b) Interest, accrued but not due (c) Other items (to be specified)	IX.	X.	XI.
IX.	IX. Interest accrued due but not paid	X. Profit and loss Account Accumulated.	Losses not written off from, the reserve or any other fund.	X.	XI.
X.	X. Other liabilities (to be specified)	XI Current losses.	.	X.	XI.
XI. Contingent liabilities which have not been provided for should also be mentioned in the balance sheet' by way of a footnote.	XI. Profit and Loss Account Profit for last year Less : Appropriations: Add: Current profits:	.	.	X.	XI.

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980
FORM 'G'
(See Rule 38)
Register of members

1. Serial Number.

2. Date of admission.

3. Date of payment of entrance fee.

4. Full name.

5. Address.

6. Occupation.

7. Age on the date of admission.

8. Full name and address of the person nominated by the member under section.

9. Date of nomination.

10. Date of cessation of membership.

11. Reasons for cessation.

12. Remarks.

Date	Cash book		Particulars of Shares held			Total amount received	No. of shares	Serial No. of shares
	folio	Application	Allotment	Amount received				
				on 1st call	2nd call			
1	2	3	4	5	6	7	8	9.

Date	Case book folio	Particulars of shares held transferred or surrendered						
		Date	Cash book folio Or shares transfer register No-	No- of shares transferred	No of shares - transferred or refunded	No- of shares held	Balance	
				Serial No. of share certificates			Serial No- of Share certificates	Amount.
10	11	12	13	14	15	16	17	18

FORM H'**Declaration Under Section 43 - (I)**

I _____ son of or wife of (aged _____ years) residing at _____ being desirous of availing myself of financial assistance from, the _____ society make this declaration as required by Section 43 (I) of the Sikkim Co-operative societies Act, 1978 that I, _____ own/have interest as a tenant in the land of other immovable property specified below, and I, hereby create a charge on the said land or other immovable property/interest therein in favour of the society for securing the financial assistance which the society has granted or may grant and for all future assistance, if any which the society may make to me together with interest and costs and expenses thereon.

Name of Village'	Name of Taluka	Name of District	Survey No. Plot Plot No Hissa	Boundaries/ Area South North Acres East West Guntha
------------------	----------------	------------------	-------------------------------------	---

Assessment Rupees Paisa	Approximate Value	Encumbrances, if any Nature Amount	Remarks
----------------------------	----------------------	---------------------------------------	---------

In witness whereof, I, Shri _____ hereunder set my hand this _____ day of _____ in the year one thousand hundred and _____

Witnesses

Signature of declarant

Signed and delivered by the above named in the presence of :

1.

Attested by

'2.

Forwarded with compliments to the village officer (*) with a request to include the particulars of the charge created under the declaration in the Record of rights and to return the same to the society for its record.

Manager / Agent.

Place

. Returned with compliments to the Manager/Agent

The charge created under the declaration is duly included in the Record of Rights on the
day of 19 .

Forwarded with compliment.. to the Sub-Registrar with a request to register the particulars
of the charge created under the declaration in his record...

Manager/ Agent,

Place

Returned with compliments -to the Manager/Agent This
charge created under the declaration is duly registered.

Village . Officer
Sub-Registrar

Input the name of the financing society/bank.
(1) put the appropriate authority. .

N. B. Strike. out whichever is not applicable. Also put appropriate description of
(1)Put the appropriate authority.

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

FORM T

(See sub-rule (2) of Rule -43)

Register of Declaration under Section 43 (I) of the Sikkim Co-operative Societies Act,
1978.

(Act No. of 1978)

Sl. No.	Date of entry in the register	Name of the member	Date of declaration	Name of village in which land situated
1	2	3	4	5

Description' of land as per declaration

Particulars per dec- laration	Share as in land	Extent	Remark..	Amount of loan suppli- ed/borrowed	Remarks if any	Signature of Chairman/ Officers
6	7	8	9	10	11	12

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980**Form J**

(See sub-rule (9) of Rule 59)

Rectification report on the audit/enquiry Report
Name and address of society

Period of audit covered

date of audit

No. ..and date. of communication of
audit report / remarks

SI No	SI. No of objection in Audit enquiry report	Observation made by the Auditor / Enquiry Officer	Explanation of the society	No and date of the resolution of Committee approving the reply
1	2	3	4	5

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980**Form 'K'**

(See sub-rule (l) of Rule 63)

Before Shri
Societies; Sikkim, Gangtok
Arbitration Case No.

Joint/Deputy/Assistant Registrar ,Co-operative

19

In the matter of reference of dispute under Section 72 of the Sikkim Co-operative Societies:
Act, 1978 (Act No. of 1978).

1.
2.
3. Claimant

Versus

1.
2.
3.

(Name, father's name, occupation and complete postal address 'of the 'Claimant and
defendants

Claim

1. Facts showing that the matter in dispute falls within the scope of section 72 (1) and is between the parties mentioned therein.
 2. Facts showing that the reference is within time as provided under section 72 (4)
 3. Facts constituting the cause of action.
 4. Relief either simple or in the alternative which the claimant claims.
 5. List of documents to be filed along with the claim:
 - (i) Copy of the resolution of the managing committee if the society is the claimant.
 - (ii) Pay-in-slip for deposit of application fee with the financing bank.
- (Claim will be divided in paragraphs consecutively numbered)

Signature
Claimant through to

Verification from Societies
Verified at Gangtok this
day of 19

For others
Verified at Gangtok this
day of 19

that the contents of this claim are true to the best of information and knowledge (derived from the record of the society which are believed to be true and kept in the regular course of its business).

that the contents of above claim are true to the best of my information and knowledge believed to be true.

for Society

Claimant . . .

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

Form L

(See sub-rule (3) of Rule 67)

Arbitration Cases Register

SI No. of the case	Date of institution of the case	Name (s) of claimant	Name (s) of defendants	Nature of claim in brief	Date of Order	Registrars
1	2	3	4	5	6	
Brief decision of Registrar	Sign of Asstt. Registrar	If admitted. date of re-reference to Arbitrator .	Name of Arbitrator	Date of decision by Arbitrator ..		
7	8	9	10	11		
Date of application for-issue of certificate for execution	Date of application for-issue of certificate for execution	Date on which the certificate. under section issued		Asstt. Registrar's Signature		
12		13		14		

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

Form M

(See sub-rule (I) of Rule 85)

To

The Registrar
Co-operative Societies
Sikkim, Gangtok'

Application under. section 80 of the
Sikkim Co-operative Societies; Act, 1978
Case No.....

..... Claimant Society

.. Versus

.....

Defaulter

* It is now prayed that an order may be made directing aforesaid defaulter to pay aforesaid amount to the claimant society with further interest at.. .. per cent per annum from the date of this application .on the realization and other expenses for the sale as may be assessed by the sales officer, failing which the amount claimed should be paid out of the sales proceeds of the property described in the annexed Schedule in accordance with the provisions 'of the Act and the Rules.

Date: through Claimant Society

I, having been authorised by the Managing Committee of
Cooperative Society Ltd., by its resolution No.dated the. 19. . . a copy of which duly certified signed as true copy of the original is enclosed, submit as under

(1) That the defaulter who is a member/ past member/ deceased member of the claimant society has to owe. to it a sum of Rs... . . . :principal and Rs.....' interest till the date of application on account of... .and that this, amount is still outstanding' against him in ,the books of the claimant society.

(2) That the claimant society has ,acquired a first' charge on the property described in the Schedule annexed..... herewith for repayment of, the' above mentioned debt/outstanding demand against the, defaulter, which belonged to him/formed part of the . estate of deceased member in the head of his legal representative.

(3) That the property described in, the annexed schedule is Saleable under Section '80 of the Act.

Verification

Verified that the contents of this application are true to the best of 'my knowledge' and-belief and nothing thereon has been concealed or misrepresented 'Verified at Gangtok this..... day of... . . . 197

Signature '.

for Claimant Society.

ANNEXURE

Schedule, of -properties subject to charge under Section ,42 of the Act

Sl. No.	Brief description of the property	Name and address of the person in whose custody, possession or control	Place at which the property is lying/deposited/ standing	Any other information
---------	-----------------------------------	--	--	-----------------------

. I declare that what is stated, in the above description is true to the best of my knowledge and belief and .so far as I have been able to ascertain the interest of the judgment debtor in the property herein specified.

Signature

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980**Form 'N'**

(See sub-rule {3} of Rule 85')

In the matter of sale of property of the judgment debtor under Section 80 of the Sikkim Co-operative Societies Act, 19J8.

Case No. 197

Claimant Society

Versus

Defaulter

Demand for the recovery of a sum of Rs.

Whereas the Claimant Society has applied to the Registrar for the sale of the property described in the annexed Schedule in payment of a sum of Rs. as principal, Rs. as interest upto the date of application, plus further interest at. per cent p.a. till realization and the cost of these proceedings, claimed to be due -by the 'defaulter to the Claimant Society. .

And whereas it is claimed that the claimant has first charge on the property of the defaulter aforesaid.

Now, in pursuance of the proviso to section 80 of the Sikkim Co-operative Societies Act, 1978 and the rules thereunder notice is hereby given to you to appear before the Sales Officer on the day of 197 to show cause why the order under Section 80 of the Act should not be made. take notice that if you admit the claim or fail to show cause against this demand notice on the aforementioned date and time, the amount now claimed by the claimant Society should be paid within seven days of receipt of this notice by you with the Sales Officer failing which the property described in the Schedule annexed should be sold and the claim satisfied out of the sale-proceeds of the property according to rules.

Signature

SIKKIM CO-OPERATIVE SOCIETIES' RULES. 1980

Form 0

(See sub-rule (2) of rule 8'6)

Application for the issue of Certificate under proviso to clause (a) of section 81 of the Sikkim Co-operative Societies Act 1978

In the matter of Arbitration Case No.

.....

Claimant

. Versus

Defendants

To

The Registrar,
Co operative Societies
Sikkim Gangtok

Sir,

The claimants have obtained an award against the defendants jointly/severally in the, sum of Rs as principal Rs. : as interest upto-
., and Rs. as cost totaling Rs.
with future interest .at per cent p.a. on the principal amount. till realization

2. I The amount covered by the award is desired to be recovered as arrear of Land Revenue under clause (a) of section 81 of the Act. A certificate under provision to this clause may .be issued to the decree-holder to enable him to apply for the execution of the award through the Collector;

Place. (Full name and address)

Signature. Date.

SIKKIM CO-OPERATIVE OCIETIES RULES, 1980

Form 'P'

(See sub-rule (3) of Rule 86) ,

In the matter of Arbitration Case No.

Decree-holder(s)

Versus

Judgment debtor

Certificate

I hereby certify pursuant to provision to clause (a) of Section. 81 of the Sikkim Co-operative Societies Act, 1978 that a sum .of Rs. principal plus Rs.

as interest upto and

Rs. as cost totaling Rs.is recoverable from the judgment-debtor above named jointly and severally as arrears of Land Revenue according to the law for the time being in force in the State of Sikkim relating to recovery of land revenue.

Given thisday of197 at Gangtok

Signature.

Seal.

SIKKIM CO-OPERATIVE SOCIETIES RULES 1980

FORM 'Q'

(See sub-rule (4) of rule 86)

In the Court of Recovery Officer, Co-operative Societies, Gangtok :

Recovery Case No. ,19

(1)

Decree holder

(2)

(3)

versus

(1)

(2)

(3)

Judgment-debtor. .

In the matter of recovery of decretal amount as arrear.. of land revenue under clause (a) of section 81 of the Sikkim ,Co-operative Societies Act, 1918.

We/I here by apply for the execution of the-award details of which are given herein-after in accordance with the law for the time being in force relating to the recovery of revenue.

We/I undertake to bear an expenses for the execution of this award as may be assessed by the Recovery Officer :

Details of award

(1) Arbitration Case No.

(2) Date of award

(3) Whether any appeal preferred against the' award

(4) Payment or adjustment already made if any against the ,decretal amount

(5) Amount of word :with outer monetary relief granted the award

Principal Interest . Rs. ..

upto . Cost on Rs.

Principal amount. .

Total ,Rs. Rs.

Future interest at %P.A from..
.till realization.

(6) Amount certified by the Registrar to be recoverable as arrear of Land Revenue.

Principal	Rs. ...
Interest upto ..	Rs.
Colt	Rs.
Total.	Rs.
Future interest	Rs at .
%P.A.from till realization of principal amount.	

(7.)Previous . application, if any, with execution case No. and date
and results thereof.

(8). Against whom to be executed.

(9) Mode of execution.

(1)Where 'attachment and sale of movable property is required,	(Details given in the annexed Schedule)
(2) Where attachment and sale' of immovable - property	(Details given in the annexed Schedule).

(10) Name of the person who would assist the executing officer on behalf of the decree holder.

We/I declare that whatever is stated above is true to our/my knowledge and belief. We/I also undertake all bear, all legal expenses if in pursuance of the execution proceeding/ any legal proceeding are filed by any person 'against the Recovery Officer which have our / my authority to defend *them* on our/my account... We/I also undertake that if execution' made by arrest or Civil imprisonment, We/I shall pay all the charge for subsistence and maintenance allowance for the confinement/imprisonment of the judgment-debtor.

Gangtok ' .
Dated

Signature.
Decree-holder.

SCHEDULE

-When attachment and Sale of movable/immovable property is sought.

MOVABLE PRQPERTY

Name of. articles. Name and address of the person in whose custody, person or Control.

IMMOVABLE PROPERTY (Given details below)

Well declare ,that what is stated above is true to the best of our/my knowledge and belief.

Signature.
Decree-holder.

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

FORM 'R'

(See sub-rule (3) of Rule 88)

(Notice to show-cause why a payment or adjustment should not be recorded.)

Decree-holder

Versus

Judgment-debtor

Whereas the execution of the award in the above named case, the judgment-debtor has applied to the Recovery Officer that a sum of Rs. . . 'recoverable under the award has been paid/adjusted to the decree-holder or of Court and that the same should be recorded by the Recovery Officer as having been paid by the judgment-debtor' against the award being executed.

Now this notice is given to the decree-holder to appear before the Recovery Officer on _____ day of _____ 197 to show cause why the payment/adjustment aforesaid should not to be recorded as claimed by the judgment-debtor.

If the decree-holders fail in this respect, an ex-pare order is liable to be passed.

Given under the hand the seal this _____ day of _____
Recovery, Officer.

SIKKIM CO-OPERATIVE SOCIETIES RULES 1980

Form'S'

(See sub-rule (I) of Rule 91)

Application of execution under clause ,(b) of Section 81 of the Sikkim Co-operative Societies Act, 1978 (Act of 1978).

To

The Registrar,
Co-operative Societies,
Sikkim, Gangtok
In the matter of .case No.

1. _____ Decree-holder

2. _____
. 1. _____ Versus

2. _____ Judgment-debtor

"We/I hereby apply under clause (b) of Section 81 of the Sikkim Co-operative Societies Acts 1978 (Act No. of 1978) for the execution of the decision/award order details of which are given hereinafter and a certified copy of which is enclosed :

- (1) Arbitration case No.
- (2) Date of decision/award / order.
- (3) Whether appeal preferred.
- (4) Relief claimed.
- (5) Against whom, to be executed
(Full names and addresses to be given)
- (6) . Mode of execution:
 - (i) If execution is to be made by attachment or sale of movable or immovable property of the judgment-debtor- give, full details and the names of persons in whose possession and custody.
 - (ii) If by arrest and detention (specify the place where the judgement-debtor shall be found).
 - (iii) Name of the person who assist the executing Officer.

Signature

Verification and under orders
197 that the above statements

Verified at Gangtok this day of

are true to the best of my knowledge and belief. I undertake to bear all expenses in execution of the decision/award/order.

Signature

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980**Form T**

(See sub-rule (6) of Rule 91)

In the matter of execution proceedings under clause (b) of Section 81 of the Sikkim' Cooperative Societies Act, 1978 (Act No. of 1978).

(I)		Decree-holder
	Versus	
(I)	Demand Notice	Judgment-debtor.

Whereas the decree holder applied to the Registrar, under clause (b) of Section 81 of the Sikkim Co-operative Societies Acts 1978 (Act No. of 1978) for the execution of the award/order given in case No. (Certified copy of which is enclosed).

And whereas the judgment debtor named above is required to comply with the decision/award/order mentioned above and has not so far complied with the same.

Now, in exercise of my powers, I call upon the judgment-debtor to appear before me on _____ at _____ in my office to show cause why the decision/award/order . aforesaid should not be executed according to the provisions .of the Code .of Civil Procedure, 1908 (Act No. V of 1908) by attachment of his property/by arrest or detention of the judgment-debtor.

(Given under my seal and signature this _____ .day of _____ 197

. Signature

Seal

SIKKIM CO.OPERATIVE SOCIETIES RULES, 1980

Form U

(See sub rule (I) of Rule 93)

Before Shri _____ Recovery Officer, Office of the Registrar.

Co-operative Societies, Sikkim,- Gangtok.

Execution Case No.

Decree-holder.

Versus

Judgment-debtor

Warrant .of attachment of movable property in execution .of the decree.
To

The Bailiff,

Whereas the judgment-debtor above named was ordered by decree dated the _____ passed by. _____ in Arbitration Case No. _____ to pay the amount in the margin and whereas the said sum .of Rs'. _____ has not been paid.

of Decretal Amount Rs P. ..These are to command you to attach the movable property

- (i) Principal _____ the_said judgment-debtor as set forth in Schedule here into
- (ii) Interest _____ annexed .or which shall be pointed out to you. by the decree
- (iii) Costs _____ holder or his representative or agent, and unless the said judgment
- (iv) Cost .of execution _____ debtor_shall pay to you the said sum .of Rs.
- (v) Further interest _____ together_with Rs . _____ the cost .of this attachment to
- Total _____ hold the same until further orders from the Recovery Officer.

You are further commanded to return this warrant on or before the
day of _____ 197 with an endorsement certifying the day on which and the manner
in which it has been executed or why it has not been executed.

Given under my hand and the seal this _____ day of _____ 19

Seal

Schedule Recovery Officer.

Description of property

Seal

In whose custody.

Recovery Officer.

SIKKIM .CO-OPERATIVE SOCIETIES RULES, 1980

Form V

(See clause (IV) of Rule 93)

Form of Bond with sureties for the production of the property at the place of sale in execution
of decree.

Decree-holder
Versus
Judgment-debtor
Execution Case No.

Know all men by thee presents, that we (1) S/o
resident of (Judgment-debtor).. (2) S/o
resident of (surety NO.1) and (2) S/o
. (Resident of (Surety No.2 are jointly

and severally bound to the Recovery Officer in the above mentioned execution case in the
sum of Rs. 50_ be paid to the-said Recovery Officer or his successor in office for
the time being. For which payment to be made we bind ourselves, and each of us, in the whole, we
and each of our heirs, executors and administrators jointly and severally these presents .

Dated this. _____ day of _____ 197 signed and delivered to
said Recovery Officer at Sikkim Gangtok.

Witness:

(1) Signature
(Name and address)

(2) Signature
(Name and address)

- (1) (Name and address)
Judgment-debtor
(Name and address)
Sign. Surety (1)
- (2) (Name and address)
Sign. Surety (2)

Whereas in the above execution case the property given in the attached schedule has been attached by the order of the Recovery Officer in the above execution case and whereas the said property has been attached and left in the charge of the judgment-debtor above named and whereas the said judgment-debtor is required and undertaken to produce the said property at the place, date and time of the sale when called for by the order of Recovery Officer.

Now the condition of the obligation is such that if the above bounded judgment-debtor produces the said property in saleable and good condition on the date and place as may be specified by the order.. of the Recovery Officer, then this obligation shall be void, otherwise it shall remain in full price and virtue.

Signed and delivered by the ,above bounded in. the presence of witness this
day of . 197 .

- (1) Sign.-(1)
- (2) Sign. (2)
Sign. (3)

SIKKIM CO-OPERATIVE SOCIETIES RULES. 1980

Form W'

(See clause (XI) of Rule 93)

Execution Case No.

Decree-holder

Versus

Judgment-debtor

Proclamation for sale

Notice is hereby given under -clause (XI) of Rule 93 of the Sikkim Co-operative Societies Rules, 1980 that an order has been passed by the' Recovery Officer for the sale of the attached property mentioned in the annexed Schedule in satisfaction of the -claim of the decree-holder in Arbitration Case No. mentioned in the margin.

The sale will be by public auction

and the property will be

put to sale in lots. The sale will be of Relief claimed the pro
perty of the judgment-debtor.

In the absence of an order for postponement, the sale will be held by (Bailiff) at (time) on date
at (place) for the amount of the relief claimed and specified in the margin and the cost of
attachment or sale being tendered or' paid before the knocking down of a lot, the sale will be
stopped.

At the sale the public generally are invited to bid either personally or by duty authorised agent.
Given under my hand and seal this day of 19

Schedule Recovery Officer.

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

Form X

(See rule 94)

Order to attach Salary of Public Officer or Servant of Railway or Local Authority.

Execution Case No.

Decree-holder

Versus

Judgment-debtor

To

Whereas Judgment-debtor) is'(Office of the Judgment-debtor) receiving
his salary and allowances at your hand or on your account and whereas
decree-holder in the said case has applied to the Recovery Officer of the attachment of the
salary and allowances of said Shri to th
extent of Rs. (decretal amount) due to him under the decree, you
are hereby required to withhold the said sum of. Rs. from the salary and allow
ances of the said Shri in monthly
instalments of Rs.. and to
remit the said sum or monthly installment to me.

Given under my hand and seal of the Court this of day
19

Recovery Officer

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980.**Schedule I****(Rule 41)**

Preservation and Destruction of Account Books and Registers

TO BE RETAINED PERMANENTLY

1. Cash Book
2. General ledger,
3. Loan Ledger,
 - (a) Short-term loan
 - (b) Long-term Loan
4. Ledger of shares or share Registers,
5. Ledger for fixed deposits.
6. Ledger for savings deposits.
7. Ledger for Provident deposits.
8. Ledger for investments.
9. Ledger for Provident fund.
10. Ledger for Societies Reserve Fund.
11. Ledger for Societies Charity Fund.
12. Ledger for Audit Fee.
13. Ledger for dividend.
14. Share Transfer Register.
15. Call Register of Shares.
16. Stock Book of forms and furniture.
17. Acquaintance Roll
18. Register for issuing cheque books.
19. Register for issuing pass book.
20. Register of specimen signatures of depositors and their nominees.
21. Register of member.
 - (a) Registrar of nominal Share-holder.
 - (b) Registrar of ordinary Share-holders.
22. Register of directors
23. Minute Book.
24. Register of officers and their services.
25. Register of organisation.
26. Register of liquidated societies. .
27. Register of office bearers of affiliated societies and their specimen signatures.
28. Audit Notes and audit statements.
29. Register of Pronotes.
30. Catalogue (library)
31. Register of letters received.
32. Register of letters issued.
33. Lists of record destroyed from time to time.

TO BE RETAINED FOR 6 YEARS

1. Register- of disputed . cases.
2. Register of court Fee .
3. Ledger. for suspense deposits.
4. Ledger for temporary deposits.
5. Register of Bills of Contingent, Register.
6. Collection Register.
7. Register of assessment of normal credit of members.
8. Notice book of directors' meeting.
9. Visitors' Books.
10. Office Order Books.
11. Receipt Books (containing counterfoils)
12. Vouchers...

TO BE RETAINED FOR 3 YEARS

1. Budget estimates.
2. Returns and. Statements.
3. Service Book.. of Officers.
4. Register of inspection of affiliated societies.
5. Register of Rectification Reports.
6. Register of Property and debt statements.

TO BE RETAINED FOR 2 YEARS

1. Casual Leave Register.
2. Attendance Register.
3. Register of payment of travelling allowance.
4. Register of noting dates of withdrawal of deposits

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980.**Schedule II****(Rule 67 (5))**

'Regulations regarding the Recovery and Deposits of fees for the Services to be tendered by the Registrar to the Co-operative Societies and their members.

I. **Short-title and application:**

(1) These Regulations may be called the Fee Recovery and Deposit Regulations, 1980

(2) These regulations shall apply to an the Co operative Societies registered or deemed to be registered under the Sikkim Co-operative Societies Act, 1978 and the members, ' past members, heirs, legal representative, nominees of the deceased members, agents and servants of the Co-operative Society and the. staff paid out of this fund defined under Regulation No.3.

2. **Definition**

Words and expressions defined in the Act and the Rules and used in these Regulations shall have the meanings assigned to them in the Act.

3. **Creation of 'Settlement and Execution Expenses Fund'**

(1) The Registrar shall create a fund entitled "Settlements and Execution Expenses Fund" (hereinafter called the fund) which shall be administered and operated by him. All fees realizable under the rules on reference of disputes to the Registrar under section 72 and proceedings under Section 80 and 81 shall be paid into this fund and the expenditure on the pay and allowances of bailiffs, process servers and other staff required to man the execution/ agency and payment of fees to arbitrators and other contingent expenditure relating to reference of disputes under Section 72 proceedings under section 80 and 81 shall be defrayed out of this Fund.

4. **Staff paid out of the Fund**

The Registrar may appoint any number of bailiffs and other categories of staff required to maintain an efficient agency of recovery of dues of co-operative societies and its members past members, their agents and servants. Registrar will be competent to prescribe their qualifications conditions of service, the target of recovery to be achieved by them and the scale of their salary and allowances. Registrar will be the appointing and disciplinary authority for such staff. The powers of disciplinary authority may, however, be delegated by him to any officer subordinate to him. When the disciplinary authority is not the Registrar himself, all appeal; against the orders of the disciplinary authority shall lie to him and his decision in appeal shall be final. When the disciplinary authority is the Registrar himself, the appeal shall lie to another officer to be appointed by the Government.

(2) The service of staff paid out of the fund and under the Registrar shall not be Government service. however any person appointed and paid out of this Fund shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) Any person appointed and paid out of this fund shall have to enter into an agreement on non-judicial stamp payable by him which shall be his contract of service.

5. **Operation of Fund**

(1) The Fund shall be kept in the Sikkim State Co-operative Bank Ltd. All payments from this Fund shall be made by cheques which may be signed by any officer who may be authorised by the Registrar.

(2) Payment into the Fund can be, made by any body who desires to make the payment. The said Bank shall accept the deposits from any person and credit the same to this Fund.

(3) The State Co-operative Bank shall supply to the Registrar or any officer authorised by him the monthly details of all deposits into and payments from this fund and the balance standing at the end of each month,

6. **Maintenance of other Accounts by the Bank**

The Sikkim State Co-operative Bank shall maintain any other accounts as may be directed by the Registrar in connection with securing the purposes of the Act and the Rules. These accounts shall be operated by the Registrar or any other officer authorised by him.

7. **Creation of Audit Fee Fund**

(1) The Registrar shall create fund called the "Audit Fee Fund" which shall be administered by the Assistant Registrar (Audit) and maintained with the Sikkim State Co-operative Bank Ltd.

(2) All the Co-operative societies shall deposit audit fee in this fund as may be assessed against them from time to time.

(3) The bank shall submit a statement every month to the Assistant Registrar (Audit) in the following form so as to reach him by 5th of every month following the month to which the statement relates:

Date of deposit. Name of the Society . Amount deposited

(4) On receipt of the above statement, Assistant Registrar (Audit) shall record the payment in relevant accounts of the Society and draw a cheque for, the amount representing the total of all the amounts shown in the above monthly statement in favour of the Registrar, Co-operative Societies and send it to the Cashier of his office for deposit into Government Account.

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980
Schedule III

(See Rule- 119)

- | | | |
|------|----|--|
| Form | 1 | Summon in arbitration proceedings to the defendant to answer claim. |
| Form | 2 | Summon to legal representative to be-added when defendant dies during pendency of arbitration proceedings. |
| Form | 3 | Summons for attendance/production of record in any enquiry/inspection/arbitration /liquidation. |
| Form | 4 | Proclamation requiring attendance/production of record. |
| Form | 5. | Warrant of attachment of property. |
| Form | 6 | Warrant of Arrest. |
| Form | 7 | Warrant of Committal to Civil Imprisonment. |
| Form | -8 | Order of release from Civil imprisonment. |

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980**Form 1**

Summons for disposal of claim under Section 72 of the Sikkim Co-operative Societies Act 1978

Arbitration Case No.

Versus

Defendant

To

. Whereas a dispute under Section 72 of the Sikkim Co-operative Societies Act, 19 (Act No. of 1978) has... been referred against you for a copy of which is enclosed, you are hereby summoned to appear before me (Designation of the Officer) in room No. on (Date) at: (Time) to answer all material question

relating to the dispute. You may be accompanied by a person able to answer all such questions. As the date fixed for your appearance is appointed for the final disposal of the suit you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defense.

Take notice that, in default of your appearance on the day before mentioned the matter will be heard and determined in your absence

Give. under .my hand and seal this
day of 197

Signature
(Seal of Office)

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980**Form 2**

Summon to legal representative of a deceased defendant.

Arbitration.. Case. No.

Claimant

Versus

Defendant

To

Whereas the claimant referred a dispute for decision under Section 72 of the Sikkim Co-operative Societies Act... 1978 (Act, No. of 1978) against the defendant and whereas the claimant has referred to me that while the dispute is pending, the defendant has since deceased and made an application alleging that you are the legal representative of the said deceased, and desiring that you be made the defendant in his stead.

You are hereby summoned to attend the proceedings pending before me on
(date) at (time) at
(place) to defend the said proceedings and in default of your appearance, the said dispute
will be heard and determined in your absence.

Given under my hand and seal this day of 197.

Signature .
(Seal of Office)

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

Form 3

Summons to Witness

In the matter of Enquiry under Section 66/Inspection under Section 67/Arbitration proceedings
under Section 72/Liquidation proceedings under Section 75 of the Sikkim Cooperative Societies
Act, 1978 (Act No. of 1978) (in names of the societies/names of parties)

To

Whereas. your attendance is required in the Enquiry/Inspection Liquidation/Arbitration
proceedings pending 'before me.

Now in exercise of my powers under Section 108 of the Sikkim Co-operative Societies
Act, 1978 (Act No. of 1978) you are hereby required personally to appear before me
on the (date) at (time)at (Place) and to bring
with you the record and documents mentioned in the annexed list. If you fail to comply with this
order without lawful excuse, you will-be subject to consequence of non-attendance laid down in
Section 32 and rule 12 of Order XVI of the Code of Civil Procedure, 1908.

Given under my hand and seal this day of 197

Signature
(Seal of Office)

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980**FORM 4**

Proclamation Requiring Attendance

, Whereas an Enquiry under Section 66/Inspection under Section 67/Arbitration under Section 72/Liquidation under Section 75') of the Sikkim Co-operative Societies Act, 1978 (Act No. of 1978) is pending.

And whereas it .has. been made to appear before me that the summons issued to Shri to appear, before me and to produce documents could not be served upon him in the manner prescribed by law, and whereas it appears that the evidence and record/documents required of him are material and he absconds and keeps out of way for purposes of evading the service of ;the summons. this proclamation is issued requiring the attendance and production of record before me on (date)_at (time) at (Place) and from day to day until he shall have to depart and if the aforesaid person fails to attend or attends but fails to produce the required records on the date and hour aforesaid, he will be dealt with according to law.

Given under my hand and seal this 197. day of

, Signature
(Seal of Office)

SIKKIM CO-OPERATIVE SOCIETIES RULES. 1980**FORM 5**

Warrant of attachment of witness (Order 16 rule 10 Code of Civil Procedure, 1908)..

In the matter of

To

The Bailiff Whereas Shri has not, after the expiration of the period limited in the proclamation issued for his attendance/production of record, appeared/produced record before me, you are hereby directed to hold under

attachment the property belonging to the said Shri _____ to the value of _____
and to submit a return accompanied with an inventory thereof within _____ days.

Given under my hand and seal this _____ day of _____ 197

Signature
(Seal of .office)

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

Form 6

Warrant of Committal

(Under Order 16 rule 10 of Code of Civil Procedure, 1908) in the matter of Enquiry under section 66 /Inspection under section 67/ Arbitration under section, 72./ liquidation under Section '75 of the Sikkim Co-operative Societies Act, 1978 (Act No. of 1978)

Whereas Shri _____ has been duly served with a summons but failed to attend or attended but failed to produce the record/absconds and keeps out of the way for purpose of avoiding service of the summons;

. You are hereby ordered to arrest and bring the said Shri before me.

Your are further ordered to return this warrant on or before the day of _____ 197 . with an endorsement certifying the day on and the manner in which_it has been executed or the reasons why it has not been executed.

Given under my hand and seal this, _____ day of _____ 197

Signature
(Seal of Office)

SIKKIM CO-OPERATIVE SOCIETIES RULES 1980

Form 7

Warrant of committal

(Under Order 16 of Code of Civil Procedure, 1908)

In the matter of Enquiry under Section 66 / Inspection under
Section 67 / Arbitration under Section 72 /
Liquidation under Section 75 of the Sikkim Co-operative Societies Act, 1978 (Act
No of 1978)

To

The Officer-in-Charge of Jail at Whereas Shri
whose attendance for evidence/production of record
which is material in 'the proceedings pending before me, has been arrested and brought
before me in custody and whereas said Shri failed
to produce documents and his evidence cannot be taken, and whereas said Shri
has been called upon to give security to my satisfaction for his appearance/production of
record/documents on day of 197 which he has
failed to do

This is to require you to receive the said Shri
into your custody in Civil Prison until further orders from me. .
Given under my hand and seal this day of
197

Signature
'(Seal 'of Office)

SIKKIM CO-OPERATIVE SOCIETIES RULES, 1980

Form 8

Release order under Section of the .. Act in the Court of
District
Case No. Year 19

The Superintendent of Jail

Name of Judgment-Debtorson of
Shri.. . . . Caste. . Village/Tehsil. .

Whereas the above' named who was sent to the civil imprisonment for non payment of dues by, this Court on. .. has made the payment or has given surety and /has asked' for exemption from payment for ..days, as such he may not be kept under your custody now. .

Therefore, you are hereby ordered to release the said person on receipt of this order.

Given under my hand and seal of this Court.. . . . day of
... .. 19

Signature
Collector Grade I/II
(Seal of Office)

THE SIKKIM WEIGHTS AND MEASURES RULES, 1983

Please: read the Sikkim Weights and Measures Rules 1984 instead of 1983

In exercise of the powers conferred by subsection (1) of section 69 of the Sikkim Weights and Measures Act, 1980, the state Government hereby makes the following rule's namely:

1. Short Title and Commencement:

- (1) These rules may be caned the Sikkim Weights and Measures Rules,. 1984
- (2) They shall come into force on such date as the state Government may, by notification, appoint and different dates may be appointed for:
 - (a) different. provisions of these rules or
 - (b) different areas or
 - (c) different classes of activities.

2. Definitions :

- (1) In these rules; unless the context otherwise require
- (a) "Act" means the Sikkim Weights and Measures Act, 1980.
- (b) "article" means anything which is. the subject matter of trade or commerce manufacture or merchandise and includes agriculture product;
- (c) "capacity" in reference to measuring instrument means the maximum length or maximum volume of article which it is constructed to show or contain
- (d) "correct" in reference to ,a weight or measure or weighing or measuring instrument means correct within the limits of error specified in the Schedule
- (e) "form" mean; a form appended to these rules
- (f) . "label" means any written, marked, stamped, printed or, graphic matter affixed to, or appearing upon my commodity or package containing many commodity
- (g) . "person" includes a Body of individuals, firm, corporation, partnership company ,association, society or union and director, manager. agent, employee or lessee of the corporation; company, firm partnership, .association, society or onion;
- (h) "Reference Standard" means the sets of Standard Weights Measures referred to in section 12 of the Act:
- (i) "Schedule" means a Schedule appended to these rules;
- (j) "Secondary Standard" means the sets of Standard Weights and Measures referred to in section 13 of the Act:
- (k) "Working Standard means the sets of Standard Weights and Measures referred to in section 13 of the Act.

All words and expressions used and not defined in these rules but defined in the Act and the Standards of Weights and Measures Act, 1976, shall have the meanings respectively assigned to them in the Act and the Standards of Weights and Measure. Act, 1976.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983.

2. Reference Standards

The Secondary Standards shall be kept in iron safe in the custody of the Controller at Gangtok

3. Secondary Standards:

- (1) The Secondary Standards shall conform as regards denominations material used, in construction and 'design to the specifications' laid down in Schedule 1:
- (2) The Secondary Standards shall be kept in such custody as the Controller may direct
- (3) The Secondary Standards shall be verified with the Reference Standard at least once in every period of five years adjusted, if necessary and marked with date of verification by the Controller
- (4) The limits of error "which may be tolerated in the Secondary Standards on verification or reverification after adjustment shall be as specified in Schedule 10'

4 Working Standards

- (1) The 'Working Standards' shall conform as regards denominations material used in construction and design to the specifications. laid down in Schedule II.
- (2) The Working Standards shall be prepared at such place and authenticated by such person or authority as may be specified by the State Government- from time to time.
- (3) The Working Standards shall be kept in, the custody of the Inspectors in suitable wooden boxes.
- (4) A Working Standards. shall be verified with the Secondary Standards at least once every twelve months adjusted in necessary and stamped with the date of verification by, the Controller 'or such other person as may be authorized by him in this behalf.
- (5) The limits of error which may be tolerated in the working standards on verification or reverification after- adjustment shall be so; specified- in schedule II

5. Secondary Standard Balances:

- (1) A set of Secondary Standard Balances shall be 'maintained at every place where the Secondary Standards are kept.
- (2) The number, types and specification of such balance, shall be as laid down in Schedule III.
- (3) The Controller shall cause to be verified such balance.. at least: once in every twelve months and shall cause them to be adjusted, if necessary to make them correct within the' limits of sensitiveness and to have them stamped with, the date of verification.

THE SIKKIM:WEIGHTS AND MEASURES RULES, 19'83.**6. Working Standard Balance :**

- (1), The Controller shall supply to every Inspector a set of Working Standard Balance with each set of, working standard.
- (2) The 'types and specifications of such balance shall be laid down in Schedule IV
- (3) The Controller shall cause to be verified such balance by' the Deputy Controller or Assistant Controller at least once. in every twelve months and shall cause them to be adjusted, if necessary, to make them' correct within the limits of sensitiveness and to have them stamped with the date of verification.

7. Commercial Weights and Measures :

Commercial Weights and Measures of length and capacity shall conform with; regards denominations, materials used in construction and design to the specifications laid down in Schedule

8. Weights or Measures and Weighing and Measuring Instruments:

Weights (1) save as otherwise 'provided 'in these rules, every weight intended to be used :

- (a) in any transaction; or
- (b) for protection; or
- (c) for industrial production

Shall conform as regards denominations, dimensions, configuration, constructional details, and material used in construction to the specification laid down in Schedule VI and VII

(2) The tolerances on dimensions and maximum permissible, error in respect of such weight shall be such as are specified in the said Schedule.

- (3) Nothing in this rule shall apply to the product at an industry which is required by or under any law for the time being *in force*, to conform to any other specifications with regard to the matter's specified in sub-rule (1) or sub-rule(2) if, under such law, the product is required to-conform to the specifications laid down by the "International Organisation of Legal Metrology with regard to the matter aforesaid.

9. Use for Bullion weights and Carat Weights

(1)No weight other than bullion weight .shall ,be used in any transaction in bullion trade.' .

(2)No weights other ..than carat weight shall be used in any transaction involving of precious stones.

SIKKIM WEIGHTS AND, MEASURES RULES, 1983.**10. Carat Weights :**

(1) Every carat weight shall conform as regards denomination dimensions configuration; constructional details and material used in construction to the specification laid down in Schedule V.

(2) The tolerances on dimensions and maximum permissible errors in respect of of ,carat weight shall be as is specified in the Schedule-V.

11. Measures (.other than measuring instruments)

(1) Every measure intended to be used for

(2) any transaction, or

(3) protection, or

(4) industrial production,

Shall conform, as regards denomination dimensions, configuration, constructional details, and materials used in construction, to the corresponding specifications laid down for such measure in Schedule VI and VII

(2) The tolerance on dimension and maximum permissible error on such measure shall as is specified in the corresponding specifications laid down for such measure in the said Schedule, :

12. . Weighing and Measuring instruments :

Every weighing instrument intended to ,be used

(a) in any transaction or

(b) for protection

(c) for industrial production.

Shall conform; as regards metrological characteristics and, qualities, configuration, constructional details and materials used in construction to the specification laid down in Schedule VI and VII

Provided that, for a period of five years from the commencement of these rules, it shall be lawful to make or manufacture any weighing instrument in accordance with the provisions of the said schedule and every weighing instruments made ,or manufactured during the period aforesaid in accordance with the provisions of the said Schedule shall so long as such instrument lasts, be deemed to have been lawfully made or manufactured in accordance with the provisions of these rules.

THE SIKKIM WEIGHTS AND MEASURES RULES 1985

(2) Every measuring instrument to be used

- (a), in any transaction; or
- (b) for protection; or
- (c) for industrial production.

Shall conform, as regards metrological characteristics and qualities, configuration, constructional details and material used in, construction to the corresponding measuring instruments in Schedule VII.

(3) The tolerances on dimensions and maximum permissible errors on such weighing or measuring instruments shall be such as specified in the corresponding specifications laid down for such weighing or measuring instruments in Schedule VI or as the case may be, in the VIIIth Schedule.

13. Beam Scale in Trade or Commerce transaction.

Every person who uses a beam scale transactions for trade or commerce in the premises shall suspend the same to a stand or to a chain by- a hook

Provided that this rules shall not apply to hawkers and persons for doing any trade on Periodical bazaars or hats.

Provided further that if the State Government is satisfied that the requirement of this rule cannot be immediately complied with by any other class of person, the state Government may, by notification in the official Gazette, exempt such class of persons from the provisions of this rule for such period-as may be specified in such notification.

14. Transactional provisions

Weights, measures and weighing instrument, which do not conform to the requirements of these rules but which conform to the rules for the time being in force immediately before the commencement of these rules shall continue so long as use of such weights measure and weighing and measuring instruments is permitted under the standard of Weights and Measures Act, 1976

15. Place and Custody in which the Reference Secondary Standard and Working Standard shall be kept.

(1) Reference *standard* The reference standards shall be kept in iron safe in the custody of the Controller.

(2) Secondary Standard The 'Secondary standards shall be kept at such place, in such manner in such custody as the Controller may direct.

(3) *Working Standard* The Working standards shall be kept in suitable wooden boxes in the custody of the inspectors.

16. Licensing of manufactures, repairs and dealers of Weights, Measures etc:

(1) 'Every manufacturer or repairer' of, or dealer in weights, measures, weighing. or measuring instruments shall apply to the Controller In forms set out in Schedule XIII and shall obtain a licence from him in form the set out in' the said Schedule and .the license shall apply in, the from set out in the said Schedule' for renewal of the same .at least 'one month before its expiry and if he fails to do he shall within one, month of the date of expiry surrender it to the Controller.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983

(2) The 'Controller may by order, refuse to grant or renew the licence or suspend or cancel the licence of a manufacturer or repairer of, or dealer in weights, measures weighing instrument measuring instruments on the ground of want of proper and adequate workshop facilities or staff or in competency or failure, to comply with any provision of the Act or these rules

Provided that no such order shall be made without giving the aggrieved person an opportunity of stating his case.

17 . Terms and Conditions for grant of license or renewal of licence

Conditions, limitations and restrictions subject to which a licence may be granted

or renewed shall be such as are contained in the form set out in Schedule XIII The licence shall be valid for a period of one year.

(2) The fees payable for such licence and its renewal shall be as specified in Schedule

provided that after 10 days of expiry of the license, in addition to fees chargeable as aforesaid, an extra fee at rates equal to half the rate prescribed in the said Schedule shall be charged, if renewed within 30 days of the date of expiry. After 30 days of expiry of licence extra fee equal to the licence fee shall be charged for period of one month subject to maximum of five times of the licence fee.

(b) A rebate of 5 per cent of the licence fee shall be allowed, if licence for five years is taken at a time.

(3) (a) The fees payable for a duplicate copy of such license shall be equal to 10 per cent of the fees specified in schedule XIV.

(b) The fee payable for testing of samples of weights, measures weighing or measuring instruments shall be rupees one hundred only for each class of weights, measures or weighing or measuring instruments.

(4) The Controller or the officer- authorised by the state Government under sub-rule (1) may, by order, refuse to grant or; renew the license or suspended or cancel the licence of a manufacturer or repairer of, or dealer in, weights, measures, weighing or measuring instruments on the ground of Want of proper and adequate workshop facilities or staff or in competency or failure to observe and provision of the Act or these rules;

Provided that no such order shall be made without giving the aggrieved person an opportunity of being heard in person or through an agent

(5) The Controller shall maintain a Register of licensed manufactures, repairers and dealers in the form set, out in Schedule XV.

(6) Every repairer or dealer who has been granted a licence, under these rules shall on demand by an officer appointed under section 5 of the Act by any other officer-authorized in this behalf by the state Government produce the licence for inspection and in case the same is not readily available for production on demand, he may produce, it, at such hour and place, as may be specified in this behalf in writing by such officer, within seven days of the demand.

18 Security Deposit The Controller may require every repairer to furnish to the State Government security of a sum of Rs 100/in cash under proper head of the Government to enable it to compensate any owner of weight or measure for any loss or damage occasioned by such repairer

19. Sale of Weights or Measures by user

A user can sell such weight or measure of such description' as specified 'in Government notification in this behalf

20. Disposal of Weights or Measures :

Where any weight or measure is disposed of by way of auction under sub-section (5) of Section .17 of the Act, the sale proceeds thereof shall after deducting the expenses incurred with respect to conducting such sale by auction and that the amount . if. any , 'due to the State 'Government, be paid to such licensee whose licence .has been cancelled.

21 Records and Registers to be 'maintained by person.

referred to in section 20-Every manufacturer or repairer of or dealer in, weights measures or weighing. or measuring instruments shall maintain such .records in . such form and. submit such returns to such officer as the Controller may, subject to the orders of the State Government, direct from time to' time.

22. Periods within which weights or measures shall be verified :

(1) All weights' measures and- weighing and measuring instruments used, or intended to be used ,in transaction for trade 'or commerce shall be verified and stamped in accordance with the Act and these .rules at least once every year.
 . "Provided that a year shall be deemed to consist of four quarters of which 1st quarter shall be of the months of January, February and March 2nd quarter shall consist of the months of July, August. and. September and 4th quarter shall consist of the months of October, November and December.
 , Provided further that when any verification is done in 1st quarter, 2nd quarter, 3rd quarter 4th quarter_it shall expire on the following 31st March. 30th June, 30th September. and 31st December respectively.

(2) Notwithstanding anything contained in sub-rule (1) any weighing measuring instrument which has been verified and stamped -in shall it is removed and re-erected before the expiry of the period referred to in that sub-rule shall be verified and stamped in accordance 'with the Act 'and these Rules on such removal and re erection.

23. Step to be taken for verifying any weight or measure:

(1) An 'Inspector shall visit at a reasonable time every factory 'and other places in the area under his charge where weight, measures and weighing and measuring instrument are used,. or, kept for use for transaction for trade or commerce, for the purpose of verifying the same at least once during the period specified in rule ,22 and may also, from time to time; make such inspection as he may deem necessary.

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(2) Every person using weights, measures or weighing or measuring instruments in -transaction for trade or: commerce shall present such - weights or measures or weighing or measuring instruments for 'Verification at the office of the inspector or at .such other places the. inspector may specify in this behalf on or before the date on which the - verification falls due

Provided that where any such weighing or measuring instruments is of such type as .cannot be moved from its location, such person shall report to the inspector the date on which the .verification falls due such Inspector .shall take .steps for 'Verification of such weighing or measuring instruments.

(3) All weights. measures and weighing and measuring instruments shall be tested in a clean condition, and if necessary, the Inspector shall require the owners or user to clean . them.

(4) Where a weight or. measure or weighing or measuring instruments is brought to any Inspector for re-verification the Inspector shall deal with it in the same manner as at the time first original verification. but it shall not be .necessary for him to test a glass or earthen ware measure, unless the original stamp has been defaced.

(5) The denomination or capacity or a weight. measure, weighing or measuring instruments; if not marked in. full. shall be indicated by one of the abbreviations specified in Schedule VIII

(6) Where any such weighing or measuring ,instruments is of such type as cannot be ' moved from- its location. such person shall report the date on which the verification falls due to the Inspector who shall take steps for verification of such weighing or measuring instruments.

. (7) Any person who fails. to present his weight, measure or weighing or measuring instrument to the Inspector for verification and stamping within 15 days after die expiry of the period specified in sub-rule (1) of rule 22 he shall have to pay a surcharge at the rate equal' to the rate of verification fee for delay of every period of one month upto a maximum of twenty-five. times of such .,annual verification fee. .

(8) No weighment shall be done on a weight bridge after sunset or before 'sunrise, unless adequate arrangements for lighting are made.

(9) The gross weights of commodities in vehicle load (or tare weights of which) shall immediately be recorded by the trader or his agent and a signed record of weighment shall be handed over to the person concerned after each weighment is completed and before the vehicle. is removed from the weight bridge.

(10)' A trade shall provide such number of standard weights not exceeding one-fourth of the capacity of the machine as may be required by the Inspector for the purpose of verification re-verification and inspection of weighing instrument for capacities of above five hundred kilograms.

(11) To 'ensure a proper check of the accuracy of weighbridges and platform machines for Capacities up to five, tonnes, a trader shall keep at each weighbridge one tonne and for capacities of five tonnes. and above of standards weights or standard weights equal to one half of the capacity of the machine whichever is less along with-a set of small standard weights of such denominations as may be directed by the Controller :

Provided that the Controller' may fix the total number of standard weight to be maintained in trader premises where the number of Weighing machines is more than one.

(12) A trader or his agent shall notify to the Assistant Controller and Inspector the site of all weighbridges or platform machines and the name of persons, using or operating 'such weighbridge: or platform machines at least a 'month before the commencement of their use or operation and get them verified and stamped well in advance of their 'use,

(13) No weighbridge *or* platform machine after it has been so verified and stamped by an Inspector shall be removed or dismantled from its original site without the prior approval of the Controller or Deputy' Controller or Assistant Controller.

, (14) A trader or his agent shall cause to be prepared a list of persons 'using or operating a weighbridge or platform machine owned by him and shall display such list prominently and conspicuously at the state of use or operation of such weighbridge or platform machine.

24. Certificate of Verification :

Where any verification has been made by the Inspector under sub-section (3) of section 21 of the Act he shall be grant *to* the person referred to in sub-section (1) of the said section a certificate in the form appended to these rules indicating therein the particulars of the weight or measures verified and stamped by him.

25. The purpose for which an Inspector may enter into any premises :

The Inspector may enter into any premises for such other purposes other than those specified in sub-section (1) of section 26 of the Act if he thinks

- (a) that the weights and measures and weighing .:and measuring instruments . are not of the denominations as specified in Schedule V, VI and VII;
- (b) that they are false or' defective;
- (c) that fraud is committed in using them
- (d) that they are unstamped;
- (e) that the stamp on them is forged or transferred;
- (f) that the marking of net weight or measures of the article, package or container is false;
- (g) that it does not bear the label as required *by* the Act and these rules;
- (h) that the label is transferred or forged.

26. The manner in disposal of any goods which is subject to speedy or natural decay:

(1) Any goods seized under sub section (1) of section 28 shall if they are subject to speedy and natural decay , be disposed of by the sale of goods by auction to the highest bidder and for this purpose a notice of the date ,place of the sale and the particulars of the commodity to be sold shall be circulated wherever practicable

Provided that where any person is present at the time of seizure of goods ,such goods may be sold to him if he is prepared to offer the market price .In such case it shall not be necessary to circulate any notice of the sale of the concerned goods

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(2) In determining the proportional price at which the commodity contained in a package is to be sold under this rule, the price mentioned on the package shall be deemed to be the *market place* of the commodity exclusive of local taxes.

- (3) The proceeds of the sale of the seized goods shall be deposited-
- (a) Where any prosecution has been launched, 'in the court in which such prosecution has been so launched or:
- (b) 'Where no prosecution has been launched, in a suspense account pending the deposit thereof in the Court whenever the prosecution is, ultimately launched.

(4) The amount lying in the suspense account shall be referred to the owner of the seized goods if no prosecution is ultimately launched against such owner.

27. Manner of defacement of rejected weight or, measures:

The rejected weights or measures shall be defaced or obliterated by the Inspector' by stamping on such weights or measures with the obliterating stamp of uniform design issued by the Controller which shall also indicate the number allotted for administrative purposes to the Inspector by whom it is stamped.

28. Form in which appeals may be preferred and the procedure for the hearing of appeals :

(1) An appeal under section 67 of the Act against the decision of an Inspector

or an additional Control under chapter V, VI, VII, VIII or IX of the said Act shall be preferred to the Controller and shall be in the Form-appended as Schedule XVI.

(2) Appeals may be presented either in person or by an authorised representative to the Controller within the period specified in sub-section (20) of section ,67 of the Act. Appeals may also be sent by registered post addressed to the Controller so as to reach him within that period.

(3) The memorandum of appeal, in duplicate., before the Controller shall be accompanied by a certified copy of the, order appealed against and, shall bear the following endorsements - by the appellant or his agent authorised in writing in this behalf, namely:

(a) that so percent of the penalty imposed or such part thereof as is admitted which ever is higher, has been paid; and

(b) that to the best of his knowledge and behalf, the facts stated in. the memorandum of appeal are true.

(4) If the provisions of sub-rule (3) are not complied with memorandum of appeal shall be summarily rejected.

(5) The. Controller shall fix a date and place for the hearing of the appeal and may from time to time adjourn the hearing.

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(6) The Controller may, before disposing of any appeal, make such other enquiry as he thinks fit or cause further enquiry to be made by the Inspector Or the Additional Collector

(7) 'The Controller may at the hearing of an appeal, allow an applicant to go' into any ground of appeal not specified in the grounds of appeal, if the Controller is satisfied the on omission of that ground from the memorandum of appeal was not willful or unreasonable.

(8) The Controller shall on the conclusion of the appeal communicate the order passed by him to the appellant and to the appellate authority.

Appeal against the order passed by the Controller:

(1) Any person aggrieved by an order passed by the Controller may appeal to the appellate authority specially authorised in this behalf by the State Government within sixty days of the date on which such order is communicated to him.

(2). The appellate authority may admit an appeal after expiry at the sixty days, if .it is satisfied that there was sufficient cause for not presenting the appeal within that period.

(3) An appeal to the appellate authority shall be in the Form appended as Schedule XVI and shall be verified, in the manner indicated therein.

(4) The appellate authority may, before disposing of any appeal, make such enquiry or cause such enquiry to be made, and, subject to the provisions of the Act, may pass such order as he thinks fit :

Provided that no order shall be passed unless the appellant has been heard or has been given a reasonable opportunity of being heard either in person or through an agent.

30. Amounts of fees :

The amount of fees which may be levied and collected for each of the matters specified in section 68 of the Act shall be such as are specified in schedule XII.

31. Any person who violates any of the provisions of these rules shall be punishable with fine which may extend to one thousand rupees.

SCHEDULE - 1*(See Rule4) .***DENOMINATIONS, MATERIAL, SHAPE, PERMISSIBLE ERRORS OF SECONDARY STANDARDS OF WEIGHTS AND MEASURES****PART 1 SECONDARY STANDARD WEIGHTS****I.DENOMINATIONS**

Kilogram Series	Gram Series	Milligram Series
10	500	500
5	200	200
2	200	200
2	100	100
1	50	50
	20	20
	20	20
	10	10
	5	5
	2	2
	2	2
	1	1

2. MATERIAL

- (a) Weights of 10 kgs to 1 kg, shall be cast from admiralty bronze of the following composition.

Constituent	Percent
Tin	9.50 to 10.50
Zinc	1.50 to 2.50
Lead (Max)	0.50
Nickel Max	1.00
Other elements total Max:	0.50
Copper	Remainder

THE SIKKIM 'WEIGHTS AND MEASURES RULES, 1'983**PART III:- SECONDARY STANDARD LENGTH MEASURES**

- I. MATERIAL
58 percent nickel steel
2. SECTION
Rectangular cross-section with dimensions 38 mm X 15 mm.

The top surface shall have two rectangular grooves along its length.
3. OVERALL LENGTH
1030 mm
4. GRADUATED
1030 mm
5. FINISH
Bright, highly polished.
6. GRADUATIONS
Graduated in mm throughout.

7 THICKNESS OF GRADUATION MARKS
No less than 30 microns and not more than 50 microns.
- 8 TOLERANCE
The maximum permissible errors in the graduations shall be
 - (i) 25 microns between any 2 adjacent millimeter marks, provided that the error between any two consecutive centimeter marks shall also not, exceed 25 microns.
 - (ii) 50 microns between any two marks more- than 10 cm apart.

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SCHEDULE - II

(See Rule 4)

DENOMINATIONS, MATERIAL, SHAPE, PERMISSIBLE ERRORS FOR WORKING

**ST ANDARDS OF WEIGHTS AND MEASURES
PART 1 WORKING STANDARD WEIGHTS.**

I. DENOMINATIONS

Kilogram Series	Gram Series	Milligram Series
20	500	500
10	200	200
5	100	200
2	50	100
2	20	50
1	20	20
	10	20
	5	10
	2	
	2	5
	1	2
		2
		1

2. MATERIAL

- (a) Weights of 20 kg to 1.kg shall be cast from admiralty bronze or cupronickel of the following composition

THE SIKKIM WEIGHTS AND MEASURES RULES, 1983

Constituent	Percent
Admiralty Bronze	
Tin	9.5 to 10.50
Zinc	1.50 to 2.50
Lead (Maximum)	0.50
Nickel (Maximum)	1.00
Other elements total (Maximum)	0.15
Copper	Remainder
Curpro-Nickel	
Copper	79 to 81 percent
Nickel	19 to 21 percent
Total impurities, not exceed	1.5 percent

(b) . Weights of 500 mg to 100 mg shall be made for admiralty bronze (rolled) sheets. (Composition as in (a) above.)

(c) Weights of .500 mg. to 1 mg. shall be made out of commercially pure aluminum sheets. Copper, silicon ,and iron contained as impurities in commercially pure aluminum shall not exceed 0.3 percent.

3. SHAPE

- (a) Weights of 20 kg- and 10 kg shall be cylindrical in shape' and shall be cast in two halves. The top half being screwed snugly into the bottom half. The top half shall be cast in the form 'of a handle for lifting purposes. The two halves after assembly shall be locked by means of a setscrew, over which the seal of the verifying authority. shall be stamped.
- (b) Weights of 5 kg to 200 g (inclusive) shall be cast in two halves, the top half being screwed snugly into the bottom half. The top shall be cast in the form of a knob for ,lifting purposes. The two .halves, after assembly, shall be locked by means of a setscrew, over which the seal of the verifying authority shall be stamped.
- (c) Weights of 100 g to 10 g (inclusive) shall be as in (b) above except that there shall be no locking arrangement.
- (d) Weights of 5 g to 1 g (inclusive) shall be integral solid weights.
- (e) Weights of 500 mg to 1 mg (inclusive) shall be of square shape with one of the sides bent at right angles to the flat .surface for case of handling.
- (f) The denominations shall be marked on the weights.

THE SIKKIM WEIGHTS AND MEASURES RULES, 1983

4. **PERMISSIBLE ERRORS**

The permissible errors in excess and in deficiency shall be as follows :

Denomination	Permissible Error	
	in excess (in mg)	in Deficiency (in mg).
20 kg	200	100
10 kg	100	50
5 kg	50	25
2 kg	30	15
1 kg	20	10
500 g	10	5
200 g	8	4
100 g	6	3
50 g	4	2
20 g	3	1
10 g	2	1
5 g	1.6	0.8
1 g	1.2	0.6
500 mg	0.8	0.4
200 mg	0.8	0.4
100 mg	0.4	0.2
50 mg	0.4	0.2
20 mg	0.2	0.1
10 mg	0.2	0.1
5 mg	0.1	0.05
2 mg	0.1	0.05
1 mg	0.05	0.05

PART II:- WORKING STANDARD CAPACITY MEASURES

..

I. DENOMINATION

Litre Series (l)

10
5
2
2
1

Milliliters Series
(ml)

500
200
100
50
20

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2. MATERIALS OF CONSTRUCTION.

Working capacity standards shall be pressed out of oxygen free, deoxidized annealed copper sheets of deep drawing quality.

3, SHAPE

- (i) Working standard capacity measures of 10 litres with the handles securely fixed to the sides.
- (ii) All other working standard capacity measures shall also be cylindrical, but shall not be provided with handles. The diameter of each measure shall approximately be equal to the height of the measure. The measures shall be suitably re-enforced.
- (iii) The denominations of the working standard measures shall be engraved on the outside surface.
- (iv) The outside of the body of the working standard measures shall be oxidized to give a smooth dull black surface and the inside shall be tinned.
- (v) Each set working standard capacity measures shall be supplied with specially selected striking glasses and the measures and glasses shall be securely packed in velvet-lined teakwood boxes.

4. PERMISSIBLE ERRORS

Denomination	Permissible Errors	
	in excess (in full)	in deficiency (in full)
10 l	8	8
5 l	4	4
2 l	2	2
1 l	1.5	1.5
500 ml	1.0	1.0
200 ml	0.8	0.8
100 ml	0.6	0.6
50 ml	0.4	0.4
20 ml	0.2	0.2

PIPETTE MEASURES

Pipettes of the following description may also be used as working standard measures :

- (i) One mark pipettes of capacities 10 ml and 5ml
- (ii) Graduated pipettes of capacities .5ml graduated at every tenth of ml.

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PART III : WORKING STANDARD LENGTH MEASURES

1. MATERIAL

The working standard length measure shall be manufactured out of pure nickel (cobalt free) with a minimum of 99.0 per cent nickel.

2. SHAPE AND DIMENSIONS

The standard shall be of rectangular cross section of dimensions of 30 mm x 15 mm. The total length shall be 1050 mm. The standard shall be finished bright.

3. GRADUATIONS

- (a) The standard shall be graduated over a length of 1010mm from 10mm behind the zero line to 1000 mm beyond. From - 10 mm to plus 10 mm, every 5mm
- (b) The thickness of the graduation marks shall be between 50 and 80 microns.
- (c) The length of the graduation marks shall be

On every centimeter marks	8 mm
On every 5mm mark	5mm
On every millimeter marks	3 mm

4. TOLERANCES

The maximum permissible error on length from 0 to 1000 mm shall be +0.1mm and between any two consecutive mm. cm. and 10 cm mark + 0.05 mm.

5. MARKING

The standard shall have an Ashok Chakra and a distinctive mark to identify the manufacturer engraved along the centre line of the top surface. The height of the numerals and the letters shall be approximately 3 mm.

6. PROVISION FOR STAMPING

The standard shall be provided with a tapered hole to accommodate a stamping plug. This hole shall be approximately 5 mm in diameter and 3 mm in depth.

7. AUXILIARIES

The standard shall be housed in a suitable teak box with a carrying handle.

THE SIKKIM WEIGHTS AND MEASURES RULES, 1983

SCHEDULE - III
(See Rule 5)

SPECIFICATION FOR 'SECONDARY STANDARD BALANCE

I. RANGE OF BALANCES

Capacity	Sensitiveness .at no load and .at full load : mg/division of scale.	Scale Division
20 kg	25' mg	not less than 1.5 mm
5 kg	7.5mg	not less than 1 mm
1 kg	1.5mg	not less than 1 mm
50 g	0.4mg	not less than' 1 mm
2 g	0.02 mg	not less than 0. 75 mm

2. The secondary standard balance shall be used only for indoor work in laboratories.
3. The balances shall be relieved when not in operation.

THE SIKKIM. WEIGHTS AND MEASURES RULES, 1983

SCHEDULE IV

(See Rule 6)

WORKING STANDARD BALANCES

I. RANGE OF BALANCES

Capacity	Sensitiveness: mg/division or scale	Approximate Beam Length
50 kg	100	750 mm
5 kg	10	250- 300 mm
200 g	1.0	150-200 mm
2 g	0.02	120- 100 mm

2. TYPES

Working standard balances shall be both indoor ,and out door types

3. DESIGN & CONSTRUCTION

The balance. shall be constructed of non-magnetic materials and shall be robust in construction. They shall be capable of being easily assembled. Outdoor type balances shall .be fitted in suitable carrying cases to enable the balances to withstand rough transport conditions. Smaller balances i.e. capacity 5 kg and below shall be provided with glass cases. Portable balances of capacity 5 kg and below shall be fitted into one carrying case for case of transportation.

THE SIKKIM WEIGHTS AND MEASURES RULES, 1983

SCHEDULE V

(See Rule 7)

SPECIFICATIONS FOR COMMERCIAL WEIGHTS AND MEASURES OF LENGTH AND CAPACITY.

PART I-COMMERCIAL WEIGHTS (OTHER THAN CART WEIGHTS)

I. DENOMINATIONS

The denominations of the different types of weights shall be as follows:

- (a) Iron and steel weights
- | | | |
|--|-------|-------|
| | 50 kg | |
| | 20 kg | 500g |
| | 10 kg | 200 g |
| | 5 kg | 100g |
| | | 50g |
| | 2 kg | |
| | 1 kg | |
- (h) Brass and Bronze weights.
- | | | |
|---------|--------|--------------------|
| | | other than Bullion |
| Bullion | . 500g | 50 g |
| 20 kg | 200 g | 20 g |
| 10 kg | 100 g | .10 g |
| 5 kg | 50 g | 5 g |
| 2 kg | 20 g | 2 g |
| 1 kg | 10 g | 1 g |
| | 5g | |
| | 2 g | |
| | 1 g | |
- (c) Sheet Metal weights Bullion and other than Bullion
- | | |
|--------|-------|
| 500mg | 10 mg |
| 200 mg | 5 mg |
| 100 mg | .2 mg |
| 50mg | 1 mg |
| 20 mg | |
- (d) The actual series to be used in practice shall consist of two weights of denominations 2.20 or 200.
2. IRON AND STEEL WEIGHTS.
- (a) Materials:- Weights of 5'0 kg. and down to and including 5 kg shall be made only of cast iron. Weights from 2 kg. down to and including 50 g may be either of forged mild steel.

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FIG 1- CAST IRON WEIGHT CAST-IN HANDLE.

- (b) Shapes and Dimensions :-The shapes and dimensions of cast iron weight shall conform to Fig. 1 and 2 read with Tables 1 and 2 and those of mild steel shall conform to Fig. 2 read with Table 2.

FIG2 -CAST IRON FORGED MILD STEEL WEIGHTS

TABLE 1-DIMENSIONS OF CAST IRON WEIGHTS WITH CAST IN-HANDLE

Denomination

	A	B	C	D	E	G	P	Q	R	S	D
50kg.	236	253	134	170	100	27	58	48	24	102	32
20 kg..	188	200	112	113	90	21	44	38	19	66	22
10 kg..	152	161	92	88	74	18	36	30	15	54	19
5 kg..	125	132	74	65	62	15	29	25	12	40	16

All dimensions millimeters

tolerance on dimensions + 5 Percent

TABLE 2-DIMENSIONS FOR CAST IRON OR FORGED MILD STEEL WEIGHTS

All dimensions in millimeter

Denomination	A	B	C	D	H	P	Q	R	S	D
2 kg	94	101	78	41	10	34	30	9	18	4
1 kg	73	79	62	34	8	32	28	8	16	4
500 g	57	62	47	27	6	23	20	6	10	3
200. g	42	48	38	21	6	22	20	4	9	3
100 g	33	38	31	17	5	18	16	3	7	2.5
50 g	27	31	24	12	3	16	14	3	5	2

Note :- Tolerance on dimensions:

- for weight above 1 kg+ 5 percent
- for weight 1 kg and below + 10 percent.
- Cast in Handles- weights of denominations of 50 .kg and down to .and including 5 kg shall be provided with cast-in handles made of mild steel
- Nesting of weights- Weights of denominations of 2 kg and down to and including 50 g shall nest with each other.
- Loading Holes-Weights with cast-in handles see fig. 1 shall have one rectangular loading hole on the under surface, tapering outwards along the width, while the nesting weights (see Fig. 2) shall have one round loading hole, tapering outwards in the centre of the underside.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983.**1. Permissible Errors**

Denomination	Verification	Excess	Inspection
	Errors in excess only		Deficiency
	mg	<i>mg</i>	mg
50	20,000		10,000
20 kg	10,000		5,000
10 kg	5,000		2500
5 kg	3000	Error same as	1500
2 kg	1,600	in verification	800
1 kg	1,000		500
500 g	600		300
200 g	400		200
100 g	320		160
50 g	240		120

Note : New weights, when presented for checking and stamping, shall not weigh less than the denomination value plus 50 percent of the excess, tolerance shown' above.

3. BRASS AND BRONZE WEIGHTS

- (a) Materials : -The weights' shall be made of cast brass or cast bronze or pressed or turned from brass rods.
- (b) Shapes and Dimensions: - Brass and bronze weights shall be of the following types:
- (c) Bullion weights : (i) Weights of denominations of 20 kg and-down to and including 1 g shall be cylindrical in shape, with a handle for 20 kg and 10 kg weights and a knob for. the rest of the denominations. Shapes and dimensions shall conform to Fig 3 and 4- read with Tables 3 and4 respectively. Weights of 20 kg down to and including 200 g, shall be marked with. the words BULLION and with a 'diamond' as shown in Fig 3 and 4- and weights ' 100 g, down to and including 1 gm shall be marked with only. a 'diamond

FIG. 3-CYLINDRICAL BULLION WEIGHT WITH HANDLE

FIG. 4-CYLINDRICAL BULLION WEIGHT WITH KNOB

TABLE 3 :-DIMENSIONS FOR CYLINDRICAL BULLION WEIGHTS WITH HANDLE

(All dimensions in millimeters)

Denomination	A	B	C	D	E	F	H	J	K	L	M	N	P	R	S	U		
20 kg	141	142	96	130	35	25	60	30	20	25	60	25	35	180	25	33	26	
10 kg	112	112	80	108	30	20	20	50	25	15	21	50	20	29	145	25	28	20

Note:- Tolerance on all dimensions 5per cent

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TABLE 4:- DIMENSIONS FOR CYLINDRICAL BULLION WEIGHTS WITH KNOB

(All dimensions in millimeters)

5kg	87.0	81.0	57.0	27.0	30.0	20.0	44.0	23.0	18.0
2 kg	64.0	64.0	40.0	22.0	21.0	18.0	32.0	20.0	16.0
1 kg	51.0	51.0	32.0	19.0	16.0	13.0	26.0	17.0	14.0
500 g	40.0	40.0	25.0	16.0	12.5	9.0	20.0	15.0	12.0
200 g	30.0	30.0	19.0	13.0	8.5	6.0	15.0	13.0	10.0
100 g	24.0	23.0	16.0	11.0	6.5	5.0	12.0	10.5	8.0
50 g	19.0	18.5	13.0	9.0	5.0	4.0	10.0	8.5	6.0
20 g	14.0	13.5	10.0	7.0	3.5	3.0	8.0	7.0	5.0
10 g	11.0	11.0	8.0	4.0	3.5	2.5			
5g	8.5	9.0	6.0	3.0	3.0	2.0			
1 g	5.0	5.0	3.5	2.0	1.7	1.5			

Note-Tolerance on dimensions:-

- (a) for weights of above 1 kg 5 percent.
 (b) for weights 1 kg and below 10 per cent.

- (ii) Weights of denominations 1 kg and down to and including 1 g shall be flat cylindrical in shape (without a knob) and shall nest with each other. Shape and dimensions shall conform to Fig. {read with 'Table 5. Weights of 1 kg down to and including 20 g shall be marked with the words 'Bullion' and within a 'diamond' as shown in Fig. 5 and weights of 10 g and below down to and including 1 g shall be marked with only a diamond.

TABLE 5-DIMENSIONS FOR FLAT CYLINDRICAL BULLION

(All dimensions in millimeter)

Denomination	A	B	C	D		F	G
1 kg	80	61.5	20	23			
500 g						12	26.6
200 g					2.5	10	22.5
100 g						7	14.8
50 g					20	6	12.7
20 g						5	11.0
10 g					2.0	3	8.4
5 g							6.9
2 g							5.9
1 g							4.4
10 g					1.5		3.6
5g							
1 g					1.0		
1 g					1.0		
1 g							

None :- Tolerance on all dimensions + 10 per cent.

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- (I) Other than Bullion weights: (For supplementing the iron and steel series) weights of denominations 50 g down to ,and including 1 g shall be flat in shape and shall have a distinct downward taper. Shapes and dimensions shall conform to Fig, 6 read with Table 6.

TABLE 6- DIMENSIONS FOR FLAT WEIGHTS OTHER THAN BULLION

(All dimensions in millimeters)

Denomination	A	B	C	D	E	F	G	H	J
50 g	31.5	21.5	10.0	28.0	1.5	5.0	8.9	11.0	1.0
20 g	23.5	16.6	9.0	21.0	1.5	3.0	65	10.0	1.0
10 g	48.0	12.0	..	16.5	1.5		5.3		0.5
5g	13.5	9.5	..	12.0	1.0		4.8		0.5
2 g	40.0	7.0	..	9.0	1.0		3.5		0.5
1g	7.5	5.0	..	6.5			2.7		0.5

Note- Tolerance on all dimension 10 percent.

The upper side of 1 g weight is not scooped out like that of other weights. This dimension refers to the diameter of the flat portion.,

- (c) Loading Holes:- Weights of denominations 20 kg and down to and including 20 g shall have a round loading hole, tapering outwards in the centre of the underside (see Fig. 3.4. 5 and 6)
- (d) Permissible. Errors.

Denomination	Verification Errors in express only			Inspection Other than ,Bullion weights		
	Bullion weights Other than Bullion		Bullion	Deficiency mg	Excess mg	weights deficiency mg
	Weights mg	mg				
20kg	500			250		
10kg	250		125			
5kg	150		75			
2kg	80		error same	10	error	
1kg	50		as in	25	same as in	
500g	30		verification	15		
200g	20			10		
100g	16			8		
50g	12	60		6		30
20g	10	50		5		25
10g	8	40		4		20
5g	6	30		3		15
2g	4	20		2		10
1g	4	10		1		5

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METAL WEIGHTS

4. SHEET Materials:- Sheet metal weights shall be made of stainless steel aluminum, brass or nickel-silver sheets.
- (a) Shapes and Dimensions:
- (b) Other than Bullion Weights-After bending along one of the sides (see figure 7) the weights shall have the dimensions given in Table 7 and the following shapes:

Denomination shape

mg	
500,50,5	Hexagon
200,20,2	Square
10010,1	Triangle

DIMENSION FOR SHEET METAL WEIGHTS

(All dimensions in millimeters)

Denomination	A1	A2	A3	B	H
500 mg	140			2.0	3.0
200 mg		120		2.0	2.5
100 mg			120	2.0	2.5
50 mg		70		1.5	2.5
10 mg			7.0	1.5	2.0
5 mg	45.			1.0	2.0
2 mg		40		1.0	2.0
1 mg			4.0		

Note-Tolerance on all dimensions 10 per cent.

- (ii) Bullion Weights-When intended for use in the bullion trade, sheet metal weights shall, after bending, have circular shape their diameters shall be as given in Fig 8 read with Table 8.

TABLE 8. -DIMENSIONS FOR SHEET METAL WEIGHTS (BULLION)
(All dimensions in millimeters)

Denomination	D	C	H
500 mg	15	20	3.5
200 mg	13	2.0	3.0
100 mg	11	2.0	2.0
50 mg	9	15'	2.0
20 mg	8	15'	2.5
10 mg	7	15'	2.5
5mg	6	15'	2.5
2 mg	4	1.0	2.0
1 mg	4	1.0	2.0

Note-Tolerance on all dimensions + 10 per cent.

(c) Permissible Errors

Denomination	Verification Errors in express only'			Inspection			
	Bullion weights'	Other than Bullion weights	Bullion weights	Bullion weights		Other than Bullion weights	
	-			Excess	Deficiency	Excess	Deficiency
mg	mg	mg		mg	mg	mg	mg
1	2	3	4-	5	6	7	
500	1.6	8.0		0.8			4-.0
200	1.2	6.0	Errors same as in Verification	0.6	Errors same as in Verification		3.0
100	0.8	4-.0		0.4			2.0
50	0.4-	2.0		0.2			1.0
20	0.4-	2.0		0.2			1.0
10	0.2	1.0		0.1			0.5
5	0.2	0.4		0.1			0.2
2	0.2	0.2		0.1			0.1
1	0.1	0.1					0.05

5. MANUFACTURE AND FINISH

- (a) General - When the weights are cast, the castings shall be reasonably smooth and free from dross, pits, blow holes and other defects. When the weights are made by machining or forging, the surface shall be reasonably smooth. Sheet, metal, weights shall be clearly sheared and shall be free from burns. Cast iron and forged weights shall be coated with a thin film of suitable black paint or varnish.
- (b) The raised markings on weights shall be clean, and legible. The stamped markings on sheet metal weights shall be legible and deep enough to ensure indelibility over a long period, but not so deep as to crack the sheet.
- (c) When lid is used in adjusting weights it shall be so fitted as to ensure that it does not dislodge itself under normal conditions of use.
- (d) The steel handles of cast iron weights shall be rigidly fixed.

6. Marking

- (a) Every weight except weights or 20g and lower denominations, shall have the manufacturers name or trade mark indelibly or stamped on it.
- (b) The denominations shall be indicated in an indelible manner with the abbreviation kg + to indicate kilogram, g++ to indicate gram and mg+++ to indicate milligram

The size of numerals and letters (letters need not be stamped on weights 50 mg and below and on bullion weights with knobs of denominations 5 g and below) indicating denominations of weights shall be at least twice the size of letters indicating the manufacturer's name or trade mark. The numerals used in the denomination shall be only Indo-Arabic figures.

The smallest weight which can be stamped fully is the 50 mg weight. All commercial weights from 50 mg and above, shall be stamped with all 3 stamps. Weights of 20 mg shall be stamped with one stamp only, that is the date stamp. Weights of 10 mg and below shall not be stamped at all. If they are contained in a box, the box shall be stamped and certified. If there is no box, the weights shall be authenticated by a certificate of verification

1. ADJUSTMENTS

The weights provided with loading holes shall be adjusted by pouring the required weighted quantity of molten lead into the loading hole and pressing the lead firmly. The approximate distance of the lead from the surface shall be not more than 20 percent of the minimum thickness of the weight when new;

PART II COMMERCIAL CARAT WEIGHTS

I. GENERAL

- (a) This part prescribes the requirements for commercial metric carat weights intended for use in weights pearls, diamonds and other precious stones.
- (b) For easy calculation and convenience in use, a carat is sub-divided into 100 parts called Cents. Thus, a cent equals 2 mg. Fractions of a carat are expressed with 100 as the denominator, the numerator representing the number of cents in the fraction for example 0.5 carat is designated as 50/100 carat.

2. DENOMINATIONS

- (a) The denominations of the carat weights shall be as given below -

- (i)

Knob Weights	Denominations
500	Carat
200	10
100	15
50	2
	1

- (ii). Sheet Metal Weights

DENOMINATION	
carat (c)	
. 2	5/100
1	2/100
50/100	1/100
20/100	05/100
10/100	

There shall be two weights each of the denominations 2,20 or 200 and 2/100,20/100 carats.

3. KNOB WEIGHTS

- (a) Materials- The weights shall be made from rolled, drawn or extruded material and shall not be cast. The weights shall be made from brass, bronze nickel - silver, non-magnetic nickel-chromium or non-magnetic stainless steel

TABLE I - NOMINAL DIMENSIONS OF KNOB CARAT WEIGHTS

Denomination (Carat) (c)	(All dimensions in mm)							
	A	B	C	D	E	F	G	H
500	12	25	125	5.0	1.5	8.0	33.2	13.26
200	10	22	110	4.5	1.5	6.5	24.4	9.60
100	9	20	100	4.0	1.0	6.0	19.1	7.63
50	8	18	090	3.5	1.0	5.5	15.0	5.95
20	7	17	085	3.0	1.0	5.0	10.8	4.13
10	6	16	080	2.5	1.0	4.5	8.2	3.26
5	5	15	075	2.0	1.0	4.0	6.3	2.49

These are recommended dimensions.

Note :- The above nominal dimensions are related to a material with a density of 8.4g/ cm³. To take into account variations in materials and manufacturing practices a tolerance of + 5 percent is permitted on the dimensions except on C ,and E.

FIG. I - KNOB CARAT WEIGHT

- (a) Shape and Dimensions - The shape and dimensions of the weights shall be as shown in Fig. I and Table I
- (c) Permissible Errors

Denomination	Verification	Inspection	
	Errors in Excess only	Excess	Deficiency
Carat (C)	mg		mg
500	8.0	same as on Verifica- tion	4.0
200	6.0		3.0
100	5.0		2.5
50	4.0		2.0
20	3.0		1.5
10	2.0		1.0
5	1.0	0.5	

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4. SHEET METAL WEIGHTS

- (a) Materials.-Weights of denominations 2/100 carat and below shall be made of aluminium sheet. Weights of higher denominations shall be made of sheets of brass, aluminium, nickel-silver, nickel-chromium or bronze.
- (b) Shape and Dimensions.-Sheet metal weights, shall be square with a raised corner for easy handling (See fig. 2). They, shall have the dimensions' given in Table 2.

TABLE 2:- NOMINAL DIMENSIONS OF SHEET METAL CARAT WEIGHTS'

Denominations Carat (c)	Size (a) mm
2	12
1	9
50/100	9
20/100	8
10/100	7
5/100	6
2/100	5
1/100	4
0.5/100	3
Tolerance	10 percent

FIG. 2 - SHEET METAL CARAT WEIGHTS

(c) Permissible Errors

Denomination	Verification		Inspection
	Errors in excess only	Excess	Deficiency
carat	mg		mg
2	0.8	same as on verification	0.4
1	0.6		0.3
50/100	0.4		0.2
20/100	0.2		0.01
10/100	0.2		0.01
5/100	0.1		0.05
2/100	0.1		0.05
1/100	0.1		0.05
0.5/100	0.1		0.05

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5. MANUFACTURE AND FINISH

- (a) The surface of the weights shall be reasonably smooth. Sheet-metal weights shall be smoothly sheared and shall be free from burrs.
- (b) For better stability and finish, the weights may be nickel-chromium, gold or rhodium-plated.

b. MARKING

- (a) Every weight, except weights of 50 carat and lower denomination, shall have the manufacture's name or trade mark and the denomination indelibly stamped.

The denomination shall be marked in the Indo-Arabic numerals prefixed and suffixed by the letters 'c' respectively, except that in the case of weights below 50 carat, only the numerals shall be marked. The size of the numerals and letters indicating denominations of weights shall be at least double the size of letters indicating the manufacturer's name or trade mark.

- (b) The markings shall be legible and deep enough to ensure indelibility over a long period of use, but not so deep as to crack the weight itself.

PART III. COMMERCIAL LIQUID CAPACITY MEASURES

I. GENERAL

This part deals with two types of cylindrical liquid measures, namely the dipping and the pouring types and one type of conical measures.

z. DENOMINATIONS

The denominations of the different types of measures shall be as under:

Cylindrical measures		Conical measures
Dipping type	Pouring type	
1 litre	2 litres	20 litres
500ml	1 liter	10litres
200 ml	500 ml	5 litres
100 ml	200 ml	2 litres.
	100ml	1litres
50ml	50ml	500ml
20ml	20 ml	100ml

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3. SHAPES AND DIMENSIONS

- (a) 'The shape and dimensions of the cylindrical measures (dipping and pouring types) shall be as shown in Fig. 1. (A) and I. (B) and Table I.

FIG. IA 'DIPPING TYPE CYLINDRICAL. MEASURES (SCHEMATIC)

FIG.: IB - POURING TYPE. CYLINDRICAL MEASURES (SCHEMATIC) TABLE

'NOMINAL DIMENSIONS OF CYLINDRICAL CAPACITY.MEASURES

Denomination	D	H	B		G
			Max.	Min.	
2 litres	120	180,	360	250	1.60
1 litre	95	142	254	210	1.60
500 ml	75	114	'224	160	1.60
200 ml	555	83	166	120	1.25
100 ml	44	66	132	100	1.25
50 ml	35	52	104	80	1.25
20 ml	26	18	16	60	1.00

NOTE 1.- All, dimensions in millimetres.

NOTE 1.- Tolerance on dimensions + 10 percent

- (b) The shape and dimensions of conical measures shall be as shown in Fig. 2' and Table 2:

Denominations	A	B	C	D	E	F	G	H	I	J	K
20 litres	91	388	388	208	194	390	1.00	35	86	29	30
10 litres	17	308	507	174	154	309	1.00	30	75	26	25'
5 litres	61	244	245	147	122	147	0.80	25	65.5	24	20
2 litres	45'	180	180.	118	90	182	0.80	,20	56	22	16
1 litre	36	143	143	95.5	72	145'	0.63	.20	45	18	16
500ml	28	114	113	74	56	115	0.63 ,	15	35	14	12
200 ml	21	84.	84	53	42,	86	0.63	10	24.5	10	8
100 ml	17	66	'67	41	34..	'69'	0.63	1'0	'18.5	7	8

NOTE 1 - All dimensions in millimetres

NOTE, 2 Tolerance on dimensions + 10 percent except in' case of' 10 litres and 20 litre measures for which the tolerance, shall be + 5 percent.

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4. MATERIALS

- (a) Cylindrical Measures. - The body cylindrical measures shall be manufactured in one piece from aluminium alloy sheets, brass sheets or stainless steel sheets. The minimum thickness of the sheets shall be as specified in Table 1
- (b) Conical Measures. - The conical measures shall be fabricated from galvanized steel sheets, aluminium alloy sheets, copper sheets, brass sheets, stainless steel sheets or tin-plate. The minimum thickness of the sheets shall be as specified in Table 2.
- (c) The handles for the measures shall be fabricated from the same materials as that used for the body.

1. MANUFACTURE AND FINISH

- (a) Cylindrical measures made of brass sheets and copper sheet shall be well tinned or tin-plated uniformly all over the inside as well as the outside surfaces. Conical measures made of brass sheets or copper sheets, shall be well tinned or tinplated uniformly all of the inside when they are used. for measuring commodities like milk, edible oils and such other food articles.
- (b) The handles shall be of robust construction and shall be well formed and shaped generally as shown in Fig. 1 and Fig. 2. They shall be security fixed to the body by means of riveting, soldering or brazing.

NOTE ;-- Capacity measures when used for measuring milk shall have the handle fixed by welding, soldering or brazing so as not to leave pockets in which dirt may accumulate.

NOTE ; Dipping type of cylindrical measures may also have handles substituted by two suitable but diagonally opposite brackets affixed to the walls of the measure by means of soldering, brazing or welding so as to hold them properly by a handle at right angles to the walls of the measures to facilitate its use in butter and boiled milk trade.

- (c) the measures shall be free from any surface defects and indentations and shall be free from any surface defects and indentations and shall be smoothly finished at the top.
- (d) Cylindrical measures shall be provided with a well formed and proportioned spout to facilitate pouring.
- (e) Conical measures shall be provided with a retaining lip to avoid spilling. The retaining lip shall be provided with a plug of suitable materials with a collar to receive the lead for the Inspector's seal. A small hole about 5 mm in diameter,

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shall be provided at the bottom of the retaining lip to indicate the level to which the measures shall be filled and the hole shall be located on the side at right angles to the handle. The bottom of conical measures shall be suitably reinforced.

- (f) The measures shall be so designed that when they are tilted 120 degrees from the vertical, they shall become completely empty.
- (g) The finished measures shall have adequate robustness for durability

6. PERMISSIBLE ERRORS

Denomination	Verification Errors in excess only			Inspection Errors		
	Cylindrical Measures	Conical Measures	Cylindrical Measures	Conical Measures		
	m	ml	Excess	Deficiency	Excess	Deficiency
20 l			100			50
10 l			50	Error same		25
5 l			30	as in		15
2 l			15	verification	15	7.5
1 l			10		10	5
500ml			8		6.5	4
200ml			4		4	2
100ml			3		2.5	9.5
50ml				1.5		
20ml						

7. MARKING

- (a) Every cylindrical measure shall have the denomination and manufacturer's name or trade-mark indelibly stamped on it. In the case of conical measures, the denomination and manufacturer's name or trade-mark shall be either embossed on the body or indelibly marked on a name plate securely fixed to the body.
- (b) The denominations shall be indicated with the abbreviations "l" for litre; and ml to indicate millilitre.

The size of numerals and letters indicating denominations on the measures shall be twice the size of the letters indicating the manufacturer's name or trade-mark.

PART - SPECIAL MEASURE FOR PETROLEUM PRODUCTS

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I. GENERAL

This part deals with a special capacity measures which may be used for petroleum products, in addition to the conical measures prescribed in Part III of this Schedule. The measures shall be used for any other commodity.

2. DENOMINATION

The special measure shall have a capacity of 18.5 litres.

3. SHAPE AND DIMENSIONS

The shape and dimensions of the special measure shall be as indicated in Figure I.

4. MATERIALS

The measure shall be fabricated from galvanized steel sheets, aluminium alloy sheets, copper sheets, brass sheets, stainless steel sheets or tinfoil. The minimum thickness of the sheet shall be indicated in Fig. 1- The handle shall be fabricated from the same material as that used for the body.

5. PERMISSIBLE ERROR

The maximum permissible error for verification as well as for inspection shall be as follows :

Verification: Excess only	100 ml.
Inspection: Excess	100ml.
: Deficiency	50 ml.

PART V - DISPENSING MEASURES

I. GENERAL

This part deals with two types of dispensing measure made of glass and transparent plastic materials. used for dispensing purposes. Conical dispensing measures of capacity 100ml may also be used in the sale of liquor.

2. TYPES AND DENOMINATIONS

Dispensing measures shall be of the following types and denominations

(a) Conical Measures - 200 ml, 100 ml, 50 ml, 20ml 10 ml, & 5 ml.

(b) Beaker Measures - 1000 ml and 500 ml.

3 MATERIALS

(a) Glass Measures - The measures shall be made of clear and transparent glass. They shall be well concealed ; free from stones, cracks and chippings; and as free as possible from blisters and other defects. Lead glass shall not be used for the measures.

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- (b) Transparent Plastic Measures:- The measures shall be made of clear and transparent plastic materials, manufactured from plasticized polyvinyl chloride or copolymer, the major constituent of which is polyvinyl chloride. The plastic material used shall not contain any constituents known to be injurious to health and likely to be extracted by contact with liquids;

4. DEFINITION CAPACITY

The capacity corresponding to any graduation mark is defined as the volume of water at 27°C, expressed in millimeters, required to fill the measure to that graduation mark at 27°C, the observer's eye being level with the front graduation mark and the lowest point of the water meniscus appearing to touch the top edge of that mark.

5. CONICAL MEASURES

- (a) Shape. - The measures shall be conical as shown in Fig A to 1 G; till such measures shall either tall or squat as shown in Fig. 1 C and I D respectively.
- (b) Construction
- (i) Each measure shall have a pouring lip. The form of the lip shall be such that when the measure is filled with water to the highest graduation mark, the contents may be poured from the lip in a stream falling clear of the outside of the measure.
- (ii) Each measure shall have a base on which it shall stand vertically without rocking when placed on a horizontal surface. The size of the base shall be such that the measure, when empty, shall not fall when placed on a plain inclined at 15° to the horizontal. The bottom of the measuring space shall be uniformly rounded and shall merge smoothly into the sides of the measure.
- (iii) The wall thickness of the measures shall be sufficient to ensure sturdy construction and shall not show any local departures from uniformity.
- (iv) The external surface of the measure shall be a cone having an included angle of not less than 13° and not more than 14°.
- (v) The overall volume of the measure shall be such that when it is filled with water to the highest graduation mark and a volume of water equal to half its nominal capacity is added to it, there shall be no overflow. But, the addition of a further quantity of water equal to quarter the nominal capacity shall result in water overflowing from the pouring lip.
- (c) Graduations
- (i) The conical measures shall be graduated in accordance with Table 1

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I-DETAILS OF CONICAL MEASURES

Denomination	Graduated At	Numbered At	Back lines At	Lowest Graduation	Height of lowest Graduation Mark above Bottom of Measuring Space	Minimum Length of Mark	
1 ml	2 ml	3 ml	4 ml	5 ml	6 cm	7 cm	
200	50,100,120, 140,160,180, 200	50,100, 120, 140, 160, 180, 200	50, 100, 200	50	6.5	0.5.	2.0
100	Every 10 ml from 10 to 100ml	10,20,40, 60,80,100.	20,60, 100	.10	3.0	5.0	1.75
50(Tall)	Every 10 ml 50 ml.	10,30,50	30,50	10	4.0	0.5	1.5
50 (Squat)	Every 10ml from 10 to 50ml	10,30,50	30,50	10	2.0	0.5	1.5
20	Every 5 ml from 5 to 20 ml	5, 10,20	10,.20	5	2.5	0.5	1.25
10	Every ml from 2 to 10 ml	2,4,6,8, 10	2,6,10	2	2.5	0.5	1.0
5	Every ml from 1 to 5 ml.	1 ,3, 5,	3.,5	1	2.5	0.5	0.75

- (ii) With the pouring lip measure facing to the right, the front graduation mark shall be placed at right angles to, and on the right hand side of a vertical line extending from above the top graduation marks to near the base of the measure and below the bottom graduation mark.
- (iii) The graduation marks shall be marked as shown in Fig. I A to I G. The marks shall be engraved or etched and they shall be of uniform thickness not exceeding 0.3 mm, provided that they may taper slightly towards the ends. The graduation marks shall lie in planes perpendicular to the axis of the measure and shall be horizontal when the measure is standing on a horizontal surface.
- (iv) Each graduation number shall be etched or engraved close to the end, of the graduation marks to which it relates and in such a manner that it would be bisected by a prolongation of that graduation marks.

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- (v) . The numbered graduation marks shall have the minimum length specified in Col. 7 of Table I: The unnumbered graduation marks shall be at least two third the length of the numbered graduation marks and clearly shorter than the numbered marks.
- (vi) The height of the lowest graduation mark above the lowest point of the bottom of the measuring space shall be within the limits given in Col 6 of Table I.
- (d) Permissible Errors - The permissible errors in capacity shall not exceed the, figures given below (see Table 2). The permissible errors in excess or deficiency shall be the same for verification of inspection.

TABLE 2 - PERMISSIBLE ERRORS IN CAPACITY OF CONICAL MEASURES

Capacity corresponding to Graduation Mark	Measures except 50 ml (Squat)	50 ml (Squat) measures
1 ml	2 ml	3 ml
200,180,160, 140,120,100 90,80,70,60, 50,40	3.0 2.0 1.5 1.0	1.0
30 20	0.8 0.6	1.0 0.8
15 10,9 8,7,6,	0.5 0.4 0.3	0.6
1 ml	2 ml	3 ml
5 4 ...	0.25 0.20	
.3	0.16	
2 1	0.12 0.08	

Note : The permissible errors, apart from those of the 50 ml. squat measure, apply to graduation marks corresponding to the capacities stated; irrespective of the nominal capacity of the conical measure concerned.

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6. (1) Shape:- The measures shall be in the form shown in Fig. 2 A and 2 B. (b)

CONSTRUCTION

- (i) Each measure shall be provided with a pouring lip. The form of the lip shall be such that, when the measure is filled with water to the highest graduation mark, the contents may be poured from the lip in a stream falling clear of the outside of the measure.
- (ii) Each measure shall be provided with a base on which it shall stand vertically without rocking when placed on a horizontal surface. The size of the base shall be such that measure, when empty, shall not fall when, placed on a plane inclined at 15 degrees to the horizontal. The bottom of the measuring space shall be uniformly rounded and shall merge smoothly into the sides of the measure.
- (iii) The overall volume of the measure shall be such that when the measure is filled with water to the highest graduation mark and a volume of water equal to quarter the denominated volume is added to it, the water shall not overflow.

(c) GRADUATIONS

- (i) The graduation marks shall be marked as shown in Fig. 2 A and 2 B and Table 3. The marks shall be etched or engraved and shall be of a uniform thickness not exceeding 0.3 mm. provided that they may taper slightly towards the ends. The graduation marks shall lie in planes perpendicular to the axis of the measures and shall be horizontal when the measure is standing on a horizontal surface.
- (ii) Each graduation number shall be etched or engraved close to the end of the graduation mark to which it relates and in such a manner that it would be bisected by a prolongation of that graduation mark.
- (iii) The distance between the highest and the lowest graduation marks and the height of the lowest graduation mark above the inside of the base of the measure shall be in accordance with cols. (3) and (4) respectively of Table 3.

TABLE 3 - GRADUATION AND DIMENSIONS OF BEAKER MEASURES

Denomination	Graduation At	Distance between lowest and highest graduation marks	Height of lowest graduation mark above bottom of measuring surface	Diameter of Top	Min. Diameter of base	Over-all Height
1 ml	2	3 cm	4 cm	5 cm	6 cm	7 cm
1000	200 to 1000 ml at each 100 ml numbered at each 200 ml unnumbered. back lines at 200, 600 and 1000 ml.	11 +1	4+1	12	9	23

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500 100 to 500 ml at each 9+0.5 3+0.5 10 8 18
50 ml numbered at

each 100 ml; unnumbered back lines at 100,300 and 500. These are only recommendatory.

- (d) Permissible Errors. - The permissible errors in excess or in deficiency for verification or inspection shall not exceed 7 ml for 1000 ml measures and 5 ml for 500 ml measure.

7. MARKING

Each measure shall have permanently and legibly engraved or etched on it its denomination in Indo Arabic numerals, the abbreviation 'ml' and 'being used to indicate milliliters.

The manufacturer's name or trade mark shall be marked on the underside of the base of each measure.

PART VI - SPECIAL MEASURES FOR LIQUOR

I. GENERAL

This part deals with special measures which may be used in transactions in liquor.

2. BEAKER MEASURES

- (a) .Material :- The measure shall be made of glass.
- (b) Denomination and Graduation :- It shall be of the denomination of 300 ml. It shall have graduation mark at 100 ml, 120 ml, 150 ml, 180ml, 200 ml, 250 ml. and 300 ml.
- (c) Permissible Errors :- The permissible errors shall be as follows.
- | Graduation Marks | Maximum Permissible Errors |
|--------------------------------------|----------------------------|
| 100 ml, 120 ml | +2 ml |
| 150ml, 180 ml, 200 ml; 250 ml 300 ml | +3 ml |

3. PEG MEASURES

- (a) Peg Measures :- Peg measures may be of the denominations 60 ml and 30ml.
- (b) Permissible Errors :- The permissible errors shall be as follows :
- | Capacity | Maximum Permissible Error |
|----------|---------------------------|
| 60 ml | +2 ml |
| 30 ml | +1 ml |

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PART VII COMMERCIAL LENGTH MEASURE (NON-FLEXIBLE)

I. GENERAL

This part deals with the non-flexible type of commercial length measures made of metal or wood

2. DENOMINATIONS

The denominations of the length measures shall be as follows:

Metallic Measures	Wooden Measures
1m	2m
0.5m	1m.
	0.5m

3. METALLIC MEASURES

(a) Materials:- The measures shall be made from mild steel or brass or from stainless steel.

(b) Shape and Dimensions :- The shape- and dimensions 'of the -measures shall be as shown in Fig. I.

(c) Graduations.

(i) The ,graduation marks shall be made at every centimeter for the first ten centimeter' and there after at every five centimeters. The graduation marks at every ten centimeters shall be numbered. The marks .at the centimeter divisions shall extend over half the breadth and those at five centimeter divisions or: breadth of the measures.

A cross marks shall be provided at 25 centimeters in the case of 0.5 m measure and at 25.50 and 75 cm in the case of 1 m measure (see Fig. I).

(ii) 'The graduations shall be only on one side of the measure.

(d) Permissible Errors The mark at every. five centimeters shall not exceed or be deficient by more than 0.25 mm; and further the error from the beginning of the measure to any line mark shall not exceed 1.0 mm, always provided that the errors .on the full length of the measures shall not exceed the following' limits :

Denomination	Verification		Inspection	
	Excess	Deficiency	Excess	Deficiency
1m	1.0 'mm .	<i>0.5mm</i>		.0.5mm
.0.5 m	<i>0.5' mm</i>	<i>0.25 mm</i>	<i>0.5mm</i>	1.0mm

Provision for .stamping :- The measures shall 'be' provided a copper wire near each' end (see Fig; I) firmly fixed in a hole countersunk on both sides, for the Inspector's stamp. An arrow head shall be marked at each end of the measures to provide the points for checking the length

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4. WOODEN MEASURES

- (a) Materials.- The measures shall be made from well seasoned timber of anyone of the following species :-
- (i) teak (*Tectona grandis* Linn. f)
 - (ii) rosewood (*Delbergia Latifolia* Roxb.)
 - (iii) shisham (*Dalbergia sissoo* Roxb.)
 - (iv) haldu (*Adhina cordi folia* Hook. f)
 - (v) bijasal (*Pterocarpus marsupium* Roxb.)
 - (vi) boxwood (*Buxux sempervirens*)
 - (vii) beech (*Fagus sylvatica.*)
- (b) Shape and Dimensions :- The shape and dimensions of the measures shall be as shown in Fig. 2. .
- (c) Graduation: - The graduation marks shall be made at every centimeter or at every centimeter for the first ten centimeters and, therefore, at every five centimeters. The graduation marks at every ten centimeters shall be numbered. The marks at the centimeter divisions shall extend over half the breadth and those at the five centimeter divisions over the full breadth' of the measures.. A cross mark shall be provided at every 25 cm, excluding the one meter and two meter graduations (see Fig. 2.) .
- (d) Permissible Errors :- The mark at every five centimeters shall not exceed or be deficient by more than 1 mm, and further the error from the beginning of the measures to any line mark shall not exceed 2 mm; always provided that the errors on the full length of the measure shall not exceed the following limits.

Verification

Inspection

Denomination

	Excess	Deficiency	Excess	Deficiency
2m	4mm	2mm	4mm	4mm
1m	2 mm	1mm	2 mm	2 mm
0.5m	1 mm	0.5 mm	1 mm	1 mm

- (e) Provision for Stamping :- Each measure shall be provided at each end with a metal tip not less than 1 cm in width, securely riveted with two rivets at each end as shown in Fig. 2, for receiving the Inspector's stamp. The width of the tips shall be included in the total length of the measure.

5. MANUFACTURE AND FINISH

- (a) The measure shall be evenly finished and shall be reasonably straight.
- (b) In the case of metallic measures, the graduation marks and the cross marks shall be legible and deep enough to ensure indelibility over a reasonably long period of use, but not so deep as to mark the measures liable to be easily bent. In the case of wooden measures, the markings shall be finished neatly, sharply and legibly; in a color contrasting with the wood finish. They shall be visible' from a distance and shall remain indelible over a reasonably long period of use.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983**MARKING**

- (a.) The denomination shall be stamped on the ungraduated side of the measure at about one-third of the total length from the beginning of the measure and the manufacture's name or trade mark at a similar distance from the end of the measure. In the case of wooden measures, the markings shall be finished in the same manner as the graduations.
- (b) In indicating the denominations the numerals shall be followed by 'meter' The size of numerals and letters, indicating denominations of the measures, shall be twice the size of the letters indicating the manufacturer's name or trade mark.
- (c) The end of the measure shall be marked on the graduated side with the Indo - Arabic numeral indicating the denomination

**PART VIII-
COMMERCIAL FOLDING SCALES****1. GENERAL.**

This part deals with wooden folding scales..

2. DENOMINATIONS

The denominations of folding scales shall be :

1m and 0 5m

3. MATERIALS.

- (a) The scales shall be made from strips or sheets of wood. They shall be uniform in width and thickness throughout the- entire length.
- (b) The scales shall 'be made of anyone of the following species of timbers :
 - (i) Boxwood (*Buxus empervirens*)
 - (ii) Gardenia: (*Gardenia sp.*)
 - (iii) . Parrotia (*Parrotia jacquenmontians*) (*Randia Dumetorum*)
 - ,(iv) Dudhi (*Wrightia sp.*)
 - (v) Bamboo.
 - (vi) Haldu (*Aina cordifolia Hookf.*)
 - (vii) . Kalam (*Mitragyna parvifolia Korth.*)
 - (viii) Kuthan (*Hymenodictyon excelsum Wall.*)
 - {ix) Gamari (*Gmelina arborea Linn.*)
- (c) The timber shall be thoroughly seasoned and radically sawn. The moisture content' of the timber shall be between 8 and 12 percent. The timber shall be free from knots, cracks, sap wood, snakes and other visible defects such as decay, insect attack, etc. and shall be fairly straight-grained.

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4. MANUFACTURE.

- (a) General-The scales shall be straight-and flat, the edges parallel to each other and the ends square.
- (b) No point on any of the edges shall be more than 0.5mm distant from the straight connecting its extremities. No, point, on the surface of a scale shall be more than 0.5 mm distant from the plane of the surface.
- (c) The scales shall consist of four pieces hinged together and it shall be an end measuring scale. The joints shall work smoothly without undue play and shall be sufficiently free from the folds, to be opened and closed without strain.' The brass caps shall be closely fitted and strongly secured to the blades. They shall be made flush with the sides of the scales.

5. DIMENSIONS

- (a) The principal dimensions of the scale blank shall be as follows;

Length of Graduated Part (m)	Overall Max. (mm)	Length Min (mm)	Max (mm)	Width Min (mm)	Thickness (mm)	
0.5	500		15.0	14.5	4	1
1	1000		20.0	19.0	5	1

'6 GRADUATION

- (a) Graduation marks shall be made at every millimeter with a longer line, at every 5 ,mm and centimeter. The length of the graduation lines shall be as follows

cm mark	6 mm
5 mm mark	4mm'
1mm mark	2.5mm

- (b) The lines shall be fine and clear, of uniform depth and thickness, and perpendicular to the edges. The thickness of lines 'shall be not: more than 0.2 mm of or stamped scales and 0.4 mm for engine divided scales. 'The lines shall be of sufficient depth to' be legible and indelible.
- (c) The lines shall be filled in black on natural background or ,with a suitable colony which shall contract with the color of the base to ensure legibility.
- (d) Every centimeter shall be numbered in Indo Arabic numerals. The. height of the figures shall be between 2.0 and 2.5 mm.

THESIKKIM WEIGHTS AND MEASURES RULES 1983.**7 PERMISSIBLE ERROR**

The cumulative error for the entire graduated part shall not exceed 0.50 mm.

Further, over any 10 cm length of scale, the error shall not exceed 0.25 mm.

8. MARKING

- (a) The denomination shall be stamped on the ungraduated side of the measure at a distance about one third of the total length from the beginning of the measure. The manufacturer's name or trade mark shall be marked at the same distance from the end of the measure. The markings shall be finished in the same manner as the graduations.
- (b) In indicating the denominations the numerals shall be followed and preceded in regional script

9. PROVISION FOR STAMPING

The measure shall receive the Inspector's stamp either on the metal strip at the ends or the central hinge as may be convenient.

PART IX - WOVEN METALLIC AND GLASS FIBRE TAPE MEASURES

- 1 Woven metallic or glass fiber tape measure may be used where the use of rigid measures is not convenient or practicable.

2. DENOMINATIONS

The tape measures shall be made in lengths of 2, 5, 10, 15, 20, 30 or 50 meters.

3. TAPE

- (a) Materials.
 - (i) The woven, metallic tapes shall be of yarn and metal wire in the warp and only yarn in the weft
 - (ii) The glass fiber tapes shall be made of glass fiber placed in parallel and covered with resilient plastic.
 - (iii) The yarn used for woven metallic tapes shall be spun from good quality cotton or linen and shall be either bleached or mercerized. The yarn used shall be No 17/2 in the warp and No 33/2 in the weft. The wire shall be of phosphor, bronze copper, brass or stainless steel and shall be 0.16 mm in diameter.
 - (iv) The glass fiber shall be tex (NG 150) or 33 tex X 3 (NG 150/3, count and the total number of threads in fun width shall not be less than 60 of 33 tex X (NG 150) or 30 of 33 tex (NG 150/3).
- (b) Weave of woven metallic tape

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- (i) The weave shall be either plan, that is one up and down or dosuti that is two up and two down, or ded-suti, that is two up and one down with at least eight wires uniformly spaced in the warp.
- (ii) The total number of warp threads, excluding wire threads, shall be 40 ends which shall be in full width of the tape. The picks per centimeter shall be 16 in the case of cotton yarn and 13 in the case of linen yarn.

4. MANUFACTURE:

- (a) The woven metallic tape shall be coated with a suitable primer of synthetic material over which one or more coats of flexible, high quality enamel shall be given. The final top coat shall be of a varnish which shall give the tape a good finish. All coatings shall be non-cracking and water resistant.
 - (aa) The glass fibre tape shall be plasticized
 - (b) A metal ring shall be attached to the outer end of tapes of denominations 10, 15, 20, 30 and 50 metres, the ring being fastened to the tape by a metal strip of the same width as the tape for protection and for receiving the Inspector's stamp (See, Fig. 1).
 - (c) (i) The outer and inner ends of tapes of denominations 10, 15, 20, 30 and 50 metres shall be reinforced over a length of not less than 10 cm by a strip of leather or suitable plastic strip which shall also pass around the ring and under the metal strip (See Fig. 1).
 - (ii) Tapes of 2 and 5 meter denominations shall be reinforced over a length of not less than 10 cm by a strip of cotton fabric suitable plastic material over which a strip of brass or any other suitable material rigidly fixed for protection and for receiving the Inspector's stamp (See g 2).
 - (iii) Tapes of 2 meter denomination shall be fitted with metal or plastic plate for folding purposes.

5. GRADUATION:

- (a) The length of the tape shall include the metal finger ring, when provided.
- (b) At every centimeter a black line, 8 to 10 mm in height, shall be drawn and every five centimeters shall be marked with an arrow in black. Every 10th cm and every meter shall be marked with a black line extending over the full width of the tape (i.e. 16 mm in case of woven metallic tape and 13 or 16mm in the case of glass fibre tapes). The graduation marks at every 10th cm and every metre shall be numbered with black and red figures, respectively. The metre marking at 1 to 9 shall, in addition, contain letters "m" and the end of the tape shall be marked "metre". The graduations shall be only on one side of the tapes.
 - (bb) After the graduation mark of one metre every 10 centimetres

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may be marked with an additional numeral, in red, indicating completed metre or metres. The size of this numeral shall be about half of the numeral indicating centimetres. The numeral of completed metres shall be marked just above every numeral of 10 centimetres.

- (c) Permissible Errors :- The errors in the length of the tape when supported on a horizontal surface under a tension of one kilogram, shall not exceed the following, both during verification and inspection.

Denomination	Permissible Errors
m	
2	+ 1.5 mm
5	+ 3.0 mm
10	+ 5.0 mm
25	+ 7.5mm
15	+10.0mm
30	+ 15.0mm
50	+ 20.0 mm

In addition, in tapes of denomination 15, 20, 30 and 50 metres the error between any two consecutive meter lines shall not exceed 5 mm. . .

6. MARKING:

. On the ungraduated side and also on the case of each tape, when provided, the name of the manufacturer or his registered trade mark and the denomination shall be legibly marked, in English or Devnagari or in both.

7. PROVISION FOR STAMPING.

Measures shall be stamped on the metal strip at the beginning of the scales on the graduated side.

PART X-STEEL TAPE MEASURES: WINDING TYPE: .

DENOMINATIONS:

The tape measure shall be of the denominations 1, 2, 10, 15, 20, 30 and 50 metres.

2. TYPE .:

- (a) Tape shall be of steel or stainless steel and shall be of any of the following widths :

Width mm	Tolerance mm
6.0	
9.0	+ 0.5
13.0	
16.0	

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- (b) The thickness of the tape shall be 0.15, 0.20 or 0.40mm..with a tolerance of $+0.05$ mm.
- (c) The tape shall be of such a quality that when it is wound once round a rod' of the diameter indicated below and then released there shall be :no permanent deformation in the tape

Thickness of tape mm	Diameter of Rod mm
0.17 and 0.20	12
0.40	25

(d)The tapes of 1 m and 2 m shall be flat or curved and tapes of other denominations shall be flat.

- (e) The edges of the tapes shall be slightly rounded. The tapes shall be :well furnished and provided with a rust-proof coating and shall be free from' burrs.
- (f) The outer end of the tapes shall be provided with a ring or other device for facilitating withdrawal The ring or other device' when provided shall be fastened to the tape by a metal strip of the same width as the 'tape.

3 GRADUATIONS:

- (a) The length of the tape shall include the metal finger ring, when: provided.
- (b) The tapes shall be graduated legibly and indelibly, either by etching or by enamel printing, on one side only.
- (c) The. tapes of denominations 1. m .and 2 m shall be graduated throughout

at every millimeter. Types of denominations 10 m and above' may be graduated at every millimeter, 2 millimeters, 5 millimeters or centimeter, and except when graduated in millimeter throughout, the first two - decimeters shall, be graduated at ,every millimeter.

- (d) The' height of graduation for all tapes shall be as follows:

Unit of graduation.	Approximate Height of Graduation, for various Widths of 'Tape			
	6.0 mm mm	9.5mm mm	13.0 mm mm	16.mm mm
Millimeter	2	3	4	4
Five millimeters	3	4	6	6
Centimeter	4	5	8	8'
Decimeter	Full	5 to, Full	Full	Full
Meter	Full	Full	Full	Full

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- (e) Every .decimeter and metre shall be marked with Indo-Arabic numerals in bold type., The metre graduations at 1 to 9 or preferably the full length shall, in addition, bear the designation m' or me and m' After the graduation *mark* of one metre every' 10 centimetres may be marked with an additional numeral indicating completed metre or metres. The size of this numeral shall be half the size of the numeral indicating centimetres. This numeral of completed metres shall be marked before- very numeral of 10 centimetres. The end of the tape measures shall be marked with the words 'metre' (See Figs 1 and 2).

4. PERMISSIBLE ERRORS:

- (a) When checked against a working standard, calibrated at 20 C, the error in the length of the tape, supported on a horizontal surface with a tension of 2 kg in the Case of 1 and 2 metre lengths and 5kg in the case of 10, 95, 20, 20, and 50 metre lengths, shall not exceed the following limits:
- (i) The error between any two adjacent millimeter. lines, and between contiguous centimetre lines shall not exceed +0.2 mm, and the error between two contiguous decimeter lines and between two contiguous metre lines shall not exceed +0.4 m on any part of the tape; and
- (ii) When measured from zero to the points specified below, the error in the length of the tape shall not exceed the following limits:

(1)	1. metre mark	+0.4 mm
(2)	2 metre mark	+0.6 mm
(3)	5 metre mark	+1.0 mm
(4)	Any metre beyond the first 5 metre	+ (1. 0mm for the first 5metre +0.5 mm for each additional 5 metres or part thereof.)

5. WINDING DEVICE:

- (a) Automatic Winding Device.
- (i) Winding Device The winding device shall be of substantial construction shall be such that when the tape is withdrawn by hand to any point up to 'the limit of its measuring capacity it shall hold at the length withdrawn and shall be capable of being easily rewound.
- (ii) Case The case shall be of corrosion resisting metal, suitable plastic material or of 'lt metal with a non-corrosive finish and shall be not less than 0.50 mm thick. It shall be well-made smooth finished with edges and corners rounded off,

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- (b) Hand Winding Device.
- (i) Handle . The handle for the winding device shall be suitable for winding the tape on the reel and shall revolve freely without end or side play or stiffness. It shall fold against the reel, and shall have a crank length of not less than 25 mm.
- (ii) Reel:- The reel winding drum and its mechanism shall be of robust Construction. The reel shall rotate freely. The winding draw of the reel shall be provided with -a frictional device suitable for preventing spin of the drum and to reduce to a minimum- the backlash of the tape.
- (iii) Case :- Tapes of- denominations 10 15, 20, 30 and 50 metres shall be supplied in a case, made of leather or corrosion-resisting metal or metal with a corrosion-resisting finish fitted with a winding device
- (iv) .If it is not wholly made of leather, the case shall be not less than 1.2 mm thick. If the case is wholly made of leather, the thickness of the leather used shall be at least 3 mm.
- (v) If metal case is' used, it shall be covered with a suitable leather, plastic or leather.. cloth. .
- (vi) The opening in the case for the tape shall be provided with a durable eye and with rollers-for bearing on each side of the opening.
- (c) When the tape is supported at the reel and a 10 kg load is applied at the free end for five minutes, the tape shall not get loosened from the reel.
- (d) In addition, in the case of tape measures provided with hand-winding arrangement, the following test shall be applied

Pull out approximately half the length of the tape from the case.. Give the tape a short, quick pull by hand; with the case hanging freely, so as to release .approximately one metre of the tape, Immediately after movement of the hand has ceased the reel shall not continue to rotate or oscillate. Rewind the tape to its full limit within the case and crank; snap the crank handle shut, There will be no looseness in the reel which will permit any unwinding of the tape.

5 MARKING:

- (a) The tape. as well as the case shall be legibly marked with the name or trade mark of the manufacturer and the denomination in English Or English and Devnagari. .

6 PROVISION FOR STAMPING:

- (a) Provision shall be made at the beginning of the tape for affixing the Inspector's stamp.

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PART XI-SURVEYING CHAINS

1 GENERAL

This part prescribes the requirements for link type surveying chains. of 20 m and 30 m lengths for land measurement.

2. DEFINITIONS :

- (a) Surveying Chains: - An instrument for measuring the surface distance between two points.
- (b) Length of Chain The distance between the outside surfaces of the handles when fully stretched.
- (c) Tallies :- Metallic taps or indicators of distinctive pattern fixed at: various points . of the chain, to facilitate quick reading of fractions of a chain.

3. MA TERIAL :

The different components of the chains shall be- made from the materials mentioned against each :

Component	Material
Handle	Brass Casting
Eye Bolt Collar	Brass suitable for free cutting. and high speed machine work.
Ring	Galvanized, Mild
Link, Small	Steel Wire
Link, Large	400mm
Link, Connecting Tally	Brass Sheet or Galvanized sheet
Indicating Ring	Brass Wire

4. CONSTRUCTIONAL DETAILS:

- (a) The nomenclature of the different parts of the chain and their dimension shall be as indicated in Figs, 1, 2 and 8.
- (b) Tallies shall be fixed at every fifth metre along the chain. Small rings. be fixed at every metre, except where tallies' are attached., The tallies shall -have distinctive shapes depending on, their position in the. chain as shown in Figs. 1 and 2.
- (c) .Connecting links between two 'large links shall be oval-in shape, the central one being a circular ring.

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- (d) To facilitate holding the arrows (Chain Pins) in position with the handle of the chain, a groove shall be cut on the outside surface of the handle 85 shown in Fig. 3. The radius of the groove shall correspond to the radius of the arrows.
- (e) The handle joint shall have flexibility in order that it may be possible to swivel the handle round the eye bolt. A swivel may also be provided at the middle of the chain.

5

PERMISSIBLE ERRORS:

- (a) When measured with a tension of 8 kg every metre length shall be accurate with an error not exceeding - 2 mm. The overall length of the chains shall be accurate within the following limits of error.

20 -metre chains	+ 5 mm
30 - metre chains	+ 8 mm

- (b) The permissible errors shall be the same for verification and inspection.

6. **MARKING:**

- (a) The tallies used for marking the distances in a chain shall be marked with letters 'm' (see Fig- 3,)
- (b) The length of the chain, 20 m or 30 m, as the case may be, shall be indelibly marked over the handle (see Fig. 3) to indicate the length.
- (c) The chains shall be indelibly marked, on the reverse side of the surface of the handle having the denominations, with the manufacturer's name, or trade-mark.

7. **PROVISION FOR STAMPING:**

A metal label or disc shall be permanently attached to the handle at the beginning of each chain for the Inspector's stamp.

SCHEDULE VI*(See Rule 8)***SPECIFICATIONS FOR COMMERCIAL WEIGHING INSTRUMENTS****PART I - GENERAL REQUIREMENTS:**

I. Weighing instruments; of the following categories are included in these specifications.

- (a) Beam Scale
- (b) Counter Machines
- (c) Steelyards
- (d) Platform Weighing Machines
- (e) Weighbridges
- (f) Spring :Balances
- (g) Crane Weighing Machines
- (h) Automatic Weighing Machines
- (i) Self, indicating and Semi:-Self-indicating Counter Type Machine.
- (j) Person Weighing Machines
- (k) Totalisers.

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2. (a) Weighing instruments shall be of such materials, design and construction that, under normal conditions of service :
- (i) They maintain accuracy.
 - (ii) They function satisfactorily without the need for frequent adjustments.
 - (iii) Excessive stresses do not develop in the vital parts.
- (b) All weighing instruments having steelyards shall be of, what is commonly known as the vibrating type.
- (c) A vibrating type of instrument is *an* instrument which has its indicator oscillating on either side of the position of equilibrium. .
- (d) Weighing instruments shall be of good workmanship and finish.
- (e) Weighing instruments having assembly parts, without which the accuracy of the instrument is affected, shall be so constructed that it is not possible to use the instrument without these parts. They shall be suitably identified with the weighing instrument of which they form essential components. .
- (f) Where an instrument has interchangeable or reversible parts, the interchange or reversal of such part shall not affect the accuracy of the instrument.
- (g) All graduations in weighing instruments shall consist of notches of uniform lines, sharply defined, which may be painted, printed, incised or embossed, so that the position of all pointers or sliding poises is clearly readable. All numbered graduations and their sub-divisions shall be marked by lines longer than the minor graduations. The minimum width apart of graduations on steelyards shall be not less than 1.5 mm for capacities below 3,000 kg and 3 mm for capacities of 3000 kg and above.
- (h) Knife-Edges and Bearings :- The knife-edges and bearings shall be of 'agate or suitable hard material or of suitable quality steel. The steel knife-edges and bearings shall have the hardness specified below :
- (i) For beam. scales of classes C and D and with capacities 10. kg and below-54 Rc. Minimum.
 - (ii) For other weighing instruments .. 69 to 66 Rc.
- (i) The Knife-edges and bearing. shall be replaceable wherever practicable.
 - (j) Knife-edges and bearings shall be accurately and firmly secured preferably by shanks and nuts. or bolts and nuts or by set screws The knife-edges and bearings shall be protected against corrosion and dirt.
- (k) Racks and pinion shall be of suitable hardwearing material and shall be finished smooth.
- (l) .In the. case of weighing instruments having steelyards the ,nib shall remain secure in the notch
- (m) The knife-edges shall bear upon practically the whole length of the bearings.

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3. MARKING:

- (a) All weighing machines shall be prominently, legibly and indelibly marked with the marker's name of his registered trade mark, model capacity and class (wherever applicable).

Note : The manufacturer's name or the registered trade mark shall be such as will not be mistaken for the stamp or the seal of the verification authority.

- (b) Weighing instruments shall have inscribed on them their maximum weighing capacity in the following manner

To weigh.....: kg, or g' as approximate.

..... as approximate.

- (c) All numerals appearing on weighing instruments beams, steelyards, dial etc. shall be Indo-Arabic numerals.

4 SEALING:

All weighing instruments shall be provided by the manufacturers with a plug or stud or soft metal to receive the stamp or seal of the verification authority. Such plug or stud shall be provided in a conspicuous part of the instrument and shall be made in such a manner as to prevent its removal without obliterating the seal.

ii. TESTS :

- (a) All weighing instruments shall be tested after they have been properly cleaned, and in the condition of their normal use, wherever practicable. Non portable weighing instruments shall be tested in situ in addition to any, other test that may be conducted at the premises of the manufacturer, or dealer.
- (b) Sensitiveness :- Is the least weight which when added to or removed from the loading platform or pan when the machine is in equilibrium will cause an appreciable movement of the indicator from its position of equilibrium.
Error :- is the least weight, which when added or removed will bring the indicator to the position of poise or equilibrium from the position of imbalance.
- (c) Weighing instruments shall be tested for sensitiveness and maximum error :
- (i) The greatest error in excess on verification for 'graduations on the steelyard in the range corresponding to the first half of the capacity' shall be not more than half the error allowed at full load for 'graduations on the remaining part of the steelyard the error shall be not more than the error prescribed at full load.
- (ii) The greatest error in excess on verification in the case of machine fitted with dial shall be half the weight represented by the interval between the consecutive graduation marks.
- (iii) The permissible error in respect of graduations on machine fitted both with steelyard/s and dial shall be as prescribed above in (i) and (ii).

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PART II BEAM SCALES:

I. DEFINITIONS:

- (a) **Beam Scale:-** A weighing instrument with equal arms, having three knife-edges, three bearings, an indicator (pointer) in centre, and pans suspended from the end knife edges (See Fig. I).
- (b) **Sensitiveness of a Beam Scale:-** A measure of its responsiveness to a small change in load in one of the pans under specified conditions of loading; this can be expressed as the ratio- between the change in mass in one of the pans and the corresponding deflection of the beam (or of the attached pointer) caused by the change.'
- (i) In the case of the beam scale fitted, with a pointer and an indicating scale, it is expressed in terms of milligrams per division.
- (ii) In the case of a beam scale having no indicating scale, it is expressed as the least weight, required to be' added to or removed from one of the parts, which causes an appreciable movement of the pointer from its position of equilibrium under a specified condition of loading.
- (c) **Error (Due to Inequality of Arms) :-** The error due to inequality of arms of a beam scale is equal to the mass of the additional weights required to bring to equipoise the balance, carrying weights of equal masses in the pans
- (d) **Greatest Error (Due to Inequality of Arms) :-** The greatest error due to inequality of arms is the error determined with two weights each equal to the capacity (full load) of the balance.

2. CLASSES' AND CAPACITIES :

- (a) Beam scales shall be of anyone of the four classes, namely, A.B. C. or D. based on limits for insensitiveness and greatest error specified in Tables I to 4 respectively.
- (b) Beam scales of the different classes shall be. of one of the capacities mentioned in Table 1 to 4.
- (c) The trades for which the different classes of scale.. may be used are:

Class of scales	Use
A	Commercial assay and in 'Dharma Kanta' for verifying the weights. of bullion and. precious stones.
B	Precious stones, jewels, pearls, bullion, precious Metals, saffron and similar expensive commodities, chemist's and druggist's preparations, perfumery etc.
C	Base metals and commodities such as cereals, tea, coffee, tobacco; jute, 'cotton, dry fruits, spices, oil-steeds etc.
D	Weightment of cheaper commodities such 'as scrap iron, fuel, wood, charcoal, vegetable etc.

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3. MATERIALS:

- (a) Material *for* Class A. beam scales 'Class A beam scale shall be made of non-magnetic materials only except knife-edges and bearing-.
- (b) Materials *for* Other Classes *for* Beam Scale :- Beam and pans shall be made of stainless steel, brass or bronzes.

Aluminum alloy may be used in the smaller denomination balances', having a capacity of not more than 50 g. The pans, of Class B beam scales may be made of glass also. In the case of beam scales of Classes C & D, pans of hard-wood shall be permitted for capacities 100 kg and 'above The pans of beam scales, when made of timber, shall be adequately re-in forced and protected against wear.

- (c) Suspension:- Pans shall be suspended from the beam by metal chains' or 'metal stirrups, except those of 100 g and smaller capacity of Class B beam scales which may be suspended by silk or nylon threads.
- (d) All mild steel parts used in beam scales shall be suitably protected against rust.

4. CONSTRUCTION.

- (a) Knife-Edges. and Bearings.
 - (i) The knife-edges and bearings used in beam scales shall be of the following types:.
 - (a) 'Agate-box' Wherein agate bearings are fitted in a brass or iron box, with side holes which permit the projecting ends of the knife-edges to, pass into the boxes and rest on or rise to their bearings (See Fig. 3).
 - (b) 'Dutchend' :- Wherein the end bearings are fixed inside. ,plates. bolted together across the beam to form a shackle (See Fig. 3).
 - (c) 'Swan-neck' Wherein the ends are curved and slotted, the bottom of the slot forming a knife-edge, the extremities of the beam being widened in a direction at right angles to its length so that the base of the *slot* is ,parallel to the central knife-edge (See Fig. 4).
 - (d) 'Continuous knife edge' Wherein the knife edge ,bear.. along their whole length, (See Fig. 5).
- (ii) Class A beam Scales shall have continuous knife-edges and shall be provided with means' *for* relieving all the, knife-edges from the bearings .
- (b) Glass Case. Every 'beam scale of Class A shall be provided with a glass case. It shall also be provided with bubble or a ,plumb line and leveling screws to facilitate leveling of the instrument.
- (c) Leading Dimensions.
 - (i) No dimensions have been specified for Class A beam 'scales.
 - (ii) Beam. scales of Classes, B C and D shall have the leading dimensions specified in Tables 5 to 9 and Fig. .6 to, 10 as applicable to within 'the tolerances specified, in 4(d). For Class C beam scales of capacities 5 kg and below fixed hooks may also be provided. .

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Note :

Class D beam scale shall be distinguished from Class C scale by the existence of two identical holes, 5 to 10 mm in diameter through the beam, one cm either side of the central knife-edge (See also Fig. 10).

- (d) Permissible Variation in Dimensions :- The dimension of the beam scales shall not vary by more than 10 percent of the dimensions prescribed in Table 5 to 9.
- (e) Attachment for Adjusting the Balance of a Beam Scales :
- (i) Beam scales of Class B having a capacity of 5 kg and above shall be provided with a balance ball or balance box securely attached to one of the suspension chains or pans in such a manner that it is not possible to alter it easily. The balance ball or balance box shall not be so large as to contain more loose material than an amount exceeding half a percent in weight of the capacity of beam scales under 50 kg, if provided, or an amount exceeding half a kilogram for beam scales of capacity 50, kg and above.
- (ii) Beam scales of Classes C & D having a capacity of 100 kg and above shall be provided with a balance ball or a balance box securely attached to one of the suspension chains or pans in such a manner that it is not possible to alter it easily. The balance ball or balance box shall not be so large as to contain more loose material than an amount exceeding one percent in weight of the capacity of beam scales under 100 kg, if provided or an amount exceeding 1kg for beam scales of capacity 100 kg and above.
- (f) Arrangement for Adjusting Sensitiveness :- The Beam scales other than those of Class A shall not be provided with an attachment to adjust their sensitiveness..

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TESTS:

- (a) Sensitiveness :- Class A beam scales shall be tested for sensitiveness at zero and full loads and shall comply with the requirements specified in Table I. . Beam scales other than Class A shall be tested for sensitiveness at full load only and shall comply with the requirements specified in Tables 2 to 4.
- (i) Class A- beam scales :- For determining the sensitiveness of a Class A beam scale at no load, the beam scale shall be properly balanced without any load in the pans. A small weight whose mass is accurately known shall be put on one or the pans. This small weight shall be so chosen that the turning points of the pointer remain within the reading index. The rest point shall be determined by the usual oscillation method. The weight shall then be transferred to the other pan and the second rest point be determined. The shift of the rest point is a measure of sensitiveness. If this shift is 'n' divisions on the scale and if the mass or the test weight is 'w' mg, the sensitiveness 'S' in milligrams per division, at no load, is given by the relation:

$$S = 2w/n$$

Similar test with appropriate weights in each pan representing the full capacity of the beam scale, shall be performed to determine the sensitiveness of the beam scale at full load.

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- (ii) Class A beam scales 2g to 20g. : As it is not practicable to make weights of denominations very much smaller than one milligram, the sensitiveness of beam scales of smaller capacities, that is, from 2g to 20g, shall be determined by means of a pair of weights, each weight having a mass of approximately w mg. The difference in the masses of the two weights in the pair shall be adjusted to be of the order of 0.05 mg, 0.12 mg or 0.050 mg depending on the beam scale under test, that is, for testing 2g, 5g, 10g, or 20g beam scale. After balancing the beam scale at zero load, one of the two weights in the pair shall be put on the right pan and the other weight on the left pan. The rest point shall be determined. The two weights shall then be interchanged and the second rest point shall be similarly determined. : If the rest points shift by 'n' divisions and if the difference between the masses of the two rest weights 'w' mg, the sensitiveness 'S' of the beam scale in milligrams per division:

zero load is given by the relation:

$$s = 2w/n$$

To determine the sensitiveness of the beam scale at full load a similar test shall be performed with weights equal to the maximum capacity of the beam scale in each pan.

- (iii) Beam Scales of Classes other than A with Pointer above Beam.- Pans of a beam scale other than Class A, shall be loaded with weights representing its full capacity and the scale balanced. Weights of such mass shall be added -on one of the pans as may move the tip of the pointer from its equilibrium position by an appreciable distance. After removing these weights the same test shall be repeated on the other pan and the weights required for moving the tip of the pointer by the same distance on the other side of the equilibrium position shall then be added. If these weights are denoted by 'W1 and 'W2' and respectively, the sensitiveness 'S' of the beam scale is given by the relation :
- (b) Inequality Arms test:
- (i) Class A Beam Scale - The error due to inequality of arms of a Class A beam scale shall be determined by loading both the pans with weights made from the same material and representing the full capacity of the scale. The scale shall then be properly balanced by adding small weights. After arresting the beam, the loads including the small weights shall be interchanged and the scale balance again by putting additional weights on one of the pans. The additional weight required to balance the scale the second time, shall be equal to twice the error caused by the inequality of the arms of the beam.
- (ii) Beam Scale Other than Class A- In the case of beam with fixed hooks the beam with hooks but without chains and pans shall be checked for balance. If detachable hooks are provided, the beam alone shall be checked. , The loose hooks shall then be attached and the assembly checked for balance. The chains and pans shall then be attached in the case of both the types of balances and checked again; for balance.

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After checking at no load, each of the pans shall be loaded with weights equal to the marked capacity of the scale and the scale shall be balanced.

The loads thereon shall then be interchanged and the beam scale balanced again by adding necessary weights. on one of the pans. The additional weight shall be equal to twice the error due to inequality of arms of the beam.

In the case of the beams with attached hooks, the loads shall be interchanged along with the chains and pans and in the case of beams with detachable hooks the loads shall be. interchanged along with the hooks, chains and pans.

(iii) The figure so obtained shall be halved to determine the error at full-load'. These should lie within the limits specified in Tables 1 to 4.

(c) Shift Test.

(i) Class A Beam Scales: The pans of the beam scale shall be loaded with weights representing half its capacity and the scale properly balanced. Shifting the weight in one of the pans gently' to different positions on the pan after arresting the beam and releasing again shall not produce any appreciable difference in the balance of the beam scale. Moving the weight on the other pan in a similar manner shall also not produce any appreciable difference. in the balance of the beam.

(ii) Beam Scales Other Than. Class A.- With the pans loaded to half the capacity, no appreciable difference in. the. accuracy of the instrument shall result from. moving the knife-edges or bearings laterally or backwards and forwards within their limits of movement.

Similarly, when the above load is moved to any position on the pan, the difference shown shall not be appreciable.

NOTE: The words 'appreciable difference' shall mean 'a' difference which can be detected, but the Inspector should. exercise his discretion in each particular case.

6. SEALING,

(a) All weighing, instruments shall be provided by the manufacturer with a plug/plugs. or stud/studs of soft metal to receive the stamp or seal of the verifying authority. Such plug/plugs shall be provided in a conspicuous part of the' instrument and shall be made in such a manner as to prevent its removal without obliterating the seal/seals.

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**TABLE 1-LIMITS FOR SENSITIVENESS AND GREATEST ERROR FOR BEAM SCALES:
- CLASS A'**

Verification Capacity	Sensitiveness per division of scale at no load and at full load	Greatest error allowed when fully loaded	Inspection Sensitiveness per division of scale at no load and at full load	Greatest error allowed when fully loaded
1	2(mg)	3(mg)	4(mg)	5(mg)
2g	0.02	0.04	0.06	0.80
5g	0.05	0.10	0.15	0.20
10g	0.10	0.20	.030	0.40
20g	0.20	0.40	0.060	0.80
50g	0.50	1	1.5	2
100g	1	3	3	4
200g	2	4	6	8
500g	5	10	15	20
1kg	10	20	30	40
2g	20	40	60	80
5g	30	60	90	120
10kg	50	100	150	200
20g	100	200	300	400
50kg	200	400	600	800

TABLE 2 LIMITS FOR SENSITIVENESS AND GREATNESS ERRORS FOR BEAM SCALES CLASS B

Verification Capacity	Sensitiveness at no load and at full load	Greatest error allowed when fully loaded	Inspection Sensitiveness at no load and at full load	Greatest error allowed when fully loaded
1	2	3	4	5
2g	1mg	2mg	3mg	4mg
5g	2mg	4mg	6mg	8mg

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Table 2(continued)

1	2	3	4	5
10g	3mg	6mg	9mg	12mg
20g	5mg	10mg	15mg	20mg
50g	10mg	20mg	30mg	40mg
100g	20mg	40mg	60mg	80mg
200g	30mg	60mg	90mg	120mg
500g	50mg	100mg	150mg	200mg
1kg	100mg	200mg	300mg	400mg
2kg	200mg	400mg	600mg	800mg
5kg	300mg	600mg	900mg	1.2g
10kg	500mg	1g	1.5g	2g
20kg	1g	2g	3g	4g
50kg	2g	4g	6g	8g
100kg	5g	10g	15g	20g
200kg	10g	20g	30g	40g

TABLE 3 LIMITS OF SENSITIVENESS AND GREATEST ERRORS FOR BEAM SCALES CLASS C

Capacity	Verification		Inspection	
	Sensitiveness at no load and at full load	Greatest error allowed when fully loaded	Sensitiveness at no load and at full load	Greatest error allowed when fully loaded
1	2	3	4	5
100g	100mg	200mg	300mg	400mg
200g	200mg	400mg	600mg	800mg
500g	500mg	1g	1.5g	2g
1kg	1g	1g	1.5g	2g
2kg	2g	4g	36g	8g
5kg	3g	6g	9g	12g
10kg	5g	10g	15g	20g
20kg	10g	20g	30g	40g
50kg	15g	30g	45g	60g
100kg	25g	50g	75g	100g
200kg	50g	100g	150g	200g
300kg	75g	150g	225g	300g
500kg	100g	200	300g	400g
1000kg	150g	300	450g	600g

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**TABLE 4 -LIMITS OF SENSITIVENESS AND GREATEST ERRORS FOR BEAM SCALES:
CLASS 'D'**

Capacity	Verification		Inspection	
	Sensitiveness at no load and at full load	Greatest error allowed when fully loaded	Sensitiveness at no' load and at full load	Greatest error allowed when fully loaded
1	2	3	4	5
kg	g	g	g	g
1	1	2	3	4
2	2	4	6	8
5	5	10	15	120
10	10	20	30	40
20	20	40	60	80
50	30	60	90	120
100	60	100	150	200
200	100	200	300	400
300	150	380	450	600
500	200	400	600	800
1000	300	600	900	1200

TABLE 5-LEADING DIMENSIONS OF BEAM, CLASS B (WITH POINTER ABOVE THE BEAM)

Capacity	Length between the ends (Nominal) L	Depth at the Centre (Nominal) O	Thickness of plate at at the Centre (nominal) T
1	2	3	4
	mm	mm	mm
		Flat Type	
2g	70	10	2
2g	95	12	2
10g	110	15	2
20g	120	20	315

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TABLE 5 (CONTD)

1	2	3	4
50G	135	22	3.15
100G	150	25	4
200G	170	25	5
500G	200	30	5
1KG	250	40	6
2KG	200	45	6
5KG	450	50	6
10KG	500	58	8
20KG	600	58	10
50KG	750	100	15
900KG	1000	110	18
200KG	1250	125	25
	OPEN PATTERN(BRIDGE)	TYPE	
200G	170	25	5
500G	260	37	5
1KG	310	44	5
2KG	350	48	5
5KG	450	60	6
10KG	500	70	8
20KG	600	80	10
50KG	750	120	15
100KG	1000	150	20

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TABLE 6-LEADING DIMENSIONS OF BEAM, CLASS B
('FLAT AND OPEN PATTERN TYPE WITH POINTER
BELOW THE BEAM)

Capacity	Length between the ends (Nominal)	Depth at the Centre (Nominal)	Thickness of plate at the centre Knife-Edge (Nominal)
	L	D	T
1	2	3	4
	mm	mm	mm
2 g	70	3	2
5g	91	3	2
10 g	110	4	2
20 g	120	20	3.15
50 g	135	20	3.15
10 0 g	150	20	4
200 g	200	20	6
500g	235	25	8
1 kg	300	30	8
2 kg	320	30	8
5kg	350	32	10
10 kg	400	40	12
20 kg	500	50	14
50 kg	700	70	18
100 kg	800	80	20
200 kg	1250	125	25'

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TABLE 7 LEADING DIMENSIONS OF BEAM, CLASS C (SWAN-NECK TYPE)

Capacity	Length' between the ends (Nominal)	Depth at the Centre (Nominal)	Thickness of Plate at the Centre Knife-Edge
	L	FD	T
1	2 mm	3 mm	4 mm
100g	150mm	30	4
200g	200mm	40	5
500g	300mm	40	6
1kg	350mm	45	6
2kg	400mm	45	6
5kg	550mm	70	6
10kg	600mm	80	6
20kg	750mm	108	8
50kg	900	116	8
100kg	1200	133	14
200kg	1350	148	16
300kg	1650	154	18
500kg	1800	178	25
100kg	2000	200	32

TABLE8**LEADING DIMENSIONS OF BEAM CLASS C (DUTCH END TYPE)**

Capacity	Length between the end Knife edges (Normal) I (mm)	Depth at the centre (Nominal) D_(mm)	Thickness of Plat at the Centre Knife Edge (Normal) T(mm)
1	2	3	4
100g	150	35	4
200g	200	40	5
500g	300	40	6
1kg	350	45	6
2kg	400	45	6
5kg	450	70	6
10kg	450	75	8
20kg	600	75	8
50kg	750	80	8
100kg	900	120	14
200kg	900	133	16
300kg	1050	142	16
500kg	1350	192	20
1000kg	1650	203	25

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TABLE 9 - LEADING DIMENSIONS OF BEAM CLASS D

Capacity	Length between the end Knife-edges (Nominal) L	Depth at the Centre (Nominal) D	Thickness of Plate at the Centre Nominal T
1			
kg	mm	mm	mm
	Swan-Neck with Flat Hooks Fixed		
1	350	45	6
2	400	45	6
1	2	3	4
5	550	70	6
10	600	80	6
20	750	108	8
50	400	116	6
100	1200	138	14
200	1350	148	16
300	1650	154	18
	With Detachable	Flat Hooks	
500	1800	178	25
1000	2000	200	32

PART III - COUNTER MACHINES

1. DEFINITION

A counter machine is an equal armed weighing instruments capacity not exceeding 50 kg, the pans of which are above beam. Figure 1 illustrates a typical counter machine.

2. CAPACITIES

The machines may be of the following maximum capacities; 500 g, 1 kg, 2 kg, 3 kg, 5 kg, 10 kg, 15 kg, 20 kg, 25 kg, and 50 kg.

3. GENERAL REQUIREMENTS:

- (a) When the beam or body has two sides, they shall be connected together *by* not less than two cross-bars. The supports for the pans shall be of a suitable rigid structure such as cross members strengthened by straps. Central pieces or forks shall be fixed' so that they are not twisted or dislocated.
- (b) Bearing surfaces knife-edges and points of contact of all stays, hooks and loop shall be of hard steel or agate. The knife-edges and bearings shall be so fitted as to allow the beam to move freely. The knife-edges shall rest upon the bearings along the whole length of their working part.

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- (c) A counter machine may have a balance box for minor adjustments. In such a case, the balance box shall be permanently fixed beneath the weight pan, and shall be large enough to contain loose material to an amount up to one percent of the capacity of the machine. No other adjusting contrivance shall be used.
- (d) The pans may be of any suitable material such as mild steel, stainless steel, brass or bronze. They may be of any convenient shape.
- (e) The minimum fall either way on counter machine shall be as follows

Capacity	Fall
500 g, 1 kg and 2 kg	6 mm
3 kg, 5 kg, 10 kg, 15 kg	10mm
20 kg, and 25 kg	12 mm
50kg	13 mm

4. TESTS :

- (a) The machine shall be tested on a horizontal level plane.
- (b) Sensitiveness and error.
- (i) The machine shall be tested for sensitiveness at full load with the beam in horizontal position. The addition of the weight specified in cols. 2 or 4 as the case may be in Table I shall cause the pointer to rise or fall to the limit of its range of movement.
- (ii) The error is the weight if any required to bring the beam of the instrument to a horizontal position when fully loaded with weights equal to its capacity on both pans. It shall not exceed the limits specified in cols. 3 and 5 as the case may be of Table I.
- (c) The test for sensitiveness shall be carried out only with the pans loaded to the full capacity of the machine.
- (d) When the goods pan is in the form of a scoop, the machine shall be correct to the prescribed limits of error if half the full load is placed against the middle of the back of the scoop and the other half at any position on the scoop.
- (e) When the goods pan is not in the form of a scoop, the counter-machines indicate the same weight within half the prescribed limits of error, if the centre of a load equal to half the capacity is placed on the goods pan anywhere within a distance from the centre equal to one-third of the greatest length of the pan, or if the pan has a vertical side against the middle of that side, the weight being entirely on the weight pan, but in any position on it.

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TABLE 1- SENSITIVENESS AND ERRORS FOR COUNTER MACHINES.

Capacity	Sensitiveness when fully loaded	Verification	Sensitiveness when fully loaded	Greatest error allowed when fully loaded
		Greatest error allowed in excess or deficiency when fully loaded		
1	2	3	4-	5
500 g	1.5g	2.2g	4.5g	4.5g
1 kg	2.0g	3.0g	6.0g	6.0g
2 kg	3.0g	4.0g	9.0g	9.0g
3 kg	4.0g	6.0g	12.0g	12.0g
5 kg	6.0g	9.0g	18.0g	18.0g
10 kg	7.0g	10.5g	21.0g	21.0g
15 kg	8.0g	12.0g	24.0g	24.0g
20 kg	9.0g	13.5 g	27.0g	27.0g
25 kg	10.0g	15.0g	30.0g	30.0g
50 kg	15.0g	30.0g	45.0g	60.0g

Each machine shall be provided with a plug or stud of soft metal on a conspicuous part of the beam or body for receiving a seal. Such a plug or stud shall be made irremovable by undercutting it or by some suitable method.

PART IV - STEELYARDS.

1. DEFINITION

A steelyards means an unequal armed balance.

2. CAPACITIES

Steelyards may be of the following capacities: 5 kg, 10 kg, 20 kg, 50 kg, 100 kg, 150 kg, 200 kg, 250 kg, 300 kg, 500 kg and 1000 kg.

3. DESIGN AND CONSTRUCTION

- (a) The general design of steelyard shall be as given in Fig. 1.
- (b) Steelyards shall be made of either mild steel or stainless steel.
- (c) The shank shall be perfectly straight but its cross-section need not necessarily be uniform throughout. Notches or graduations on the shank shall be cut in one plane and at right angles to the shank.
- (d) The design of the sliding poise shall be such that the nib remains secure in the notch.

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- (c) Steelyards shall be provided with a stop or other suitable arrangement to prevent excessive oscillation of the shank.
 - (f) . The sliding point and suspending hooks shall be securely attached to the instrument. All end-fittings such as the nut attached to prevent the poise-carrier riding off the steelyard, shall be securely fixed to the shank. The sliding poise shall be freely moveable and there shall be a stop to prevent it from travelling behind the zero mark. Steelyards having counterpoise or travelling poise shall be provided with a hole or other suitable means for the future adjustment of the counter-poise or travelling poise such hole being undercut. Wherever loose material is used in the travelling poise, it shall be securely enclosed.
 - (g) Steelyards shall be neither reversible nor have three books, and shall not be of counter type.
 - (h) Steelyards shall be provided with a vertical pointer .directly above the fulcrum to indicate the true equilibrium.
 - (i) If a movable hook, tray or bucket is used it shall form an essential part of the steelyard without which it is not possible to balance the steelyard.
4. TESTS.
- (a) Steelyards shall be tested a full load for sensitiveness and error, and shall comply with the requirement of Table I.
 - (i) The test for sensitiveness shall be carried out at full load with the steelyards in horizontal position. The addition of the weight specified in column' 2 or 4 of Table I shall make the steelyard turn.
 - (ii) The error or the weight, if any required to bring the steelyard to a horizontal position when fully loaded shall not exceed the limits specified.
 - (b) Each numbered graduation shall be tested and the instrument shall be correct whether the test is carried out with increasing or decreasing loads.
 - (c) The intermediate graduations shall also be tested to see that they are correct and are at proper distance apart.
 - (d) No test for sensitiveness at a lower load shall be made.

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TABLE I - SENSITIVENESS AND ERRORS FOR STEELYARDS

Capacity :	Verification		Inspection	
	Sensitiveness when fully loaded	Greatest error allowed in excess or deficiency when fully loaded	Sensitiveness when fully loaded	Greatest error allowed in excess or deficiency , when fully loaded

1	2	3	4	5
5kg	2.5g	3.8g	7.5g	7g
10kg	5g	7.5g	15g	15g
20kg	10g	15g	30g	30g
50kg	25g	50g	75g	100g
100kg	40g	80g	120g	160g
150kg	60g	120g	180g	240g
200kg	80g	160g	240g	320g
250kg	100g	200g	300g	400g
300kg	120g	240g	360g	480g
500kg	200g	400g	600g	800g
100kg	400g	800g	1200g	1600g

5. SEALING.

Each instrument shall be provided with a plug or stud of soft metal on the front face of the shoulder of the steelyard for receiving the seal of the verification authority. Such a plug or stud shall be made irremovable by undercutting or by some other suitable method.

PART V- PLATFORM WEIGHING MACHINES.

DEFINITION.

I.

- (a) A platform weighing machine means a weighing instrument with compound levers and with the goods receptacle generally in the form of a platform. The capacity of these machines shall not exceed 3 tonnes and the weight of the load is indicated with steelyard or other form of indicator.
- (b) The nomenclature of a platform weighing machine is given in Fig. I which shows it 'loose weight' type machine. In the case of 'no-loose-weight' type machine, there are two sliding poises, one for the major bar and the other for the minor bar of the steelyard.

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CAPACITIES

Platform weighing machines may be of the following capacities, 10 kg, 20 kg, 50 kg, 100 kg; 150 kg, 200 kg, 250 kg, 300 kg, 500 kg, 1000 kg, 1500 kg, 2000 kg and 3000 kg.

GENERAL REQUIREMENTS

- (a) Steelyard
- (i) The steelyard in the platform weighing machine shall not have any readily removable part except the support for proportional weights. There shall be one or more stops to prevent the sliding poise or poises from travelling behind the zero mark. The minimum travel of a steelyard in platform machine shall be 10 mm either way.
- (ii) The top and bottom of the guide and / or steelyard shall be fitted with nonmagnetic material.
- (iii) When the steelyard is provided with notches, these shall be suitably protected.
- (iv) The value of the smallest division on the minor bar shall not exceed the greatest error allowed for that capacity except for machines of capacities 200 kg and below in which case the value of the smallest division may exceed error prescribed for the capacity but not exceed 100 g.
- (v) The value of the smallest graduation on dials or minor steelyards, and wherever possible major steelyards shall be 1 g, 2 g, 5 g, or may multiple by 10, or any power of 10 (for instance 100, 1000 etc.) of any of these weights.
- (b) Platform.
- (i) The permissible extension of the platform on either side of the box in the case of extended platform shall be not more than 25 percent of the length of the box.
- (ii) If a movable hutch, barrow, or bucket is used with the ordinary platform, it shall form an essential part of the machines without which it is not possible to balance the machine. The movable hutch, barrow, frame or bucket shall be identified with the machine and when in position on the platform, it shall be as central as possible.
- (c) Balancing Arrangement.
- (i) Where a balance box is provided on the steelyard, the balance ball shall not be easily accessible.
- (ii) The balancing arrangement for daily wear and tear shall have a 0.5 percent of the capacity of the machine and not less than 0.125 percent of the capacity each way (see Table I). The balance box containing the balancing ball shall be securely attached to the steelyard, preferably by passing bolt through the casing to the steelyard. The balancing ball shall be actuated by a detachable key.

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- (d) In the case of platform machines provided with dials:
- (i) The racks and pinions shall be of suitable hard-wearing material and shall be finished smooth;
 - (ii) The extremity of the pointer shall, in no position be at a greater distance than 5 mm from the graduated surface of the dial. Further, the extremity of the pointer shall be on the graduated portion of the dial, and it shall be so made as not to obscure the graduations or make them difficult to read; and
 - (iii) The dial shall be graduated into equal parts and the minimum width between the graduations shall be not less than 2 mm.
- (e) The machine may if required, have arrangement for making up the tare.
- (f) For machines without proportional weights, the total capacity shall be that indicated on the major steelyard.

TABLE 1- RANGE OF BALANCING ARRANGEMENTS

Capacity	Range of balancing arrangement	
	Max. 0.5 percent of capacity	Min. 0.125 percent of capacity each way
1	2	3
10 kg	50 g	12 g
10 kg'	100 g	25 g
50 kg	250 g	60 g
100kg	500g	125 g
150 kg	750g	185
200 kg	1.0kg	250 g
250 kg	1.3 kg	310 g
300 kg	1.5 kg	350g
500 kg	2.5 kg	625 g
1000 kg	5.0 kg	1.25 kg
1500 kg	7.5 kg	1.88 kg
2000 kg	10.0 kg	2.50 kg
3000 kg	15.0 kg	3.75 kg

4 PROPOTIONAL WEIGHTS

(a)

All loose proportional weights in a platform machine shall be identified with the machine by a number or any other 'suitable mark of identification, which shall be indelible. The counter-poise weights shall be marked with their equivalent weights as indicated in, Fig. 2.

(b)

The proportional weights shall be hexagonal in shape with a slot of suitable size to allow them being placed on the counter balance (see Fig. 2).

(c)

The proportional weights shall be made of cast iron or brass.

(d)

The proportional weights shall have one rectangular loading hole which shall be undercut or tapering outwards so as to hold lead securely for adjustments. The undercut hole shall be reasonably large to accommodate the lead required for adjustments. The surface of the lead in the loading hole of a new proportional weight shall be at least 3 mm inside from the bottom surface of the weights.

(e)

In the case of platform machine provided with proportional weights the smallest denomination of the proportional weights shall be equivalent to the weights represented by the maximum graduation on the steelyard.

(f)

The denomination of the proportional weights shall be 1 kg, 2 kg, 5 kg or a multiple or sub-multiple by 10 or a power of 10 (100, 1000 etc) of any of these weights. Any number of proportional weights in any one of the aforesaid denominations may be included provided the total of all the proportional weights does not exceed the capacity of the weighing instrument. '

Note

While arriving at the capacity of the platform machine the maximum graduation shown on the steelyard in the case of 'loose-weight' platform machines and on the minor bar in the case of no-loose-weight' type machines shall not be taken into account.

(g)

The total capacity 'of the machine shall include the capacity of graduated tare bar or bars' wherever provided.

NOTE

When tare bars are used and are not graduated except with a zero mark only, they shall not be taken into account when calculating the capacity of the machines. Ungraduated tare bars shall be marked with zero.

TESTS AND, TEST REQUIREMENTS :

(a)

The Steelyard of a platform weighing machine shall remain horizontal at no load.

(b)

Platform weighing machines shall be tested to verify the accuracy of graduation or notches up to the total capacity .

(c).

All loose proportional weights where these are, provided shall be tested and then ,suitably sealed to 'prevent tampering.

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- (d) With one quarter of the maximum load (or as near thereto as practicable) placed in the middle or at any of the corners of the platform, the platform weighing machine shall show the correct weight within half the limits of error prescribed in Table 2 in Col. 3 for non-dial type machine and in Col. 4 for dial type machines.
- (e) Platform weighing machines with steelyard arrangement shall be tested for sensitiveness and error at full load or as near to it as practicable. The sensitiveness and permissible error shall not exceed the limits prescribed in Cols 2 and 3 respectively of Table 2.
- (f) The machines shall be tested at loads corresponding to the major divisions or notches
- (g) With the exception of sensitiveness test (see (e) above the other tests mentioned 'above shall be carried out in a similar manner on dial type machines also These machines shall comply with the requirements prescribed in Col.4 of Table 2

TABLE 2 SENSITIVENESS AND ERRORS FOR PLATFORM MACHINES

Capacity	Verification		Inspection	
	Sensitiveness when fully loaded	Greatest error allowed in excess or in deficiency when fully loaded for '	Sensitiveness when fully loaded	Greatest error allowed in excess in or deficiency when fully loaded for
	Non-dial type machines	Platform machines fitted with dials	Non .dial type machines	Platform machines fitted with dials
50 kg ..	10 g	20 g	30g	4g
100 kg ..	20 g	40 g	60 g	80 g
150kg ..	30g	60 g	90g	120 g
200. kg ..	40 g	80 g	120 g	160 g
250kg ..	50 g	100 g	150 g	200 g
300kg ..	60 g	120 g	180 g	240 g
500kg ..	100 g	200 g	300 g	400 g
1000 kg ..	125g	250 g	375 g	500 g
1000,kg ..	200g	400 g	600 g	800 g
2000 kg ..	250 g	500 g	750g	1000 g
3000 kg ..	300 g	1000 g	900 g	2000 g

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6., SEALING:

- (a) Platform machines of the dial type shall be fitted with a soft-metal plug for receiving the seal of the verification authority and wherever practicable, this plug shall be passed through the dial and frame. The plug or stud fitted on the dial shall be so supported as to prevent the risk of any damage to the instrument.
- (b) On. platform machine other than those of the dial type, a plug or stud shall be provided in a conspicuous position on the indicating lever or steelyard.

PART VI - SPRING BALANCES: I.

DEFINITION:

- (a) A spring balance is an instrument which, on the application of the load to be weighed, indicates the whole weight by. the extension or compression of a spring, such extension or compression being registered by means of a pointer on a dial.
- (b) The general arrangement of spring balance without scoop and support is illustrated in Fig. I.

2. CAPACITIES:

The spring balance shall be of one of the capacities shown in Table I.

3. GENERAL REQUIREMENTS:

- (a) In addition to the general requirements specified in Part I of the Schedule, spring balance shall comply with the' requirements ..given below:
- (b) The spring balance with the goods pan below the spring shall be suspended permanently from a stand, support or brackets.
- (c) If pans are provided to the balance, they shall be made of brass, bronze, cast iron mild steel or stainless steel. Metal chains or metal supports shall be provided if pans are suspended. When mild steel is used, it shall be suitably protected against corrosion.
- (d) The extremity of the pointer shall not exceed 1.0 mm in width and shall not be more than 3.0 mm away from the graduation on the dial.
- (e) The dial shall be graduated into equal parts, and the width apart of .the graduation shall be not less than 2 mm
- (e) The dial shall be graduated into equal parts, and the width apart of the graduations shall be not less than 2 mm.
- (i) The weight corresponding to the interval between consecutive graduation marks shall not exceed the values given in Table I.
- (li) When . the graduation commences' at a fixed' load, the position of the index, when there is no load, shall be clearly indicated by a zero mark.

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- (f) When a spring balance is provided with adjustable indicator, the range of adjustment shall not exceed one percent of the capacity of the instrument, except in the case of instruments used for mining purposes where it shall not exceed two percent.
- (g) Spring balance shall have a device incorporated in the design to prevent over loading.
- (h) The body of the spring balances shall be constructed of brass, cast iron, mild steel or any other suitable material, and shall be sufficiently robust in construction.

TABLE I-MAXIMUM ERRORS FOR SPRING BALANCES

Weight corresponding to interval between consecutive-graduation (Max)		- Maximum Error	Remarks
1	2	3	4
1 kg	5g	A weight corresponding to 2.5 percent of the interval between successive graduations.	While fixing the diameter of effective circle of a dial of one revolution, a blank space of 15 mm at the end of graduations has to be provided. In the case of multi revolution spring balances, the minimum blank space requirement shall not apply.
2 kg	10 g		
5kg	20 g		
10 kg	50 g		
15 kg	50g		
20 kg	100 g	A weight corresponding to 50 percent of the interval between successive graduations.	
100 kg	500 g		
150 kg	1.0		
150 kg	1.0		
200 kg	1.0 kg		
300 kg	1.0 kg		
500 kg	2.0 kg		

Note :-Inspection tolerances shall be double the values shown in Col. 3

4. TESTS

- (a) When the pan is below the spring, the prescribed limits of error shall not be exceeded, wherever the load is placed on it.
- (b) If the pan is in the form of a scoop and half the full load is placed the furthest point from the centre of the scoop and the other half at any position, the spring balance shall be correct to prescribed limits of error.

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- (q) When the pan is not in the form of a scoop, the spring balance shall indicate the correct weight within half the prescribed limits of error if the centre of a load equal to half the capacity is placed on the pan anywhere within a distance from the centre equal to one-third of the greatest length of the pan, or if that pan has a vertical side against the middle of that side the weight being entirely on the weight pan.
- (d) Each graduation shall be tested.
- (e) The instrument shall be correct whether the test is made by progressively increasing or decreasing the loads, provided that in either case the spring shall be allowed to vibrate before the reading is taken.
- (f) The balance shall be loaded to its capacity, and the load maintained for a period of 24 hours after which it shall be removed. Four hours after removal of the load, the balance shall not show any permanent set. Further, when tested as stated in (e) above, it shall record correct readings.
- (g) Spring balances shall not be tested for sensitiveness.

s. SEALING

Spring balances shall be fitted with a soft plug to receive a seal and wherever practicable, this plug shall pass through the dial or frame. The plug or stud shall be so supported to allow no risk or injury to the instrument.

PART VII- WEIGH BRIDGES

A. weighbridge shall mean a weighing instrument constructed with compound levers with the indicator system carried on foundations separate from the lever systems to weigh loads of capacities 1000 kg (one tonne) and over, through the medium of proportional weights or indicating mechanism. A typical weighbridge is illustrated in Fig. 1.

2. CAPACITIES.

Weighbridges may be of the following capacities:

1 t, 2 t, 3 t, 5 t, 10t, 15t, 20t, 25t, 30 t, 40 t, 50 t, 60 t, 80 t, 100 t, 150 t, 200 t, 300 t, 400. t.

3. GENERAL REQUIREMENTS.

- (a) In addition to the general requirements specified in Part I of this Schedule, weighbridges shall comply with the requirements given below.
- (b) Framework :- Where the weighbridge is fitted with a framework, it shall be built up of mild steel sections or cast iron or cast steel. It shall be of rigid structure, suitably strengthened so that it is capable of resisting excessive vibrations and shall not throw the lever system out of alignment. Brackets shall be provided on the side and end frames to secure the framework.

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- (c) Steelyard
 - (i) The steelyard of a weigh bridge shall not have any readily removable parts except the support for the proportional weights. There shall be one or more stops to prevent the sliding poise or poises from travelling behind the zero mark.
 - (ii) The minimum travel of the steelyard in weighbridges shall be 13 mm each way.
 - (iii) The top and the bottom of the guide and/or steelyard shall be fitted with non-magnetic material.
 - (iv) When the steelyard is provided with notches, the latter shall be suitably protected.
 - (v) The value of the smallest division on the minor bar shall not exceed the greatest error allowed for that capacity (see Table 2).
- .d) Graduation :- The value of the smallest graduation of dials or minor steelyards, and wherever possible major steelyards of 'weighing instruments shall be 1g, 2g, 5g, or any multiple by 10 or a power of 10 (for instance, 100, 1000 etc.) or any of these weights.
- (e) Platform
 - (i) The platform shall be either chequered or plain, and shall be made of cast iron or steel plates. It shall be rigid and sufficiently strong to carry the maximum load. The foundation shall provide for a manhole to facilitate easy access to the pit.
 - (ii) If a movable hutch, barrow, frame or bracket is used with the ordinary platform it shall form an essential part of the machine without which it is not possible to balance the machine. The movable hutch barrow, frame bucket shall be identified with the machine and when in position on the platform, it shall be central as possible.
- (f) Balancing Arrangement:- The balancing arrangement for daily wear tear shall have a range not exceeding 0.5 percent of the capacity of the machine and not less than 0.125 percent of the capacity each way. The balance box connecting the balancing ball shall be securely attached to the steelyard, preferably by passing a bolt through the casting to the steelyard. The balancing ball shall be actuated by a detachable key.
- (g) In the case of 'weighbridges provided with dials:
 - (i) Racks and pinions,' shall be of suitable hardwearing material finished smooth.
 - (ii) The extremity of the pointer shall, in no position be at a greater distance than 5 mm from the graduated surface of the dial. Further, the extremity of the pointer shall be on the graduated portion of the dial, and it shall be so made. as not to obscure graduations or make them difficult to read.
- (iii) The dial shall be graduated into equal parts and the minimum width between graduations shall be not less than 2 mm.
- (h) For non-loose weight steelyard machines, the total capacity shall be that which is indicated on the steelyard.

THE SIKKIM WEIGHTS AND MEASURES RULES, 1983**4-. PROPORTIONAL WEIGHT**

- (a) All loose proportional weights shall be identified with the machine by number or any other suitable mark of identification which shall be indelible. They shall be marked with their equivalent weights as shown in Fig. 2.
- (b) . Proportional weights shall be hexagonal in shape with a slot of suitable size allow their being to placed on the counter balance (see Fig. 2).
- (c) The proportional weights shall be made of cast iron or brass.
- (d) The proportional weights shall have one rectangular loading hole which shall be undercut or tapering outwards so as to hold lead securely for adjustment The surface of the lead in the loading hole of a new proportional weight shall be at least 3 mm inside from the bottom surface of the weight.
- (e) The smallest denomination of the proportional weight shall be equivalent to the weight represented by the maximum graduation on the minor bar.
- (f) The denominations of the proportional weights shall be 1 kg, 2 kg, 5 kg or multiple sub-multiple by 10 or a power of 10 (100, 1000 etc.) of any of these number of proportional weights in anyone of the aforesaid denomination may be included provided the total equivalent of all the proportional weight does not exceed the capacity of the weighing instrument.

Note- While arriving at the capacity of the weighbridge the maximum graduation shown on the steelyard in the case of 'loose weight' weighbridge and on the minor bar in the case of 'no-loose-weight' type weighbridges shall not be taken into account.

- (g) The total -capacity of the machine shall include the capacity of graduated tax bars wherever provided.

Note :-When tare bars are used and not graduated except with a zero mark only, they shall not be taken into account when calculating the capacity of the machines. Ungraduated tare bars shall be marked with zero.

5. TESTS AND TEST REQUIREMENTS

- (a) The steelyard of a weighbridge shall remain horizontal at no-load.
- (b) Weighbridges shall be tested to verify the accuracy of graduations or notches up to the total capacity.
- (c) All loose proportional weights, where these are provided, shall be tested and then suitably sealed to prevent tampering.
- (d) With one quarter of the maximum load (or as near thereto as practicable) placed in the middle or at any of the corners of the platform, the weighbridge shall indicate the same weight within half the limits of error prescribed in Table. 2 in Col. 3 for non-dial type machines and in Col. 4 for dial type machines.

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TABLE I-RANGE OF BALANCING ARRANGEMENT

Capacity	Range of Balancing Arrangement	
	Max. 0.5 percent of capacity	Min. 0.125 percent of capacity each way
	2	3
	kg	kg
1t	5	1.25
2 t ..	10	2.50
3t	15	3.50
5t	25	3.75
10 t	50	12.5
15 t	75	19.0
20 t	100	25.0
25 t	125	31.0
30 t	150	35.5
40 t.	200	50
50 t	250	62
60 t	300	75
80 t	400	100
100 t	500	125
150 t,	750	188
200 t	1000	250
300 t	1500	375
400 t	1000	500

- (e) Weighbridge & with steelyard arrangement shall be tested for sensitiveness and error at full load or as near to it as practicable. The sensitiveness and permissible error shall not exceed the limits prescribed in Cols. 2 and 3 respectively of Table 2.
- (i) The machines shall be tested at loads corresponding to all major divisions or notches.
- (ii) With the exception of sensitiveness test, the other tests mentioned above shall be carried out in a similar manner on dial type machines also. These machines shall comply with the requirements prescribed in Col. 4 of Table 2.

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TABLE 2-SENSITIVENESS AND ERRORS FOR WEIGHBRIDGES

Capacity of Machine	Verification		Inspection		
	Sensitiveness when full loaded		Sensitiveness when fully loaded		
	Greatest error allowed in excess or in deficiency when fully loaded		Greatest error allowed in excess or in deficiency when fully loaded for		
	Non dial type machines	Machines fitted with dial	Non dial type machines	Machines fitted with dials	
	KG		KG	KG	
1t	1.1	1.2	3.3	2.4	
2t	1.2	1.4	3.6	2.8	
3t	1.3	1.6	3.9		
5t	1.5	2.0	6.0	3.2	
10t	2.0	3.0	4.5	4.0	
15t	2.5	4.0	7.5	8.0	
20t	3.0	5.0	9.0	10.0	
25t	3.5	6.0	10.5	12.0	
30t	4.0	7.0	12.0	14.0	
40t	5.0	7.0	15.0	14.0	
50t	5.2	7.8	15.6	15.6	
60t	5.5	8.5	16.5	17.0	
80t	6.0	10.0	18.0	20.0	
100t	6.5	11.5	19.5	23.0	
150t	7.8	15.2	23.4	39.4	
200t	9.0	19.0	27.0	38.0	(B)
300 t	15.0	30.0	45.0	60.0	
400 t	20.0	40.0	60.0	80.0	

(A) =A weight corresponding to one half the interval between consecutive graduations

(B) =A weight corresponding to the interval between consecutive graduations

6 IDENTIFICATIONS OF PARTS -

Detachable parts which may affect the accuracy of the weighbridge shall be indelibly numbered or marked so as to facilitate identification

7 SEALING

(a) Dial machines shall be fitted with a soft metal plug for receiving the seal of the verification authority and wherever practicable, this plug shall be passed through the dial and frame. The plug or stud fitted on the dial shall be so supported as to allow no risk of damage to the instrument

(b) On weighbridges other than the dial machines, a plug or stud shall be provided in a conspicuous position on the indicating lever or steelyard

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PART VIII-CRANE WEIGHING MACHINES

1 DEFINITION.

A crane weighing machine is a weighing instrument designed on lever or spring principle specially constructed for suspension from the hook of a crane and fitted with a hook for lifting the load.

Note :-A lever type machine with open steelyard is illustrated in Fig. 1 Fig. 2 illustrates a dial type machine.

2. CAPACITIES.

Crane' weighing machines may be of the following capacities : 500kg, 1 tonne, 2 tonnes, 3 tonnes, 5 tonnes, 10 tonnes, 15 tonnes, 20 tonnes, 30 tonnes, 50 tones 50 tonnes, 100 tonnes and 200

3. GENERAL REQUIREMENTS.

- (a) In addition to the general requirements in Part I-of the Schedule, crane weighing machines shall comply with the following requirements.
 - (i) The machine shall be sufficiently strong to withstand wear and tear in the exacting conditions under which .it works.
 - (ii) No crane weighing machine shall become a permanent link in the 'lifting gear.
 - (iii) All working parts 'in a crane weighing machine shall as far as possible, be suitably protected from the dust and- damp of the atmosphere. In a lever type machine the steelyard. shall be made of corrosion resistant, steel to withstand atmospheric influence and shall be sufficiently rigid and accurate.
 - (iv) In dial type machines, the racks and pinions shall be of suitable 'hard wearing material and finished. smooth.
 - (v) The range, of balancing or adjusting arrangement shall not exceed 2 percent of the capacity of the machine (See Table 3).
 - (vi) - In a steelyard type machine, there shall be free movement of the steelyard. In a dial type machine, the dial indicator shall work freely and return to its initial starting, point after the load is removed.
 - (vii) In the case of a crane weighing- machine provided with hooks, -trays or slings, these shall form essential parts without which it is not possible to balance the machine. These shall be identified; with the machine.

The value of the smallest graduation on dials or minor steelyards and, wherever possible, major steelyards shall be 1g, 2 g, 5 g. or any multiples of 10 or a power -of 10 (for instance 100, 1000 etc). or any of these weights.
 - (ix) The total capacity of the machines shall include the capacity of graduated tare bar or bars wherever provided.

Note : When tare bars are used and are not graduated except with a zero mark only they shall not be taken into account when calculating the capacity of the machines Ungraduated tare bars shall be marked with zero.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983**4. TESTS.**

- (a) Crane machines of the steelyard type shall be tested for sensitiveness and greatest error at full load, and shall comply with the requirement of Table I.
- (b) Crane machines of the dial type shall be tested for greatest error at full load and shall comply with the requirements of Table 2.
- (c) Spring type' crane machines, shall not be tested for sensitiveness.
- (d) For spring type machines, the limit of greatest error shall be double of those prescribed for steelyard machines (See Table)
- (e) Each numbered graduation shall be tested and the instrument shall be correct whether the test is carried out with increasing or decreasing loads. .
- (f) The intermediate graduations shall also be tested to see that they are' correct and are at proper distance apart.
- (g) No test for sensitiveness at a load lower than the full load shall be made

s. SEALING.

Crane machines shall be fitted with an removable plug in a conspicuous part, either on the steelyard or on the dial, to receive the seal of the verification authority.

TABLE I-LIMITS FOR SENSITIVENESS AND GREATEST ERRORS FOR CRANE WEIGHING MACHINE STEELYARD TYPE..

Capacity	Verification		Inspection	
	Sensitiveness when fully loaded	Greatest error allowed in excess or deficiency loaded	Sensitiveness when fully loaded	Greatest error allowed. in excess when fully loaded
500 kg	100 g	200 g	300 g	400 g
1 t	1.1kg	1. kg	3.3. kg	2.4kg
2 t	1.2 kg	1.4kg	3.6 kg	2.8 kg
3t	1.3 kg	1.6 kg	3.9 kg	3.2 kg
5t	1.5 kg	2.0 kg	4.5 kg	4.0 kg
10 t.	2.0 kg	3.0 kg	6.0 kg	6.0 kg
15 t	2.5 kg	4.0 kg	7.5 kg	8.0 kg
20 t	3.0 kg	5.0 kg	9.0 kg	10.0 kg
30 t	4.0 kg	7.0 kg	12.0 kg	
50 t	5.2 kg	7.8 kg	15.6 kg	
100 t	6.5 kg	11.5 kg		19.5 kg
200 t	9.0 kg	19.0 kg		27.0 kg

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**TABLE 2 - LIMITS FOR GREATEST ERROR FOR CRANE WEIGHING MACHINES
DIAL TYPE**

Capacity	Minimum weight corresponding to interval between successive graduations	Greatest error allowed in excess or in deficiency when fully loaded	
		Verification	Inspection
500kg	5 kg	A weight corresponding to half the interval when successive graduations	A weight corresponding between successive graduation
1 t	5 kg		
2t	5 kg		
3 t	10 kg		
5 t	20 kg		
10t	50 kg		
15 t	50 kg		
20 t	100 kg		
30 t	100 kg		
50 t	200 kg		
100 t	500 kg		
200 t	500 kg		

PART IX-AUTOMATIC WEIGHING MACHINES

I. DEFINITIONS

- (a) Automatic Weighing Machine-is a weighing instrument in which a self-acting mechanism effects an automatic feed, weights given loads, registers and totals or performs some of these functions.
- (b) Capacity of a weighing instrument (other than a belt convey or weighted for which the capacity is stated in terms of weight per hour or weight per cycle and an egg grading machine), is- the maximum load the instrument is constructed to weight. It includes the weight represented by the weight beams or other similar devices but devices, but does not include the weight value of any auxiliary device such as a small bar and poise designed to determine weights intermediate between graduations on the principal beam when the maximum weight value of such device does not exceed approximately one percent of the sum of the principal weight values.

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GENERAL - REQUIREMENTS.

- (a) Removable Parts.- Every removable part of the machine, the removal of which would affect the correctness of the machine shall be so made and fitted that it is securely located in its operating position. A part shall be deemed to be readily removable if it is possible to remove it without the use of a tool.
- (b) Adjusting Mechanism.- Any adjustable part or mechanism shall be secured or protected so that it shall not be possible to alter it without the use of a tool or to accidentally put it out of order during normal working.
- (c) Manual Controls.-:Where a manual control is fitted to operate the discharge of the load, it shall be unoperable when the weighing machine is in action.
- (d) Interlocking Mechanism.- The machine shall have such construction that the feed of material to the weighing hopper and discharge of material from it shall be impossible simultaneously.
- (e) Compensating Mechanism: Where an automatic weighing machine is fitted with mechanism to compensate for material in flight after the feed has stopped this device shall have a range of adjustment sufficient for any load of any material which the machine is designed to weigh.
- (f) Residue Weighing Attachments :-Attachments for ascertaining the weight of part loads or residues shall have the same weighing capacity as that of the machine of which they form part.
- (g) Means of Testing - Machines of a capacity exceeding 50 kg shall be provided with:
 - (i) a visible indicator or pointer so that balance of the beam may be determined and
 - (ii) means to enable the discharge to be arrested to enable any load to be checked by observation of the weighing beam or indicator, and
 - (iii) provision for removing the influence of the compensating mechanism from the weighing beam or indicator.
- (h) Remote, Indicating and Printing Mechanism:- An automatic weighing machine may be fitted with a remote indicating or printing mechanism. - In machines fitted with a graduated scale the weight increments of the remote indicator or ticket printer shall not exceed the increments of the graduated scale.
- (i) Weighing Hoppers- The interior surfaces of all weighing hoppers shall be such as not to impede the ready discharge of the whole contents. . The weighing hoppers shall be so constructed as to facilitate complete discharge, if necessary, by auxiliary equipment.
- (j) Protection :- The surfaces of all parts of the weighing mechanism including the weighing hopper and weights hopper or pan shall be shaped in such a manner or suitably protected in such a manner as to minimize the accumulation of dust or material on such parts.

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4. TEST FOR ACCURACY:

- (a) Method' of Testing : - Every automatic weighing machine shall be tested, by taking any 20 consecutive loads weighed. by the machine; and reweighing the same loads on any other weighing machine, provided that, if the Inspector thinks fit he may so weigh and reweigh more than 20 separate loads of which any 20 separate consecutive loads may be treated as test loads.
- (b) In any case where the testing procedure specified at 4 (a) is not practicable, the machine may be tested by :
- (i) testing the accuracy of the visible indicator or pointer, by directly applying to the machine the appropriate test' weights, and'
- (ii) testing the accuracy of any 20 consecutive loads weighed. in, the weighing hopper by reference to the-visible indicator or pointer.
- (c) Limits of Error (On Initial Verification)
- The accuracy of an automatic weighing machine shall be. tested by reweighing a total test load equal to not. less than forty by reweighing a maximum load for which it is designed, on another instrument (the accuracy, .of which. has been previously verified by the, Inspection).The total test load shall be built by 'individual' loads varying ,from the minimum load marked in the machine to the maximum. Where 'this test is not practicable the ,machine shall be tested by the application, of standard weights.
- (i) When tested by the application of test weights the limits of error, of the indicator shall be as given in Table I .
- (ii) When tested by the reweighing of loads.
- (a) Machines not .exceeding 5 kg capacity. 0.5 percent in ,excess only of the purported weights of each test ,load, provided that, where in the opinion of the Inspector the maximum unit weight of the product makes it 'desirable, 'in any test load which exceeds 0.5 percent in excess of the purported weight. of the test load, the single piece' or item, which appears to be the largest single piece or item in that test load shall be ,removed, and the test load then reweighed. Such test load shall not then exceed 0.5 percent in excess of the purported weight of the test load.
- (b) Machines exceeding 5 kg capacity' 0.5 percent in excess or deficiency of ,the purported weight of each test, load.
- (c) ,Machines used only for the weighing' of grain 0.25 percent in, excess ,or deficiency of the purported weight of each test, load.
- (d) Machines used-only for the weighing of solid fuel and of a 'capacity of 100 kg or less - 2 percent in excess only of the purported weight of each test load:

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TABLE I - LIMITS OF ERROR OF INDICATOR

Clause 4 (c) (i)

Capacity of machine	Error in excess or deficiency when fully loaded
kg	g
1	2
2	3
3	4
5	6
10	7
15	10
20	15
25	20
50	30
100	40
250	60
200	70
250	80
300	100
500	160
1000	280
1500	360
2000	350

(5) MARKING

- (a) Maximum and Minimum Loads - Every automatic weighing machine shall be marked clearly in letters of uniform size of a minimum height of approximately 5 mm with the maximum and minimum loads it is designed to weigh.
- (b) Maximum Operating Speed :- Every automatic weighing machine shall be marked with the maximum speed (output per hour) at which it is designed to operate..
- (c) Type of Commodity :- In addition to the marking shown in 5 (b), the machine may be marked with information of the type of commodities which it is designed to weigh.
- (d) Removable Parts :- Every readily removable part of a machine, the removal of which would affect the correctness of operation of the machine, shall be numbered or otherwise identified with the machine to which it belongs.
- (e) Loose Counterpoises - Where loose weights are used as a counterpoise they shall be clearly and indelibly marked with their equivalent weight and numbered to identify them with the machine to which they belong.

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PART -SELF-INDICATING AND SEMI SELF INDICATING COUNTER TYPE WEIGHING MACHINES.

1. DEFINITION

(a) Self .Indicating Machine. A. machine which on the application of the load to be weighed, indicates the hole of the load automatically.

A typical self. indicating machine is illustrated in Fig. 1.

(b) Semi .Self .Indicating Machine.- A machine which, on the application :of

the load to be weighed, indicates automatically only a portion of the weight of the whole-load leaving the remainder to be balanced by weights or sliding poises fitted to the tare or capacity has or by any other suitable means.- A typical semi. self indicating machine is illustrated in Fig. 2.

2. CAPACITIES

The self. indicating or semi-self. indicating machines may be of the capacities shown in Table I.

3. GENERAL REQUIREMENTS

- (a)' Self-indicating or semi-self. indicating machines are generally constructed by incorporating a beam or levers coupled to a pendulum or other type of resistance system, excluding spring so as to produce an indicating arrangement for the machine. The arrangement of the level system of machine shall be such that the horizontality of the goods and weight pan fittings throughout the movement of the beam is preserved. The machine shall be provided with dashpot or any other suitable arrangement so as to bring the pointer quickly to rest.
- (b) The' supports for the pans shall be of a suitable rigid ,structure. The pans shall be made of mild steel. stainless steel, brass or bronze aluminum or its alloys, porcelain enamel coated steel, glass *or* plastic material. .
- (c) The bearing surfaces, knife-edges and points of contact of all stays, hooks and loops shall be of hard steel or agate. The knife-edges and bearings shall be so fitted as to allow the beam to move freely and the knife-edges shall rest on their bearings at practically their entire length. All levers and resistance mechanism shall be enclosed as far as possible.
- (d) The machines shall have a balance box for minor adjustments. The balance box shall be permanently fixed, preferably beneath the weigh pan, and shall be large enough to contain loose material to an amount up to one percent of the capacity of the machine. No other adjusting contrivance shall be used. In case of self 'indicating machine, the balance box shall be fixed below the goods pan

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- (e) The chart of the machines shall be graduated into equal parts and the width apart of the graduations shall be not less than 1.5 mm (unless magnification is provided on the chart) or a capacity of 10Kg and under and not less than 2 mm for a capacity above 10 kg. The weights corresponding to one-half the interval between consecutive graduation marks shall not exceed the greatest error allowed as shown in Table I. The extremity of the pointer shall not exceed 1 mm in width and shall not be more than 3 mm away from the chart. The position of the index when there is no load shall be clearly indicated by zero mark when there is no load shall be clearly indicated by zero mark.
- (f) The value of the minor graduation of the chart shall, correspond to one of the weights in the series, 1 g, 2 g, 5 g. or its decimal multiples of 10 or of powers of 10.
- (g) The self-indicating and semi-self-indicating machines, excepting out-of-level scale, shall be provided with leveling screws and a circular bubble.
- (h) When tare bars are graduated they shall only be permitted provided the chart capacity and the total capacity (chart plus tare bar) comply with capacities shown in Table I.

Note. When tare bars are used and are not graduated except with a zero mark, they shall not be taken into account when calculating the capacity of the machine. Ungraduated tare bars shall be marked with zero.

4. TESTS

- (a) All self-indicating and semi-self-indicating machines shall be tested on a horizontal level plane.
- (b) The machines shall be tested throughout the full range of their capacity by progressively increasing the load. The permissible error shall not exceed the limit specified in Table I.
- (c) When the pans are loaded to half the capacity there shall be no appreciable difference in the weight indicated on the dial when the loads moved within a distance from centre equal to one third from the greatest length of the pan.
- (d) When the goods pan is in the form of a scoop, the machine shall be correct to prescribed limits of error if half-the full load is placed against the middle of the back of the scoop and the other half in any position of the scoop.

5. SEALING

- (a) Self-indicating and semi-self-indicating machines shall not be tested for sensitivity. Each machine shall be provided with a plug or stud of soft metal on a conspicuous part of the beam or body for receiving seal. Such plug or stud shall be made irremovable by under cutting it or by some other suitable manner.

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TABLE I LIMITS. FOR ,GREATEST ERRORS FOR SELF INDICATING AND SEMI-SELFINDICATING COUNTER TYPE WEIGHING MACHINE.

Capacity	Maximum value of the, minor graduation	Greatest 'error allowed in excess or in deficiency when fully loaded	
		(g)Verification	Inspection(g)
(A) Self-indicating Machines			
(g)		(g)Verification	Inspection(g)
100kg	200	100	200
50 kg	100	50	100
30 kg	100	50	100
20kg	100	50	100
10 kg	50	25	50
5kg	20	10	20
3kg	10	5	10
2kg	10g	5	10
1kg	10	5	10
500g	5	2.5	5
200g	2	1.0	2
100g	1	0.5	1
(B) Semi Self indicating Machines			
100kg	100	50	100
50kg	40	20	40
30kg	30	15	30
20kg	20	10	20
10kg	10	5	10
5kg	10	5	10
3kg	10	5	10
2kg	10	5	10
1kg	10	5	10
500g	4	2	4
200g	2	0.5	2
100g	1	0.5	1

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PART XI - PERSON WEIGHING MACHINES

1. DEFINITIONS

- (a) A person weighing machine means an instrument with a weighing mechanism and with a platform to receive the person to be weighed. The weight of the person is indicated with a steelyard or any other form of indicator or by a ticket printing device.
- (b) Person weighing machine of steelyard, dial and ticket printing types are illustrated in Figs. 1, 2 and 3 respectively. These drawings are illustrative only and do not specify any particular design.

2. CAPACITY.

The Person weighing machine shall have capacity not less than 120 'kg.

3. GENERAL REQUIREMENTS

- (a) Platform :- The maximum size of the platform shall be 4-00 x 350 mm. - The platform shall not extend beyond the frame 'on any side.
 - (b)Steelyard Type Machines
 - (i) The steelyard shall not have any readily removable parts except the support for proportional weights. The minimum travel of a steelyard shall be 10 mm either way.
 - (ii) The top and bottom of the guide and/or steelyard shall be fitted with non magnetic -material, if these are made of ferrous material.
 - (iii) When the steelyard is provided with notches, the latter shall be suitably - protected. .
 - (iv) The value of the smallest division on the steelyard shall be not be more than 50 g and the steelyard shall be graduated with 5' kg x 50 g divisions.
 - (v) - Balancing arrangements-Where a balancing device is provided on the steelyard, the balance ball shall not be easily accessible. The balancing arrangement for daily wear and tear shall have a range not exceeding 0.5 percent of the capacity or the machine and less than; 0. 125' percent of the capacity each way. . The balancing device containing the balancing ball shall be securely attached to the steelyard. The balancing ball shall be actuated knurled headed bolt passing through it.
- (c) Dial Type Machines.
 - (i) Racks and pinion shall be of suitable hard wearing material and shall be finished smooth.
 - (ii) The extremity of the pointer shall in no position be at a greater distance from the graduated. surface of it the 'dial is 5 mm and shall be made to meet but not to obscure the graduation marks. .

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- (iii) The dial shall be graduated into equal parts and the minimum width part of the graduations shall not be less than 1.5 mm the minimum graduation shall be not more, than 500 g.
 - (d) Ticket Printing Type Machines.
 - (i) Racks and pinions shall be of suitable hard wearing material and shall be finished smooth.
 - (ii) the weight' shall be legibly indicated on the ticket.
4. PROPORTIONAL WEIGHTS.
- (a) All loose proportional weights shall be identified with the machine by a number or any other suitable mark of identification which shall be indelible. The counterpoise weights shall be marked with their equivalent weights' in the following manner:
 - (b) Proportional weights shall be hexagonal in' shape with a slot of suitable size to allow, them being placed on the counter balance.
 - (c) The proportional weights shall be made of cast iron or brass.
 - (d) The proportional weights have one rectangular loading hole which' shall be undercut or tapering outside so. as to. hold lead securely for adjustments. 'The -undercut hole shall be of reasonable size so as to to accommodate the lead required for adjustments. The surface of the lead in the loading hole shall not be less than 2mm inside from the bottom surface of the weight.
 - (e) The. steelyard type person weighing machine shall be provided with ,suitable proportional weights. The denominations of proportional weights shall be 1 kg, 2 kg. 5kg or a multiple or sub-multiple by ,10 or a power of 10(100,1000etc). The total value of the proportional weight shall not exceed the capacity of the machine. For the purpose of calculating total capacity the graduation on the steelyard shall not be taken into. account.
5. TESTS.
- (.a) The steelyard of, the person weighing machine ,with steelyard arrangement shall remain horizontal at no-load on the platform.
 - (b) In case of dial type machines, the position of indicator, when there is no. load, shall be clearly indicated at zero. mark
 - (c) The machines . shall be tested to verify ,the accuracy of graduation's to. the total: capacity
 - (d) All loose proportional weights, where these are provided, shall be tested and then suitably sealed to prevent tampering.
 - (e) Persons weighing- machines with the, steelyards arrangements shall be .tested for error as well as for sensitiveness 'at any, load up to. full load. The permissible errors and sensitiveness at full load are given in 'Table I.
 - (f) Persons weighing machines provided with dial type indicator or ticket printing device shall be tested for error only. No. sensitiveness test shall be taken an such. 'machines. The permissible error at .any load up to. full load shall not exceed the limits prescribed 'in Table I.

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TABLE I-LIMITS FOR GREATEST ERROR FOR PERSON WEIGHING MACHINES.

Type of machine	Sensitiveness when fully loaded	Greatest error allowed in- excess or in deficiency at any load up to full load	
		Verification	Inspection
1. Steelyard	25 g	50 g	100 g
2. Dial type		250g	500.g
3. Ticket issuing type		500 g	1kg

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PART XII -TOTALISING WEIGHING MACHINES

I. DEFINITIONS.

- (a) . Totalizing' Hopper Weighing Machine- A totalizing weighing machine- in which the load is divided into a succession of discrete equal or unequal individual loads, which are weighed in a hopper, grab or other receptacle.
- (b) Continuous Belt Conveyor Weighing Machine A totalizing weighing machine in which the load is carried on an endless flexible belt supported by a roller or rollers attached to the weighing mechanism.

2. GENERAL REQUIREMENTS.

- (a) Removable Parts- Every readily removable parts of a machine, 'the' removal of which would affect the correctness of the machine .shall be so 'made ,and. fitted that it is securely located in its operating position.. A part shall be deemed' to be readily removable if it is possible to remove it without the use. of a tool.
- (b) Adjusting Mechanism- Any adjustable part or mechanism's shall be secured or protected so that it shall not be altered without the use of a tool or accidentally put out of order during normal working.
- (c) Manual Controls- All manual controls, the operation of which' might effect premature discharge, shall be inoperable whilst the weighing machine. is. in operation.
- (d) Minimum Weight Increment- The minimum weight increment of the .totalizing register or. indicator .'shall not exceed:
 - (i) For totalizing hopper weighing machine: 1-25 of maximum load.
 - (ii) For continuous .,belt conveyor weighing Maximum rate of weighting in tonnes per hour/10000'machine:

3. TEST. FOR ACCURACY

- (a) The accuracy of the totalizing register or indicator shall be tested as follows and shall be within the limits specified under 3 (b).
- (i) For totaling hopper weighing machines- A total test load equal- to. not less than forty times the maximum load for which it is designed 'shall be reweighed on another instrument (the accuracy of which has been previously verified by the Inspector). The total test loads shall be built up from individual loads varying from the minimum load marked on the machine to the maximum. Where the foregoing test is. not practicable, the machine shall be tested. by the application of standard weights.

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- (ii) - For a continuous belt conveyor weighing, machine- A total, test load- equal to not less than 500 times the minimum weight increment of a totalizing register. indicator shall be reweighed over another instrument (the accuracy of which has been previously verified by the Inspector). If the machine is capable 'of operating at various speeds of operation it shall be tested at the maximum reasonable speed at, the minimum:.
- (b) Limits of Errors- The error in excess or in deficiency shall not exceed 0.5 percent of the total test load passed over the machine.

MAKING AND IDENTIFICATION OF PARTS

- (a) Rate Weighing- Every totalizing weighing machine shall be clearly 'marked with the maximum and minimum rates of weighing for which it is designed,,: and with the maximum weight per 'weighing cycle or maximum' instantaneous load 'it. is designed to carry. The marking shall be, in letters and figures of uniform size of a minimum height of approximately 5 mm.
- . (b) Removable Parts- Every readily removable Part the removal of. which ,would affect the correctness of machine shall be numbered or otherwise identified with the machine to which it belongs.
- (c) Loose Counterpoises-Loose counterpoise, when used for counter balancing shall be clearly and indelibly marked together with their equivalent weights and shall be numbered to identify with the machine to which they belong.

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PART XIII-BABY WEIGHING MACHINE

J. DEFINITION

- (a) A baby weighing machine shall mean a weighing machine. with a pan to receive the baby' to be weighed. A typical baby .weighing machine is illustrated in Fig 1 .

2. CAPACITY :

- (a) The machine shall have a maximum capacity of 10, 15 or 20 kg.

GENERAL REQUIRMENTS :

- (a) The pan for the baby shall either an oval or a rectangular basin, or an open-ended through of the following approximate dimensions:

	Minimum Dimension
Length	550
Width	300
Depth:	
Basin type	100
Trough type	125

- (b) The pan shall be smooth, non-porous, readily cleanable and of adequate strength and should preferably be made of a low heat-conducting material Wicker-work shall not be 'used in the construction of the pan.
- (c) Countertype baby weighing machine shall be provided with hard rubber or fiber stops to prevent noise or 'jar' in the out-balance position.
- (d) All machine shall be so constructed as to enable a direct net weighing to be obtained. .
- (e) Baby weighing machines of the spring balance, self-indicating or semi-indicating types shall be fitted with efficient oscillation control devices.
- (f) In spring-balance, self-indicating or semi-self-indicating type of be: by weighing machine the dial shall be graduated into equal parts and the minimum distance between consecutive graduations shall be not less than 2 mm. Provision of a screw for adjustment of the pointer to correct zero error-shall also be provided.
- (g) The extremity of the pointer shall not exceed 1.0 mm in width and shall be not more than. 30 mm away from the graduations on the dial. The weight corresponding to the interval between consecutive graduation marks shall not exceed 50 gm
- (h) The base of the machine shall be wide and heavy to void tilting and the position of the index, when there is no load, shall be clearly indicated. 'by a zero mark.
- (i) When the weighing machine is-provided. with an adjustable pointer, the range of adjustment shall not exceed one percent of the capacity of the machine.

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- (a) In spring balance, self-indicating or self-indicating type of machines. the permissible error shall not exceed the weight corresponding to half the interval between consecutive graduations.
- (b) When a load equal to half the capacity of the machine is placed at the farthest point from the centre of the pan and the other half at any position, the machine shall be correct to the prescribed limit of error.
- (c) Each graduation of the machine shall be tested.
- (d) For counter type machines, the sensitivity and the greatest error shall be as under.

Capacity	Sensitiveness - when fully loaded	Greatest Error in Excess of: Deficiency .		
		Verification	Inspection	Deficiency
kg	kg	kg		kg
10	7.0	10.5		21
15	8.0	12.0		24
20	9.0	13.5		27

- (e) The machine, shall be correct whether the test is made by progressively increasing or decreasing loads provided that in either case the .machine is allowed to vibrate before the reading is taken.
- (f) The spring-balance type machine shall be loaded to its full capacity and the load maintained for. a period of 24 hours after which it shall be removed Fours hours after removal of the load, the balance shall not show any permanent settings Further with tested as stated in 4(e,) it shall correct removal.

SEALING

- (a) Each machine shall be provided with a plug or stud of soft metal or a conspicuous part of the beam or the body for receiving a seal. Such a plug or .stud shall be made irremovable by. undercutting, it or by some other suitable method.

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SCHEDULE VII

SPECIFICATIONS FOR COMMERCIAL VOLUME MEASURING INSTRUMENTS

PART 1 - GENERAL REQUIREMENTS

I. DEFINITION

- (a) A measuring instrument shall mean a device designed to measure and deliver products in liquid formed by volume

2. GENERAL REQUIREMENTS

- (a) A measuring instrument shall be of such material design and construction as to ensure, under normal working conditions, the following requirements :
- (i) Accuracy is maintained,
 - (ii) Operating parts continue functioning satisfactorily, and
 - (iii) Adjustment remains reasonably permanent.
- (b) A measuring instrument shall not be stamped unless it is complete with all parts and attachments concerned with the operation of measurement and delivery.
- (c) Where an instrument has interchangeable or reversible parts, their interchangeability or reversal shall not affect the accuracy of the Instrument.
- (d) All graduations indicating the quantities dispensed or delivered shall be legibly, clearly and indelibly marked.
- (e) The graduated scale or indicating elements in a measuring instrument shall be constructed as to show automatically its zero position and the amounts delivered up to the registering capacity of the instrument. .
- (f) Every measuring instrument of fixed type shall be so installed that the viewer can readily obtain a clear and unobstructed view of the indication of measurement and delivery.
- (g) The design and construction of a measuring instrument shall be such as would prevent, as far as possible, tampering with the accuracy of the instrument either inadvertently by use or otherwise.

3. MARKING

- (a) All commercial measuring instruments, each as dispensing pumps, meters, volumetric container filling machines, shall be conspicuously, clearly and prominently marked with the registering capacity, name or registered trade-mark of the manufacturer and identification number.
- (b) All commercial measuring instruments shall be provided with a plate riveted in a prominent position to receive the markings mentioned in 3 (a) and the stamp of the inspecting authority.

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4 TEST REQUIREMENTS

- (a) ALL measuring instruments shall be tested under normal operating conditions
- (b) All instruments shall conform to the respective standards on accuracy requirements for the different kinds of measuring instruments.

5. SEALING

- (a) All measuring instruments shall be provided with one or more sealing arrangements for sealing by an inspecting authority to prevent tampering with stops or other adjustable parts affecting the quantity delivered. .

PART IT - DISPENSING PUMPS

1. DEFINITIONS:

- (a) A dispensing pump is a measuring instrument used in conjunction with a storage tank. or, tanks for effecting deliveries of liquid products by specified volumes.
- (b) . "Wet Hose" System - A type of device designed to be operated with the discharge hose full or liquid at all times. A "wet hose" is the discharge hose in this type of device.
- (c) A 'Dry-Hose System - A-type of device in which the discharge hose is completely drained following each delivery. A "dry hose" is the discharge hose in this type of device.

2. TYPES

- (a) Dispensing pumps shall be either of the meter type or container type.

3. GENERAL REQUIREMENTS

- (a) A dispensing pump shall essentially consist of :
 - (i) Suitable casing or housing,
 - (ii) Pumping unit
 - (iii) Metering unit or volumetric container
 - (iv) . Register for quantities and.
 - (v) Flexible hose with nozzle.

- .4 Every dispensing pump shall be provided with an individual sales indicator, graduated to indicate all possible deliveries. Any other counting .or totalizing device that may be provided, shall be so arranged at; to avoid any possibility of confusion with the individual sales indicator.

- 5. . A dispensing pump of meter type shall be so constructed that, after, a particular delivery cycle has been completed by movement of the starting lever to its shut off position, an effective automatic interlock .shall prevent a subsequent delivery being started until the. indicating elements have been returned to their correct, zero position.

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6. . A dispensing pump of container TYPE shall be so constructed that the individual sales indicator shall register only when the discharge from each container has commenced . A notice shall be prominently exhibited on the pump panel to indicate clearly and prominently. the following: ..

PLEASE .ENSURE BEFORE STARTING DELIVERY ,

- (i) Sales indicator is set at zero.
- (ii) Container. is full

- 7 Dispensing pumps of container. type shall. be provided with observation windows or other means for showing clearly that the container or containers are properly charged and. discharged.
8. Dispensing pumps delivering the liquid' under pressure' shall work in the "wet hose" system, fitted with a nozzle, having combination control valve and -automatic pressure discharge valve 'which should operate under the pressure at which the pump. 'designed to deliver.
9. .Dispensing pumps delivering liquid under gravity-shall work on the "dry hose" system. The "dry hose" shall be of such length and stiffness as to facilitate complete and rapid drainage of the hose pipe and shall be provided with a nozzle without any valve.
- . 10 .The length of the discharge hose. on a dispensing pump shall not exceed 5 metres from the outside. of the housing of the pump to the inlet end of the discharge nozzle.
- 11 A dispensing pump of the meter type shall have an effective air eliminator unit; situated after the. pumping unit and immediately preceding the metering unit.

- 1.2. A dispensing ,pump of the container type shall have a suitable air vent to preclude the possibilities of the air-trap in the volumetric container.

1.3 . TESTS

- (a) All dispensing pumps shall be tested for accuracy of discharge as described hereunder.
- (b) A dispensing pump shall be tested. under practical working conditions with the liquid. to the instrument is intended to deliver.
- (c) . All dispensing pumps .shall be verified by check measurers. 'the check measures may be of the denominations 1, 5, 1 0 and 20 litres.
- (d) Every check' measure shall be verified against the appropriate working standard measure at least once in every period of six months and duly sealed
- .. (e) .Before commencing checking: of dispensing pump, the pump shall be run for .. few minutes to ensure that all the units are functioning smoothly and also .the discharge hose has been wetted.

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- (f) A dispensing pump before being tested for accuracy shall be tested for leakage by being first fully primed.
14. The procedure for testing a dispensing pump shall be as follows:
- (a) The standard check measure shall first be filled to wet the entire inside surface. shall then be emptied.
- (b) The pointer (meter type) or reading (container) type of the recording mechanism shall then be set to zero
- (c) The pump shall be operated to dispense the liquid into the standard check measure until pointer (meter type) is at zero position again or the reading (container type) records the capacity of the check measure, .
If the quantity liquid delivered is in error beyond the permissible limits, the instrument shall be adjusted so that it delivers a quantity within permissible limits of error.
- (e) Steps (b), (c) or (d) shall be repeated until the pump gives two consecutive deliveries within permissible limits of error.
- (f) If the instrument has been found to give correct measure in the initial test itself, further test of accuracy shall be made and recorded.
15. Every dispensing pump shall deliver correctly at reasonable uniform speed which shall be not less than 10 litre per minute:
16. The permissible limits of error are specified below :-

Quantity	Verification (Errors in Excess)	Inspection	
		Error Excess	Error Deficiency
20 litre	100 ml	Same as on verification	50 ml
10 ml. 10 litre	50 ml		5 ml
5 litre	30 ml		2
1 litre	10 ml		

No error in deficiency shall be permitted during verification.

17. **SEALING AND STAMPING**

After adjustment for correct delivery lead-and-wire seals shall be applied in such manner that no further adjustment can be made, without mutilating the seal or seal Plain wire shall not be used for lead and-wire seal or seals. Inspector's stamp on the lead seal or seals shall be affixed by means of a . Inspector's, stamp shall also be marked on the name-plate fixed, in the dispensing pumps.

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- 18 A name plate to be fixed on the petrol pump for identification shall be .of the shape' and design shown below

SIKKIM WEIGHTS & MEASURES (ENFORCEMENT) ACT, 1985		
NAME OF OWNER OF THE PUMP & PUMP NO.		
PETROL CAPACITY OF H. S.D.	D. PUMP	LITRES

19. CAPACITY

The capacity of a dispensing pump meter type shall be the maximum graduation on the dial .or register.

The capacity of a dispensing pump .of container type shall, be the capacity of the container .or where there is more than .one .container the aggregate capacity .of the containers.

PART III -VOLUMETRIC CONTAINER FILLING MACHINES

DESCRIPTION

- (a) A volumetric container filling machine shall consist .of a basin .or basins, the capacity of each .of which shall depend on the capacity .of the containers, which it is, intended to fill The operation shall consist .of first filling the machine to the required level and then emptying out the contents' into the container .or containers (See Fig. I).
- (b) The machines shall have capacities .of 1, 2, 5, 10, 15.. 20, 50 ,100, and 200 litres.

2.

GENERAL REQUIREMENTS

- (a) The design of the filling machine 'shall be such that' the measured quantity shall be entirely drained .out on .opening .of the delivery valve.
- (b) The basin shall be, provided with adequate sight glasses observation windows, cut-off valve or other mean indicating clearly, that the basin .or basins are properly , charged.
- : (c) The' basin shall be provided with a suitable device such as a displacer, to enable adjustment .of ,the capacity of the basin.
- (d) Every' flexible hose for .discharging liquid from the basin together with the rigid delivery pipe which empties itself on discharge, shall be so arranged as to provide for ready and adequate .drainage .of the liquid.

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- (e) The filling machine shall be rigidly fitted on a stand.
- (f) The walls of the basin shall be strong enough as not to cause any appreciable deflection due- to the pressure of the liquid.

3.

TESTS

- (a) All volumetric container filling machines shall be tested for accuracy of discharge as follows:

A volumetric container filling machine shall be tested under the actual working conditions with a suitable liquid preferably the one which the instrument is intended to deliver.

- (c) Before checking a volumetric container filling machine, or the inside of the basin or basins and the discharge hose and pipe shall be wetted by filling the machine and emptying.

For testing volumetric container filling machines, a standard test measure shall be used.

- (e) The procedure for testing the accuracy of volumetric container filling machines

shall be as follows :

- (i) The standard test measure shall first be filled to full capacity in order to wet all inside surfaces. It shall then be emptied and completely drained.

- (ii) The machine shall then again be filled to the full capacity.

- (iii) The contents of each container of the machine shall be measured with a standard test measure/measures and the quantity so measured will indicate that the capacity is

- (a) within the permissible error, or

- (b) beyond the permissible error.

- (iv) If (iii) (b) be the case, the container shall be adjusted until the errors are brought within the permissible limits; and shall be repeated until the filling machines give two

- (f) consecutive deliveries within the tolerance limit

- (g) Every container of the filling machine shall be delivered correctly within the limit of tolerance specified in 3 (g).

- (g) The permissible errors shall not exceed the limit specified below

Capacity	Maximum Permissible Error in Excess only
10 litres and above	0.1 percent
Below 10 litres;	0.2 percent

4 SEALING

- (a) The volumetric container filling machines shall be provided by the manufacturer with a plug/plugs or stud/studs of soft metal to receive the stamp or seal of the verifying authority. Such plug/plugs or stud/studs shall be provided in a conspicuous part of the machine and shall be made in such a manner as to prevent its removal without obliterating the seal/seals.

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SCHEDULE VI I - A

LENGTH AND TIME MEASURING INSTRUMENTS PART 1 - TAXIMETERS

TERMINOLOGY

- (a) **Taximeter:-** A device that computes and indicates the charges for the hire of a motor cab according to prescribed rates for distance and-or for time.
- (b) **Face** That side of a taximeter on which fare is indicated.
- (c) **Flag** A lever arm or any other device by which the operating condition of a taximeter is controlled.
- (d) **Money Drop :-** An increment in the fare indication.
- (e) **Initial Money Drop :-** The fare indicator following the depression of the flag from FOR HIRE to the HIRED position.
- (f) **Initial Distance or Initial time Interval :-** The distance or the time interval corresponding to the initial money drop.
- (g) **Basic Rates :-** The distance and waiting time rates for distances and time interval other than those for the initial money drop.
- (h) **Fare:-** That portion of the charge for the hire of a motor cab that is computed by a taximeter through the operation of the distance and time mechanisms.
- (i) **Extras:-** Charges to be paid by the hirer in addition to the fare for transportation of chargeable luggage.
- (j) **Speed of Agreement of Basic Rates :-** The Speed at which the basic distance and basic time rates correspond, that is, a meter operated at the speed or agreement for basic rates will show a money drop of distance travelled which is, exactly the same as for time elapsed.

Example :

Basic rate for time	10 paisa per 5 minutes.
Basic rate for distance	10,paisa per half km

Then basic rates agree when a distance of half km is travelled in 5 minutes, that is speed of the vehicle is 4.. km per hour. .

- (k) **Effective Cab Wheel Circumference :-** The distance covered by the cab driven wheel with correctly inflated tyre in one complete revolution when a motor cab with a full complement of passengers is pushed forward in a straight line.
- (1) **Pick-Up :-** Fare is calculated by the basic rate for time elapsed or alternatively by the basic rate for distance travelled according as the speed of the vehicle is below, or above the speed of agreement or basic rates. The arrangement of the transfer of calculation between the two basic rates is sometimes called the pick-up and sometimes the differential. . An example of a simple design of pick-up mechanism within the meter is shown in Fig. I.
- (m) **Bench Test** The test of a taximeter independent of the taxi cab.

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- (i) Distance Test :- The test to check the equivalent distance intervals without effect of time, between money drops.
- (ii) Time Test :- The test to check only the time intervals between money drops.
- (n) . Road Test :- The test over a measured. ,course of complete taximeter assembly when installed on the motor cab, the mechanism being actuated as a result of the motor cab travel.
- (o) Gear Box :- An assembly of gears to permit adjustments for different tyre size., transmission ratios and the like.

2.

CONSTRUCTIONAL REQUIREMENTS

- (a) The taximeter shall be so designed and constructed as to ensure reliability over a long period.
- (b) The taximeter shall be so designed, so as to. register the fare to be 'charged for the distance' travelled at a speed of or exceeding the speed of agreement ,of basic rates, and *for* the time elapsed when the cab is stationary or moving- slowly than the speed of agreement. of basic rates..
- (c) When the fare is recorded by the distance mechanism, first change in fare shall occur only when the prescribed -distance has been travelled. After that the indication shall change 'in steps proportional to the distance.
- (d) Mechanical :- The mechanism for recording the time shall function when required, as a clock. It shall, be started by actuation of the flag. In the case. of mechanical clock, it, shall be capable of running 10 hours continuously
- (e) Every meter shall be so constructed as to indicate in suitable windows up .the face the fare computed by time and. or by distance.
- (f) The meter shall be provided with an illuminated sign 'indicating when the. cab is FOR HIRE. The lettering used in size, colour and background shall be distinct by day or night at a distance of 25 m. If a plate is attached to the flag then its background colour shall be red.
- (g) The nature of information given-in each window namely; fare position or flag, total and engaged distance, trips and (extra charges), shall be, if provided, indicated by suitable wording immediately above or below, the. window. . The words or signs denoting rupees and paisa shall be placed immediately above below or beside the appropriate disc or drum position. The face shall be provided with a suitable illuminating arrangement when the flag is in the HIRED OR STOPPED position
- (h) The letters and numerals indicating fare shall not be less than 10mm in height and shall be so placed as to be' easily read by the passenger. All other letters and numerals required to be shown on meters shall be of such size, form and colour as would render them clearly legible. .
- (i) When the flag is moved from one 'position to the' other. its, shall be give a audible warning.

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MECHANISM AND OPERATION.

- (a) The mechanism of meters shall be so designed that:
- (i) When the flag is upright, the words FOR HIRE shall be indicated in a window in the face. In this position the meter mechanism shall be arrested. No fare shall be visible to the intending hirer.
 - (ii) When the flag is rotated forwards to the HIRED position, the word HIRED shall replace FOR HIRE in the window. In the HIRED position the clock mechanism shall be released and in action; the distance recording mechanism shall be released and available to record. Also the initial-money drop shall be indicated in the fare window. As the cab is used, in due course, further money drops will increase the fare shown.
 - (iii) When the flag is rotated further from the FOR HIRE position to the STOPPED position, the word STOPPED shall replace HIRED in the window. The clock mechanism shall be arrested the distance- recording mechanism shall continue to be available to record. The fare shall continue to be indicated in the fare window.
 - (iv) The flag shall not back from the HIRED position to FOR HIRE position unless it passes through the STOPPED position. It shall not go from the STOPPED position to HIRED position without making a positive stop at FOR HIRE position through a locking device to ensure that the mechanism is arrested.
 - (v) The time and distance mechanisms shall not be engaged or disengaged except by the normal sequence of operation of the flag arm referred to in (i) to (iv) above.
 - (vi) The fare and extra windows in the face shall be covered by a shutter at the FOR HIRE position. The removal and insertion of the shutter shall synchronize with the movement of the flag respectively from FOR HIRE to HIRED, and from STOPPED to FOR HIRE.
 - (vii) The fare recorded by the meter for time and for distance traveled shall be according to the basic rates prescribed.
 - (viii) The amount of fare shown in extra window, (if provided) shall be operated manually and shall advance by monetary units as prescribed.

TESTS

- (a) Fare Indication -At all stages; the money drops on the dial shall make instant, accurate and complete change from one figure to the next. The error due to engaging and disengaging of the mechanism shall be within the tolerance limits specified in 5,.

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- ...
- (b) Flag :- When the flag is unlocked from the FOR HIRE position, it should be checked that the last recorded fare has been cleared and the meter is properly re-set at the zero position. There shall be no possibility of the fare recording caught, either partly cleared or on a rebound. It shall be checked that no reverse movement between the ratched lock and the next does not make improper recording or any kind of injury possible. It should be properly seen that no possibility exists for tampering by improper use of the flag. From the moment the flag is put down the fare should be recorded and the figures expressing it shall appear on the face.
 - (c) Distance drive - There will always be a critical point in a fare recording mechanism when the next fare increment is almost due to be recorded. Should the journey end at the critical point, which is seldom possible, an impact, such as slamming of the car door could cause the next increment to be recorded. A jerky drive should be arranged in the test to check that no fault develops in the meter mechanism. Several tests shall be made to check that the possibility of an increment has been kept at a minimum.
 - (d) Bench Test :- The test shall be performed on taximeter fitted with an appropriate and reliable gear box.
- Apparatus
- (i) Test bench :- For testing taximeters, a device employing an electric motor to turn the taximeter spindle shall be used. The device shall also be capable of being rotated by hand. Brackets shall be provided for convenient mounting of the taximeters.
 - (a) Counter :- Counter shall be of such a design as to register one-tenth of a spindle revolution.
 - (ii) Procedure - The test shall be carried out in the two stages called 'Short Haul' and 'Long Haul'.
 - (a) Short Haul test - With the flag in the STOPPED position the meter is driven for equivalent of a distance of two or three kilometers. The number of input revolutions for each money drop are read from the counter and compared with the calculated number.
 - (b) Long Haul test - The flag shall be in the STOPPED position. The taximeter shall be operated continually for an interval corresponding to not less than 60 kilometers. Throughout the test, the taximeter shall be kept under observation so that any sticking of the money drop, any failure of the money drop to occur in the proper sequence any incorrect alignment of figures or any other abnormal condition may be discovered which would lead to rejection of the taximeter.

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Time Test.

- (c) Apparatus. This test requires that observations shall be made to the nearest second. A stop watch or a desk type of interval timer, which may be started from and re-set to zero as desired, shall be used.
- (i) Procedure - The time test consist. of timing the intervals between money drops with the flag in the HIRED position and shall be conveniently divided into two tests, namely, individual interval test, and long interval test.
- (ii) Individual interval Test - The individual interval test shall be initiated by depressing the taximeter flag to the HIRED position and simultaneously starting the stop watch or timer. At the instant each money drop occurs, the elapsed time to the nearest second shall be recorded. The watch or timer shall not be stopped, 'but shall be allowed to' continue running throughout the entire period of the time test. The test shall be continued for a minimum. of one hour
- (b) Long interval test - The taximeter shall not be cleared at the conclusion of the individual interval test, nor shall the stop watch or timer be stopped. Operation shall be continued for at least 'one hour or more without intervening observations. When the test is to be concluded the time at which money drop occurs shall be observed and recorded after which the taximeter shall be cleared..

TOLERANCES

- (a) Bench Test - Tolerances for bench test shall be as follows :
- (a) On over-registration 1 percent.
- (b) On under-registration 1 percent with an added tolerance of 30 m . whenever the initial interval is included in the interval test.
- (b) Time test :- Tolerance for time test shall be as follows :
- (a) On individual interval test.
- | | |
|----------------------|--|
| Over-registration | 5 percent |
| Under-registration . | 10 percent on initial interval,
5 percent on other intervals. |
- (b) Long interval test (excluding initial interval):
- | | |
|--------------------|---------------|
| Over-registration | No permitted. |
| Under registration | 3 percent. |

6. SEALING

- (a) A taximeter head found correct on a bench test shall be sealed. When a complete installation on a motor cab is approved, each of the several connections from taximeter head to transmission (or wheel) shall be similarly sealed.

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- (b) A plate of approved size and pattern shall be attached to the taximeter gear box or to the taximeter itself in such a manner that it cannot be removed without either removing the seals affixed by the testing authority or opening the taximeter or taximeter gear box. The plate shall show in the or sunken words and figures
- (i) The type of cab on which the taximeter is to be used, and
- (ii) the minimum effective circumference of the type on the wheels of the cab by which the taximeter can be driven and by which its action and accuracy may be tested.

7. MARKING.

- (a) Taximeter shall be marked indelibly with the number of the instrument on the face plate and back plate.
- (b) All letters shall be in Roman script and the numerals shall be Indo-Arabic.

PART II- AUTO RICKSHAW METER; DISTANCE AND TIME TYPE.

1. TERMINOLOGY

- (a) Auto rickshaw Meter, Distance and Time Type - A device that computes and indicates the charges for the hire of an auto rickshaw according to prescribed rates for distance and/or for time.
- (b) Face - That side of auto rickshaw meter on which fare is indicated.
- (c) Flag - A lever arm or any other device by which the operating condition of the meter is controlled.
- (d) Money drop - An increment in the fare indication.
- (e) Initial Money Drop - The fare indication following the depression of the flag from FOR HIRE to the HIRED position.
- (f) Initial Distance or Initial Time Interval - The distance or the time interval corresponding to the initial money drop.
- (g) Basic Rates - The distance and waiting time rates for distances and time intervals other than those for the initial money drop.
Fare - That portion of the charges for the hire of auto rickshaw meter that is computed by an auto rickshaw meter through the operation of the distance and time mechanism.
- (h) Speed of Agreement of Basic Rates - The speed at which the basic distance and basic time rates correspond, that is, a meter operated at the speed of agreement for basic rates will show a money drop of distance travelled which is exactly the same as for time elapsed.
Example;
Basic rates for time 10 paisa per minute
Basic rates for distance 10 paisa per half km.
Then basic rates agree when a distance of half km is travelled in 5 minutes. that is, the speed of the vehicle is of. 4 km per hour.

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- (j) Effective Auto rickshaw Wheel Circumference-The distance covered by the auto rickshaw driven wheel with correctly inflated tyre in one complete revolution when an auto rickshaw with a full complement of passengers is pushed forward in a straight line.
- (k) Pick-up-Fare is calculated by the basic rate for time elapsed or alternatively by the basic rate for distance travelled according as the speed of the vehicle is below, or above the speed of agreement of basic rates. The arrangement of the transfer of calculation between the two basic rates is sometimes called the pick-up and sometimes the differential. An example of a simple design of pick-up mechanism within the meter is shown in Fig. I of Part 1 of this Schedule.
- (l) Bench Test-The test of an auto rickshaw meter independent of the auto rickshaw.
- (i) Distance Test-The test to check the equivalent distance intervals, without effect of time, between money drops.
- (ii) Time Test-The test to check only the time intervals between money drops.
- (m) Road Test-The test over a measured course of a complete auto rickshaw meter assembly when installed on the auto rickshaw, the mechanism being actuated as a result of the auto rickshaw travel.
- (n) Gear Box-An assembly of gear to permit adjustment for different type sizes, transmission ratios and the like.

2. CONSTRUCTIONAL REQUIREMENTS

- (a) The auto rickshaw meter shall be as designed and 'constructed as to ensure reliability over a long period.
- (b) The auto rickshaw shall be designed to register the fare to be charged for the distance travelled at a speed of or exceeding the speed of agreement of basic rates, and for the time elapsed when the auto rickshaw is stationary or moving slower than the speed of agreement of basic rates
- (c) When the fare is recorded by the distance mechanism, the ' first change in fare shall occur only when the prescribed distance has been travelled. After the indication shall change in steps proportional to the distance.
- (d) Mechanical-The mechanism for recording the time shall function, when required, as a clock. It shall be started by, actuation of the flag. In the case of mechanical clock, it shall be capable of running 6 hours continuously.
- (e) Every meter shall be so constructed as to indicate in suitable windows upon' the face the fare computed by time and or by distance.
- (f) The meter shall be provided with a sign indicating when the auto rickshaw is FOR HIRE., The lettering used in size, colour, and background shall be distinct at a distance of 25'm. If a plate is attached to the flag then its back ground colour shall be red.

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- (g) The nature of information given in each window, namely, fare and position of flag, shall be indicated by suitable wording immediately above or below the window. The words signs denoting rupees and paisa shall be placed immediately above, below or beside the appropriate disc or drum position.
- (h) The letter and numerals indicating fare shall not be less than 10 mm in height and shall be so placed as be easily read by the passenger. All other letters and numerals required to be shown on meters shall be of such size, form and colour as would render them dearly legible.

.. MECHANISM AND OPERATION

- (a) The mechanism of meters shall be so designed that:
 - (i) When the flag is upright, the words FOR HIRED shall be indicated in a window in the face. In this position the meter mechanism shall be 'arrested. No fare shall he visible to the intending hire.
 - (ii) When the flag is rotated forward to the HIRED position, the word HIRED shall replace FOR HIRE in the window. In the HIRED position the clock mechanism shall be released and in action; the distance recording mechanism shall be released and available to record, Also the initial money drop shall be indicated in the fare window As the auto rickshaw is used, in due course further money drops will in crease the fare shown.
 - (iii) When the flag is rotated further from FOR HIRE position to the STOPPED position, the word STOPPED shall replace HIRED in the window. The clock mechanism shall be arrested; the distance recording mechanism shall continue to be available to record. The fare shall continue to be indicated in the fare window.
 - (iv) The flag shall not' move back from the HIRED position to FOR HIRE position unless it passes through the STOPPED position. It shall not go from the STOPPED position lto HIRED position without making a positive stop at FOR HIRE position through a locking device to ensure that the mechanism is arrested.
 - (v) The time and distance mechanism shall not be engaged or disengaged except by the normal sequence of operation of the flag referred to in (i) to (iv) above.
 - (vi) The fare window in the face shall be covered by a shutter at the FOR HIRE 'position. The removal and insertion of the shutter shall synchronize with the movement of the flag respectively from FOR HIRE to HIRED, 'and from STOPPED to FOR HIRE,
 - (vii) The fare recorded by the meter for time and for distance travelled shall be according to the basic rates prescribed.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983**4. TESTS**

- (a) Fair Indications-At all stages, the money drops on the dial shall make instant, accurate and complete change from one figure to the next. The error due to engaging and disengaging of the mechanism shall be within the tolerance limits specified in 5.
- (b) Flag-When the flag is unlocked from the FOR HIRE position, it should be checked that the last recorded fare has been cleared and the meter is properly pre-set at the zero position. There shall be no possibility of the fare recording caught either partly cleared or on a rebound. It shall be checked that any reverse movement between the ratchet lock and the next does not make improper recording or any kind of injury possible. It should be properly seen that no possibility exists for tempering by improper use of the flag. From the moment the flag is put down the fare should be recorded and the figures expressing it shall appear on the face.
- (c) Distance drive-There will always be a critical point in a fare recording mechanism when the next fare increment is almost due to be recorded. Should the journey end at the critical point, which is seldom possible, an impact could cause the next increment to be recorded. A jerky drive should be arranged in the test to check that no fault develops in the meter mechanism. Several test shall be made to check that the possibility of a premature recording of an increment has been kept at a minimum.
- (d) Bench test-The test shall be performed on auto rickshaw meter fitted with an appropriate and reliable gear box.
 - Apparatus
 - (i)
 - (a) Apparatus
 - (a) Test bench-For testing meters, a device employing an electric motor to turn the meter spindle shall be used. This device shall also be capable of being rotated by hand. Brackets shall be provided for convenient mounting of the meters.
 - (b) Counter-Counter shall be of such a design as to register one tenth of a spindle revolution. .
 - (ii) Procedure- The test shall be carried out in two stages called 'Short Haul' and 'Long Haul'.
 - (a) Short haul test-With the flag in the STOPPED position the meter is driven for the equivalent of a distance of two or three kilometers. The number of input revolutions for each money drop are read from the counter 'and compared with the calculated number.

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- (b) Long Haul test-The flag shall be in the STOPPED position. The Taximeter shall be operated continually for an interval corresponding to not less than 60 kilometers. Throughout the test, the Taximeter shall be kept under observation so that any sticking of the money drop, any failure of the money drop to occur in the proper sequence, any incorrect alignment of figures or any other abnormal condition, may be discovered which would lead to rejection of the Taximeter.
- (c) Time test.
- (i) Apparatus - This test requires that observations shall be made to the nearest second. A stop watch or a desk type of interval timer, which may be started from and re-set to zero as desired, shall be used.
- (ii) Procedure-The time test consists of timing the intervals between money drops with the flag in the HIRED position and shall be conveniently divided into two tests, namely, individual interval test, and long interval test.
- (a) Individual interval test-The individual interval test shall be initiated by depressing the Taximeter flag to HIRED position and simultaneously starting the stop watch or timer. At the instant each money drop occurs, the elapsed time to the nearest second shall be recorded. The watch or timer shall not be stopped, but shall be allowed to continue running throughout the entire period of the time test. The test shall be continued for a minimum of one hour.
- (b) Long interval test-The Taximeter shall not be cleared at the conclusion of the individual interval test, nor shall the stop watch or timer be stopped. Operation shall be continued for at least one hour or more, without intervening observations. When the test is to be concluded, the time at which money drop occurs shall be observed and recorded after which the Taximeter shall be cleared.

TOLERANCES

- (a) Bench Test-Tolerances for bench test shall be as follows:
- (i) On over-registration. 1 percent.
- (ii) On under registration. 1 percent with an added tolerance of 30 m whenever the initial interval is included in the interval test.

Time Test:-Tolerances for time test shall be as follows:

- (b)
- | | |
|---|--|
| | 5' percent. |
| (i) On individual interval test: | 10 percent on initial interval, 5' percent on other intervals. |
| Over-registration. | |
| Under registration. | |
| Long interval test (excluding initial interval) : | |
| Over-registration. | Not permitted. |
| Under-registration. | 3 percent. |

THE SIKKIM WEIGHTS AND MEASURES RULES . 1983**6. SEALING**

- (a) An auto rickshaw meter head found correct' on the bench test shall be sealed. When a complete installation on an. auto rickshaw is approved ,each of the several connections from .meter head to transmission (or wheel) shall be similarly sealed.
- (b) A plate of approved size and pattern shall be attached to the meter gear .box or to the meter itself in such a manner that it cannot be removed without either removing the seals affixed by the testing authority or opening. the gearbox. The plate shall show in raised or sunken words and figures:
 - (i) the type auto rickshaw on which the meter is to be used, and
 - (ii) the minimum effective circumference of the .tyre on the wheels of the auto. rickshaw by which the meter can be driven and by which its action and accuracy may. be tested.

7. MARKING

- (a) Auto rickshaw meters shall be marked indelibly with the number .of the instrument on the face plate and back plate.
- (b) All letters shall be in Roman script and the numerals shall be .Indo-Arabic.

PART III- AUTORICKSHAW METER: DISTANCE TYPE**I. TECHNOLOGY:**

- (a) Auto rickshaw meters shall be marked indelibly with the automatically calculates,. at a predetermined rate and indicates the charges for hire of an. auto rickshaw by distance only. The face may also have a speedometer and distance indicator (odometer).

Note : The mechanism to calculate fare by time is not provided in this type of auto rickshaw meter.

- (b) Face - That side of an auto rickshaw meter on which fare is indicated.
- (c) Fare Neutralizer - A device by which the fare indication is brought to. zero. .
- (d) . Fare - The charges for the hire of auto rickshaw which are automatically calculated by the fare meter through the operation of the distance mechanism
- (e) Effective wheel circumference - The distance covered by the wheel, with correctly inflated tyre, in one complete revolution when the vehicle with a full complement of ,passengers is pushed forward in a straight line.
- (f) Bench Test - The test of an auto rickshaw meter independent of the cab, .to check the fare equivalent to the distance intervals. . .

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2. CONSTRUCTIONAL REQUIREMENTS

- (a) The auto rickshaw meter shall be a simple calculator indicating the fare for the distance travelled or speedometer - cum- fare meter combination with distance indicator (odometer).
- (b) The drive to the meter shall be from the front wheel or rear axle; *or* gear box depending upon the arrangement provided by vehicle manufacturer. The instrument shall be calibrated to match the wheel ratio of the vehicle 'on which it is 'mounted.: It shall carry two counters - one indicating the cumulative distance traveled and the other- counter indicating the fare for- the specific journey. .
- (c) The meter shall be provided with a fare neutralizer. The rupee and paisa wheel shall be indistinguishable. The rupee wheel shall be .in. black with. white digits and paisa wheel shall be white with red digits.
- (d) The fare neutralizer shall be .capable of moving only .in one direction manually.
- (e) When the fare neutralizer is operated and .the fare 'reading 'comes to zero, and audible click shall be given. Knocking, vibrations and wear and tear shall not affect the fare reading. .
- (f) The meter or the auto rickshaw shall be fitted with a suitable indicator to show whether the auto rickshaw is occupied for hire.

3. TESTS.

- (a) At all stages, instant, accurate and complete change from one figure to the next shall occur on the dial when the meter is operated. When the fare neutralizer is brought to the initial position, it should be checked that the last recorded fare has been cleared and the meter is properly re-set at zero position. There' shall be no possibility of the fare recording being caught either partly cleared or on a rebound. It shall be checked that any reverse movement between the ratchet lock and the next does not make, improper recording or any kind of injury possible. There shall be no possibility of tampering with fare indication by improper use of the fare neutralizer.
- (b) Distance Drive-There will always be a critical point in fare recording mechanism when the next fare increment is almost due to be recorded. Should the journey and at the 'critical point any impact could cause the next increment' to be recorded. A jerky drive should be arranged in the test to check that no fault develops in meter mechanism. Several tests ,shall be made to check that this possibility has been kept at a minimum.
- (c) Bench Test-The test shall employ a variable speed electric motor, a counter to note the revolutions per minute and proper brackets for convenient mounting of the meter .

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4. TOLERANCES.

- (a) Bench test,
- (i) On over-registration, one percent of fare recorded.

5. SEALING

- (a) After complete installation, the meter shall be properly scaled by ,suitable tamper-proof method. The driving cable shall have provision for sealing at both the end.

6. MARKING

- (a) Wheel ratio of the vehicle for which the meter is to be calibrated shall be indelibly marked at the back of the meter.
- (b) The number of the instrument shall also be marked.
- (c) All letters shall be in Roman script and the numerals shall be Indo-Arabic.

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SCHEDULE VIII

(See Rule 23)

ABBREVIATIONS OF DENOMINATIONS

1. DECIMAL MULTIPLES AND SUB MULTIPLES

Prefix	Value in terms of unit	Abbreviation
kilo	1000	K
centi	0.01 (10 ⁻²)	c
milli	0.001 (10 ⁻³)	m
micro	0.000,001 (10 ⁻⁶)	n
Denomination .	Value	Abbreviation
2 Weights		
tonne	1000 kg	t
quintal	100 kg	q
kilogram	1 kg	kg
gram	1 g	g
milligram	1 mg	mg
carat	200 mg	c
3 Capacity		
	1000 l	kl
litre	1 l	
Millilitre	1 ml	ml
..4 Volume		
Cubic metre	m ³	m ³ or cu m
cubic centimetre	cm ³	cm ³ or cu cm*
Cubic millimeter	mm ³	mm ³ or cu mm.
5.		
kilometer	1000 m	km
metre	1 m	m
centimetre	1 cm	cm
millimeter	1 mm	mm
micron	.1/1000 mm or 10 ⁻³ mm	um
Area.		
Square kilometre	1,1000,00m ²	km ² or sq. km
Square metre	1 m ²	m ² sq m*
Square centimetre	cm ²	cm ² sq cm*
Square millimeter	mm ²	mm ² or sq mm

-Both these abbreviations are current but the first set should preferably be used.

Note No change shall be made in the abbreviation to indicate plurality.

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SCHEDULE IX

(See Rule 24)

GOVERNMENT OF SIKKIM

The Sikkim Weights and Measures Act, 1980

CERTIFICATE OF VERIFICATION

Book No Verification Certificate No Date.....

Name of Inspector..... No

Centre / Camp.....

I hereby certify that I have this .day verified and stamped/rejected the ,under mentioned Weights, Measures, Weighing and Measuring instruments belonging 'to

..... of.....

. Licence No.

..... under the above Act.

S1. Particulars of Weights, Measures,

No. Weighing & Measuring instruments

Class or Type.	Denomina- tion/Capa city	Trade Mark/ Monogram	Quantity,	Verifica- tion fees	Convey- ance Adjust ment charges etc.	Total Fees	Remarks

N.B.

In case of rejection detailed reasons to be given under column 'Remarks.'

Repaired by

. Licence No.....

Next verification due on...

1. This certification shall be exhibited in a conspicuous place where the above apparatus is used. Hawkers shall carry it on their person.

2. Receipt No, Date.....

3. Received the apparatus duly stamped/rejected.

Signature of the trader

Inspector, Weights and
Measures.

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SCHEDULE X

(See Rule 22)

PROCEDURE TO BE FOLLOWED FOR INSPECTION, VERIFICATION AND STAMPING

I. Of COMMERCIAL. WEIGHTS & MEASURES AND MEASURING INSTRUMENTS USED FOR USE IN TRANSACTIONS.

PART I - WEIGHTS AND MEASURES

1.

WEIGHTS

- (a) All weights, before stamping shall be verified for correctness against the corresponding working standard weight in the 'appropriate working standard balance subject to the permissible errors specified.
- (b) Weights to be stamped on the load in the loading hole at the bottom of the weight, 'provided that weights without an adjusting hole shall be stamped on the undersurface.
- (c) No weights used in gold and silver trade shall be stamped unless they are bullion weight.
- (d) No weights used in pearl and precious stone trade shall be marked unless they are carat weight.

2.

LIQUID MEASURES OF CAPACITY

- (a) Liquid capacity measures shall be tested by filling the working standard measure with water and emptying the content of the working standard into the measures under test.
- (b) In testing a glass measure the capacity of which is not defined by the brim, the level of the water shall be taken at the bottom of the meniscus.
- (c) Where the capacity is indicated by a line, the measures shall be tested to the bottom of the line.

3.

Every measure of length shall be verified by comparison with the working standard.

- (b) A link measure, or woven metallic steel tape measure, shall be tested when subjected to a tension or pull as follows'

Link Measure	8 kg
Woven Metallic Tape Measure	1 kg
Steel Tape Measure 1 m, 2 m	2kg
10 m, 15 m, 20m, 30 m and 50 m l	5kg

- (c) The measure under test' shall be supported throughout its whole length on plane and even base .
- (d) Tape measure which are intended to be used in cases may, be accepted for verification and stamping if submitted even without the case.

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- (d) Tape measure which are intended to be used in cases may be accepted for verification and stamping if submitted even without the case.
- (e) All non-flexible measures of length shall be stamped on the rivets provided in the measure.
- (f) In the case of tape measure, the stamp shall be placed on the metal strip attached to the beginning of the measure.
- (g) .In the case of link measures, the stamp 'shall be placed either on a metal label or disc permanently ..attached to the measures or on the brass handle.

4. VOLUME MEASURES

- (a) All measures of volume shall, be examined with the object of discovering flaws or want of straightness and proper right: angles at the corners.
- (b) Every measure of volume shall be verified by compassing length of each of the side against the working standard of length at or near the normal temperature.
- (c) The limits of errors In the cast of length of the side of measures of volume shall be the same as prescribed or linear measures.
- (d) All measures' of volume shall be stamped near the- top edge on brass plate securely fastened.

PART II -: WEIGHING AND MEASURING INSTRUMENTS.

1. GENERAL

Weighing and measuring instrument. shall be tested to conform to the specifications given in Schedule VI, VII, and VII -A.

2 BEAM SCALES

- (a) On beam scales, the verification stamp shall be placed on the stud or plug on the beam immediately under or over the central knife-edge.
- (b) The Inspector may stamp the plug or stud in the. same manner as. he would stamp a. weight.

3. . COUNTER MACHINES, SPRING BALANCES, STEELYARD AND AUTOMATIC MACHINES.

The Verification stamp shall be placed upon the plug or stud provided in the instrument for that purpose.

4 PLATFORM MACHINES AND WEIGHBRIDGES

- (a) Weighbridges, platform machines and such other weighing instruments as the Controller may specify in this behalf, shall be verified and stamped in addition to any preliminary test in the manufacturer's or dealer's premises. Such a preliminary test shall be made at the request of the manufacturer or dealer.

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- (b) The verification stamp shall be placed upon the plug stud provided for the purpose in the machine.

s. CRANE MACHINES

- (a) Hydraulic machine in which it is necessary in order to get a correct weight indication, to twist the load hook shall not be stamped unless a prominent notice to this effect. is permanently affixed to the machine.
- (b) The verification stamp shall be placed upon the 'plug or stud provided for the purpose in the machine.

PART III CALIBRATION OF VEHICLE TANKS FOR PETROLEUM PRODUCTS AND OTHER LIQUIDS.

I. DEFINITIONS,

- (a) Vehicle Tank-An assembly used for measurement and delivery of liquids comprising a tank which may or may not be sub-divided into compartment, mounted upon a vehicle together with its necessary piping valves, meter etc.
- (b) Compartment - The entire tank, when this is not sub-divided .otherwise any of these sub-divisions- of a tank designed to hold liquid.
- (c) Calibration - Verification and stamping of the capacity of the vehicle tank or its compartments.
- (d) Dip-Stick - A square or rectangular metal bar of brass or any other suitable hard material used to determine the depth of the liquid in the tank.
- (e) Ullage Stick - A T-shaped metal bar of brass or other suitable material used to determine the depth of the level of liquid from the proof level.
- (f) Ullage Indicator - A device bolted to the inside of a manhole reckoning with the indicator set to any desired level to which liquid in the tank- is required to be filled,
- (g) Proof level- Reference level to which all depth measurement shall be related.
- (h) Dip pipe - A pipe rightly attached at the top of the tank extending vertically downward up to approximately 15 cm from the bottom of the tank. The pipe shall have perforations at the top above the maximum liquid level

2. TESTING MEDIUM

- (a) Compartment Testing - Water or other appropriate liquid shall used as a testing medium in determining the capacity of vehicle tank compartment.
- (b) Meter Testing - A vehicle tank meter shall be tested. with, a liquid of the same character or approximately the same viscosity as liquid to be measured through the meter.

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EQUIPMENT AND TOOLS

The following equipment and tools are required for calibration of vehicle tank.

- (a) Proving Measures - When available, shall be checked for accuracy against an appropriate working standard measure.
- (b) Calibrated Bulk meter - An accurate meter fitted with a pre-set valve, air eliminator and strainer, which has been checked for accuracy against an appropriate working standard measure.
- (c) A set of standard commercial measure.
- (d) Other equipment and tools viz, hose pipes scribe, punch, try square, tyre pressure gauge, hammer etc.

4. CALIBRATION PROCEDURE

- (a) Vehicle tanks used as measure shall be calibrated as capacity measures. In the case of meter equipped tanks, the meter shall be treated- as a separate measuring instrument for purpose of calibration.
- (b) The compartment capacity or capacities shall be taken as including the capacities of the delivery lines leading from the emergency, safety or master valve to the outlet valve (discharge valve) provided that in the case of vehicle compartment terminating in a single delivery pipeline fitted with an outlet valve, the compartment capacity or capacities shall be taken as excluding the capacity of the delivery pipeline.
A notice shall be prominently exhibited on the vehicle tank indicating clearly and indelibly the following :
Marked capacity includes capacity of delivery line
Or
Marked capacity excludes capacity of delivery line (as the case may be).
The safety or master valve shall be positioned at the lowest point of outlet from the compartment.
- (c.) The proving measure or bulk meter should be mounted on an overhead gantry or a separate framework in a convenient position above a firm and level platform, preferably of concrete on which the vehicle stands during calibration.
- (d) The vehicle shall be placed in a level position before commencing calibration as the accuracy of calibrated depends on the level of the tank; the sequence in which compartments are calibrated should be such as to minimize unequal spring deflection on the axles of the vehicle.
- (e) The front and rear tyres of the vehicle should be at the correct pressures.
The tyres should be inspected for wear which should be reasonably even and there should not be excessive difference in the tread between the front set of tyres and the rear set at the time of calibration.
- (f) . The interior of the compartment should be inspected and cleared where necessary

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- (g) Before starting calibration, the outlet valves and other connection shall be tested against leakage by partially filling and draining each compartment in turn through the out let valve, During the process sufficient quantity of the testing medium should be introduced inside the compartment to wet the internal surface of the tank and pipelines,
- (h) After taking the precaution mentioned above, the compartment to be calibrated shall be filled with appropriate proving measure or bulk meters to the .marked capacity of the compartment with the delivery lines leading to the outlet valve full or empty as provided in (b) above. The dip/ ullage shall be taken carefully and the line shall be cut on the dip/ullage stick at right angles to the axis with the help of try-square and scriber. If an ullage indicator is used, it shall be correctly set and sealed.
- (i) A mark shall also be made on the dipstick to indicate the 'proof level' . In the case of ullage stick, the distance from the: ullage point to the T-joint shall be marked on the stick.

Note : The Sequence for calibrating compartments should be sequence of filling them The sequence of discharge shall be in the reverse order to that of filling.
(j)Each compartment should be left full before proceeding to the next in sequence.

5

PERMISSIBLE ERRORS

- (a) Proving measures shall have the following capacities and shall be adjusted within the' following permissible errors.
- (b) Before stating calibration, the pipelines, outlet valves and other connections shall be tested against leakage by partially filling and draining each compartment in turn through the out let valve. During the process sufficient quantity of the testing medium should be introduced inside the compartment to wet the interval surface of the tank and pipelines.
- (c) After taking the precautions mentioned above, the compartment to be calibrated shall be filled with appropriate proving measures or bulk meters to the marked capacity of the compartment with the delivery lines leading to the outlet valve full or empty as provided in (b) above. The dip/ullage mark

Capacity, Litres	Permissible' Error Millilitres (+)
50	50
100	100
200	200
500	500
1000	1000
1500	1500
2000	2000
5000	5000

- (b) The maximum error. for vehicle tank compartments shall be 0.0 5 percent in excess of the marked capacity of the compartments.

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6. MARKINGS

- (a) The vehicle shall have a brass plate riveted in a prominent position in it to receive the Inspector's stamps. The brass plate shall bear the following particulars : title of Weights and measures Act, name of owner of vehicle, vehicle registration number, and the serial number and capacity. of each compartment. Space should be provided on the plate for the Inspector's stamps-, Fig. 1 shows a simple design for a plate.
- (b) The capacity of the compartment shall be indelibly marked on the manhole cover of the compartment and also painted on each side of the compartment so that it is clearly visible. If there are more than One compartment, then each compartment shall have its capacity marked separately as above and the compartment numbered serially. The number of the compartment shall also be marked on the discharge valve pertaining to the compartment.
- (c) The vehicle registration number as well as the capacity of the compartment shall be indelibly marked on the dip/ullage stick, at the top end. If there is more than one compartment the different faces of one dip stick may be used for marking and each face shall bear the vehicle number, the serial number of the compartment the proof and dip lines of that compartment and the capacity of the compartment.

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NAME OF THE COMPANY

VEHICLE TANK NO.

Compartment Number	Compartment Capacity (in litres)	Space for Inspector's Stamp
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FIG. 1 - NAME PLATE

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SCHEDULE XI

GOVERNMENT OF SIKKIM

OFFICE OF THE CONTROLLER OF WEIGHTS AND MEASURES

CELEBRATION CHART

Vehicle Registration No.

Chassis No

Compartment Nos.	Compartment Capacity	Overall dip	Dip	Dead Stock	The height of the dip pipe along the manhole cover	The height of the manhole cover above the tank
—						

- N.B**
- (1) The calibration was done with pipe lines full upto the outlet valve.
 - (2) The dip reading was taken in sequence of calibration.
 - (3) Temperature at the time of calibration was. ;
 - (4) Final dip reading were taken in sequence at calibration when .all the compartment, were full

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SCHEDULE-XII

(See Rule (9))

**FEEES PAYABLE FOR VERIFICATION AND STAMPING OF WEIGHTS,
MEASURES AND WEIGHING AND MEASURING INSTRUMENTS.**

I. WEIGHTS

(a) Bullion Weights

<i>Denomination</i>	<i>For per piece</i>
	Rs. P.
20kg	4 50
10 kg	4- 50
5 kg	3 . 00
2 kg	3 00
1 kg	3 00
.500 g	1 1 5
200 g	1 1 5
100 g	1 1 5
50 g	1 1 5
20 g	1 1 5
10 g	1 1 5
5 g	1 1 5
2 g	1 1 5
1 g	1 1 5
500mg	0 . 75
200mg	0 . 75
100 mg	0 . 75
50mg	0 . 75
20mg	0 . 75
10 mg	0 . 75
5 mg	0 . 75
2 mg	0 . 75
1mg	0 . 75

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Denomination	fee per piece
(b) Brass Weights other than Bullion	Rs. P.
1 g	1.50
500 g	0.75
200 g	0.75
100 g	0.75
50 g	0.75
20 g	0.40
10 g	0.40
5 g	0.40
2 g	0.40
1 g	0.40-
(c) Sheet Metal Weights (other than Bullion)	
500 mg	0.40
200 mg	0.40
100 mg	0.40
5 mg	0.40
<i>Denomination</i>	<i>Fee per piece</i>
20 mg	0.40
10 mg	0.40
5 mg	0.40
2 mg	0.40
1 mg	0.40
(d) Iron and Steel weights	
50 kg	1.50
20 kg	1.50
10 kg	1.50
5 kg	1.50
2 kg	1.15
1 kg	1.15
500 g	0.40
100 g	0.40
100 g	0.40
50 g	0.40

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500C	1 50
200 C	1 50
100 C'	1 50
50 C	1 50
20 C	1 50
10 C	1 50
5 C	1 50
2 C	0.75
1 C	0.75
50/100 C	0.75
20/100C	0.75
10/100 C	0.75
5/100C	0.75
2/100C	0.75
1/100C	0.75
0.5/100 C	0.75

2. Capacity Measures including storage tank, Vehicle Measures Tank Dispensing and other measures:

Capacity	<i>Fee per piece</i>
50 litres and above	Rs. 7.50 for the first 100 litres or part thereof plus Rs. 3.00 for every additional 100 litres or part thereof subject to a maximum of Rs. 750/ Rs. P:
20 l	3.00
10 l	3 00
5 l	1.50
2 l	1 50
1 l	1 50
500 ml	0.75
200 ml	0.75
100 ml	0.75
50 ml	0.75
20 ml	0.75
10 ml	0.75

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5 ml	0.75
2 ml	0.75
1 m	0.75
18.5 l	3 00 .
60 ml	0.75
30 ml	.0.75

3. - LENGTH MEASURES

<i>Denomination</i>	<i>Fee per piece</i>
	Rs. P.
(a) Non-Flexible	
2.00 m	1 50
1.00 m (ordinary)	1.50
0.50m (ordinary)	1. 5'0
1 .00 m (graduated at every cm)	3 00
0.50 m (graduated at every cm),	3 00
(b) Woven Metallic Tapes	
50m	4.50
30m	4.50
20m	3.00
15m	3 00
10m	3 00
5m	1.50
2m	1 .50
(c) Steel Tapes	
50 m	7.50
30 m.	7.50
20 m	4.50
15 m	4.50
10 m	3.00
2m	1.50
1m	1.50
(d) Folding. Scales	
1m	1.50
0.5m	0.75
(e) Surveying Chains	
30m	.4.50
..20m	3.00

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4- Weighing Instruments (other than Beam Scales of Classes C and D automatic Weighing Machines and Totalizing Machines)

<i>Denomination</i>	<i>Fee per instrument</i>
400 t	375 00
300 t	300 00
200 t	225 00
150 t	180 00
100 t	150 00
80 t	135 00
60 t	120 00
50 t	105 00
40 t	105 00
30 t	105 00
25 t	75 00
20 t	75.00
15 t	75 00
10 t	60.00
5t	60.00
3 t	37.50
2 t	37 .50

<i>Denomination</i>	<i>Fee per instruments</i>
1 500 kg	22 .50
1000 kg	22 .50
500 kg	22.50
300 kg	22.50
250 kg	22.50
200 kg	15.00
150 kg	15 00
100 kg	15 00
50 kg	11 25
30 kg	11.25
20 kg	7.50
15 kg	7.50
10 kg	4.50
5 kg	4.50
3 kg	4.50
2kg	4 50
1 kg	4 50
500 g and below	3.00

(person weighing machines excluding bathroom scales) 15. 00 .

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5. Beam Scales (Classes C&D)

<i>. Denomination</i>	<i>Fee per instrument</i>
1000 kg	22 50
500 kg	15.00
300 kg	15.00
200 kg	7.50
100 kg	7 50
50 kg	4.50
20 kg	4.50
10 kg	4.50
5 kg	3 00
2 kg	3.00
1 kg	3 00
500 g and below	1 .50

6. AUTOMATIC WEIGHING MACHINES

Exceeding 10 t	
Not exceeding 10 t	150 00
but exceeding 1 t	112 50
Not exceeding 1 t	
but exceeding 50 kg	75 50
Not exceeding 50 kg	
but exceeding. 1 0 kg	45 .00
Not exceeding 10 kg	30 00
7. Totalizing Machines	
Each machines	225 00

8. VOLUME MEASURING INSTRUMENTS

(a) Dispensing pumps each pump	75.00
(b) Other Instruments Exceeding	
	(Rs. 60.00 for the first 100 Liters plus Rs. 50 for each additional 100 litres: or part thereof subject to a maximum of Rs. 1000/)
Not exceeding 100 l	60.00
but exceeding 50 l	
Not exceeding 50 l	37 50
but exceeding 20 l	
Not exceeding 20 l	30.00

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9. LINER MEASURING INSTRUMENTS

- (a) Taximeters and auto rickshaw meters

Each taximeter or
auto rickshaw meter

- (b) **Other Instruments**

Denomination
Exceeding
100 m

fee per Instrument Rs. 15.00 for the
first 1,000 m plus Rs. 3.00 for every
additional 100 meter or part thereof
subject to maximum of Rs. 75.0.

Not exceeding 1000 m

16.00

but exceeding 500 m

Not exceeding 500 m

but exceeding 100 m

7 50

Not exceeding 100 m

4- 50

10. Clinical thermometer

0 20 per .unit

11. Water meter (domestic type)

5 00 per meters

12. Electricity meter

5 00 per meter

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SCHEDULE XIII

(See Rule. 16 and 17)

LICENSING FORMS

FORM 'A'

OFFICE OF THE. CONTROLLER OF WEIGHTS & MEASURES

Licence Government of Sikkim weights, measures weighing instruments or measuring instruments

Licence No Year.....

(1) The Controller of Weights & Measures, Sikkim hereby -grants to .
...

(Name and address of party or parties)

A licence to manufacture/repair the- following:

(Include details of the types of weights, measures, weighing instruments or measuring instruments that are licensed to he manufactured/repared by the party) .

... ..

(2) The licence is valid for the party named above in respect of his workshop located at

(3) This licence is valid from 1st January, 19-to 31st December, 19.....

(4) The manufacture/repairer shall comply with the conditions noted below. If he fails to comply with anyone of these, his License is liable to cancelled.

(5) The trade mark/monogram being used by the manufacturer is as under:

(6) for repairer only

The party is licensed to repair weights, measures, weighing and measuring instruments in the area. mentioned below:

Signature
Controller of Weights & Measures.

Dated.

Place.

(Seal)

. Note-- In the case of a firm, its name with the names of all its members should be given in paragraph I.

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CONDITIONS OF LICENCE

1. The person in whose favour this licence is issued shall
 - (a) comply with all the relevant provisions of, the Act and Rules for the time being in force;
 - (b) not encourage or countenance any infringement of the provision of .the Act, or the Rules for the time being in force and shall report without delay to the Inspector any infringement that may come to his notice;
 - (c) exhibit this licence in a conspicuous part of the premises to which it relates
 - (d) comply with any general or special directions that any be given by the' Controller of weights and Measures.
 - (e) surrender the licence if and when required to go so by the Controller or any other officer employed under the Act,
2. Every condition prescribed after the issue of this license shall, be notified in the official gazette, be binding on the person/persons to whom the licence has been granted,

. FORM B

OFFICE OF THE CONTROLLER OR WEIGHTS & MEASURES, SIKKIM,

(Licence to a dealer in weights, measures, weighing instruments or measuring instrument

Licence No Year

(1) The Controller of Weights & Measures, Sikkim hereby grants- to a .licence to. . .

(name and address of party or parties)

deal in the following :-

(indicate details of the types of weights, measures, weighing or measuring' Instruments that are licensed to be dealt with by the party)

(2) The licence is valid for the party named above in respect of his premises located at

(3) This licence is valid from 1St January, 19- to 3,1st December, 19

(4) The dealer shall comply with the conditions noted below, If, he fails, to comply with anyone of these, his licence is liable to be cancelled,

Signature

. Controller of Weights & Measures

Date

Place

Seal

Note:- In. the, case of a firm, its name with the names of all its, members should be given in paragraph -1.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983**CONDITIONS OF LICENSE**

- 1 The person in whose favour this licence is issued shall
- (a) comply with all the relevant provisions of the and Rules for the time being in force.
 - (b) not encourage or - countenance any infringement of the provisions of ' the Act or the Rules for the time being in force and shall report without delay to toe inspector any infringement that may come to his notice.
 - (c) exhibit this licence in a conspicuous .part of the premises to which it relates
 - (d) comply with any general-or. special directions that may be given, by the Controller of Weights & Measures, Nagaland;
 - (e) surrender the licence if and .when required to do so by the Controller or any other officer employed under the Act.

Every condition prescribed after the issue of this licence shall if notified in the official gazette, be binding on the person/persons to whom the licence has been granted.

THE SIKKIM WEIGHTS AND MEASURES RULES.1983**SCHEDULE XIV***(See Rule 11.)*

Licensing and renewal for manufacturers, dealers and repairers of weights and measures.

(a)	Manufacture	Rs. 100 per annum . (Calendar year)
(b)	dealer	Rs.75 per annum (Calendar year)
(c)	repairer	Rs. 50 per annum (Calendar year)

THE SIKKIM WEIGHTS AND MEASURES RULES 1983

SCHEDULE XV

(See Rule 18 (5))

GOVERNMENT OF.....

OFFICE OF THE CONTROLLER OF WEIGHTS AND MEASURES.....

Register of licensed Manufacturers/Repairers/Dealers in Weights/Measures/Weighing Instruments /Measuring Instruments.

Licence No. of Issue	Date of	Name, Parentage and' denial address of the manufacturer repairer / Dealer. any.	Place where- workshop is situated	Articles to be manu factured/ repaired/ sold.	Trade -mark, Monogram being used	Orders re- garding cancella tion of licence/ disciplinary action if	Result of appeal	Remarks
1	2	3	.4	5	6	7	8	9

- Note :
1. In the case of a firm, its name with the names of all its members shall be given in Column 3.
 2. Column (6) dose not apply to repairers and dealers.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983.

NOTIFICATION---N

SCHEDULE XVI

(See Rule 28)

FROM OF APPEAL. AGAINST AN ORDER OF AN INSPECTOR OR ASSISTANT OR
. DEPUTY CONTROLLER

Name and address of the appellant.

No. and date of Inspector of Weights & Measures of Controller Assistant Deputy
Controller, of Weights & Measures against which the appeal is preferred.

Whether the appellant desires to be heard in person or through an authorised
representative.

Grounds of appeal.

GOVERNMENT OF SIKKIM WEIGHTS AND MEASURES CUM-LEGAL METROLOGY FOOD
AND CIVIL SUPPLIES DEPARTMENT GANGTOK (SIKKIM)
NOTIFICATION

No 6(II4)83-84-/3/WM/FCS

Dated Gangtok, the 25th June, 1984.

In pursuance of sub-rule (2) of rule I of the Sikkim Weights and Measures Rules, 1984, the State Government hereby appoints the 1st day of July, 1984 as the date on which the provision of the said rules shall come into force in the whole of State of Sikkim.

**OFFICE OF THE CONTROLLER WEIGHTS AND MEASURES
(DEPARTMENT OF FOOD AND CIVIL SUPPLIES)**

Notification No. I (16)77-78 / I / WM/FCS

Dated Gangtok, the 30th April, 1985.

In exercise of the powers conferred by sub-section (1) of section 69, of the Sikkim Weights and Measures Act, 1980 (No.4 of 1980) the State Government hereby makes the following rules further to amend the Sikkim Weights and Measures Rules 1984, namely:

Short title and Commencement. (1) These Rules may be called the Sikkim Weights and Measures (Amendment) Rules, 1985.

(2) They shall come into force on the date of their publication in the official Gazette.

Amendment of Schedule XII & Schedule XIV. (3) In the Sikkim Weights and Measures Rules, 1984,
(a) for Schedule XII the following schedule shall be substituted, namely. .

SCHEDULE XII

FEE PAYABLE FOR VERIFICATION AND STAMPING WEIGHTS, MEASURES AND WEIGHING AND MEASURING INSTRUMENTS.**I. WEIGHTS****(a) Bullion Weight.**

Denomination	Fee per piece Rs. P.
20 kg.	6.00
10 kg	6.00
5kg	4.00
2 kg	4.00
1 kg	4.00
100 g	1.50
200 g	1.50
100 g	1.50
50g	1.50
20 g .	1.50
10 g	1.50
5g	1.50
.2 g	1.50
1 g	1.50
500 mg	1.00
200 .mg	1.00
100.mg.	1.00
50 mg	1.00
20mg.	1.00
10mg	1.00
5 mg	1.00
2 mg	1.00
1 mg	1.00

(b) Brass Weights (Other than Bullion)

1 kg	2.00
500 g .	1.00
200 g	1.00
100 g	1.00
50g	1.00
20 g	1.00
10 g	1.00
5g	1.00
2 g	1.00
1 g	1.00

THE SIKKIM WEIGHTS AND MEASURES RULES 1983.**(c) Sheet Metal Weights (Other than Bullion)**

500 mg	1.00
200 mg	1.00
100 mg	1.00
.50 mg	1.00
20 mg	1.00
10 mg	1.00
5 mg	1.00
2 mg	1.00
1 mg	1.00

Iron and Steel Weights**(d) Iron and Steel Weights**

50 kg	2.00
20kg	2.00
10 kg	2.00
5 kg	2.00
2 kg	2.00
1 kg	2.00
500g	1.00
200g	1.00
100g	1.00
500g	1.00

(e) Carat weights

500 c	2.00
200c	2.00
100c	2.00
50c	2.00
.20 c	2.00
10c	2.00
5c	1.00
2 c	1.00
1 c	1.00
50100 c	1.00
20100 c	1.00
10100c	1.00
5100c.	1.00
2100 c	1.00
1100 c	1.00
0.5100 c	1.00

THE SIKKIM WEIGHTS AND MEASURES RULES 1983

2. Capacity Measures including-storage tank Vehicle Tanks, Dispensing Measures and peg. Measures.

Capacity	Fee per piece
50 litres and above	Rs. 10.00 for the first 100 litres or part thereof plus Rs.3.00 for every additional 100 litres - or part thereof subject to maximum -of Rs 1,000/
20 l	4.00
10 l	4.00
5 l	2.00
2 l	2.00
1 l	2.00
500ml	1.00
200 ml	1.00
100 ml	1.00
50 ml	1.00
20 ml	1.00
10 ml	1.00
5 ml	1.00
2 ml	1.00
1 ml	1.00
185 ml	4.00
60 ml	1.00
30 ml	1.00

3. LENGTH .MEASURES

(a) Non-Flexible

2.00 m	2.00,
1.00 m (ordinary)	2.00
0.50 m (ordinary)	2.00
1.00 m (graduated at every cm)	4.00
0.50 m (graduated at every cm)	4.00

(b) Woven Metallic Tape

.50m	6.00
30 m	6.00
20 m	4.00
15 m	4.00
10 m	4.00
5m	2.00
2.m	2.00

.THE SIKKIM WEIGHTS AND MEASURES RULES 1983**(C) Steel Tapes**

50 m	10.00
30 m	10.00
20 m	6.00
15 m	6.00
10 m	4.00
5m	2.00
4m	2.00
3m	2.00
2m	2.00
1.5 m	2.00
1m	2.00
0.5 m	2.00

(d) Folding Scales

1m	2.00
0.5 m	1.00

(e) Surveying Chairs

30 m	6.00
20 m	4.00

f Weighing Instrument (Other than Beam Scale of Classes C & D Automatic Weighing Machines and Totalizing Machines)

400 t	500
300 t	400
200 t	300.
150 t	250
100 t	200.
80 t	180.
60 t,	150.
50 t	150
40 t	150
30 t	150
25 t .	150
20 t	150
.15 .t	150
10.t	100.
5 t	100
3 t	50
2 t	50

. THE SIKKIM WEIGHTS AND MEASURES RULES 1983

.1500kg	30.
1000 kg	30
500kg	30
300.kg	30
250 kg	30.
200.kg	20.
150 kg	20.
100 kg	20.
50 kg	20.
30 kg	15
20 kg	.15
15 kg	10.
10 kg	10.
5 kg	6.
3kg	6.
2 kg	6.
1 kg	4.
500g and below	
(Person weighing machines excluding bathroom scales)	20.00

5. **Beam Scales (Classes C & D)**

1000 kg	30.00
500 kg	20.00
300 kg	20.00
200 kg	10.00
100 kg	10.00
50 kg	6.00
20 kg	6.00
10 kg	6.00
5 kg	4.00
2 kg	4.00
.1 kg	4.00
500g and below	2.00

6 **Automatic Weighing Machines**

Exceeding 10 t	200.
Not exceeding 10 t but exceeding 1 t	150.
Not exceeding 1 t but exceeding 50 kg	100
Not exceeding 50 kg but exceeding 10 kg.	60.00
Not exceeding 10kg	40 00.

THE SIKKIM WEIGHTS AND MEASURES RULES 1983

1.	Totalizing Machines Each machine	300.00
8.	Volume Measuring Instruments	
	(a) Dispensing pumps Each pump	100.00
	(b) Other Instruments Exceeding ,100 litres	Rs. 80.00 for the first '100 litres plus Rs- 75 for each additional 100 litre or part thereof subject to maximum of Rs. 1.5'000.
	Not 'exceeding 100 l but exceeding 50 l	100.000
	Not exceeding 50 l but exceeding 20 l	75.00
	Not exceeding 20 l Linear Measuring Instruments	50.00
9.	(a) Taximeters and Auto rickshaw meters	
	Each taximeter or auto rickshaw meter	10.00
	Other Instruments Exceeding 1000 m	Rs. 15.00 for the first 1000 m plus Rs. 3.00 for every additional 100 meters or part thereof subject to maximum of Rs. 75.00.
	Not exceeding 1000 m but exceeding 500 m	20.00
	Not exceeding 500 m but exceeding 100 m	10.00
	Not exceeding 100 m	6.00
10.	Clinical Thermometer	0.50.
11	Water meter (domestic type)	10.00
12.	Electricity meter	10-00
	(b) for Schedule XIV the following Schedule shall. be substituted namely :Licensing and renewal fee for manufactures dealers and repairs of weights and measures	
a)	Manufacturer	150
b)	Dealer	50
c)	Repairer	100.

THE
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FIRST EDITION

VOLUME II

PART II

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**GOVERNMENT OF SIKKIM
HOME DEPARTMENT**

No. 16 (7) 01/79/80

Gangtok dated 21st March 1980.

**NOTIFICATION
SIKKIM KHADI AND VILLAGE INDUSTRIES BOARD RULES, 1980.**

In exercise of the powers conferred by section 33 of the Sikkim Khadi and Village Industries Board Act, 1978 (Act No. 11 of 1978) the Government of Sikkim hereby makes the following rules, namely:

CHAPTER I

PRELIMINARY

1. These rules may be called the Sikkim Khadi and Village Industries Board Rules, 1980.

Short Title.

2. In these rules, unless the context, otherwise requires,

Definition.

- a) "Act" means the Sikkim Khadi and Village Industries Board Act, 1978. Act No. 11 of 1978) ;
- b) "Board" means the Sikkim Khadi and Village Industries Board established under section 3 of the Act;
- c) "Chairman" means the Chairman of the Board appointed under sub-section (b) of section 4;
- d) "Chief Accounts Officer" means an Officer appointed under section 5 of the Act;
- e) "Executive Officer" means the Executive Officer of the Board appointed under section 11 A ;
- f) "Financial Adviser" means the Financial Adviser appointed under section 5 of the Act;
- g) "Financial Year" means the year commencing on the 1st day of April and ending on 31st March;
- h) "Form" means forms appended to these rules;
- i) "Government" means the Government of Sikkim;
- j) "Secretary" means the Secretary of the Board appointed under sub-section (d) of section 4;
- k) "Section" means the section of the Act.

CHAPTER II

BOARD OFFICE, MEMBERS DISQUALIFICATIONS, ALLOWANCES AND STANDING FINANCE COMMITTEE

*Office of the
Board*

3. The Office of the Board shall be located at Gangtok or such other place as the State Government may direct.

Terms of Office

4. Save as here. in-after provided. a member of the Board shall hold' office for a period of three years unless the Board is dissolved by the Government under section 35.

*Disqualifications for
membership of the
Board*

5. A person shall be disqualified for being appointed as, and for being, a member of the Board if he

- (a) is found to be a lunatic or a person of unsound mind; or
- (b) has been adjudged insolvent; or
- (c) has been convicted of an offence involving moral turpitude ; or
- (d) has directly or indirectly any interest in any subsisting contract with. or in any work being done for the Board except as a shareholder (other than a director or a managing agent) in a company as defined under the Companies Act:

Provided that in the case of being a shareholder, he will disclose to the Government the nature and extent of shares held by him in such a. company:

Provided further that membership of a co-operative Society shall -not be a disqualification so long as the person concerned is not a director; or

- (e) has any financial interest in any business or undertaking dealing with Khadi or any Village Industries as defined in sub-sections (c) and (d) of section 2; or
- (f) in the opinion of the Government, has failed or is unable to carry out his duties; or
- (g) absents himself from three consecutive meetings of the Board without the leave of the Board.

6. The Government may, by notification in official Gazette, remove from office any member of the Board who is or becomes subject to any of the disqualifications mentioned in rule 5:
 Provided that before issuing such notification, the Government shall give an opportunity to the member concerned to show cause against such removal.
- Removal from the Board*
7. A member appointed to fill a casual vacancy shall hold office for so long as the member whose place he fills, would have been entitled to hold office.
- Casual Vacancies*
8. (1) The Chairman, the Vice-Chairman and the Secretary and non-official members of the Board shall not be entitled to any salary but shall draw such honoraria and other allowances from the funds of the Board as the Government may, from time to time, fix. They shall also draw travelling and daily allowances for journeys performed for attending the meetings of the Board and for the purpose of discharging such duties as may be assigned to them by the Board in accordance with the rule's and orders issued by the State Government from time to time at the rates admissible to Class 1 officers of the Government.
- Salary and allowances*
- (2) Save as provided under sub-clause (c) of section II A of the Act, the remuneration, allowances and other conditions of the service of the Executive Officer shall be such as may be fixed by the Board with the prior approval of the State Government.
9. (1) The Board shall constitute, under Section 12 of the Act, 'Standing Finance Committee, from among the members of the Board, other than the Chairman, the Vice-Chairman and the Secretary consisting of not more than three and not less than two members. The Executive Officer shall act as Secretary of the Standing Finance Committee. The Executive Officer and the Financial Adviser and the Chief Accounts Officer shall have the right to attend every meeting of the Committee but shall not have the right to vote thereat.
- Standing Finance Committee*
- (2) Tenure of the Standing Finance Committee shall be for a period of three years.
- (3) The Standing Finance Committee shall deal with all applications to the Board for sanction of financial assistance
- Powers and duties of the Committee.*

and all sanctions pertaining to the Budget and other financial matters of the Board which are not within the powers of any officer under the control of the Board.

CHAPTER III

POWERS OF THE CHAIRMAN, VICE CHAIRMAN, EXECUTIVE OFFICER, FINANCIAL ADVISER AND CHIEF ACCOUNTS OFFICER.

*Powers of the
Chairman*

10. (1) The Chairman shall be responsible for the proper functioning of the Board and the implementation of its decisions and discharge of its duties under the Act.

(2) In particular, the Chairman shall

(a) cause the important papers and matters to be presented to the Board as early as practicable;

(b) issue directions as to the methods of carrying out the decisions of the Board;

(c) maintain or cause to be maintained an account of the receipts and expenditure of the Board;

(d) present a draft annual report of the working of the Board to the Board for approval and submit the report as approved by the Board to the Government. The report approved by the Board shall be circulated to the members of the Board for their information;

(3) The Chairman shall exercise administrative control over all departments and officers of the Board;

(4) The Chairman may sanction expenditure on contingencies, supplies and services and purchase of articles required for working of the office of the Board and for the execution of measures in furtherance of the object of the Act;

(5) The Chairman may exercise such financial powers subject to necessary provisions in the budget as are delegated to him by the Board from time to time;

(6) The Chairman shall be the controlling officer in respect of Bills regarding travelling and daily allowances payable to himself or the other members and other officers of the Board.

11. (1) The Vice Chairman shall exercise such of the powers and perform such of the duties as may be delegated to him by the Chairman.

*Powers of the
Vice-Chairman*

(2) He shall, in the absence of the Chairman, exercise all the powers and perform all the duties of the Chairman unless otherwise directed by the Chairman or the Government.

12. (1) The Secretary shall work under the general control of the Chairman who may delegate to him such powers and duties as may be considered necessary including the following powers and duties

*Powers of the
Secretary of the
Board.*

(a) convening of meetings of the Board under the directions of the Chairman;

(b) drawing up agenda for each meeting under the directions of the Chairman and supplying the same to each member of the Board along with the notice of the meetings;

(c) maintenance of the minutes of the meetings of the Board;

(d) furnishing to the State Government all reports including annual reports and returns and necessary documents required under the Act or under these rules;

(e) preparation of the Annual Budget of the Board in consultation with the Financial Adviser and Accounts Officer.

(2) The Secretary shall keep a record of the members of the Board and their addresses. If a member changes his address, he shall notify his new address to the Secretary who shall thereupon enter his new address in the record. But if the member fails to notify his new address, the address on the official record shall for all purposes be deemed to be the member's address.

*Powers of the
Executive Officer*

13. (1) The Executive Officer shall work under the control of the Chairman and/or under the direction of the Secretary .He shall be entitled to attend all the meetings of the Board but shall not be entitled to vote.
- (2) He shall
- (a) supervise 'and control the work of the officers and servants employed by the Board;
- (b) implement the decisions taken by the Board;
- (c) frame annual Budget Estimates and Supplementary Budget Estimates under the direction of the Secretary and place them before the Board along with the views of the Financial Adviser and Chief Accounts Officer;
- (d) administer the contributory provident fund of the Board . when established;
- (e) sanction contingent expenditure to the extent of power delegated to him by the Board from time to time;
- (f) examine applications for assistance, both grants and loans, and place them before the Board for sanction;
- (g) have the right to refer to the Board any matter having financial implications which in his opinion ought to be brought to the notice of the Board;
- (h) have the right to record his views in consultation with the Financial Adviser and Chief Accounts Officer on every proposal involving expenditure from the funds of the Board, prior to the consideration and approval of such proposals by the Board;
- (i) undertake such other duties and exercise such other powers as may be assigned to him by the Board or the Chairman.

*Powers of the
Financial Adviser
and Chief A
Accounts Officer.*

14. In the discharge of his functions, the Financial Adviser and Chief Accounts Officer shall
- (a) advise the Board on all matters relating to receipt and expenditure;

(b) have the right to attend every meeting of the Board but shall not have the right to vote thereat. He shall also have the right to refer to the Board any matter having financial implications which in his opinion ought to be brought to its notice;

(c) scrutinize and supervise the preparation of the budget of the Board, the compilation of the annual and other financial statements and the manner in which the accounts of the Board are to be maintained made available to audit;

(d) have the right to record his views on every proposal involving expenditure from the funds of the Board prior to the consideration and approval of such proposals by the Board;

(e) have authority to advise the Board that a particular decision affecting the general financial policy of the Government should be referred to Government for consideration;

(f) arrange for the maintenance of proper accounts of the Board;

(g) arrange internal checking and inspection of the accounts of the Institutions receiving financial assistance from the Board;

(h) cause preparation of annual report and statement of accounts for submission to Government and to the Commission;

(i) arrange for the maintenance of proper accounts and arrange disbursement of contributory provident fund of the Board;

(j) undertake such other duties and exercise such other powers as may be assigned to him by the Board.

CHAPTER IV

POWER OF CONTRACTS, GRANTS, LOANS AND BORROWING

15. (l) The Board may, in connection with its trading and other activities, delegate such powers to the Chairman, the Secretary or Financial Adviser or Executive Officer, for *Contracts*

entering into contracts, signing of agreements or execution of bonds or undertaking on its behalf, as it may think fit:

Provided that the amount or value of the contract or agreement does not exceed ten thousand rupees.

(2) The Board, in the case of any Contract or agreement exceeding rupees ten thousand, shall seek approval of the Government prior to its execution.

(3) All contracts or agreements entered into by or on behalf of the Board shall be in writing, signed and sealed with the common seal of the Board by any of the persons as mentioned under sub-rule (1) above

(4) Any person authorized under sub-rule (1) to enter into contract on behalf of the Board shall not be personally liable for any act done on its behalf and any liability arising out of such contract shall be discharged from the moneys of the Board.

Powers to sanction grants

16. (1) The Board shall disburse grants in accordance with and at rates and on terms sanctioned by the Government in respect of each industry, from time to time. The Government may on its own motion or on the recommendation, of the Board or of the Khadi and Village Industries Commission, modify or supersede the financial rates and terms previously sanctioned.

(2) The Board may reduce the rates at which grants are payable in individual cases to such extent, as it thinks necessary but shall not enhance such rates except with prior approval of the Government.

(3) Grants and subsidies shall be paid only to Institutions approved by the Board or registered under the law, for the time being in force.

Power to grant loans.

17. (1) The Board shall advance loans in accordance with and at rates and terms sanctioned by the Government in respect of each industry, from time to time.

(2) The Board shall not be competent to modify, amend or otherwise vary the provisions of the loan rules.

(3) The Government may, on its own initiative or on the recommendation of the Board, modify or amend the

loan rules. The modification or amendment will have effect from the date it is made by the Government.

18. The Board may, with the previous sanction of the Government, borrow on the security of its funds or assets for the purposes specified in the Act and in accordance with sub-section (2) of section 25 of the Act. *Power to borrow*

CHAPTER V

ANNUAL PROGRAMME, BUDGET, ACCOUNTS AND FUNDS

19. (1) The programme of work referred to in section 18 of the Act shall be prepared well in advance for the next financial year and shall be forwarded to the Government before the 30th of September or any other date fixed therefor by the Government, preceding the said financial year. *Annual Programme.*

(2) A Supplementary programme, if any, under section 20 shall be prepared by the Board in any financial year and shall be forwarded to the Government before the 30th June in that year or any other date fixed by the State Government.

20. (1) The budget estimates (separately for 'Khadi and Village Industries') of the Board for every financial year beginning on the 1st day of April and ending on the 31st day of the March following shall be prepared by the Secretary or such officer as may be empowered by the Chairman in this behalf, sufficiently in advance. of the date fixed in sub-rule (3) and in accordance with sub-rule (5), (6) and (7). *Budget: Preparation and submission of Annual Estimates.*

(2) The Board shall consider and approve in consultation with the Financial Adviser, and may incorporate such changes as it thinks fit.

(3) The budget estimates as approved by the Board shall be submitted to the Government normally by the 15th October, but in no case later than the end of October of each year. The Board shall forward copies of the budget to the Khadi and Village Industries Commission for information and remarks, if any.

(4) Subject to such orders as may be issued by the Government from time to time, no expenditure shall be incurred by or on behalf of the Board unless the same is covered by a specific provision in the budget sanctioned by the Government :and expenditure authorised by, the competent authority of the Board.

(5) The budget shall, among other matters include,

a) the opening balance;

b) the estimates receipts by way of funds to be released by the Government, recovery of interest, refund of loans and other miscellaneous receipts;

c) the proposed expenditure separately under "KHADI" and "VILLAGE INDUSTRIES" classified under the following heads or such other heads as may be deemed suitable with the concurrence of the Financial Adviser of the Board; and

d) the matters relating to:

(i) administration, (ii) subsidies and grants, (iii) loans, (iv) trading accounts, (v) accounts for the purchase of all raw materials required for the manufacturing activities of the Board,

(vi) research, (vii) training, (viii) information and publicity,

(ix) exhibition, conference, seminars, etc.

(6) The expenditure under the above heads shall be further classified under the following sub-heads:

a) Central office of the Board and all other items of the administrative expenditure not included under sub-heads (b) and (c) of sub-rule (5)

b) Khadi Scheme; and

c) Village Industries Scheme.

Each of the Sub-heads shall contain the following secondary units of

(7) appropriation

(a) pay and allowances of the officers;

(b) pay and allowances of the establishment;

(c) allowances and honorarium, etc;

(d) travelling allowances;

(e) other charges-contingencies, etc.

21. If during any financial year for any reasons, substantial modification of the Budget estimates as finally approved by Government is likely to be involved, the Board shall submit for approval to the Government, supplementary estimates in the term and on such dates as the Government, by order, from time to time, direct. *Supplementary Estimates*

22. (1) All moneys received by the Board shall be deposited in the Bank as may be approved by the Government and shall be credited to an account entitled "The Sikkim Khadi and Village Industries Fund", as the case may be. *Funds of the Board*

(2) The account of the Board shall be operated upon by such officers jointly or individually as may be authorised by the Board.

(3) The Board may invest any part of its funds which is not immediately required for any purpose in such securities or short-term deposits as may be approved by the Government, from time to time.

(4) The Government while approving the budget may sanction the payment of grant or grants to cover the revenue deficit and loan to cover the gap in resources in these funds. Such grants and loans may be disbursed in advance or by instalments or in such manner as the Government may determine.

23. (1) The Annual Report, referred to in section 28 of the Act shall be prepared by the Secretary under the direction of the Chairman and shall be laid before the Board for approval and shall be forwarded to the Government before the expiry of the period specified in the said section. *Annual Report*

(2) The Annual Report shall be in such form as the Government, may from time to time direct and contain particulars, inter-alia to indicate full details of the following

(a) budget estimates and the actual expenditure;

(b) production and sale of Khadi;

- (c) production and sale of products of Village Industries;
- (d) production and sale of charkhas and other implements;
- (e) employment data for each scheme in operation;
- (f) training of personnel.

(3) The Secretary, shall, under the direction of the Chairman, prepare monthly progress reports, statements, and returns. The Board shall submit to the Government and the Khadi Village Industries Commission

(a) monthly statement of accounts showing the details of disbursement made by the Board;

(b) monthly statement of accounts showing the drawings from the funds of the Board;

(c) quarterly progress report on. Khadi and Village Industries specified or deemed to be specified in the schedule to the Khadi and Village Industries Commission Act, 1956.

*Annual Statement
of accounts*

24. (1) Within three months of the close of the financial year, the annual statement of accounts referred to in subsection(2) of section 29 shall be prepared in the prescribed manner showing the financial result of various schemes, works or undertakings of the Board in that year for submission to the Government and the Khadi and Village Industries Commission.

(2) The accounts shall be maintained by the Secretary or any other officer duly authorised by the Chairman with the approval of the Government in the forms and registers' mentioned below or in such manner or with such additions and alterations as may be prescribed by the Government

Form No. VIII	Cash Book.
Form No. IX	Subsidiary accounts to Cash Book;
Form No. X	Classified abstract of receipts disbursements.
Form No. XI Form	Register of securities.
No. XII Form No. XIII	Receipt of payment to the Board.
.	Register of Cheque Book.

Form No. XIV	Register of stock of Receipt Book.
Form No. XV	Register of stock of Furniture's.
Form No. XVI	Register of Advance/Permanent/ Temporary.
Form No. XVII ...	Annual accounts of receipt/expenditure.

25. Notwithstanding anything contained in these Rules, the Government may require special reports from the Board and lay down the manner and the form in which such reports shall be made or may require from the Board, answers to questions upon which the Government may need information. The Government may also require the Board to furnish true copy of each or any contract, agreement, understanding or arrangement entered between the Board and any other party.

CHAPTER VI

MISCELLANEOUS

26. (1) The Board may write off losses up to five hundred rupees in individual cases and not exceeding five thousand rupees in the aggregate in any financial year in cases falling under any or all of the following categories:
- Power to write off losses.*
- (a) loss of irrecoverable value of stores of public money due to theft, major or the negligence of individuals or such other cases;
- (b) loss of irrecoverable advance other than loans;
- (c) the deficiency and depreciation in the value of stores subject to the condition that the loss does not disclose a defect of system, the amendment of which requires the orders of the Government.
- (2) The Board shall take suitable action against the person or persons responsible for the loss and send a report to the Government on the action taken.
- (3) Notwithstanding anything contained hereinbefore, the losses occasioned by irrecoverable loans shall not be written off without the previous sanction of the Government.
27. The common seal of the Board shall remain in the custody of the Executive Officer of the Board.
- Custody of common seal.*
28. Notwithstanding anything contained in these Rules, the Government may, from time to time, add, amend, substitute or alter such rules as may be deemed necessary.
- Power to add, amend, Substitute or alter the rule*

**FORM NO. VIII (See sub-rule (2) of rule 24
CASH BOOK**

Date	Receipts				Amount	Initials of responsible authority.	Date	Voucher or: Sl. No.	To whom paid	Particulars	Disbursement		
	Item or Serial No.	From whom received.	Particulars	Budget Head							Amount	Initials of responsible authority.	
													Cash Book
Opening		Rs.	Rs.	Brought		Rs.	Rs.						
Balance							Forward						
Carried							Carried						
Over.							Over.						

Form No. IX

SUBSIDIARY ACCOUNT TO CASH BOOK

Name of Scheme Period of
Scheme Recurring Liability
Non-recurring Liability
Sanctioned Vide

Total

Details, if any.

Date	Voucher No.	To whom paid	Particulars	DISBURSEMENTS		Initials of responsible authority
				Cash	Bank	
Carried Over						

**FORM NO. X
(PART-II) CLASSIFIED ABSTRACT OF RECEIPTS,**

19 - 19

Serial Number	Head of Account	April		May		Progressive Total	March		Progressive Total	Remarks
		Voucher Number	Amount	Voucher Number	Amount		Voucher Number	Amount		
		Rs.		Rs.			Rs.			

**FORM NO. X (PART-III)
CLASSIFIED' ABSTRACT OF DISBURSEMENT FOR.....**

Sl. No. of Acc. ount	Head Original	Grant modi- fication during the course of the year	Autho- rity and parti- culars	Amount addition or deduc- tion	Final Grant at the end of the year	Outlay to the end of previous year brought forward	Transaction of the year				Progress ive Total	MARCH Voucher Amt Number	Remark	
							April Voucher No	Amt	May Voucher No	Amt				
			Rs.	Rs.		Rs.	Rs.		Rs.					

FORM NO. XI
Register of securities for the period from

Sl. No	Date of Purchase	Particulars of securities	AMOUNT		Safe Custody Receipt Number	INTEREST DUE		REALIZATION OF INTEREST				Remarks
			Purchase Value	Face Value		Due date	Amount of interest	Amt received	Initials Accountant	Date	Amt received	
			Rs.	Rs.			Rs.	Rs.				

FORM NO. XII
RECEIPT FOR PAYMENTS TO THE BOARD
KHADI AND VILLAGE INDUSTRIES BOARD

(Counterfoil)

Book No.....	Receipt.....	Book No.....
Received from		Received from.....
Rs	on account of.....	Rs.....on account of
.....	

(NOT TRANSFERABLE)

Place.....
Date..... 19.....

Cashier and Accountant.

Secretary
SIKKIM KHADI AND VILLAGE INDUSTRIES BOARD.

Cashier and Accountant.

Secretary
SIKKIM KHADI AND VILLAGE INDUSTRIES BOARD.

FORM NO. XIII
(See sub-rule (2) of rule 24)
REGISTER OF CHEQUE BOOKS

Number of Cheque Books	Initials of the Secretary	Date of completion	Date initials of the Accountant for having received and examined the counterfoil
---------------------------	------------------------------	-----------------------	--

FROM NO. XIV
REGISTER OF STOCK RECEIPT BOOKS

Date

	From whom received	No. and date of the communi- cation with which received	No. of books (each from) received	No. of rec- eipt forms received	Nos. borne by the books	Nos borne by the recei- pt forms	To whom issued
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Issues

Balance in Stock

No. of books issued	No. of of forms issued	Nos borne by the books	Nos borne by the receipt forms	Dated ini- tials of the Acco- untant	No. of of books	No. of receipt	Nos. borne by the books	Nos. borne by the receipt forms	Initials of the Secretary	Remarks
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)

FORM NO. XV
(See sub-rule (2) of rule 24)
REGISTER OF STOCK OF FURNITURE

RECEIPTS

Sl. No.	Voucher No. & Date	Particulars of stores & furniture's	Value (Rs.)	No. of quantity	Date of issue	Orders	No. of quantity of issue	Amount if any realized from sale (Rs.)	Date of credit in each book	Dated initials of Accountant	Balance of each item, after each transaction
1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

FORM NO. XVI
REGISTER OF ADVANCE PERMANENT /TEMPORARY

Issuing authority	To whom made	Particulars of the advance	Payments Date of payment of the advance	Amount paid	Date Made	Amount	Repayments	Remarks		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Rs.

Rs.

Rs.

FORM NO. XVII

Annual Account for the year_19

19

Relating to grant for

RECEIPT

EXPENDITURE

Head Account I Receipt during I Remarks the year	Grant		payment	Expenditure during year	Excess or savings over net grant	Remarks
	Original	Net	Head of Account			
Opening balance	Rs.	Rs.	Rs.	Rs.	Rs.	

Closing Balance

II. Particulars of advance, permanent and temporary, outstanding at end of the year.

~
J:
J:

Particulars

Amount

III. Particulars of securities etc.

Purchase Value

Approximate Market Value.

Particulars of securities

Face Value

IV. Particulars of closing balance

Secretary,
Sikkim Khadi and Village Industries Board.

AUDIT CERTIFICATES

Certified that the above accounts have

been audited and found correct.

Auditor/Accountant-General
Sikkim

THE SIKKIM LAND REQUISITION AND. ACQUISITION RULES 1978.

Notification No 70/LR (8)

Dated, 28. 4. 78

In exercise of the powers conferred by Section 18 of the Sikkim Land (Requisition and Acquisition) Act, 1977 (1 of 1978) the State Government hereby makes the following rules:

- Short title and Commencement.* 1. (a) These rules may be called the Sikkim Land (Requisition and Acquisition). Rules, 1978.
(b) They shall come into force at once.
- Definition* 2. In these rules unless there is anything repugnant in the subject or context,
(i) 'Act' means the Sikkim Land (Requisition and Acquisition) Act, 1977;
(ii) 'Form' means a form appended to these rules;
(iii) 'Section' means a Section of the Act.
(iv) 'Government' means the State Government of Sikkim.
3. All proceedings under the Act shall be held before the Collector or the Court, as may be applicable, within whose jurisdiction the Land to be requisitioned or acquired is situated.
- Procedure to be followed for the purpose of Section 3.* 4. (1). Where it is decided to requisition a Land the Collector shall call upon, in L.R.A. Form I, the owner or any other person who may be in possession of the land to show cause within fifteen days of the date of the service of the notice on him, why the land should not be requisitioned. He shall also direct the owner of the land or any other person not to dispose of or structurally alter the land except with his permission.

(2) After considering the objection, if any, put in by any person interested in the land the Collector, if he is satisfied that it is necessary to do so, may order the requisition of the land. Order of requisition of the land shall be in L.R.A. Form 2.
- Order of Requisitioning and the manner of service.* 5. (1) The order under Section 3 shall be served on the owner of the land and where the land is in the occupation of an occupier, not being the owner of the land, also on such occupier in the following manner:

- (i) By delivering or tendering it personally to that person or
- (ii) If it cannot be delivered or tendered in the above manner by delivering or tendering it to any adult member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain, or failing service by these means, by registered post.

(2) Where any order is to be served on any Corporation or firm, it shall be served in the manner provided below

(a) Upon anyone or more of the partners, Secretary, any director or other principal officer of the Corporation or firm,

(b) By leaving it or sending it by registered post addressed to the Corporation/firm at its office, or if there is no registered office then at the place where the Corporation/firm carries on business.

(3) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the order cannot be served without undue delay, the order may be served by publishing it in the official Gazette and by affixing a copy thereof on any conspicuous part of the property to which it relates.

(4) Where the owner or any other person who may be in possession does not surrender or deliver possession in pursuance of the order served in L.R.A Form 2, the Collector or any person duly authorised by him in writing may take possession of the property and may, for that purpose, use such force as may be necessary.

Delivery of possession.

(5) Where any premises are requisitioned under Section 3, the Collector may order the owners to execute such repairs as may be necessary and are usually made by owners in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein and if the owners fail to execute any repairs in pursuance of such order, the Collector may cause the repairs specified in the orders to be executed at the expense of the owners and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the owners.

Repairs to requisitioned premises.

Acquisition of requisitioned property.

6. (1) Where it is decided to acquire the land requisitioned under Section 3, the Collector before making his recommendation to the State Government shall call upon the person interested or any other person who may be interested in such land in L.R.A. Form 3 to show cause why the land should not be acquired.

(2) Where no objection is received by the date specified in the notice under sub-rule (1) or where objections have been received after hearing the interested person/persons, the Collector shall forward his recommendation along with the connected papers to the State Government for acquiring the land under Section 4.

(3) On receiving the recommendation of the Collector under Sub - rule (2) the State Government shall, after examining the connected papers, if necessary, make a notification to the effect that such land is required to be acquired for any public purpose in L.R.A. Form 4.

(4) After the publication of the notification under sub-rule (3) the Collector shall cause a public notice to be given at any convenient place on or near the land to be acquired in L.R.A. Form 5.

(5) The Collector shall also serve notice on the occupier, if any, of such land and on all such persons known or believed to be interested therein or to be entitled to act for such occupier or persons so interested, as reside or have agents authorised to receive service on their behalf, within the district within which the land is situated in L.R.A. Form 6 in the manner prescribed in Rule 5.

Release from requisition

7. (1) Where any land requisitioned under Section 3 is not acquired and is to be released from requisition, the State Government may release the land by order in L.R.A. Form 7 in favour of the person who appears to it to be entitled to the possession of such land.

(2) Where the person in whose favour delivery of possession of land mentioned in L.R.A. Form 7 is to be made is not found or is not readily traceable or has no agent or other person empowered to accept delivery on his behalf, the State Government shall publish a notification in L.R.A. Form 8 declaring that such land is released from requisition.

8. Where the person interested in the land acquired is not present personally or by his representative when the award is made, the Collector shall give in L.R.A. Form 9 immediate notice of the award made ex-parte to such person. The notice shall be served in the manner prescribed in rule 5.

Notice of award.

9. (1) Where the Collector and the person interested do not agree as to the amount payable under Section 8 or where the person interested cannot be traced or does not appear before the Collector when called upon to be present, the amount shall consist of the following:

Principles and method of determining amount.

(a) A recurring payment, in respect of the period of requisition of a sum equal to the rent which would have been payable for the use and occupation of the land taking into account net profit received or receivable thereof for the years next preceeding the date of requisition, if it had been taken on lease for the period and

(b) Such sum, or sums, if any, as may be found necessary to compensate the person interested in all or any of the following matters namely:

(i) Pecuniary loss due to requisitioning;

(ii) Expenses on account of vacating the requisitioned premises;

(iii) Expenses on account of re-occupying the premises upon release from requisition; and

(iv) Damage (other than wear and tear) caused to the land during the period of requisition, including the expenses that may have to be incurred for restoring the land to the condition in which it was at the time of requisition.

(2) During the period of requisition the land revenue/rent for the land will be payable by the owners; but in case of acquisition the land revenue/rent shall be remitted from the Fasli year next after the acquisition of land.

(3) Where the persons interested in the land are not present personally or by their representatives when the award is made, the Collector shall give immediate notice of his award in L. R .A. Form 10. The notice shall be served in the manner prescribed in Rule 5.

Collector to follow procedure of Civil Court.

10. The Collector while holding an enquiry or taking proceedings under the Act shall follow the procedure of a Civil Court while trying a suit under the law relating to civil procedure in respect of the following matters, namely:

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of any document;
- (c) Receiving evidence on affidavits;
- (d) Requisitioning any public record from any court or office; and
- (e) Issuing commission for examination of witnesses.

L.R.A. FORM 1
NOTICE
OFFICE OF THE DISTRICT COLLECTOR
DISTRICT

Where it appears thatacres of land/property situated in Block..... District described below is needed for public purpose namely I District Collector, District..... in pursuance of the power given to me under Section 3 (2) of the Sikkim Land (Requisition and Acquisition) Act, 1977 (1 of 1978) hereby call upon the owner or any other person who may be in possession to show cause within fifteen days of date of the services of this notice on him, why the land/property should not be requisitioned. The owner of the property or any other person shall not without the permission of the undersigned dispose of or structurally alter the property aforesaid. The owner shall also furnish a statement containing so far as may be practicable at (place) onthe name of every person possessing interest in the land, or any part thereof as co-owner, mortgagee, cultivator or otherwise, and the nature of such interest and of rents and profits (if any) received or receivable on account thereof for three years next preceeding the date of statement.

Description of land.....

Dated,.....197

COLLECTOR DISTRICT
.....

**L. R. A. FORM 2
ORDER.**

Whereas it appears that..... :.....
acres of land/property situated in Block
District described below is needed for public' purpose namely.....
for District

Collector Districtin pursuance of the power given to me
under Section 3 (2) of the Sikkim Land (Requisition and Acquisition) Act, 1977 (1 of 1978)
hereby, requisition the aforesaid land/property and require your (owner of the land) or his
nominee to deliver possession thereof within three days of the service of this order, failing
which delivery of possession may be enforced by using such force as may be necessary.

Description of land.....

Dated197

COLLECTOR DISTRICT
.....

**L.R.A. FORM 3
NOTICE**

No.....

Dated.....197 .

Whereas it appears necessary to acquire the land situated in Block District.....
..described below which had been requisitioned under Section ..,
3 of the Sikkim Land (Requisition and Acquisition) Act, 1977 (1 of 1978) on.....
.....for.....(public purpose) by the undersigned,
Sri... .. the interested persons R/O.....
Block..... District..... is called upon to appear on
.....at 10 A.M. and show cause why the land should not be
acquired. If no objection is received on the aforesaid date, the land-shall be acquired under
Section 4 of the above Act.

Dated197

COLLECTOR
DISTRICT.....

**LR.A FORM 4
GOVERNMENT OF SIKKIM
LAND REVENUE DEPARTMENT**

Notification No..... Dated Gangtok..... 197

Whereas it appears to the Governor that :acres of land situated in Block District described below which had 'been requisitioned' on :..... 197 for (public purpose) by Collector, District... ..it is. hereby notified that the aforesaid land is now acquired under Section 4 (2) of the Sikkim Land (Requisition and Acquisition) Act, 1977 (1 of 1978). The land requisitioned shall on the date. of publication of this notification vest in the State Government free from all encumbrances and the period of requisition shall end forthwith.

Particulars of land

Dated..... 197

BY ORDER,
Secretary,
Land Revenue Department,
Government of Sikkim, Gangtok.

L.R.A. FORM 5

Public notice under Section 5 (1) and (2) of the Sikkim Land (Requisition and Acquisition) Act, 197.

Whereas the under mentioned land has been acquired under Section 4 of the Sikkim Land (Requisition and Acquisition) Act, 1977 (1 of 1978) vide Notification No..... published in the Sikkim Gazette dated..... 197 all persons, interested in the said land are hereby called upon to attend personally or 'through agent at (place) on..... (enter a date not less than 15 days from the date of publication of the notice)..... O'clock to put in a statement in writing (signed by themselves or by agents) showing the nature of their interest in the land, the amounts and the particulars of their claim to compensation in request of such interests, the basis on which the compensation so claimed is computed, their objection, if any. to the area specified in the declaration and to put in a statement containing as far as may be practicable the name of any other persons possessing any interest in the land or any part of it as co-owner, mortgagee, cultivator or otherwise the nature of such interest and the rents and profits (if any) received or receivable on account of it for three years next preceeding the statement.

(Particulars of land to be entered)

Dated, ... 197

COLLECTOR
DISTRICT.....

L.R.A. FORM 6

Whereas the Governor of Sikkim has been pleased to acquire..... acres of land situated in Block District.....under Section 4 of the Sikkim Land (Requisition and Acquisition) Act, 1977 (I of 1978) described below and previously requisitioned under Section 3 of the Sikkim Land (Requisition and Acquisition) Act, 1977 as per Government Notification No..... dated I, ..Collector.. hereby call upon occupier, if any, on such land and all persons interested in the land personally or through agent at (place) on (a date not earlier than 15 days of the publication of the notice) and to, state in writing the nature and particulars of the claim to the amount payable for the acquisition of such land.

Dated COLLECTOR
DISTRICT.....

L.R.A. FORM 7

Government of Sikkim. Land Revenue Department

Whereas it appears to the Governor that acres of land situated in block..... District described below which was requisitioned onunder Section 3 of the Sikkim Land (Requisition and Acquisition) Act, 1977 (I of 1978) is not to be acquired, it is hereby released from requisition. The delivery of possession of the land to Shri... owner occupier will be effected by the Collector or his nominee and that shall be a full discharge of any liability of the State Government for any claim for any amount payable for requisition or other claim in respect of the land for any period after the date of delivery.

Description of land.

BY ORDER.

Secretary, Land Revenue
Department, Government of
Sikkim,
Gangtok.

'Dated: 197

L.R.A. FORM 8

**GOVERNMENT OF SIKKIM
LAND REVENUE DEPARTMENT**

Notification No.

Dated Gangtok, the..... 197 .

Whereas the Governor has been pleased to release under his orders dated
acres of land situated in Block..... District
described below and requisitioned by Collector.....vide his orders
dated... ..and

Whereas the person in whose favour delivery of possession was to be effected is not found
or is not readily traceable or has no agent or other person empowered to accept delivery on his
behalf, it is hereby notified that the aforesaid land is released *from* requisition. The land shall
cease to be subject *of* requisition on and *from* the date of this publication and shall be deemed
to have been delivered to the person specified in the order made under Sub-Section (I) of
Section 6 and the State Government shall not be liable to pay any amount *or* claims in respect
of such land *for* any period after the said date.

LR.A. FORM 9

NOTICE

SUB SECTION 3 (b) OF SECTION 7

Whereas Shri..... .. *RIO* Block.....
Districtan interested person in the land description of which
is given below and which has been acquired under Section 4 of the Sikkim Land (Requisition
and Acquisition) Act. 1977 (I of 1978) is not present personally or through his representative at
the time when award under Section 7 is made, a copy of the award is hereby sent to him for
information and to appear before the undersigned
on... ..and receive payment thereof.

Description of the land.....

Dated.....197

COLLECTOR
DISTRICT

L. R. A. FORM 10
(SECTION 8 (2) (a))

Whereas Shri.....- R/O Block.....
.....Districtan interested person
in the land description of which is given below and which has been requisitioned under Section
3 of the Sikkim Land (Requisition and Acquisition) Act, 1977 (I of 1978) is not present
personally or through a representative at the time when award under Section 8 (2) (a) is made,
a copy of the award is hereby sent to him for information and to appear -before the
undersigned on at..... and to receive payment thereof.

Description of land.

Dated19

COLLECTOR
DISTRICT.....

LAND REVENUE DEPARTMENT

Notification No. 96/L.R. (S)

Dated Gangtok, the 1st May, 1978.

In exercise of the power conferred by Section 1 (3) of the Sikkim Land (Requisition and
Acquisition) Act, 1977 (I of 1978)the State Government (If Sikkim hereby appoints the date of
enforcement of the above act w. e. f. 22nd April, 1978.

LAND REVENUE DEPARTMENT

Notification No. 4/L. R.

Dated Gangtok, the 22nd June, 1978

In exercise of the powers conferred by Section 2 (g) of Sikkim Agricultural Land Ceiling
and Reforms Act 1977, (Act 14 of 1978). the State Government, hereby authorizes the District
Collectors to perform the functions of the Competent Authority under the aforesaid Act and the
Rules framed thereunder within their respective jurisdiction.

LAND REVENUE DEPARTMENT**Notification No. 5/L.R.****Dated Gangtok, the 22nd June, 1978.**

In exercise of the powers conferred by Section 5 (l) of the Sikkim Agricultural Land Ceiling and Land Reforms Act, 1977. (Act 14 of 1978), the State Government hereby notifies that with effect from the 22nd day of June 1978, no person shall be entitled to hold any agricultural land in excess of the ceiling limit as laid down in Section 6 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978) as amended by the Sikkim Agricultural Land Ceiling and Reforms, (Amendment) Ordinance, 1978, (Ordinance No.3 of 1978), in the whole of the State of Sikkim and all lands in excess of the ceiling limit shall vest in the 'State in accordance with and under the provisions of the aforesaid Act and the rules made thereunder.

THE SIKKIM AGRICULTURAL LAND CEILING AND REFORMS RULES 1978.**(Under Chapters I and II)****Chapter-I****Preliminary**

- I. Section 36.
 - (a) These rules may be called the Sikkim Agricultural Land Ceiling and Reforms Rules, 1978.
 - (b) They shall come into force at once.
2. In these rules unless there is anything repugnant in the subject or context:
 - (i) "Act" means the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978).
 - (ii) "Excess land" means the land held by a person in excess of the ceiling limit.
 - (iii) "Form" means a form appended to these rules.
 - (iv) "Section" means a section of the Act;
 - (v) "State" means the state of Sikkim.
3. Section 36 (l) All proceedings under the Act shall be held before the Competent Authority within whose jurisdiction a person holds the largest part of his holding except where directed to the contrary in any particular case by the State Government.

CHAPTER-II
Ceiling on Agricultural Land

4. Section 5. The general notification under Section 5 of the Act for information of all concerned stating that with effect from the date of the notification no person shall be entitled to hold any agricultural land in excess of of the ceiling limit in the State of Sikkim or part thereof shall be published in the Official Gazette in L.C. Form I.

5. Section 4 and 5. (1) Where any question arises as to whether any person is a Bustiwalla or an Adhiadar /or a Kutiadar. it shall be decided by the Competent Authority on the basis of the records as well as from the evidence produced by the person claiming himself to be a Bustiwalla or an Adhiadar or a Kutiadar or where no such evidence is produced, on the basis of an enquiry as may be deemed proper by the Competent Authority.

(2) A copy of the orders passed by the Competent Authority shall immediately be forwarded to the Secretary to the Government in the Land Revenue Department.

6. Section 36 (1). (1) The classification of land into circles and classes made in notification No 815/ L.R. dated the 7th June 1957 shall be operative in the area referred to therein unless revised in the course of Settlement Operations.

(2) Where no survey and settlement operation had taken place the classification of land into circles and classes determined in the current. survey and settlement operations will be accepted.

(3) Cardamom field will be treated at par with paddy field. But its further classification into classes in every circle will depend upon its elevation from Sea Level. If any land on which Cardamom is grown has not been classified, its classification may be determined with reference to its height as applied in cases of paddy and dry fields. If its height is also not given, it may be determined with reference to the height of the adjoining plots given in the Khasra.

7. Section 36 (d). The general notice to be published in pursuance of sub-section (1) of Section 8 and the statement to be submitted thereunder by every person bolding land in excess of ceiling limit, applicable to him in the State, shall be in L.C. forms II and In respectively. The statement mentioned above shall be filed within a period of 30 days from the date of the publication of the general notice

8. Section 8 (1) Where a person does not file the statement as required under Rule 7 in L. C. Form III within thirty days of the publication of the general notice in L.C. Form II or where the Competent Authority is of opinion that any person holds on the notified date agricultural land in excess of the ceiling limit, he may serve a notice upon such person in L.C. Form IV to file the statement within twenty one days of the service of the notice.

(2) As soon as may be, after the expiry of twenty one days from the date of the service of the notice in L.C. Form IV, the Competent Authority shall cause to be prepared and served upon every person, who has failed to submit the statement in L.C. Form in or has submitted incorrect or an incomplete statement, a notice in L.C. Form V together with a copy of the statement and its Annexure A to B calling upon him to show cause within a period of fifteen days from the date of the notice why the aforesaid statement be not taken as correct.

9. The notices under Rule 8 in L.C. Forms IV and V may be served either:
- (a) by delivering it to the person on whom it is to be served, or
 - (b) by affixing it at a conspicuous part of the usual or last known place of abode of that person, or
 - (c) by sending it by registered post, addressed to that person at his usual last known place of abode, and
 - (d) in case of an incorporated company, monastery or other religious institution or society, by sending it by registered post, addressed to the Secretary or principal functionary of the company, monastery, other religious institution or society or by delivering it at its principal office, or affixing it at a conspicuous part of its principal office.

10. (1) In the case of tea garden and land held for industrial purpose mentioned in sub-section (4) of Section 6, the Competent Authority shall fix their ceiling limit as may be notified by the State Government.

(2) Where homestead is part of one's holding, it will remain so even after imposition of ceiling on agricultural land.

11. Section 9 (1) The Competent Authority shall cause to be prepared a draft statement on the basis of the statement filed by a person under Section 8 or on the basis of the statement prepared under Section 9 (1) in respect of each person in L.C. Form VII which shall be served on him in the manner prescribed under rule 9 together with a notice in L.C. Form VI.

(2) Where a person has opted to declare his share or part thereof in one or more of his holdings, hold jointly by him along with others, as excess land or where the Competent Authority proposes to declare any such share or part thereof as surplus land in part D of L. C. Form III, the Competent Authority shall, except where the person is in separate possession of his share in such holding, proceed to demarcate the same before proposing the surplus land of the person in the draft statement, if necessary, after giving an opportunity to the co-sharers of being heard with due regard to the following principles:

(a) The valuation of the portion allotted to the person shall be proportionate to his share in the holding,

12. (1) in L.C. Form VIII.

(b) The portion allotted to the person shall as far as may be compact; and .

(c) the person shall, as far as may be possible, be given proportionately inferior and superior classes of land.

12 (1) Objection filed under Section 9 shall be entered in case register in LC Form VIII

(2) The objection shall be decided by the Competent Authority after giving the objector a reasonable opportunity of being heard.

(3) The order of the Competent Authority shall be a speaking order.

(4) The Competent Authority shall forward a copy of his order to the Secretary to Government in the Land Revenue Department.

13. Sections 10 and 26. (1) After disposal of the objection filed, if any, under Section 9 (4) or after disposal of any appeal under Section 13 or Section 14, the Competent Authority shall, after making necessary alterations in the draft statement as a result of orders passed on the objection or in appeal or on demarcation of share in joint holding in the manner indicated in Rule 11, prepare a final statement as in L.C. Form IX showing the land held by the person concerned in excess of the ceiling limit and also the land which such person shall be allowed to retain within the ceiling limit. Columns 38 and 39 shall be filled in when the Revenue Officer has fixed land revenue on the land to be retained by the person.

(2) A copy of final statement in L.C. Form IX shall be sent to the Revenue Officer for fixing Land Revenue on the land to be retained by the person as per revenue rates applicable to each plot in the manner indicated in rule 29.

(3) On receipt of the final draft statement in L.C. Form IX after fixation of Land Revenue on the land to be retained by a person, the Competent Authority shall get a copy thereof served on the person in the manner indicated under Rule 9. .

14. Section 10. While preparing the final draft statement in L.C. Form IX, the Competent Authority shall keep the following in view:

(i) that the choice indicated by the person to the plot or plots to be retained by him or other members of his family, as far as possible, shall be given due regard;

(ii) that the land which is retained by the person and that which is declared excess should, as far as practicable, be compact;

(iii) that the land which is under cultivation of Adhiadar/Kutiadar or which is under dispute should, as far as possible, remain with the person and not declared excess, and

(iv) where the wife of a person holds any land' which is aggregated with the land held by him for purposes of determination of ceiling limit and his wife has not consented to the plot or plots to be retained as part of the ceiling limit applicable to them, then the Competent Authority, shall, as far as possible, declare. the excess land in such manner that the area taken out of the land held by the person's wife bears 'to the total excess area in the same proportion as the area originally held by her bears to the total land held by the family; and

(v) where a person holds land in excess of the ceiling limit including any land with encumbrances (mortgages etc.), the excess land to be determined as such shall, as far as possible, be the one free from encumbrances.

15. Section 11.. As soon as may be after the service of the final statement under Section 10 on the person concerned, the Competent Authority shall notify in the Official Gazette all, lands determined in excess of the ceiling limit under Section 10 as in L. C. Form XI.

16. Sub-section 5 of Section II. The amount of damages for use and occupation of land referred to in sub-section 5 of Section, 11 shall be determined in accordance with the following principle;

Damages shall be determined at 25 times the revenue payable for the land for every agricultural year or any part thereof.

Provided, however, the damages shall not exceed the amount payable under Section 12 of the Act.

17. Sub-section 1 of Section 36. (i) The Competent Authority shall, for the purpose of correction of land records, also send information in respect of the land. included in *the* ceiling limit applicable to' a person to the Collector of the District where the land is situated, along with a copy of final draft statement in L.C. Form IX:

(ii) The District Collector shall also maintain a register of all excess land as in L.C. Form X in the District.

18. Section 36 (I) (1) Where a person dies before the notification of the general notice under Section 8 (I), such notification shall be deemed to apply to his executor, administrator or other legal representatives and the Competent Authority may, proceed to determine the ceiling limit applicable to the deceased as if such executor or administrator or other legal representatives was the person himself.

(2) Where a person dies before he is served with a draft statement under Section 9, the Competent. Authority may serve such statement on ,his executor, administrator or other legal representatives.

19. Section 36(2) (g). (1) As soon as any excess land vests or is deemed to have been vested under sub-section (l) of Section 11 the Competent Authority shall proceed person or to determine the amount payable to the persons holding such land in :L.C. Form XII.

(2) The Competent Authority shall thereafter send a notice to the person or persons in L.C. Form XIII calling upon him/them to file objection, if any, on the amount so determined within a period of fifteen days from the date of service of notice.

(3) The Competent Authority shall decide the objections filed, if any, and cause to be prepared a register as in L.C. Form XIV and maintain accounts of payments made to the persons.

(4) A copy of the orders passed on the objections shall be sent to the Secretary to Government in the Land Revenue Department.

(5) Whenever the person concerned comes to receive the first installment or any subsequent installment payable to him, he shall produce every time the notice in L.C. Form XIII before the Competent Authority who shall record a note regarding payment of the installment due under his dated signature in the remarks column.

(6) The Competent Authority may on being satisfied that original L.C Form XIII has been lost or destroyed, issue a duplicate copy thereof in favour of any person on an application, supported by an affidavit, filed by that person for the purpose.

(7) Where the person entitled to the amount payable dies before the amount is paid to him, the Competent Authority shall proceed to determine. the legal representatives of the deceased for making payment of the amount.

(8) Whenever the legal representative concerned comes to receive the first installment or any subsequent installment, he shall produce every' time the notice in L.C. Form XIII before the Competent Authority.

20. Section 12 (3). On receipt of an application from a monastery or other religious institution in L.C. Form XV to the effect that as a result. of vesting of excess land it has become difficult for such monastery or religious institution to carry on proper management and administration, the Competent Authority shall, after such enquiry as he deems proper, determine ,the amount of annuity payable to such monastery or religious institution in L.C. Form XVI taking into consideration the following:

(a) the total average annual income of such monastery or religious institution for the preceeding three agricultural years of the date of filing of the application and

(b) the division of the average income into two parts viz. that utilized purely for religious or charitable purposes and for other purposes.

21. Sub-Section 3 of Section 12. (1) After the amount of annuity payable has been determined the Competent Authority shall send a notice in L.C. Form XVII to the head or the principal functionary of the monastery or religious institution calling upon him to file objection, if any, on the amount determined as annuity within a period of fifteen days of the service of the notice.

(2) The Competent Authority shall decide the objection filed, if any, and prepare an annuity roll as in L.C. Form XVIII (parts I and II). Part I will be given to the head of the monastery or religious institution. In part II the Competent Authority shall maintain accounts of payment of annuity in a register form.

(3) A copy of the order passed on the objection shall be sent to the Secretary to Government in the Land Revenue Department.

(4) When the head or the principal functionary or any other person duly authorised on his behalf attends the office of the Competent Authority to receive payment, he shall bring with him part I of the Annuity Roll for necessary entries to be made under the signature of the Competent Authority.

(5) The Competent Authority may, on being satisfied that original Annuity Roll in L.C. Form XVIII part I has been lost, destroyed or rendered unfit for use, issue duplicate copy thereof, on an application supported by an affidavit filed for the purpose.

22. Section 16. (1) If on or after the commencement of the Act or on or after the notified date or on or after the date of vesting under Section 11, any person acquires by transfer, inheritance or otherwise any agricultural land the extent of which together with the extent of the agricultural land held by him exceeds in aggregate the ceiling limit, then he shall within three months of the date of such acquisition, file an application as in L. C. Form XIX along with annexures of L. C. Form III duly filled in.

(2) The person shall first give details of the land held by him in the annexure A of L. C. Form III and then below it, give the particulars of land subsequently acquired by transfer or inheritance or otherwise.

(3) Where the application in sub-rule (1) is filed, the Competent Authority shall proceed to determine the surplus land according to the provisions of Sections 8 to 15 of the Act.

(4) The provision of the Act in respect of declaration, acquisition, disposal and settlement of surplus land shall, as far as may be, also apply to surplus land covered by Section 16.

23. (1) On receiving copies of orders passed under Sections 4 or 9 (4) or 12 the Secretary to Government in the Land Revenue Department shall get them scrutinized and arrange filing of appeal thereto under Section 13 before the Tribunal within 30 days of the orders passed if, in his opinion, the interest of the State Government has suffered in any way.

(2) The Secretary to Government in the Land Revenue Department shall get copies of orders passed in appeal under Section 13 and take action for filing a second appeal under Section 14 before the State Land Tribunal within sixty days of the order passed by the Tribunal, if, in his opinion, the interest of the State Government has suffered in any way.

(3) If due to unavoidable circumstances, the appeals as referred to in sub-rules (1) and (2) above could not be filed within time, the memorandum of appeal shall be accompanied by an application for condonation of delay duly supported by an affidavit explaining the delay.

L. C. Form I

LAND REVENUE DEPARTMENT

Notification No/L. R.

Dated Gangtok, the...1978.

In exercise of the powers conferred by Section 5 (1) of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978), the State Government hereby notifies that with effect from the 22nd day of June 1978, no person shall be entitled to hold any agricultural land in excess of the ceiling limit as laid down in Section 6 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978) as amended by the Sikkim Agricultural Land Ceiling and Reforms, (Amendment) Ordinance, 1978 (Ordinance No.3 of 1978), in the whole of the State of Sikkim and all lands in excess of the ceiling limit shall vest in the State in accordance with and under the provisions of the aforesaid Act and the rules made thereunder.

BY ORDER

Secretary,
Land Revenue Department.

**L. C. Form II
(See Rule-6)**

General notice under sub-section 1 of Section 8 of the Sikkim Agricultural Land Ceiling and Reforms Act) 1977

In pursuance of the provisions of Section 8 of the Sikkim Agricultural Land Ceiling and Reforms Act 1977 (Act 14 of 1978), I

.....the Competent Authority of District.....

do hereby call upon every person holding land in excess of the ceiling area applicable to him on the 22nd June, 1978, to deliver to the undersigned within thirty days of the date of publication of this notice, a statement in respect of all his holdings within the State of Sikkim in L. C. Form III together with Annexures A to E thereof duly signed and verified in the manner indicated in the said form.

2. The ceiling area applicable to a person is to be calculated in accordance with the provisions of Section 6 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978).

3. Annexure A to L. C. Form III contains instructions for its preparation. If any further information is desired it can be obtained from the office of the undersigned.

Competent Authority
District
Date.
.....

**L. C. Form III
(Rule-8)**

To
The Competent Authority,

District.

In pursuance of the notice under Section 8 (1) of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977, I submit the required statement in respect of all agricultural lands held by me on the 22nd day of June, 1978, the notified date as under:

(1) Total area in standard acres of agricultural land held in the state by me personally and in the names of the members of my family as well as my share of land held by a Co-operative Society or private trust of which I am a beneficiary, as detailed in Annexure A.

(2) Total area in standard acres of land cultivated by me in the capacity of an Adhiadar/Kutiadar as detailed in Annexure B.

(3) Total area in standard acres and plot numbers of land for which exemption is claimed, as detailed in Annexure C.

(4) Details of land on which ceiling is to be imposed as in Annexure D.

(5) Area in standard acres and plot numbers of land which are proposed to be retained within ceiling limit as applicable, as detailed in Annexure E.

(6) The particulars in respect of my wife/husband/minor sons and unmarried daughters of my family are as below.

NAME	AGE	SEX	RELATION SHIP	Married, unmarried or judicially separated	REMARKS:
1	2	3	4	5	6

- (a)
- (b)
- (c)
- etc.

(7) The particulars in respect of land owned or cultivated by my adult sons are as below:

NAME	AGE	Details of land owned or cultivated					
		District	Block	Khatian No.	Plot No.	Area of plot	Circle
1	2	3	4	5	6	7	8

Class	Area in terms of standard acres	Whether owner or cultivator	Name of the owner of the plot whose land is cultivated.	Remarks
9	10	11	12	13

I solemnly affirm and verify that to the best of my knowledge the information given by me in the form and Annexures hereto attached is correct and complete. I also certify that the consent of my wife (in case she holds any land) has been taken in..... respect of the land to be retained within the ceiling limit applicable.

.....
 (1) Full signature of the person
 Address.....
 Date.....
 (2) Signature of wife in token of her consent where the land held by her has been aggregated for the purpose of determining ceiling limit.

ANNEXURE A TO L.C. FORM III

Details of agricultural land held by Sri/Smt ons/o wife of Sri Resident of Block District and the members of his family as well as his share of land held in a Co-operative Society or private trust.

Particulars of the person and members of his family

Sl. No.	Name of the person or name of the members of his family or the name of the Co-operative Society or private trust.	Name of the Dist.	Name of the Block	Khatian Number	Share in the holding if joint along with names of co-sharers.	Share of the person along with shares of his minor sons	Share of the adult sons
1	2	3	4	5	6	7	8
			Details of land held				
	Plot No:	Area	Circle	Class	Area in terms of standard acres.		Land Revenue payable
	9	10	11	12	13		14

Details of land cultivated in the capacity of an adhiadar/kutiadar

Name of adhiadar/ Kutiadar with address	Plot No.	Area	Circle	Class	Area cultivated in standard acres.	Remarks:
15	16	17	18	19	20	21

Note:

(1) All land held in his own right by the person will first be shown. The total of the land held' by the person taking into consideration his share in joint holding and deducting there from the shares of the adult son/sons will be struck. Below it will follow the names of the wife or husband. the minor sons and the unmarried daughters and the land held by each of them. Total land held by the members of the family will then be struck. At the end the grand total of both kinds of land will be given. Columns 15 to 20 will give details of land being cultivated by Adhiadar/Kutiadar separately. (2) The remarks column will give the details of the following:

- (a) How the shares in the joint holding or shares of adult sons have been worked out?
 (b) Details of homestead or other constructions against the plot in which they are situated.
 (c) The reasons why any land if owned by the persons has not been recorded in the land records.
 (d) The reasons why any land recorded in his name in land records has gone into possession of another person.
 (e) Details of plots mortgaged as security against various loans taken from Scheduled Bank, Co-operative Society or any other Govt. agency.
 (f) Disputes, if any, pending determination in a court of law.
 (g) Names of persons, if any, who are in possession over land.

ANNEXURE B TO L.C. FORM III

Details of land cultivated by Sri/Smt s/o wife of
 Sri..... Resident of..... Block..... District and
 the members of his family in the capacity of an Adhiadar/Kutiadar

Sl. No.	Name of the person whose land is cultivated	Name of Adh Kutiadar	Name of the District	Name of the ' Block	Khata an No.	Plot No.	Area	Cir- cle	Class	Area i stan- dard acres
1	2	3	4	5	6	7	8	9	10	11

ANNEXURE C TO L.C. FORM III

Details of land in respect of which exemption is claimed by Sri/Smt.. ... s/o/ wife

Sl. No.	Name of the District	Name of the Block	Nature of exemption claimed	Plot No.	Area	Cir- cle	Class	Area stan- dard acres	Justifica- tion for exempti on	Re marks
I	2	3	4	5	6	7	8	9	10	II

ANNEXURE D TO L.C. FORM III

Details of land on which Ceiling is to be imposed.

Name of the person	Numl ber of mem- bers in his fam- ily	Total area in standard acres held by the per- son and mem- bers of his family as given in Annexure A	Total land in standard acres held in the capacity of an Adhiadar/Ku- tiadar as given in Annexure B.	Total of colum ns 3 & 4	Area for which exem- p- tion, if any claim ed	Total land on which ceiling is to be imposed	Ceiling limit app- licable in terms of standard acres	exce ss land in stan- dard acres
I	2	3	4	5	6	7	8	9

DETAILS OF EXCESS LAND

Block	Plot No.	Area	Circle	Class	Area in Standard acres	Remarks
10	11	12	13	14	15	16

ANNEXURE E (L. C. FORM III)

Details of land proposed to be retained by the person Shri/Smt.
 s/o w /o.....r/oDistrict
 as part of his/her ceiling limit.

Sl. No	District	Block	Plot Remarks No.	Area	Circle	Class of land	Area in stan- dard acres
1	2	3	4	5	6	7	8

Signature of the person holding land.

Signature of wife of the person in token of her consent in case where land held
 by wife has been aggregated for purpose of imposing ceiling limit.

L. C. Form-IV (Rule 8 (1))

Notice

To

Name.....

Address.....

Whereas you have failed to submit the statement in L. C. Form III as required under rule 7 of the Sikkim Agricultural Land Ceiling and Reforms Rules, 1978. within 30 days of the publication of the general notice in L. C. Form III in the opinion of the undersigned you held on the notified date agricultural land in excess of the ceiling limit, you are hereby called upon to file a statement in L. C. Form III along with its annexures A to E within twenty one days of the service of the notice.

Given under my hand and seal of the court this day of.....

..19

Signature or the Competent Authority.

District

L. C. Form V
Notice U/S. 8 (2)
(Rule 8)

To

Name.....

Address

Whereas you have failed to submit a statement/have furnished incomplete incorrect statement in respect of your holdings in the State of Sikkim including holding of the members of your family within the time mentioned in the notice in L. C. Form II under Section 8 (1) of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978);

And whereas the statement of all holdings held by you in the State on the 22nd June of 1978, the notified date, has been prepared and are sent in Annexures A to E of L. C. Form III. you are hereby called upon to show cause within a period of fifteen days from the date of the service of the notice, why the said statement be not taken as correct.

On your failure to dispute the correctness of the statement, it shall be treated as final and will form the basis of preparing the draft statement under Section 9.

Given under my hand and seal of the Court this day of.....

19.....

Signature of the Competent Authority.

District

L. C. Form-VI
(Rule 11)

Whereas a draft statement (enclosed in L. C. Form VII) has been prepared as required under Section 9 (1) of the Sikkim Agricultural Land Ceiling and Reforms Act 1977 on the basis of the statement filed - by . you under Section 8 (1) or on your failure to file such statement on the basis of the statement prepared and served on you with a notice in L. C. Form V, you are hereby called upon to file objection, if you have any, within a period of fifteen days from the date of the service of this notice.

On your failure to dispute the correctness of the aforesaid draft statement in L. C. Form VII (enclosed), it will be treated as final.

Given under my hand and seal of the court this day

of.....

.....
.....19

Competent Authority.

District

L. C. Form VII**Draft Statement (Section 9 Rule 11)**

Sl. No.	Particulars of the person and members of his family						
	Name of the person, name of the members of his family with age... sex and relationship or name of Co-operative Society or private trust in which he has a share.	Name of the District	Name of the Block	Khatian No.	Share in the holding if joint along with names of co-sharers.	Share of the person along with shares of his minor sons	Names of the adult sons and their shares.
1	2	3	4	5	6	7	8

Details of land held as owner.**Details of land held in the capacity of****Adhiadar/Kutiadar**

Plot No.	Area	Circle	Class	Area in terms of standard acres.	Name of the owner of the land	Plot No.	Area	Circle	Class	Area in terms of standard
9	10	11	12	13	14	15	16	17	18	19

Area for which exemption allowed

Plot No.	Area	Circle	Class	Area in terms of standard acres	Area on which ceiling is to be imposed (Col.	Ceiling area applicable in standard
20	21	22	23	24	25	26

Details of excess land

<u>Plot No.</u>	<u>Area</u>	<u>Circle</u>	<u>Class</u>	<u>Area in Standard acres.</u>
27	28	29	30	31

Details of area to be retained by the person

Plot No.	Area	Circle	Class	Remarks
32	33	34	35	36

DETAILS OF LAND ON WHICH EXEMPTION ALLOWED						
Plot No.	Area	Circle	Class	Area in standard acres	Area on which ceiling is to be imposed in standard acres (Col (12+18)-Col.23)	Ceiling limit in standard acres.
19	20	21	22	23	24	25

AREA WHICH IS IN EXCESS OF CEILING LIMIT

Plot No.	Area	Circle	Class	Area in standard acres	Revenue Rate	Revenue: payable
26	27	28	29	30	31	32

AREA WHICH IS TO BE RETAINED BY THE PERSON

Plot No.	Area	Circle	Class	Area in standard acres	Revenue Rate	Revenue payable	Remarks
33	34	35	36	37	38	40	40

L. C. FORM X (See Rule 17) Register of Excess Land

Sl. No.	District	Block	Name of the person parentage and address	Plot No.	Area	Class of land	Type of land	Trees, bldg, or any other improvement on the land	Signature of Collector	Remarks:
1	2	3	4	5	6	7	8	9	10	11

Note:- In the remarks column entry should be made when any land is settled with any person or it is earmarked for any public purpose.

L. C. Form XI
(See rule 15)

Notification No

Dated

In pursuance of the provisions of sub-section (1) of Section 11 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977, (Act 14 of 1978) I..... Competent Authority notify the excess land of the person determined. under Section 10 of the aforesaid Act as in the Schedule given below or annexed.

Signature of Competent Authority.

District

SCHEDULE
(Details of land)

Sl. No	Name of the person	District	Block	Plot	Area	Remarks:
1.	2	3	4	5	6	7

L. C. Form XII
(See Rule 19)
Assessment Roll

Sl. No.	District, Block	Name of person	Excess land as shown in col. 30 of L. C. Form IX in standard acres	Amount of land revenue payable on excess land as given in col 32 of L. C. Form IX	Multiple applicable for assessing the amount payable
1	2	3	4	5	6
	Amount payable in respect of land in col. 4	Government dues if any payable	Net amount payable (Col. 7-8)	Number and amount of each instalment payable	Signature of the Competent Authority
	7	8	9	10	II

L. C. Form XIII
(See Rule 19)

Whereas the net amount payable to you under Section 12 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 has been determined as per details given below, notice is hereby given to you to appear personally or through an agent duly authorised to file objection, if any, within a period of 15 days from the date of the service of the notice.

On your failure to dispute the correctness of the amount within the time allowed, the amount determined will be treated as final.

Details of amount payable

Excess land in real acres/ standard acres	Amount of land revenue payable for excess land.	Amount payable in respect of land shown in Col 1 (Amount as shown in Col 9 of L. C. Form XII)	Number of instalments.	Amount of instalments.	Remarks.
1	2	3	4	5	6

Given under my hand and seal of the court this day of.....

..... 19

Signature of Competent Authority

District

L. C. Form XIV
(Rule 19)

Register of persons and the amount payable to them under Section 12.

S. No.	IDist.1	Block.	Name, parentage and address of the person entitled to amount.	Final amount as determined in L. C. Form XII.	Date of determination.	Number of instalments.	Date on which instalments fall due.	Amount of instalment as shown in Col IO of L. C. Form XII	Interest if any payable.
1	2	3	4	5	6	7	8	9	10

TOTAL AMOUNT DUE		507 Date and num-	Signature,	Date of	Remarks
FOR PAYMENT		ber of cheque	. of Compe-	cashment	
Number of ins-	Amount	issued towards	tent Autho-		
talment	(Installment	payment	riety		
	plus interest)				
11	12	13	14	15	16

**L. C. Form XV
Application for annuity
(Rule-20)**

To

The Competent Authority,
District.... ..

I..... son of..

..... resident of

in my capacity as Manager-Trustee

hereby submit this claim for award of annuity in lieu of excess land which has vested in the State Government vide Government Notification Nodated below and the income from which was utilized for religious or charitable purposes.

2. I, herewith, furnish accounts for the preceeding three agricultural years showing the total income accruing from the above monastery/institution from the excess land and income from the portion of the excess land utilized for religious or charitable purposes.

Signature of claimant,
Manager/Trustee

**(SCHEDULE)
(Details of surplus land)**

1ST	BLOCK	PLOT NO	AREA	CLASS	TYPE	REMARKS
-----	-------	---------	------	-------	------	---------

**L C. FO RM XVI
(See Rule 20)
Assessment of annuity**

Dist. Block	Name of the Monas tery / Insti tution	Excess land as shown in in Col 30 of LC Form IX	Average of 3 years income	Average amount spent if any from the income on other purposes during the last 3 years	Amount that was spent on purely religious purposes during last 3 years	Proposed amount payable as annuity	Signature of the Competent Authority	
1	2	3	4	5	6	7	8	9

L. C. Form XVII

(SEE RULE 21)

To
The Manager/Trustee.

.....

.....

Whereas the net amount payable to you as annuity under Section 12 (3) of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978) has been determined as per details given below, notice is hereby given to you to appear personally or through an agent duly authorised. to file objection, if any, within a period of fifteen days from the date of the service of the notice.

On your failure to dispute the correctness' of the same within the time allowed, the amount determined will be treated as final.

Details of amount payable.

Excess-land in standard acres.	Average of three years income.	Average amount spent on religious or charitable purpose.	Average amount spent on other purposes.	Annuity pro-posed.	Remarks,
	2	3	4	5	6

Given under my hand and seal of the Court on the day of

19

Signature of the Competent Authority

**L.C. FORM XVIII
(See Rule 21)
Annuity Roll - part I**

Book No..... SI. No..... Dist..... Block.....

Name of the monas- tery/religious institution	Name of the Manager or Trustee	Amount of annuity	First payment due on	Remarks
1	2	3	4	5

No. of Roll

Prepared by

Checked by

Date

Signature of Competent Authority.

District.....

RECORD OF PAYMENT

Period for which payment to be made	Date	Amount payable	Net amount paid	Signature of the Competent Authority	Remarks
1	2	3	4	5	6

**L.C. 'FORM XVIII
(See Rule 21)
Annuity Roll - Part II**

Book; No Serial No. of book, District

Specimen Signature of Manager/Trustee of the Monastery/Religious Institution.....

Name of the Monastery / Religious Institution	Name of the Mana- ger or Trustee	Mark of Indentifi- cation	Amount of annuity	Annuity peri. od for which annuity is due	Amount paid with cheque No and its date	Signature of Mana- ger or Trustee	Signature of the Compe- tent Autho- city
1	2	3	4	5	6	7	8

No. of Roll

L. C. FORM XIX

(Rule 22)

To

The Competent Authority.

.....
 District.

I have acquired the following land by transfer/inheritance or otherwise after the notified date Section 5 (1) or after the date of vesting under Section 11 which together with the extent of the agricultural land held by me exceeds in aggregate the Ceiling Limit. I am enclosing a statement in L. C. Form No. III also for determining the ceiling limit as well as for the excess land which would vest in the State.

PARTICULARS OF LAND

Name of person from whom land has been purchased/ inherited	District	Block	Plot No.	Area	Class	Type	Area in real acres/Standard acres.	Remarks
1	2	3	4	5	6	7	8	9

I solemnly affirm and verify that to the best of my knowledge the information given by me in the form and annexure hereto attached is correct and complete.

Signature of the applicant

s/o

Address

Date..

**LAND REVENUE DEPARTMENT
GOVERNMENT OF SIKKIM**

Notification No. 22/L.R.

Dated the 27th January 1979.

The Sikkim Agricultural Land Ceiling and Reforms (Amendment) Rules, 1979.

In exercise of the powers conferred by Section 36 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (Act 14 of 1978) the State Government hereby makes the following rules under Chapters IV, V and VI of the said Act to amend the Sikkim Agricultural Land Ceiling and Reforms Rules, 1978, namely:

1. (2) These rules may be called the Sikkim Agricultural Land Ceiling and Reforms Amendment Rules, 1979.

(2) They shall come into force at once.

2. In the Sikkim Agricultural Land Ceiling and Reforms Rules, 1978 after rule 23, the following shall be added, namely:

4. Section 23. (A) The District Collector shall settle excess land with a person who is a citizen of India in the following order of preference:

(1) An Adhiadar/Kutiadar who is in cultivatory possession of the excess land and who does not possess more than three standard acres of land either as owner *or* in the capacity of an Adhiadar/Kutiadar or both:

*Explanation:-*The entitlement of an Adhiadar / Kutiadar to allotment of surplus land under this Rule shall be limited to the area under his cultivatory possession on the date of vesting and shall not extend to any other area even if the total area held by him (including the area held in the capacity of an owner) is less than three standard acres.

(2) A landless agricultural labour residing in the Block and belonging to a Scheduled Tribe/Scheduled Caste;

(3) A landless person residing in the Block who belongs to a Scheduled Tribe/ Scheduled Caste and intends to bring the land under cultivation;

(4) A person residing in the Block who possesses as owner or cultivates as Adhiadar/Kutiadar less than three standard acres of land and belongs to a Scheduled Tribe/Scheduled Caste;

(5) any other landless agricultural labour residing in the Block;

(6) A landless heir of a person who was resident of the Block and who has lost his life in enemy action while in active service of the Armed Forces of the Union;

(7) A landless person residing in the Block who has become disabled in enemy action while in active service of the Armed Forces of the Union;

(8) A landless person residing in the Block who is retired, released or discharged from, service in the Armed Forces of the Union;

(9) Any other agricultural labour belonging to Scheduled Tribes Scheduled Caste - and residing in the adjoining Block;

(10) Any other landless person residing in the adjoining Block;

(11) Any other landless person residing within the District, and

(12) Any other landless person of other Districts in the State.

- -

Provided that where an Adhiadar/Kutiadar is not an Indian Citizen, he will not become on and from the date of vesting a Bustiwalla on the excess land to be retained by him but will continue in the capacity of an Adhiadar /Kutiadar as lessee on Government land.

Provided further that excess land of a person belonging to a Scheduled Tribes ,Scheduled Castes except where it is in possession of an Adhiadar/Kutiadar, shall be settled with landless, persons belonging to the Scheduled Tribe/Scheduled Caste residing in the Block or the adjoining Blocks or other Blocks of the Districts. Where no such person' is available the land shall be settled with other persons in the order of preference given above.

Provided further that preference shall .be given to those among the eligible persons in each category who form themselves into a Co-operative Farming Society.

Provided further that where more. than one person is available in a certain category and the land is not sufficient for allotment to all, the District Collector shall decide the allotment by lot.

Explanation I. The term "Landless" means a person who or whose spouse (other than judicially separated wife or husband) or minor sons or unmarried daughters held no land as Bustiwalla or cultivated no land as Adhiadar/Kutiadar immediately preceding the 1st January, 1975.

Explanation 2 'Agricultural labour' means a person whose main source of livelihood is agricultural labour.

(B) The area of the land to be settled with a person shall be subject to the following minimum and maximum limit namely:

- (i) minimum one third of an acre (0. 1349 hectare) and
- (ii) maximum such area as together with land already held or cultivated by a person does not exceed three standard acres.

Provided that the Collector may at his discretion relax the minimum or the maximum limit in the following circumstances:

- (i) where the relaxation of the minimum and maximum limit is necessary to avoid splitting up a small plot of land in fragments;
- (ii) where the land available in a locality is not sufficient for settlement with all the persons who are residents of the locality and who intend to bring the land under personal cultivation and own no land or less than one acre of land, and
- (iii) where the land at the disposal of the State Government in a locality is more than sufficient for settlement with all the persons who are residents of the locality and who intend to bring the land under personal cultivation and own no land or less than one acre of land.

Provided that the land settled under clause (iii) shall not exceed the ceiling limit applicable .to the person with whom the land is settled.

Provided further that the area of land settled for the purpose of homestead with a person having no homestead of his own shall not in any case exceed 200 sq. yards. (0.0167 hectare).

(C) The deed of settlement shall be executed by the Collector as in L.C. Form XX.

(D) Where, however, the State Government is satisfied that it is necessary to retain or reserve any vested land for any public purpose, it may do so, but shall take into consideration the following:

- (i) the land to be retained or reserved shall as far as possible be 'banzo' land.
- (ii) the land to be retained or reserved shall not, as far as possible, exceed fifteen acres in a block, and
- (iii) the land so retained or reserved shall be put in use for such public purpose, as far as practicable, within a period of two years.

25. Section 23 (1) Subject to any contract to the contrary in writing the following terms and conditions shall be deemed to be included in the case of every settlement referred to in Rule 24:

- (a) The lessee shall have hereditary rights in the land;
 - (b) The lessee shall utilize the land for cultivation or for other purpose connected with agriculture within one year of the allotment;
 - (c) Subject to the provisions of clause (d) the lessee shall not transfer or sublet the land so allotted to him;
 - (d) The lessee shall be entitled to mortgage without delivery of possession, his interest in the land as security for a loan taken from the State Government or a Co-operative Society or from the State Bank of India or from any other bank as may be notified by the State Government from time to time and
 - (e) The lessee shall get the land free, but shall pay to the State Government in respect of the land so settled such land revenue as may be fixed by the Collector at the revenue rate for the time being in force.
- (2) If the lessee commits a breach of any of the terms and conditions of the lease, the settlement or the lease shall terminate and the land shall revert in the State Government.
- (3) When a settlement or lease of any land has been determined under sub-rule (2), the District Collector may evict any person holding or retaining possession thereon and may for that purpose use or cause to be used such force as may be necessary.

CHAPTER V

Management of lands vested in the State.

26. There shall be a Land Allotment Committee for each District consisting of the District Collector, Revenue Officer and seven prominent persons of the District including members of the State Legislative Assembly as Members. The Chairman and other Members of the Committee shall be nominated by the State Government.

Provided that in the absence of the Revenue Officer the Collector may co opt either the District Development Officer or the Divisional Forest Officer as a member.

Provided further that the quorum for every meeting of the Committee shall be five members.

27. (1) As soon as excess land in respect of a particular block vests in the State Government under Section 11 of the Act, applications shall be invited for its settlement.

(2) The list of the persons applying for land shall be prepared in order of preference given in Rule 24 (A) as in L.C. Form XXI showing details of land held or cultivated by them.

(3) The Collector shall then fix a date for the meeting of the Allotment Committee and formulate proposals for allotment of land after examining the eligibility of the persons applying for settlement of land.

(4) After selecting the persons for settlement of the land, the Committee shall prepare a list of persons in order of preference as given as in L.C. Form XXII, with whom land is to be settled and sign it. The Collector shall call the allottees of land on a day to be fixed for executing the settlement deed.

(5) The Collector shall after execution of the settlement deed in L. C. Form XX depute Revenue Supervisor or a surveyor to visit the block, carry out demarcation and make over possession of the land to the allottees. He shall also get the record-of-rights corrected on the basis of settlement made.

28. (1) The Collector may on his own motion or on an application made by any person aggrieved by an allotment shall enquire into such allotment and if he is satisfied that allotment has been obtained by fraud or misrepresentation, he may, cancel the allotment or the lease within 3 years from the date of such allotment or lease as the case may be.

(2) When the allotment or lease of any land is cancelled, the right, title or interest of the allottee or lessee or any person claiming through him shall cease and the land shall be resettled afresh by the Collector with other persons in the manner prescribed herein before.

CHAPTER VI

Fixation of Land Revenue

29. Section 13. (1) On receipt of a copy of L.C. Form IX as required under Rule 13, the Revenue Officer shall proceed to fix land revenue on the land to be retained by a person after imposition of ceiling on the land owned or cultivated by him.

(2) The land revenue shall be fixed by multiplying the area of a plot with the revenue rate applicable therefor.

(3) Where the land revenue is payable in kind, it shall be converted into land revenue payable in cash at the revenue rate for the time being in force.

(4) Where there is no revenue rate for any particular class of land, it shall be determined by the Revenue Officer with reference to the adjoining plot of similar class of land.

(5) The Revenue Officer after fixing the land revenue on the land to be retained by a person shall return the copy of L.C. Form IX after filling in columns 38 and 39 to the Competent Authority.

**L. C. Form XX
(See Rule 24)**

Deed of Settlement.

This indenture made this-.... day of.....

..... one thousand nine hundred and seventy

.....between the Governor through the District Collector (North)

South/East/West) hereinafter referred to as the Government (which expression shall include its successor in office and assigns) of the ONE PART AND Shri

..... son

R/O Block..... District..... hereinafter

referred to as the Bustiwalla (which expression shall unless excluded by or repugnant to the context be deemed to include his heirs, executors, administrators,. representatives and assigns) of the OTHER PART.

Whereas the Bustiwalla has approached the Government of Sikkim (hereinafter referred to as the 'Government') for granting and demising unto him the land referred to in the Schedule hereunder written as a Bustiwalla under the Sikkim Agricultural Land Ceiling and Reforms Act, 1977, (Act 14 of 1978) for agricultural purposes;

And whereas the Collector of District.....has been satisfied as to the eligibility of the said Bustiwalla to have and hold the said land and described in the Schedule hereunder written and the Government have decided to demise and -grant unto the Bustiwalla the said land subject to the terms and conditions hereinafter expressed;

- (1) The Bustiwalla shall have hereditary rights in the land;
- (2) The Bustiwalla shall utilize the land for cultivation or for other purpose connected with agriculture within one year of the allotment;
- (3) Subject to the provisions of clause (4) the Bustiwalla shall not transfer or sublet the land;
- (4) The Bustiwalla shall be entitled to mortgage without delivery of possession of the land, his interest in the land, as security for a loan taken from the State Government or a Co-operative Society or the State Bank of India or any other Banks as may be notified by the State Government from time to time;
- (5) The Bustiwalla shall pay annually to the State Government land revenue as may be fixed from time to time at the revenue rate for the time being in force and
- (6) If the Bustiwalla commits a breach of any of the terms and conditions of the lease, it shall terminate and the land shall revert to the State Government and the District Collector may evict him or any person retaining possession there from even by using such force as may be necessary.

SCHEDULE

District	Block	Details of land				Annual land Revenue payable	Remarks
		Plot No.	Area	Class'	Type		
1	2	3	4	5	6	7	8

Signature of the Bustiwalla.

Date

Signature of District Collector for
and on behalf of the Governor of
Sikkim

Date.....

WITNESSES:

(1)

(2)

**L. C. FORM XXI
(Rule 27)**

List of persons who apply for allotment of excess land in block
District.

Sl. No.	Names of persons who desire to be allotted land with their parentage and address in order of preference given in Rule 24 (A).	Details of land, if any, held by the applicant or other members of his family.				
		As owner/cultivator	Block	Plot No.	Area	Land Revenue rent
1	2	3	4	5	6	7

Details of land wanted		Remarks
Block	Plot No.	
	9	10
		11

Certified that the particulars given are correct.
J. L. R. O.

Chairman of the Land Allotment Committee.

**L. C. FORM XXII
(Rule 27)**

List of persons selected for settlement of excess land in block.....
District..... in the meeting of the Land Allotment Committee held on.....

Sl. No.	Name of the applicant with parentage and address.	Plot No. to be allotted.	Area	Land Revenue	Category of the allottee as per rule 24 (A).
1	2	3	4	5	6

Certified that the details given in columns 3, 4, 5 and 6 are correct.
J. L. R. O.

Signature of the members of the Land Allotment Committee.

**GOVERNMENT OF SIKKIM
LAND REVENUE DEPARTMENT
GANGTOK.**

Notification No. 6/L. R.

Dated Gangtok, the 26th July, 1986

In exercise of the powers conferred by sub-section (1) of section 13 of the Sikkim Agricultural Land Ceiling and Reforms Act, 1977 (14 of 78) and in super session of the notification No. 21/L. R. dated the 11th December, 1978, the State Government, hereby constitutes the Tribunal for hearing of Appeals under section 13 of the aforesaid Act and appoints the Joint Secretary, (Land Reforms) to the Government of Sikkim in the Land Revenue Department, as the sole member of the Tribunal.

**LAND REVENUE DEPARTMENT
GOVERNMENT OF SIKKIM**

Notification No. //L.R.

Dated Gangtok, the 29th September, 1980.

The Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Rules, 1980.

In exercise of powers conferred by sub-section (1) of section 18 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, the State Government hereby makes the following rules:

Short title & commencement. 1) The rules may be called the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Rules, 1980.

2) They shall come into force at once.

Definition

2. In these rules, unless the context otherwise requires:

a) Act means the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980.

b) All other words and expressions used but not defined in these rules and defined in the Act, shall have the meaning respectively assigned to them in the Act.

Form and manner of service of notice under Section 4 of the Act.

3. 1) A notice under sub-section (1) of Section 4 of the Act, shall be in SPP Form I appended to these rules.

2) In addition to any mode of service specified in the Act, a notice issued under sub-section (1) of Section 4 of the Act, shall be served by delivering or tendering a copy of the notice to the person for whom it is intended or

- . to any adult members of his family, or by sending it by registered post with acknowledgement due in a letter addressed to that person at his usual or last known place of residence or business.
- 3) Where the copy of the notice under sub-rule (1) is delivered or tendered, the signature of the person to whom a copy so delivered or tendered should be obtained in token of acknowledgement due of the service of notice.
 - 4) In respect of notice issued under sub-section (l) of Section 4 of the Act, where the person or the adult members of the family of such person refuses to sign the acknowledgement or where such person cannot be found after using all due and reasonable diligence, and there is no adult members of the family of such person, a copy of the notice shall be affixed on the outer door or some other conspicuous part of the residence or usual place of business of such person and the original shall be returned thereon or annexed thereto stating that a copy has been so affixed, the circumstances under which it was done so and the name and address of the person, if any, by whom the residence or usual place of business was identified and in whose presence the copy was affixed.
 - 5) If the notice issued under sub-section (l) of Section 4 of the- Act, cannot be served in the manner provided in sub-rule (l), the Collector may, if he thinks fit, direct that such notice shall also be published in at least one local newspaper having circulation in the locality and he may also proclaim the contents of any notice in. the locality by beat of drum.
 - 6) Where any notice is to be served on any local authority, company or corporation, it shall be served in the manner provided below:
 - a) Upon anyone or more of the partners. secretary, any director or other principal officer of such local authority, company or corporation, or
 - b) by leaving it or sending it by registered post addressed to the local authority, company or corporation at its office or if. there is no registered office, then at the place where such local authority, company or corporation carries out its business.

*Holding of
enquiries
under section
8*

4. 1) Where any person on whom a notice or order under this Act, has been served desires to be heard through his representatives, he should authorize such representatives in writing.
- 2) The Collector or any other officer appointed under the Act, shall record the summary of the evidence tendered before him. The summary of such evidence and any relevant documents filed before him shall form part of the records of the proceeding.

*Form and manner of
service of order &
taking possession of
public premises.*

5. 1) The order of eviction under sub-section (1) of Section 5 of the Act, shall be in SPP Form II which shall be served in the manner prescribed under sub-rule (2), (3), (4) & (5) of Rule 3.
- 2) If any obstruction is offered, or is in the opinion of the Collector, likely to be offered, to the taking possession of any premises under the Act, the Collector or any other officer duly authorised by him in this behalf may obtain necessary police assistance.
- 3) Where any public premises of which possession is to be taken under the Act, is found locked, the Collector or any other officer duly authorised by him in this behalf may either seal the premises or in the presence of two witnesses break open the locks, or open, or cause to be opened, any door, gate or other barrier and enter the premises.

Provided- that :

- a) no entry shall be made into, or possession taken of, a public premises before sunrise or after sunset.
- b) where any public premises is forced open, an inventory of the articles found in the premises shall be prepared in the presence of two witnesses.

*Form of notice to
remove any property.*

6. 1) The Collector may issue a notice to a person concerned from whom the public premises has been taken, to remove any property remaining on the said premises, giving not less than fourteen days time from the date of service of notice in SPP Form III.

*Assessment of dama-
ges and form of
notice or order.*

- 1) In assessing damages for unauthorised use and occupation of any public premises, the Collector shall take into consideration the following matters, namely:

- a) the purpose and the period for which the public premises were in unauthorised occupation;
 - b) the nature, size and standard of the accommodation available in such premises;
 - c) the rent that would have been realized if the premises had been let on rent for the period of unauthorised occupation to a private person;
 - d) any damage done to the premises during the period of unauthorised occupation;
 - e) any other matter relevant for the purpose of assessing the damage.
- 2) Where any person is in arrear of rent payable, or, any person is, or has at any time been in unauthorised occupation of public premises, the Collector shall cause to be assessed the arrear of rent payable and damages and serve upon the person concerned, a notice in SPP *Forms* IV and V calling upon him to show cause within a period of thirty days from the date of issue of notice why an order requiring him to pay the said arrear of rent and damages assessed should not be made.
- 3) After the disposal of objections filed, if any, under subsection (3) of section 7 or after disposal of any appeal under Section 9 of the Act, the Collector shall cause to be served upon the person concerned showing the arrear of rent and damages payable in such number of instalments within a period of thirty days from the date of issue of notice in Forms SPP VI and VII. In the event of failure to make payment within the stipulated time, the same shall be recovered as an arrear of land revenue or public demand.

Procedure in appeals.

- 8 1. 1) An appeal preferred under Section 9 of the Act shall be in writing, shall set forth concisely the grounds of objection to the order appealed against, and shall be accompanied by a copy of such order.
- 2) On receipt of the appeal and after calling for and perusing the record of the proceedings before the Collector, the Appellate Officer shall appoint a time and place for the hearing of the appeal and shall give notice thereof to the Collector against whose orders the appeal is preferred and to the Appellant and authority in administrative control of the premises.

SPP FORM 1
NOTICE
(UNDER SUB-SECTION 1 OF SECTION 4)

To:

Name: Shri/Shrimati/ Kumari.....

Address

Whereas I, the undersigned, am of opinion, on the grounds specified below, that you are in unauthorised occupation of the public premises mentioned in the Schedule below and that you should be evicted from the said premises:

GROUND

Now, therefore, in pursuance of sub-section (1) of Section 4 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I hereby call upon you to show cause on or before the..... why such an order of eviction should not be made.

SCHEDULE

Date

Signature and seal of the
Collector.

.....

This date should be a date not earlier than fifteen days from the date of issue of the notice.

SPP FORM II
ORDER
UNDER SUB-SECTION (1) OF SECTION 5

Whereas I, the undersigned, am satisfied for the reasons recorded below that Shri/Smt/Kumari..... is/are in unauthorised occupation of the public premises specified in the schedule below:

REASONS

Now, therefore, in exercise of the powers conferred on me by sub-section (1) of Section 5 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I, hereby order the said Shri/Smt/Kumari and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within days of the

date of the publication of this order.. In the event of refusal or failure to. comply with this order within the period specified above, the said Shri/Smt/Kumari.....
..... :..... and all other persons concerned are liable to. be evicted from the said premises. if need be by the use of such force as may be necessary.

SCHEDULE

Date.....

Signature and seal of the Collector.

**SPP FORM III
NOTICE
UNDER SUB-SECTION (3) OF SECTION 6**

To. :

Name: Shri/Shrimati/Kumari.....

Address.,

Whereas on. theyou ,were evicted from

the public premises described in the schedule below which was unauthorizedly occupied by you.

Now, therefore, in exercise of the powers conferred on me by sub-section (I) of Section 6 of the Sikkim Public Premises (Eviction of Unauthorized Occupants and Rent Recovery) Act, 1980, I hereby give you notice that after *fourteen* days of the service of this notice on you, any property remaining on the said premises will be liable to be removed or disposed of by public auction.

In case you desire to. take possession of your property and to. remove the same from the said premises, you will be permitted to. do. so. on written authority from the undersigned provided any arrears of rent/damages/costs due from you are paid within the' 'said period of fourteen days.

SCHEDULE

Date.....

Signature and seal of the Collector.

525
SSP FORM IV
NOTICE
(UNDER SUB-SECTION (3) OF SECTION 7)

To:

Name' Shri/Shrimati/Kumari

Address.....

Whereas you are/were in occupation of the public premises described in the Schedule below:

And whereas a sum of Rs.....being arrears of rent from.....days of 19upto the day of 19..... (both days inclusive) in respect of the said premises is due against *you* and payable to the Government

Now, therefore, as required by sub-section (3) of Section 7 read with sub-section (1) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I hereby call upon you *to* show cause on or before why an order requiring you to pay the said arrear of rent should not be made.

SCHEDULE

Date.....

Signature and seal of the Collector.

SPP FORM V
NOTICE
UNDER SUB-SECTION (3) OF SECTION 7

To:

Name: Shri/Shrimati/Kumari.....

Address... ..

Whereas I, the undersigned, am satisfied that *you* are/were in unauthorised occupation of public premises mentioned in the schedule below:

And whereas in exercise of the powers conferred on me by sub-section (2) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I consider the damages amounting to Rsat the rate of Rs p. m./p. a. have been caused on account of unauthorised use and occupation of the said premises for the period from to.

Now, therefore, as required by sub-section (3) of Section 7 read with sub-section (2) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorized Occupants and Rent Recovery) Act, 1980, I hereby call upon you to show cause on or before the why an order requiring you to pay the said damages should not be made.

SCHEDULE

Date.....

Signature and seal of the Collector.

**SPP FORM VI
ORDER
UNDER SUB-SECTION (1) OF SECTION 7**

To:

Name: Shri/Shrimati/Kumari.....

Address

Whereas you are/were in occupation of the public premises described in the schedule below;

And whereas, by a written notice dated you are called upon to show cause on or before why an order requiring you to pay a sum of Rs. (Rupees) being the rent payable in respect of the said premises should not be made;

And, whereas I have considered your objection and/or the evidence produced by you;

And, whereas you have not made any objection or produced any evidence before the said date;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) , Act, 1980, I hereby require you to pay the sum of Rs.

(Rupees
on or before the

In case the said sum is not paid within the said period or in the said manner it will be recovered as arrear of Land Revenue or Public Demand.

SCHEDULE

Date

Signature and seal of the Collector.

.Strike off portion not required.

SPP FORM VII
ORDER
(UNDER SUB-SECTION (2) OF SECTION 7)

To:

Name: Shri/Shrimati/Kumari

Address

Whereas, I, the undersigned, am satisfied that you are /were in unauthorised occupation of the public premises mentioned in the schedule below;

And, whereas by a written notice dated _____ you were called upon to show cause on or before the _____ why an order requiring you to pay damage of Rs. _____ (Rupees

_____), for unauthorised use and occupation of the said premises, should not be made;

* And, whereas I have considered your objection and /or the evidence produced by you;

. And, whereas you have not made any objections or produced any evidence before the said date;

Now, therefore, in exercise of the powers conferred on me by sub-section (2) of section 7 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980, I hereby order you to pay the sum of Rs. _____ (Rupees _____)

assessed by me as damages on account of your unauthorised occupation of the said premises on or before the _____

In the event of your refusal or failure to pay the damages within the said period, the amount will be recovered as an arrear of Land Revenue or Public Demand.

SCHEDULE

Date

Signature and seal of the Collector.

* Strike off portion not required.

LAND REVENUE DEPARTMENT
GOVERNMENT OF SIKKIM
GANGTOK

No. 2/L.R.

Dated Gangtok, the 1st December, 1980,

NOTIFICATION

In the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Rules, 1980, framed under the provisions of section 18 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Ordinance, 1980 (Ordinance No.1 of 1980), for the word "Ordinance" wherever it occurs, the word "Act" shall be substituted.

LAND REVENUE DEPARTMENT
Notification No. 2/SPP/Rev (Ref.) F. 1/6/80

Dated Gangtok, the 18th June, 1982.

In exercise of the powers conferred by clause (b) of Section 2 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980 (9 of 1980) the State Government hereby appoints the Deputy District Magistrate-cum. Deputy Collector in all Districts to perform the functions of the Collector under the aforesaid Act and the rules framed thereunder within their respective jurisdictions.

GOVERNMENT OF SIKKIM
FOREST DEPARTMENT

Notification No. 664/F 30

Dated 12/1/84

In exercise of the powers conferred by Sub-Section (1) of Section 9 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act 1980-(9 of 1980), the State Government hereby appoints as Appellate Authority consisting of the following members:

- | | |
|---|------------|
| (a) District & Sessions Judge | - Chairman |
| (b) Joint Secretary, Local Self Government and Housing Department | - Member |
| (c) Joint Secretary, Law Department | - Member |

**GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT**

No. 67 (207) LSG&HD/86/

Dated 20th February, 1986.

NOTIFICATION

In exercise of the powers conferred by Sub-section (1) of Section 9 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980 (9 of 1980) and in super session of Notification No. 664/ F 30 dated the 12th January, 1984, the State Government hereby appoints the Legal Remembrancer and Secretary to the Government in the Law Department as the Appellate Authority for the purpose of this Act.

**GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT DEPARTMENT
GANGTOK**

Notification No. 1/26 (25) LSG/79

Dated 9th March, 1979

In exercise of the powers conferred by sub-section (3) of section I of the Sikkim Cinemas (Regulation) Act, 1978 (No. 20 of 1978), the State Government hereby appoints the first day of April 1979 as the date on which the said Act shall come into force.

**GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT DEPARTMENT
GANGTOK**

Notification No. 2/2 (41)/ LSG/79

Dated 9th March, 1979

In exercise of the powers conferred by the proviso to section 4 of the 'Sikkim Cinemas (Regulation) Act, 1978 (20 of 1978), the State Government hereby constitutes the Secretary to the Government of Sikkim in the Local Self Government Department as the licensing authority for the whole of the State for the purposes of the said Act.

**GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT DEPARTMENT
GANGTOK**

Notification No. 3/2 (41) LSG/79

Dated 9th March, 1979

In exercise of the powers conferred by sub-section (4) of section 5 and subsection (2) of section 8 of the Sikkim Cinemas (Regulation) Act, 1978 (20 of 1978), the State Government specifies the Chief Secretary, Government of Sikkim, as the officer to whom appeals against the decisions or orders of the licensing authority shall lie.

**GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT DEPARTMENT
GANGTOK**

Notification No. 4/1 (41)/LSGj79

Dated 9th March, 1979

In exercise of the powers conferred by section 9 of the Sikkim Cinemas (Regulation) Act, 1978 (No. 20 of 1978), the State Government makes the following rules for the regulation of cinemas in Sikkim namely:

Short title, commencement and extent. 1. (i) These rules may be called the Sikkim Cinemas (Regulation) Rules, 1979.

(ii) They shall come into force with effect from April 1, 1979.

(iii) They shall apply to all cinemas in Sikkim.

Definitions.

2. In these rules unless there is anything repugnant in the subject or context

(i) "Act" means the Sikkim Cinemas (Regulation) Act, 1978;

(ii) "auditorium" means that portion of the licensed premises where accommodation is provided for the public to view the exhibition of cinemas from time to time;

(iii) "cinema" means the entire place licensed for cinematograph exhibition and includes all appurtenances, plant and apparatus located therein;

(iv) "Government" means the Government of the State Sikkim ;

(v) "licence" means a licence granted under the provisions of the Act and the rules in the form set out in Appendix I to these rules;

(vi) "licensing authority" means the authority referred to in or constituted under section 4 of the Act;

(vii) "licensee" means a person who has been granted a licence in accordance with these rules and includes his agent appointed for the purpose under a power of attorney and whose appointment has been intimated in writing to the Licensing authority;

(viii) "permanent building" means a building which is constructed for permanent use with stone, mud, bricks, mortar, cement or other non-inflammable material;

(ix) "temporary building" means a building which is not a permanent building and includes a booth, tent or similar structure;

(x) "temporary enclosure" means that portion of a place licensed for special cinematograph exhibition or of a travelling cinema where cinematograph apparatus is kept or erected or where films are stored and wound.

Application for constructing a cinema building.

3. (1) A person desirous of obtaining a licence for cinematograph exhibition shall first submit an application specifying the site on which the cinema building is to be constructed together with a plan and specifications thereof to the Government.

(2) The plan mentioned in sub-rule (1) shall contain the elevations and sections of the building, the proposed electrical installations, arrangements for ventilation, sanitation and parking of vehicles and the position of the premises in relation to adjacent premises and public thoroughfares on which the building abuts, within a radius of two hundred metres.

(3) The Government may, if it is satisfied that the site, plan and specifications fully conform to the requirements of the rules, grant to the applicant a certificate signifying its approval thereto. The period within which the construction of the building shall be completed shall also be stated in the certificate.

Application for licence.

4. An application for the grant of a licence for cinematograph exhibition shall be made to the licensing authority and shall contain full particulars of the ownership of the premises and his interests therein and shall be accompanied with the following documents
- (a) the order of approval of plan under sub-rule (3) of rule 3;
 - (b) plan of the building and premises containing the specifications mentioned in sub-rule (2) of rule 3;
 - (c) plan of seating arrangements for each class separately;
 - (d) a certificate from the Power Department of the Government that the electric installations conform to the required standards and existing rules;

(e) a certificate from the Chief Fire Officer that the arrangements for fire fighting appliances provided and the precautions taken against fire conform to the requirements of the existing rules.

(f) a certificate from, the Gangtok Municipal Corporation in respect of areas within the limits of the Corporation and the Chief Medical Officer of, the District in all other cases, that the arrangements for sanitation conform, to the requirements. of the existing rules.

5. A licence for cinematograph exhibition; may be granted by . the licensing authority in respect of permanent buildings for a, period not exceeding one year, renewable on' expiry for a similar period of not more than one year at , a time.
6. Every licence granted prior to the coming into force of these rules, shall be deemed to have been granted with all the' conditions and restrictions prescribed by these rules until a new licence is granted.
7. (1).. Nothing in these. rules shall affect the discretion of . the' licensing authority to refuse a licence to any applicant if, for reasons to be recorded in writing, the licensing authority considers it necessary so to: do in' the public interest.

(2) An order, of the licensing authority refusing a licence under sub-rule (1) shall be appeal able. The appeal shall lie to the Government or any other officer appointed by the Government for this purpose and shall be entertained only if it is filed within thirty days of the communication of the order of refusal to the applicant.
- .8. (1) No licence shall be granted or renewed in favour of any person unless

(a) he or his agent appointed 'for the purpose and. referred to in rule 2 (vii), is residing in the town, bazar or area within whose limit the cinematograph exhibition is intended to be given, and

(b) the licensing authority is satisfied that the ,requirements of these rules have been fully complied with.

(2) No building except one already licensed for cinematograph exhibition before the coming into force of these rules, shall be so licensed

(a) If it is situated within a radius of 100 metres from the Raj Bhawan, the State Secretariat, the High Court; or

(b) if it is situated within a radius of 50 metres from

(i) any recognised educational institution or any residential institution attached thereto; or

(ii) a public hospital with indoor patients; or

(iii) a place of worship; a cremation ground, a graveyard, a cemetery; or

(iv) any building housing an office of a head of the department of the Central or the State Government or any Court of law;

(v) any other institution which the Government may consider necessary in public interest to declare an institution to which this clause shall apply; or

(c) if for any other sufficient reason to be recorded the licensing authority is satisfied that the location of a cinema at the site of that building is not in public interest; Provided that the licensing authority shall not refuse a licence under clause (c) except with the prior approval of the Government.

Explanation: For the purpose of this sub-rule, the licensing authority shall, subject to the general control of the Government, determine what is a public hospital or a recognised educational institution and its decision shall be final.

9 The licensee shall not, during the currency of the license make any alteration or addition in the auditorium except with the consent in writing of the licensing authority.

10. Subject to rule 11 the licensing authority may, with the approval of the State Government, grant temporary licence for the regular exhibition in a structure other than a temporary structure or occasionally in the open air or

in buildings not regularly used for exhibition of films, on such conditions as may be deemed necessary to secure the safety of the public.

Conditions for temporary licenses. 11. No temporary licence shall be granted

(a) unless an application is made to the licensing authority at least two weeks before the date on which it is proposed to give the first exhibition;

(b) for a period exceeding one month at a time;

(c) for any exhibition for the purpose of which electrical energy is generated or used for lighting the auditorium or operating the projector unless an officer deputed by the Power Department of the Government has inspected the electrical apparatus and the fees are paid in accordance with the relevant provisions; and

(d) unless adequate precautions have been taken against outbreak of fire to the satisfaction of the licensing authority.

Exemption of special cinematograph exhibition from the provisions of the rules. 12. Where a special cinematograph exhibition is to be given in an institution, club or other place and it is not practicable to provide therefor a fireproof enclosure, the licensing authority may, for reasons to be recorded, dispense with the requirements of any of these rules by specifying the same in the licence. A space of six feet shall, however, be railed off round the cinematograph apparatus if the conditions applicable to temporary enclosure are for any reasons relaxed. No drapery and no unprotected combustible material other than film or that composed by the floor, shall be within six feet of the cinematograph apparatus. Before granting any such licence the licensing authority shall ensure that adequate precautions are taken against a probable outbreak of fire and for the safety of the film.

Travelling cinemas. 13. (1) The licensing authority may grant a licence for a period not exceeding six months to a travelling cinema for cinematograph exhibition on such terms and conditions as may be deemed necessary.

No travelling cinema shall exhibit film in any local area for a period exceeding three months at a stretch.

(2) A person desirous of obtaining a licence for a travelling cinema shall apply to the licensing authority attaching to his application a plan and description of the building or structure in which films shall be screened. The plan shall show the seating arrangement in the auditorium with exits, gangways, passages and the projection place.

(3) If a licence is granted, the plan and description, aforesaid duly corrected or amplified where necessary and certified by the licensing authority, shall be attached to the licence. The terms and conditions of the licence shall be liable to modification by the licensing authority at any time and this fact shall be stated in the licence which along with the plan and description shall be produced. A demand by any person authorised to inspect the cinema.

(4) The licensing authority may refuse a licence to a travelling cinema if in its opinion any portion of the building or structure is in dangerous proximity to any other building.

- 5 The fee payable by the licensee, for the grant or renewal of a permanent or temporary licence under the Act or for the issue of a duplicate copy thereof shall be credited to the revenues of the State and shall be levied at the following scales, namely:

(i) For the grant or renewal of a licence for a permanent cinema for a period

(a) not exceeding one month	Rs. 100
(b) exceeding one month but not exceeding six months	Rs. 600
(c) exceeding six months but not exceeding one year	Rs. 1,200

(ii) For the grant or renewal of a licence for temporary or travelling cinemas for a period

(a) not exceeding one month.....	Rs. 75
(b) exceeding one month but not exceeding three months	Rs. 225

(c) exceeding three months but not exceeding six months Rs. 450

(iii) Fee for the issue of a duplicate copy of a licence to the licensee shall be 75 per cent of the respective fee for the original licence as prescribed above.

Renewal of licence. 15. An application for renewal of licence shall be made one month before the date of expiry of the licence, failing which a penalty of Rs. 5 shall be leviable in addition to the renewal fee.

Revocation or suspension of licence. 16. (1) The licensing authority may at its discretion revoke or suspend the licence granted to any cinema within its jurisdiction if it is satisfied

(a) that the licensee is responsible for a breach of any of the provisions of the Act or of the rules or any condition of the licence, or

(b) that any unauthorised alteration is made in the building or the seating arrangement or enclosure, or

(c) that the building and installation are not maintained in pro. per order, or

(d) that the licensee has failed without sufficient cause to comply with any direction given under the Act or the rules, or

(e) that the cinema is used or conducted in a manner prejudicial to the public interest.

(2) A. licensee aggrieved by an order passed under sub-rule (1) may appeal to the State Government or any other officer appointed by the Government for this purpose, within a period of thirty days of the communication of the order of revocation or suspension.

(3) The order shall be deemed to be duly served if it is tendered to the licensee, or, where in the opinion of the licensing authority personal service cannot be effected, if a copy of the order is affixed at a prominent place on the premises owned or controlled by the licensee.

Electrical requirements. 17. The licensee shall comply with the conditions relating to electrical requirements as are given in Appendix II to these rules.

Inspection of electrical installation. 18. (1) Every permanent building with electric installation shall be inspected by an officer deputed by the Power Department

of the Government once every year and if at any such inspection any defect in the installation is noticed he may make further inspections 'subsequently at any other time of the year to satisfy himself that the management has removed the defect satisfactorily.

(2) The following fees for inspections made under sub-rule (1) shall be payable by the management and shall be credited to the revenues of the State

(a) for the initial inspection Rs. 75

(b) for annual inspection Rs. 50

(c) for any subsequent inspection rendered necessary by the existence of defects at the initial or annual inspection. . Rs 25

- Removal of defects.* 19. The licensing authority shall cause notice to be given to the licensee requiring him to remove the defects ascertained within a period which shall be prescribed in the notice.
- Control of sound from cinemas.* 20. When granting or renewing any licence the licensing authority may prescribe the distance beyond which sound shall not travel from the cinema. Licensees. shall not cause noise outside cinemas by the use of loudspeakers, gramophones, trumpets and drums etc.
- Booking office.* 21. Booking offices shall be so situated as not to cause any overcrowding in the side verandahs and main entrance. If necessary, a separate window with sufficient standing space protected by rail for the use of ladies only may be provided if so required by the licensing authority.
- Ventilation,* 22. (1) All parts of a permanent building shall be properly and sufficiently ventilated.
- (2) Unless the .auditorium of a permanent building is air. conditioned, it shall in addition to natural ventilation be provided with sufficient number of power-driven exhaust fans suitably located and of adequate size, at least one large size exhaust fan being provided for every 150 persons.
- The number and size of such fans shall be approved by the licensing authority and shall be entered in' the 'licence. All exhaust fans shall be kept working during performances except when the. air-conditioning plant, if any, is working.

(3) When windows or skylights which provide, internal ventilation have to be darkened or obscured: free permanent ventilation shall also be provided through; ridge or ceiling ventilators. The clear opening of such ventilation shall be not less than one square foot for every ten persons accommodated :

Provided that the licensing authority ,may relax the condition in the case of buildings already constructed and having sufficient ventilation otherwise, if the extra ventilation is likely to prove very expensive.

(4) Except in the case of air-conditioned buildings, ceiling and bracket fans in such numbers and of such size as may be; approved by the licensing authority, shall be provided in addition to exhaust fans.

(5) If more than one exhibition is given on any day, the entire auditorium shall be flushed with air for at least fifteen minutes before each, exhibition, and shall be aired thoroughly. No spectator shall be permitted to be present in the auditorium during this period. .

23 (i) The premises shall be, kept clean and the auditorium shall be swept and cleaned before each exhibition.

(ii) Latrines and urinals separately for men and women, at different places, and of ,a suitable type, and design shall be provided.

(iii) There shall be not less than one latrine seat for every 100 persons or less and not less than one place for urinating for every 50 persons or less of the total seating accommodation:

Provided that at least two latrine seats and five places for urinating shall be provided for women.

(iv) latrines shall be cleaned and flushed immediately before and after each exhibition and shall be properly washed with a disinfectant at least twice a day.

(v) In the case of water-flushed latrine or urinal a separate water reservoir of adequate capacity shall be provided for flushing.

(vi) The management may subject to the direction issued in this behalf by the licensing authority refuse admission to

or eject persons known to be suffering from a contagious, loathsome or infectious disease.

(vii) The rooms, passages and staircase of all permanent buildings shall be lime washed and all iron and woodwork of such a building shall be cleaned or varnished at least once every year and shall at all times be kept clean and free from dirt.

(viii) The doors and windows of the halls of the building shall be left open for at least three hours every morning and for half an hour between shows. During the half-hour intervals between the two shows the auditorium shall be disinfected with an aerosol approved by the Chief Medical Officer of the district. The auditorium shall be swept, cleaned and disinfected every morning.

(ix) The Gangtok Municipal Corporation for cinemas within the limits of the Corporation and the Chief Medical Officer of the district for cinemas in other areas shall be responsible for periodical inspections of the cinemas to see that sanitary conveniences and arrangements for making the premises clean as provided under the rules are being complied with and any instructions given in this regard and as laid down in the rules shall be complied with by the management within the time specified.

Seating accommodation.

(i) The licensing authority shall determine the maximum number of seats for each class separately and the same shall be specified in the licence and prominently displayed near the entrance door to every class in the cinema.

(ii) Except ground floor and first floor no other floor for seating shall be permitted in permanent cinema buildings.

(iii) The seating shall be so arranged as to leave free access to the exits.

(iv) The seating space assigned to each person shall be not less than 18" by 18". Seats shall have back supports and armrests for each person.

(v) The rows of seats shall be so arranged as to leave a clear space of not less than 15 inches between the back of one seat and the foremost portion of the seat in the row behind measured between perpendiculars.

(vi) All seats except in the boxes shall be securely fixed to the floor or shall be firmly secured together in complete lengths; the complete line shall be firmly attached to the floor. Seating on the floor shall not be allowed in permanent buildings.

(vii) The distance between the front row of the seats and the screen shall be not less than 18 feet.

25. (i) A clear gangway not less than three feet wide shall be kept all round and not less than four feet wide in the centre; and shall be so arranged that no seat shall be more than 10 feet away from a gangway;

Provided that in an auditorium of less than 30 feet in width the centre gangway may be omitted. Temporary seats must on no account be placed in the gangways.

(ii) The licensing authority may, having regard to the large number of seats in an auditorium, require that a gangway or gangways, of a specific width, shall be provided parallel to the rows of seats to secure direct access to exits.

(iii) An adequate number of clearly indicated exit doors as may be determined by the licensing authority, shall be provided to afford safe and speedy egress for the audience.

(iv) All doors through which the public must pass in using any stairway, corridor or other passage for exit shall remain unbolted during the entire period of the exhibition.

(v) Passages, gangways, corridors, landings and lobbies shall be kept free from all obstruction at all times to enable quick egress.

(vi) Walls or passages, gangways or corridors shall not have any recess nor shall there be any projection there from within 6 feet off the ground. Lights shall not be hung to a height less than 7 feet above floor level. Fire appliances are not included within the purview of this sub-rule.

(vii) No stairway shall discharge into a passage or corridor against or across the direction of the exit.

Fire precautions.

26. In regard to precautions against out-break of fire in the Cinema the licensee shall provide such fire extinguishing appliances, equipment and other facilities and also observe such conditions as are given in Appendix III to these rules.

Prohibition of use of building for purposes other than that of a cinema.

27. No portion of a cinema shall be used as a restaurant, boarding house, shop, factory, workshop or manufactory or for the purposes of storage or for the preparation or sale of food and drink except with the sanction of the licensing authority and subject to such conditions and restrictions as may be imposed and specified by it in this behalf nor shall any portion of the cinema be used for residential purpose by day or night.

Entry into projection room or winding room.

28. No person other than the licensed operator, the engineer-in charge of the installation or the licensee shall be permitted to enter the projection room or the winding room during a performance.

Prohibition of naked lights and smoking in projection and winding rooms.

29. No matches and candles or any other naked light shall be used nor shall smoking be permitted within the projection room or winding room. A notice bearing in red letters the words "smoking strictly prohibited" shall be prominently displayed in each of these rooms.

Cinematograph machine.

30. The cinematograph machine shall be placed on firm supports of fire-resisting material fixed to the floor of the projection room. Only standard and fireproof machines shall be used and the following sub. clauses may serve as a guide, where necessary:

(i) The body of the cinematograph machine shall be constructed of metal or lined with metal and asbestos; in the latter case there shall be an air space between metal and asbestos lining. The bottom of the cinematograph machine must form a metal tray which shall be surrounded by a vertical edge at least one foot in depth.

(ii) The cinematograph machine shall be provided with a metal shutter which can be readily inserted between the source of light and the film gate.

(iii) The shutter shall be immediately dropped in the event of any accident to the cinematograph machine or stoppage of the film and shall only be raised when the film is in motion for the purpose of projection.

(iv) The film gate shall be of massive construction and provided with ample heat radiating surface and the passage for the film shall be sufficiently narrow to prevent film traveling upwards or downwards from the light opening.

(v) All cinematograph projectors shall be fitted with two metal film boxes of substantial constructions not more than 18 inches in diameter. inside measurement, to and from which the films shall travel;

Provided that where only one film is used for the purpose of exhibition, the film box may not be more than 20 inches in diameter.

Winding room.

31. (1) The winding room shall be constructed entirely of fire-resisting material and shall be large enough to allow the winder to operate freely. It shall be situated apart from the projection room and auditorium but in the case of cinemas already licensed or the construction of which has started before these rules came into force, the licensing authority may, for reasons to be recorded, permit the winding room to adjoin the projection room. The winding room shall have no openings in the wall so as to permit communication with the auditorium or public passages.

(2) The winding room shall be closed by a closely fitting self-closing door of fire-resisting material which shall only be opened for ingress and egress and shall remain closed during the entire period that the entertainment is in progress. Suitable arrangements shall be made for ventilation in the winding room and one or more electric fans of suitable dimensions shall be provided by the licensee.

(3) Only electric light shall be used in the winding room and any lamps in proximity to the film shall be closed in a stout fitting designed to prevent breakage of the bulb.

(4) Spools shall be chain or gear driven and films shall be so wound up on spools that the wound film shall not at any time reach or project beyond the edges of the flanges of the spool.

(5) The winding of films shall not be carried out in the projection room while an exhibition is in progress.

(6) All films which are not in use shall be kept in containers specified in the Cinematograph Film Rules, 1948, made by the Central Government under the Petroleum Act, 1934 (XXX of 1934).

(7) Excepting a film which is being wound or stored, no inflammable article shall unnecessarily be taken into or be allowed to remain in the winding room.

(8) All cinemas in permanent buildings shall, without exception, be required to provide and use a winding room in accordance with the above requirements.

32. For the storage and transport of cinematograph films having a nitro-cellulose base, the Cinematograph Film Rules, 1948 shall apply.

Film storage,

33. (1) At least two operators and one additional operator for every additional machine holding valid permits, shall be engaged in manipulating each projector and no other person shall be allowed within ten feet of the machine during the exhibition except the licensee himself or any technician authorised in writing by the licensee. It shall be the sole duty of one of the operators to take charge of the films after they have passed through the machine. The other operators shall be in charge of the machine and the projection room or operating box.

Operators.

(2) An operator's permit shall be granted by the licensing authority in the form set out in Appendix IV to these rules, and a fee of Rs. 10 shall be chargeable for each such permit. No fee shall, however, be charged in respect of permits issued to operators in Government employ.

(3) A permit shall not be granted to any operator unless he

(a) possesses a working knowledge of cinematograph machine and in particular a working knowledge of the type of machine which he is to operate;

(b) is thoroughly conversant with the rules and conditions regarding precautions against fire;

(c) is conversant with the speedy and effective method of dealing with an outbreak of fire;

(d) is proficient in the handling, winding, repairing and cleaning of films.

34. No licensee shall screen or allow to be screened any film which has not been certified by the Board of Film Censors constituted by the Central Government under Section 3 of the Cinematograph Act, 1952 (Act No. 37 of 1952). Films shall be shown in the same form in which they have been certified by the Board. Films with censor certificate the validity of which has expired shall not be screened.

*Only certified films
to be
screened.*

35. If the Central Board of Film Censors has granted an 'A' certificate in respect of a film, which means that its exhibition is to be restricted to adults (persons who have completed their eighteenth year) only, due publicity shall be given to this fact by the licensee through posters and newspapers and no person who is not an adult shall be admitted to the auditorium to witness such film.

*Conditions
regarding
films with 'A'
certificate.*

36. No obscene, immodest or objectionable poster, placard, hoarding or pictorial material shall be displayed at the show-windows or lobbies of the Cinema house or at any other place within the licensed premises or anywhere within the town, Bazar or area where the cinematograph exhibition is given.

Display of posters.

37. In order to ensure that the conditions mentioned in rules 34, 35 and 36 are duly observed, the Secretary to the Government in the Information Department and any officer authorised by him in this behalf, shall have power to make surprise checks of the cinemas and the licensee shall ensure that they are allowed to do so without any hindrance.

*Checks by
officers of the
Information
Department.*

38. The Secretary to the Government in the Department dealing with the subject of Cinemas and responsible for the implementation of the Act and the rules made there under, shall have the power to inspect any Cinema, or authorize any officer to do so, at any time, for the purpose of ensuring that the provisions of the Act,

*Power of State
Government to make
inspection,*

rules and directions issued thereunder are duly complied with by the licensee.

39. An inspection book shall be maintained by the licensee in which all inspection notes under rules 18, 37 and 38 shall be recorded.

Inspection Book.

40. The State Government shall have power to issue necessary directions as it deems fit from time to time for proper implementation of the provisions of the Act and the rules framed thereunder and also to amend or to modify the terms of the licence granted by the licensing authority and also any other order passed in connection with the exhibition of films in the interest of the public.

Power of State Government to issue directions.

**APPENDIX-I
(See Rule 2 (v))
FORM OF LICENCE**

The Cinema situated at
in within District.....
of Sikkim is licensed under Section 5 of the Sikkim Cinemas (Regulation) Act, 1978, (20 of 1978) as a place where exhibition by means of a cinematograph may be given from 19..... to 19 both days inclusive.

This licence has been granted to(hereinafter referred to as the licensee) and shall be terminated forthwith if the licensee ceases to own, to hold on lease or to manage the laid cinema.

This licence is granted subject to the conditions set forth in the rules framed by the Government and to the following further conditions

(1) that the licensee shall not exhibit, or permit to be exhibited, in the said Cinema any film other than a film which has been certified as suitable for unrestricted public exhibition or suitable for public exhibition restricted to adults under section 5A of the Cinematograph Act, 1952 and which when exhibited, displays the prescribed mark "U" or "A", and has not been altered or tampered with in any way since such mark was affixed thereto.

(2) that the licensee shall not exhibit or permit to be exhibited in the said Cinema to any person who is not an adult any film which has been certified as suitable for public exhibition restricted to adults only.

(3) that the licensee shall cause to be exhibited at each performance in the said Cinema one or more approved films and shall comply with any direction which the Government may by general or special order, give as to the manner in which approved. films shall be exhibited in the course of any performance.

(4) that the licensee shall not exhibit or cause to be exhibited at any performance in the said cinema

(a) any advertisement regarding sexual diseases and medicines to correct sexual disorders or purporting to assist the childless in begetting children etc; and

(b) any indecent, obscene, immoral or suggestive advertisement, pictures or posters on the premises of the said Cinema.

(5) that the licensee shall give a preview of the film to the licensing authority or any other officer or officers deputed by that authority if it is reported or comes to the notice of the said authority that the exhibition of the film or any portion thereof is liable to cause breach of peace.

(6) that the licensee shall, if so required by the licensing authority, send to it previous information of every film proposed for exhibition together with a synopsis at least three days before its exhibition is proposed;

(7) that the licensee shall allow any officer authorised under the rules to inspect the said Cinema in order to see that the said rules are being observed;

(8) that the total number of seats in the auditorium and the seats fixed for each class shall not exceed the number specified in the Schedule appended to the licence nor shall the number and description of fire appliances, exhaust fans, electric fans or sanitary requirements be less than specified therein;

(9) that the total number of performances in the said Cinema shall not exceed the number specified in the Schedule appended to this licence nor shall the timings given in the Schedule for each performance be changed without prior permission in writing of the licensing authority

(10) that the licensee shall not display or cause to be displayed any photograph, pictures or posters which depict or represent or purport to represent a scene or shot which has been excised from any film under the orders of the Central Board of Film Censors or the Central Government.

GANGTOK

Dated the.....19.....

*Licensing
Authority*
Government of Sikkim

SCHEDULE

1. Total number of seats in the auditorium.
2. Number of seats in each class-
 - (a) Dress Circle
 - (b) Balcony
 - (c) 1st Class
 - (d) 2nd Class
 - (e) 3rd Class
3. Number of performances to be held each day.
4. Timings of the performances
 - (i) Summer
 - (ii) Winter.....
5. Fire appliances.
 - (i) Description... ..
 - (ii) Number.....:
 - (iii) Location
6. Exhaust fans
 - (i) Size and location.....
 - (ii) Number.....,
7. Electrical fans
 - (i) Description and size.....
 - (ii) Number
8. Sanitary requirements
 - (i) Latrine seats
 - (ii) Urinal s... ..
9. Details of certificates and plans mentioned in Rule 4.
10. Remarks, if any.

GANGTOK,
 DATED THE..... 19.....

Licensing Authority
 Government of Sikkim

APPENDIX-II
[See Rule 17] ELECTRICAL
REQUIREMENTS

1. The electric installations in general shall conform to the Indian Electricity Rules, 1956, framed under the Indian Electricity Act, 1910 (IX of 1910) in so far as they are applicable.
2. No illuminant other than electricity shall be used in a cinematograph projector or taken into or allowed to remain in the projection room.
3. Where a cleat wiring or leading in wires of feeding fans or pendant lights run on wooden beams, or other inflammable material, they shall run in conduit so as to resist fire in the event of a short circuit.
4. Wiring shall be done in the manner specified hereunder.

(A) Projection Room

- (i) Cables for projectors shall be taken as separate circuits from the supply side of the main fuse in general lighting circuit;
- (ii) An efficient double pole iron clad switch shall be fitted within the projection room in the projector's circuit;
- (iii) within the projection room the insulating material of all electric cables including the leads of the pendant lights and fans shall be covered with fire-resisting material;
- (iv) The wiring in the projection room shall be in seamless screwed conduit with efficient bushes. Lead covered cables shall not be used unless enclosed in such conduits;
- (v) All switchgears, fuses etc. shall be iron clad;
- (vi) The body of the projections, switchgears, conduit, etc. shall be connected to the earth by means of not less than No.8 standard wire gauge copper wire
- (vii) All resistances, with the exception of resistance for regulating purposes shall be placed outside the projection room and winding room and if reasonably practicable also outside the auditorium. If placed inside the projection room or auditorium such resistance shall be protected by a gauge wire guard or other efficient means of preventing accidental contact with films
- (viii) Where switch boards are installed in the projection room the space between any switchboard and the wall shall be enclosed with fireproof material in such a manner that the fire cannot spread to the wiring at the back: of the switchboard.

(ix) No electric current, except with the written permission of an officer, not below the rank of an Executive Engineer especially authorised by the Power Department, shall be at a pressure higher than 250 volts within the projection room, at any time.

(x) Not more than one-third of the general lighting shall be controlled from the projection room.

(B) *Winding Room*

The above requirements for the wiring in the projection room shall apply to wiring to be provided in the winding room also.

(C) *Emergency Light*

(i) No illuminant other than electricity shall be used for emergency lights which shall have

(a) an independent source of supply such as batteries, or

(b) separate main fuses where supply is generated in the premises and a separate line with a separate pole fuse where the installation is fed by the town supply and metered separately.

(ii) Emergency lights shall consist of

(a) not less than two lights of 200 watts each in the auditorium;

(b) exit lights;

(c) lights in the doorways foyer, lobbies, verandahs, staircases, corridors and passages for all portions of the premises to which the public has access either generally or in emergency and on the extension of the building facing thoroughfares.

Note- (a), (b) and (c) may each be controlled by independent switches or (ii) (a) may have an independent switch while (ii) (b) may be controlled by the second switch. All or both switches shall be fixed side by side.

(iii) All emergency lights shall be controlled from a switchboard installed in a convenient and easily accessible place in front of the building. None of the circuits of the emergency light shall on any account enter or be carried through the projection room or -winding room;

(iv) (a) Boxes bearing the word "EXIT" painted (red) in three inch letters on translucent glass with dark black background shall be mounted over each emergency exit door and shall be either connected with the emergency light circuit or fed independently by means of a battery or lighted either with at

least two oil lamps, or with at least one gas burner. Such exit signs shall be kept continuously alight during the entire period of a performance.

(b) There shall be "No EXIT" signs of the same dimensions as the 'exit' signs enclosed in dark background and in white letters.

(v) An efficient portable electric battery or torch with a fully protected bulb shall be kept available in one particular space in the enclosure and also in the place used for winding films throughout the performance and during all winding or rewinding operations.

(vi) Besides the normal lighting system installed in the premises, such other lights as may be required by the Power Department shall be provided for safe exit of the audience in emergency. Each member of the staff controlling admission to the auditorium and each operator shall be provided with an electric torch in working condition.

(D) *Motor room*

(i) The wiring in the motor room shall conform to the requirements of the Indian Electricity Rules, 1956.

(ii) A shock restoration chart which may be obtained on payment from the Power Department, shall be provided and hung in a conspicuous place on the premises.

5. All switchboards shall be constructed wholly of durable non-inflammable and non-absorbent material.
6. All fuses shall be provided with a suitable incombustible and insulating carrier of such form as to protect a person handling it from shock and burns and contacts shall be provided on the carrier to which the ends of the fuse can be readily attached.

**APPENDIX-III [See Rule 26]
PRECAUTIONS AGAINST FIRE**

1. *Tanks*

In every permanent or temporary cinema there shall be provided on the top of the proscenium wall or in some other place to be approved by the Chief Fire Officer, Sikkim Fire Service, two cisterns (connected with fire service in the Cinema which shall always be kept filled with water. Each cistern shall be capable of containing at least, 1, 135 liters of water for every 100 individuals of the public to be accommodated in the cinema. These cisterns shall be fitted with an outside indicator

suitably placed so as to show clearly the depth of water therein. The water shall be kept clean and free from sediment and covered over with properly fitting covers so as to be mosquito-proof. The cisterns shall be cleaned once every year.

Provided that nothing in this clause shall apply to touring cinemas.

2. *Hydrants/Hose*

Reels:

(i) An cinemas shall be provided with such number of hydrants/hose reels (not less than two) as may be determined by the licensing authority. These shall be fixed at such sites as may be approved by the Chief Fire Officer.

(ii) The hydrants/hose reels shall be connected to the cisterns provided for in Clause I by taking separate mains of 7.5 cm diameter from each cistern and joined together by a single main not less than 7.5 cm diameter.

(iii) Hose pipes with jet nozzles and required accessories shall also be provided as directed by the Chief Fire Officer.

3. *Fire Buckets:*

(i) Fire buckets of approved design with a conical base shall be provided in such numbers as the licensing authority may direct and shall be kept at all times full of water which shall be changed regularly twice every week. Fire buckets shall be kept in stands specially designed for the purpose. A pinch of lime shall be added to such water to prevent the breeding of mosquitoes. Buckets of dust or dry sand shall also be provided in such numbers as the licensing authority may direct and the attention of the public shall be drawn to the water and sand buckets by placards legibly painted and fixed immediately above them.

(ii) At least one bucket filled with dry sand shall be kept in some accessible position on the stage in readiness for use in dealing with an electric fire.

4. *Portable fire extinguishers:*

(i) Portable fire extinguishers of an approved type shall be provided in such numbers as the licensing authority may from time to time direct and shall be placed on brackets 1.20 m from the ground. Directions for using them shall be prominently painted on the extinguisher or on a card placed over the extinguisher and the attention of the public shall be directed to them by placards legibly printed or painted and fixed immediately above them.

(ii) Portable extinguishers shall be filled or well cleaned and recharged 12 every months, a record of which shall be kept for inspection.

5. *Fire Extinguishers etc. for enclosure:*

Two pressure type fire extinguishers, two buckets of water, one bucket of sand and a blanket shall always be kept inside the projection room or enclosure. A large sponge shall be kept in one of the buckets of water and one fire extinguisher shall also be kept immediately outside the projection room or enclosure.

6. *Curtains:*

All curtains covering the doors and passages shall be hung so as not to trail on the floor.

7. *Telephone:*

In places where there is a public telephone system, the cinema building shall be connected by telephone with the nearest fire brigade station. at the cost of the licensee.

8. *Firemen:*

(i) In every cinema including a touring cinema, the employees shall be trained in the use of appliances and shall for such purposes be drilled periodically at least once in every month.

(ii) During an exhibition all fire extinguishing appliances shall be in charge of some person or persons specially appointed for this purpose. Such persons need not be employed exclusively in looking after the fire appliances but they must not be given any other work during an exhibition which would take them away from the building or otherwise prevent them from being immediately available in case of danger or al. arm of fire.

(iii) The instructions to be followed in case of fire shall always be displayed in some conspicuous place so that all people connected with the cinema may be acquainted with them.

(iv) A report of any fire or alarm of fire, however slight, shall at once be sent to the nearest fire brigade.

9. *Lightning Conductors:*

Lightning conductors shall be provided in each cinema building.

10. No smoking shall at any time be permitted within the projection room, winding room or the auditorium. A placard shall be prominently exhibited both inside and outside the premises to the effect that smoking is prohibited.

11. In addition to the requirements mentioned above the licensee shall provide such other facilities for fighting fire as may be required by the licensing authority from time to time.

APPENDIX-IV
(See Rule 33 (2))
FORM OF PERMIT FOR CINEMATOGRAPH OPERATORS

Permit No.

Whereas Sri..... whose address is
 has been examined and found qualified to perform the duties of an operator he is hereby permitted under rule 33 (2) of the Sikkim Cinemas (Regulation) Rules, 1979 to operate a Cinematograph machine within Sikkim, for a period of three years ending ..19.....

The licence fee of Rs. 10/- (Rupees ten) only payable for this permit has been realized and credited to the State revenue.

Place

Licensing Authority

Dated.....

Government of Sikkim

GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT DEPARTMENT
Notification No. 5/LSG

Dated Gangtok, the 20th April, 1979

In exercise of the powers conferred by sub-section (1) of section 3 read with sub-section (1) of section 4 of the Sikkim Housing and Development Board Act, 1979, the State Government hereby constitutes with effect from April 20, 1979 the Sikkim Housing and Development Board which shall consist of the following:

(1) The Minister - in - Charge of the Local Self Government

and Housing Department.

Chairman

(2) Secretary, Finance Department.

Member

(3) Secretary, Local Self Government and Housing Department.

Member

(4) Secretary, Panchayat and Rural Works Department,.

Member

(5) Development Commissioner.

- Member

(6) Chief Engineer, Sikkim Public Works Department.

Member

(7) Secretary, Sikkim Housing and Development Board.

Member

GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT
Gangtok (Sikkim)

Notification No. 27 (25) 4/LSGHD.

Dated Gangtok, July 18, 1981.

In exercise of the powers conferred by sub-section (3) of Section 1 of the Sikkim Entertainment Tax Act, 1980 (8 of 1980), the State Government hereby appoints the 1st day of August, 1981 as the date on which the said Act shall come into force.

GOVERNMENT OF SIKKIM LOCAL SELF GOVERNMENT AND
HOUSING
DEPARTMENT GANGTOK
Notification No.8. (41) 5/1980
Dated Gangtok, July 18, 1981.

In exercise of the powers conferred by sub-section (1) of section 3 of the Sikkim Entertainment Tax Act, 1980 (8 of 1980) and in super-session of all previous . notifications and orders on the subject, the State Government hereby orders that with effect from the 1st day of August 1981, there shall be levied and paid on all payments. for admission to the categories of entertainment specified in column (1) of the Table below an entertainment tax at the rate specified in column (2) of the said Table:

TABLE

Categories of entertainment 1	Rate of entertainment tax 2
1. Cinematograph Exhibitions	at the rate of (a) forty percent of the payment for admission (exclusive of tax) where such payment is less than one rupee; (b) fifty percent of the payment for admission (exclusive of tax) where such payment is less than rupee one and forty paisa; (c) sixty percent of the payment for admission (exclusive of tax) where such payment is less than rupee one and eighty paisa and; (d) seventy five percent of the payment for admission (exclusive of tax) where such pay

ment is rupee one and eighty paise and above.

2. Games and Sports at the rate of twenty percent of the payment for admission to such games and sports, exclusive of tax.
3. Other exhibitions, performances and amusements. at the rate of twenty five percent of the payment for admission to such .exhibitions, performances and amusements, exclusive of tax.

Explanation: While calculating the tax under any of the items specified in the above table, fraction of a paise shall be ignored and if the last figure is less than five, the amount shall be increased to the next higher amount which is a multiple of five and if the last figure is more than five, the amount shall be increased to the next higher amount which is a multiple of ten.

GOVERNMENT OF SIKKIM

LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT GANGTOK.

Notification No. 174 (57) 6/LSGHD./1980
Dated Gangtok, the July 18, 1981.

In exercise of the powers conferred by section 10 of the Sikkim Entertainment Tax Act, 1980 (No.8 of 1980) the State Government makes the following rules for securing the payment of entertainment tax and generally for carrying into effect the provisions of the said Act

1. (1) These rules shall be called the Sikkim Entertainment Tax Rules, 1981.
- (2) They shall come into force with effect from August 1, 1981.
- (3) They shall apply to all entertainments to which persons are admitted on payment and which are notified under section 3 of the Act.
2. In these rules, unless there is anything repugnant in the subject or context,
 - (a) "Act" means the Sikkim Entertainment Tax 1980 Act, (No.8 of 1980);

Short title, commencement and extent.

Definitions.

(b) "form" means the form appended to these rules;

(c) "Government" means the government of the State of Sikkim

(d) "official seal" means an impressed, embossed or engraved seal with the signature of the Secretary of the Department entrusted with the assessment and collection of entertainment tax for the purpose of stamping the ticket and denoting that the proper tax has been paid.

3. For the purpose of- uniformity in the realization of entertainment tax the entertainments shall be classified as under

*Classification
entertainment,*

(a) exhibitions by means of cinematograph;

(b) games and sports; and

(c) other exhibitions, performances and amusements.

4. (1) Every taxable ticket issued on payment for admission to an entertainment shall be clearly marked with

*Particulars to
be shown on
ticket*

(a) name of the place entertainment;

(b) serial number of ticket;

(c) day and show; .

(d) name of class;

(e) admission rate;

(f) entertainment tax;

(g) total of admission rate and tax;

(h) name of place and town.

(2) The tickets shall be placed in books and each *book* shall contain 100 tickets.

5. Every taxable ticket issued for the purpose of admitting more than one person to an entertainment shall also have clearly shown thereon the number of persons to be admitted and the amount- of total tax payable on tickets for admitting each such person separately.

*Plural
ticket,*

6. Every taxable ticket shall be stamped with the official seal of the Secretary of the Department entrusted with the

*Stamping
of tickets with
official seal*

assessment and collection of entertainment tax before his issued denoting that the entertainment tax payable has been deposited in the Government account.

7. All tickets shall be got printed by the proprietor/management of the entertainment concerned and shall be deposited with the Government sufficiently in advance of the date or dates fixed for the entertainment and for this purpose Form-" A" shall be used.

Printing of tickets and their stamping.

8. (1) Whenever the proprietor /management of an entertainment requires the tickets for being sold he shall send a requisition to Government in Form - 'B' showing the number of tickets required and the entertainment tax payable along with the receipt of the Bank of Sikkim showing that the total tax payable has been deposited in the Government account.

Manner of realization of tax.

(2) On receipt of the requisition and the Bank receipt as in sub-rule (1) the Government shall issue the required number of tickets stamped with the official seal to the proprietor/management of the entertainment and take a proper receipt for the same.

(3) In the case of casual entertainments which are held occasionally the same procedure as in rule 7 and sub rule (1) and (2) of this rule shall be followed, but in their case the tax shall be deposited in full under a temporary receipt in favour of the Secretary of the Department concerned. If the proprietor/management applies for a refund of the entertainment tax in respect of the unused tickets, the application shall be duly considered and after ascertaining the facts, necessary refund shall be made and the balance deposited in the Government account as entertainment tax. The unused tickets so returned by the proprietor/management shall be destroyed after obtaining proper orders of the Secretary concerned.

(4) No application for refund under sub-rule (3) shall be entertained after 15 days of the last show of the entertainment concerned and the entire amount deposited under the temporary receipt shall in that case be deposited in the Government account as entertainment tax.

9. (1). A register in Form 'C' shall be maintained in which necessary entries shall be made regarding receipt and issue of all cinema tickets. There shall be a separate register for each cinema.
- Entries to be made in registers*
- (2) A separate register shall be maintained for all entertainments other than cinemas.
10. When the purchaser of any ticket admitting him to one part of an entertainment wishes to transfer to another part of the entertainment for which the price of admission is higher and taxable the proprietor/management may issue him a ticket of the higher class duly stamped *by* the official seal and take back the first ticket issued to him.
- Transfer of seat,*
11. Every season ticket or tickets available for more than one entertainment shall have marked thereon the name of the purchaser and the period for which it is available. Such ticket shall besides being marked with the price of entertainment will also be marked with the amount of the entertainment tax that would be payable and shall be duly stamped with the official seal.
- Season tickets,*
12. (1) When the proprietor/management of an entertainment proposes to hold or exhibit an entertainment which has been exempted from payment of entertainment tax under section 7 of the Act, he shall follow the same procedure as laid down in rule 7 and on receipt of the requisition the Government shall issue to the proprietor/management of the said entertainment the required number of tickets but without stamping them with the official seal. Such tickets shall be used only for the entertainment for which they are issued and not otherwise.
- Tax free tickets,*
- (2) The unsold tax free tickets, if any shall, be returned to the Government with a statement in Form 'D' within three days of the last show of the entertainment and kept separately and entered into a separate register in Form 'E' to be maintained for the purpose. When they are to be issued for being sold in any subsequent entertainment which is not exempted from tax, they shall be taken out from the said register and accounted for in the register of taxable tickets.

(3) The proprietor/management shall sell the tax free tickets as long as he exhibits or holds the tax: free entertainment and shall prepare and submit to Government a daily account of collection made by him in each show in Form-'F'.

(4) This rule shall not apply in the case of casual or temporary entertainments exempted from entertainment tax and for which no tickets are to be stocked with the Government.

13. On admission of the purchaser the proprietor/management shall cause every ticket, not being a season ticket or tickets available for more than one entertainment, issued for admission to the entertainment, to be collected so that the ticket is torn into two portions across the seal and one portion is returned to the purchaser. The purchaser shall retain his portion until he has left the place of entertainment. The other portion shall be retained by the proprietor till the end of the day following the entertainment and shall then be destroyed. *Defacement and destruction of tickets.*
14. No ticket which is officially sealed but has been torn, defaced or otherwise marked or mutilated shall be issued by the proprietor/management. Such tickets may be returned to the Government who on being satisfied that they have not been wilfully damaged or spoiled, may give in lieu thereof other tickets of the same class or value. *Torn, defaced etc., tickets.*
15. Every proprietor/management shall keep a proper account of the number of respective tickets issued to him and sold by him upto date. *Maintenance of stock of tickets.*
16. Where payment for a programme or synopsis is compulsory, the tax shall be levied on the total sum paid for admission to the entertainment including the sum paid for the programme or synopsis. Where payment for a programme or synopsis is voluntary, the tax shall be levied separately on the sum paid for admission and on the sum paid for the programme or synopsis. *Payment of tax on programmes or synopsis.*
17. Any person claiming exemption under sub-section (1) of section 7 of the Act from payment of the entertainment tax shall present an application for such exemption to the Government ten clear days before the date of the entertainment. After considering the application the Government shall issue such orders as it may deem fit under sub-section (2) of section 7 of the Act. *Exemptions under section 7*

- 18, Every proprietor/management of an entertainment admitting a person free of payment or on payment of a reduced sum shall issue to such person a ticket showing clearly thereon the full charge for admission to the class to which the person is admitted. The tax shall be paid on such ticket in the same manner as if it were a ticket issued on payment of the full charge and the person admitted shall for the purposes of these rules be deemed to be the purchaser of the ticket:
- Provision as to persons admitted without payment.*

Provided

(1) that when a child not exceeding three years in age is admitted free of payment, he shall be exempted from the payment of the tax and shall not be issued any ticket;

(2) that where members of the armed forces, their families and their guests are admitted to a performance organized and produced exclusively for members of the armed forces under the orders of the Government of India then the aforesaid persons shall be exempted from payment of the tax

(3) that the Chairman and Members of the Central Board of Film Censors, the Regional Officers of the Central Board of Film Censors, Madras, Calcutta, the Assistant Regional Officers, Bombay and the Members of the Advisory Panel, Bombay, Calcutta and Madras, of the said Board, shall be exempt from the payment of the entertainment tax on complimentary tickets which may be issued to them by the exhibitors to facilitate their entry into a licensed cinema for the purpose of satisfying themselves that the provisions of the Cinematograph (Censorship) Rules, 1951, are being carried out.

(4) that the representatives of the Films Division, Ministry of Information and Broadcasting, Government of India, Bombay, shall be exempt from the payment of the entertainment tax on the complimentary tickets issued to them by the exhibitors to facilitate their entry into a licensed cinema for the purpose of ensuring the observance of the terms and conditions of the contract entered into by the exhibitors with the President of India regarding the supply and exhibition of approved films, provided the persons concerned are accredited representatives of the Films Division and bear

permits or certificates to that effect and have filed copies thereof with the Government.

- 19 A person who has been admitted to an entertainment *Production of tickets.*
 in respect of which the tax due is payable in accordance' with the provisions of sub-section (2) of section (5) of the Act shall upon demand made during the course of or immediately before or after the entertainment, produce to any officer authorised under section 9 of the Act, the ticket, badge, card of membership, voucher or document by means of which he was admitted, or a portion of the.' ticket by means of which he was admitted, or the stamped cover of the book or the stamped principal part of the sheet from which the ticket, by means of which he was admitted, was taken.
- 20 (1) Any officer duly empowered in this behalf by the *Inspection of books*
 Government may at any time require the proprietor/manage *etc.*
 ment to produce for inspection all his books and records, and all tickets or portions of tickets in his possession, relating to the entertainment. Such officer can seize and take in his possession all such records, books, tickets or portions of tickets, etc. relating to such entertainments as he may consider necessary in case he suspects evasion of tax or any irregularity.
- (2) Under the provisions of this rule every District Collector is hereby empowered to call upon the proprietor/management of an entertainment held in his district to produce for inspection all his books, records and all tickets or portions of tickets in his possession relating to such entertainment.
- 21 Every proprietor/management shall submit to Government a *Return of collections.*
 return of the monthly collections in Form "G." Such return shall be submitted in the first week of the subsequent month.
22. In case there is any doubt about the interpretation of *Interpretation.*
 any of these rules, the decision of the Government shall be final.

FORM-A
(See rule 7)

Challan No.....

Name of Cinema....._.....

Name of Town....._.....

(To be filled in by the proprietor/management and submitted in duplicate)

Day & Show	Class	Sl No. of tickets.	Total No. of tickets.
------------	-------	--------------------	-----------------------

Signature of Proprietor
Manager sending the tickets.

Date...

Received by... ..

Designation

Office seal.. .

Date

FORM...B
(See sub-rule (I) of rule 8)
Requisition

(To be submitted by proprietor/management (in duplicate) after filling up columns 1-8)

Name of Cinema and Town

Sl No	Class	Day & show	Number of tickets re-quired	Number of Books	Rate of ente-rtainment tax	Amount of entertain-ment tax	B.R. No. & date	For Government use only			Remarks
								Sl. No. of tickets			
								From	Total No. of tickets		
1	2	3		5	6	7	8	9	10	11	12

Signature of Proprietor/Manager of entertainment.
Date:

Signature of Official issuing the tickets
Date:

Signature of person receiving the tickets.
Date:

FORM-C
(See sub-rule (1) of rule 9)
Register of tickets

Date of receipt 'Challan number'	Stock of tickets		No. of Books	Tickets issued		Date of issue
	From	To		From	To	
2	3	4	5	6	7	8

Amount of Tax		Balance of tickets			Signature of issuing official	Signature of Officer concerned	Remarks
amount received	B.R. No. & date	From	To	No. of Books			
10	11	12	13	14	15	16	17

FORM-D
(See sub-rule (2) of rule 12)

Name of Cinema and Town-

Statement of unsold tax-free tickets to be returned to Government by the proprietor/management of an entertainment.

Sl No.	Class	Sl. number of tickets received from Government		Total No of tickets	(To be submitted in duplicate)		Total No. of unsold tickets	Sl. No. of tickets returned to Government		Total No. of unsold tickets returned	Remarks
		From	To		Sl. number of tickets sold	Total No. of unsold tickets		From	To		
		3	4		6	7		8	9		
1	2	3	4	5	6	7	8	9	10	11	12

Signature of proprietor / management

Date:

Signature of receiving official

Date:

FORM-E
(See sub-rule (2) of rule 12)
Register of tax free tickets

Date of issue of tickets	Sl. number of tickets issued		Total No. of Books	Balance of tickets returned to Government by the Cinema		Total No' of Books	Signature of issuing officer	Signature of the officer concerned
	From	To		From	To			
1	2	3	4	5	6	7	8	9

Form-F
(See sub-rule (3) of rule 12)

Account of daily collection in respect of tax free tickets.

Name of Cinema- Name of Town		Date of performance-		Day		Name of show Time		Remarks
Sl. No.	Class	Sl. number of tickets sold From	To	T. No. of tickets sold	Rate of	Total collection made during the show tickets Rs.	np.	
1	2	3	4	5	6	7.	8	9

Certified that I have checked the above account and found it correct.

Signature of proprietor / manager,

Date:

FORM-G
(See rule 21)

Statement of collections made by (Name of Cinema) for
the month of 19

(To be prepared and submitted by
the proprietor / management by
the 1st week of every month)

Sl.	Class	Total No. of tic- kets sold during	Rate of one tick- et including tax	Total amount		Allocation		Remarks		
				Rs	np.	Admission fee	Entertainment tax			
No.		the month		Rs	np.	Rs.	'np.	Rs.	np.	
1	2	3	4	5	6	7	8	9	10	11

Grand Total:

Signature of proprietor/manager.

Date:

GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT
GANGTOK

Notification No. 1/ LSGHD.

Dated Gangtok, 'the 11th April, 1984.

In exercise of the powers conferred by sub-section (1) and sub-section(3) of section 3A and sub-section (1) of section 3B of the Sikkim Entertainment Tax Act, 1980 (No.8 of 1980), the State Government hereby specifies that the entertainment tax in lump-sum as mentioned in column (2) of the table below shall be paid to the Secretary, Local Self Government &, Housing Department by a Bank Receipt of the State Bank of Sikkim besides security deposit to the extent specified in column 3 of the said table.

THE TABLE

Area 1	Amount of entertainment tax payable in lump-sum 2	Security deposit 3
1. Gangtok	Rupees Two Thousand per month	Rupees Two Thousand
2. Singtam, Namchi, Gyalzing, Rangpo, Rhenock, Nayabazar, Jorethang, Rongli and Melli	Rupees One Thousand Five hundred per month	Rupees Two Thousand
3. Other places in Sikkim	Rupees Five hundred per month	Rupees Two Thousand

The entertainment tax payable as specified in column (2) of the table shall be deposited in advance for every following month but not later than the last day of every preceeding month.

**RURAL DEVELOPMENT DEPARTMENT
GOVERNMENT OF SIKKIM
Notification No.1 (47A) -RW P75-76/PI/RDD/5047**

**Dated Gangtok, the 19th October .1982
THE SIKKIM PANCHAYAT ELECTION
RULES 1982**

**GOVERNMENT OF SIKKIM
RURAL DEVELOPMENT DEPARTMENT**

No.1 (47A) NOT/RW/75-76 (PI)/RDD-5047 Dated
Gangtok, The 19th October, 1982.

NOTIFICATION

In exercise of the powers conferred by sub-section (2) of section 6; sub-section (1) of 101, section 118 of the Sikkim Panchayat Act, 1982 (3 of 1982) 'and all other powers the Government of Sikkim hereby makes the following rules to provide for the conduct of elections to Gram Panchayat and to provide for matters connected therewith and incidental thereto:

PART 1

Preliminary

1. *Short title and commencement.*-(1) These rules may be called the Sikkim Panchayat Election Rules 1982.
(2) They shall come into force at once.
2. *Interpretation.*-(1) In these rules, unless the context otherwise requires:
 - (a) 'Act' means the Sikkim Panchayat Act, 1982. (Act No.3 of 1982)
 - (b) 'Ballot Box' includes any box or other receptacle used for insertion of ballot papers by voters;
 - (c) 'Candidate' means a person who has been or claims to have been duly nominated as a candidate at any election
 - (d) 'Contesting Candidate' means a candidate whose nomination has been found valid on scrutiny and who has not withdrawn his candidature in accordance with the provisions of these rules;

- (e) 'Corrupt Practices' means a corrupt practice as defined in sub-section (2) of section 102 of the Act;
- (f) 'Counterfoil' means the counterfoil attached to a ballot paper -printed under the provisions of these rules;
- (g) 'Counting Agent' means an agent appointed by the candidate or his election agent under the provisions of these rules;
- (h) 'Director of Panchayat election' means the officer of the State Government appointed as such under rule 3;
- (i) 'Election' election means elections to a Gram Panchayat from a Panchayat Ward;
- (j) 'Elector' elector in relation to an election of a member or members from a Panchayat Ward, means any person entitled to vote at that election;
- (k) 'Electoral Roll' means the electoral roll of a Panchayat Ward as prepared in terms of sub-section (2) of section 6, and consisting of those persons whose names are included in the electoral roll of the Sikkim Legislative Assembly for the time being in force pertaining to the area comprised in the Panchayat Ward;
- (l) "Electoral Roll Number" of a person means
 - (i) the serial number- of the entry in the electoral roll in respect of that person;
 - (ii) the name of the Panchayat Ward to which the electoral roll relates;
- (m) 'Form' means a Form appended to these rules and includes a translation thereby in 'any of the languages used for the official purposes of the State of Sikkim;
- (n) 'Marked Copy of the electoral roll' means a copy of the electoral roll set apart for the purposes of marking the names of the electors to whom ballot papers are issued at an election;
- (o) 'Panchayat Ward' means a ward of Gram Panchayat as determined by the State Government under the provisions of sub-section (2) of section 3;
- (p) 'Polling Agent' means a polling agent appointed by a candidate or his election agent under the provisions of these rules;
- (q) 'Polling Station' means the place fixed for taking the poll under Rule 10;
- (r) 'Presiding Officer' includes any polling officer performing any of the functions of Presiding Officer under the provisions of these rules;

- (s) 'Returning Officer' . includes any Assistant Returning Officer performing any of the functions of the Returning Officer which he is authorised to perform under the provisions of these rules;
- (t) 'Schedule' means the schedule appended to these rules;
- (u) 'Section' means a section of the Act;
- (v) 'Service Voter' means
- (i) any person having service qualification as defined in sub-section (8) of section 20 of the Representation of Peoples Act, 1950 (Central Act No. 43 of 1950) and whose name is entered in the electoral roll of the Sikkim Legislative Assembly for the time being in force;
- (ii) the wife of any such person referred to in clause (i) whose name is also entered in the electoral roll of the Sikkim Legislative Assembly;
- (w) 'Voter on election duty' means any polling agent, polling officer, Presiding Officer or other public servant, who is an elector in the Panchayat Ward and is by reason of his being on election duty unable to vote at, the polling station where he is entitled to vote.
- (2) For the purposes of these rules, a person who is not able to write his name shall, unless otherwise expressly provided in these rules be deemed to have signed an instrument or other paper if
- (a) he has placed a mark on such instrument or other paper in the presence of the Returning Officer or the Presiding Officer or such other officer as may be specified in this behalf by the Director of Panchayat Elections, and
- (b) such officer on being satisfied as to his identity has attested the mark as being the mark of that person.
- (3) Any of the expressions not defined in these rules but defined in the Act shall have the same meaning as in the Act.

PART: II
GENERAL PROVISIONS & ADMINISTRATIVE MACHINERY FOR
CONDUCT OF ELECTIONS

3. Director of Panchayat Elections

The superintendence, direction, control and the conduct of an elections to Gram Panchayat shall vest in the Director of Panchayat Elections who shall

be such officer of the Government as the State Government may designate or nominate.

4. *Right to vote to a Panchayat Ward*

- (1) No person who is not, and except as expressly provided by these rules every person who is for the time being entered in the electoral roll of a Panchayat Ward shall be entitled to vote at an election in the wards.
- (2) No person shall vote at a Gram panchayat election in more than one Panchayat Ward, and if a person votes in more than one such ward his vote in all such wards shall be void.
- (3) . No person shall at any Gram Panchayat election vote in the same Panchayat Ward more than once, notwithstanding that his name may have been registered in the electoral roll for that ward more than once, and if he does so vote, all his votes in that ward shall be void.
- (4) No person shall vote at any Gram Panchayat election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-rule shall apply to a person subjected to preventive detention under any law for the time being in force.

5. *Method of voting.*

In a Panchayat Ward where more than one member is to be elected every elector shall have as many votes as there are members to be elected, but no elector shall give more than one vote to any candidate.

6. *General Duty of District Collector-* Subject to the Superintendence, direction and control of the Director of Panchayat Elections the District Collector shall coordinate and supervise all work in the district under his jurisdiction in connection with the conduct of all elections to the Gram Panchayats.

7. *Returning Officer-* For every Panchayat Ward, the Director of Panchayat Elections shall, in consultations with the State Government, designate or nominate a *Returning Officer* who shall be an officer of Government;

Provided that nothing in this rule shall preclude the Director of Panchayat Elections from designating or nominating the same officer to be the Returning Officer for more than one Panchayat Ward.

8. *Assistant Returning Officer-* (1) The Director of Panchayat Elections may appoint one or more persons to assist any Returning Officer in the performance of his functions;

Provided that every such person shall be an Officer of Government.

- (2) Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer;

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer which relate to the scrutiny of nominations unless the Returning Officer is unavoidably prevented from performing the said function.

9. *General duty of the Returning Officer*- It shall be the General duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectively conducting the election in the manner provided under these Rules.

10. *Polling Stations*- The District Collector shall with the previous approval of the Director of Panchayat Elections provide sufficient number of polling stations for every Panchayat Ward in his district and shall publish in such a manner as the Director of Panchayat Elections may direct a list showing the polling stations so provided and the polling areas or groups of electors for which they have respectively been provided.

11. *Appointment of Presiding Officers and Polling Officers*

- (1) The Returning Officer shall appoint a Presiding Officer for each polling station and such other Polling Officer or officers to assist the Presiding Officer as he thinks necessary, but shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for a candidate in or about the election as a Presiding Officer or a Polling Officer:

Provided that if any Polling Officer is absent from the Polling Station, the Presiding Officer may appoint in his place any person who is present at the Polling station other than a person who has been employed by or on behalf, or has been otherwise working for a candidate in or about the election, to be the Polling Officer and shall when such appointment is made inform the Returning Officer accordingly:

Provided further that nothing in this sub-rule shall prevent the, Returning Officer from appointing the same person to be the Presiding Officer for more than one polling station in the same premises:

- (2) A Polling Officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under these rules.
- (3) If the Presiding Officer, owing to illness or for other unavoidable cause, is obliged to absent himself from the polling station his functions shall be per

formed by such Polling Officer as has been previously authorised by the Returning Officer to perform such functions under any such absence.

12. *General Duty of Presiding Officer*- It shall be the general duty of the Presiding Officer at a Polling Station to keep order thereat and to see that the poll is fairly taken.

PART III-CONDUCT OF ELECTIONS
CHAPTER I-NOTIFICATIONS OF ELECTIONS AND
NOMINATIONS OF CANDIDATES

13. *Notification of General Election to Gram Panchayats.*

- (1) An election shall be held for the purpose of constituting a new Gram Panchayat for the first time or on the expiration of duration of the existing Gram Panchayat or on its dissolution;
- (2) For the said purposes, the State Government shall by one or more notification publish in the official gazette on such date or dates as may be fixed and notified in this behalf, call upon all the Panchayat Wards to elect members in accordance with the provisions of the Act and the rules and orders made thereunder.

14. *Appointment of dates for nominations etc*-As soon as the notification calling upon a panchayat ward to elect a member or members is issued the Director of Panchayat Elections shall, by notification published in the official gazette, appoint

- (a) the last date for making nominations, which shall be the seventh day after the date of publication of the first mentioned notification or if that day is a public holiday, the next succeeding day which is not a public holiday;
- (b) the date for the scrutiny of nominations, which shall be the day immediately, following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;
- (c) the last date for the withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or if that day is a public holiday, the next succeeding day which is not a public holiday;
- (d) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the twentieth day after the last date for the withdrawal of candidatures;
- (e) the date before which the election shall be completed.

15. *Public notice of Elections*-On the issue of a notification under rule 14, the Returning Officer shall give public notice of the intended elections in Form 1 inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered and subject to any direction of the Director of Panchayat Elections. such public notice shall be published in such manner as the Returning Officer thinks fit.

16. *Fixing time for' poll*-The Director of Panchayat Elections shall fix the hours during which the poll will be taken, and the hours so fixed shall be published by notification in the Official Gazette.

Provided that the total period allotted on any day for polling at a polling station shall not be less than eight hours.

17. *Nomination of Candidate*- Any person may be nominated as a candidate for election to fill a seat specified for in a Panchayat Ward if his name is included in the electoral roll of that ward and he is not otherwise disqualified under the provisions of the Act.

18. *Presentation of nomination papers and requirements for valid nominations*-(1) On or before the last date appointed under clause (a) of rule 14 each candidate shall either in person or by his proposer deliver to the Returning Officer during the time and the place specified in this behalf in the notice issued under rule 15, the nomination papers duly completed and signed by the candidate and by an elector of the Panchayat. Ward as a proposer.

(2) Any person whose name is entered in the electoral roll of the Panchayat Ward for which the candidate is nominated and who is not otherwise disqualified, may subscribe as proposer.

(3) Every nomination paper presented to the Returning Officer shall be in Form 2. (4) No candidate shall be prevented from being nominated by more than one nomination paper for the election in the same Panchayat Ward.

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the Returning Officer for the election.

(5) On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the .names and electoral roll number of the candidate and his proposer as entered in the nomination papers are the same as those entered in the electoral roll of the Panchayat Ward for the time being in force.

19 *Choice of Symbols*-(1) A candidate for the election from any Panchayat Ward shall choose and shall be allotted one of the symbols specified in the Table of the Schedule.

- (2) If more contesting candidates than one have indicated their preference for the same symbol, the Returning Officer shall decide by lot to which of those candidates the symbol be allotted.
- (3) The allotment by the Returning Officer of any symbol to a candidate shall be final.
- (4) Every candidate or his election agent shall be informed of the symbol allotted to the candidate and be supplied with a specimen thereof by the Returning Officer.

20. *Deposits-(I)* A candidate shall not be deemed to be duly nominated for election from a Panchayat Ward unless he deposits or causes to be deposited in cash with the Returning Officer a sum of Rupees Twenty five or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of Rupees Fifteen

Provided that where a candidate has been nominated by more than one nomination paper for election not more than one deposit shall be required under the rule.

- (2) The deposit made under sub-rule (1) shall either be returned to the person making it or his legal representative or be forfeited to the State Government in accordance with the provisions of this rule.
- (3) Except in cases hereinafter mentioned, deposits shall be returned as soon as practicable after the result of the election is declared.
- (4) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.
- (5) Subject to the provision of sub-rule (4), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one sixth of the total number of valid votes polled by all the candidates

21. *Notice of Nomination-* The Returning Officer shall, on receiving the nomination paper under sub-rule (1) of rule 18 from the persons delivering the same, enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him, and shall as soon as may be thereafter, cause to be affixed in Form 3 in some conspicuous public place a notice of the nomination containing descriptions similar to those contained in the nomination paper both of the candidates and of the proposer.

22. *Scrutiny of Nominations.*-(1) On the date fixed for the scrutiny of nominations under rule 14, the candidates, their election agents, and one proposer of each candidate, but no other person, may attend at the time and place appointed in this behalf in the public notice under rule 15 and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner as specified.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may either on such objection or on his own motion, after such summary enquiry, if any, as he thinks necessary or elect any nomination on any of the following grounds, namely

(a) that the candidate is disqualified *for* being chosen to fill the seat by or under the Act;

(b) that the candidate or the proposer is not elector of the Panchayat Ward concerned;

(c) that there has been a failure to comply with any of the provisions of rules 18 & 20; and

(d) that the signature of the candidate or of the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (c) or clause (d) of sub-rule (2) shall be deemed to authorize the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of rule 14 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot, or open violence or by causes beyond his control;

Provided that in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day, following the date fixed *for* scrutiny and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

, (6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons *for* such rejection.

- (7) Immediately after all the nomination papers have been scrutinized and decisions accepting or rejecting the same have been recorded the Returning Officer shall prepare a list in Form 4 of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it on the notice board.

23. *Withdrawal of Candidature.*-(1) Any candidate may withdraw his candidature by a notice in writing which shall be subscribed by him and delivered before 3 O'clock in the afternoon on the day fixed under clause (c) of rule 14 to the Returning Officer either by such candidate in person or by the election agent or his proposer who has been authorised in this behalf in writing by such candidate.

- (2) No person who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel the notice.
- (3) A notice of withdrawal of candidature under sub-rule (1) shall be in Form 5 and shall contain the particulars set out therein, and on receipt of such notice the Returning Officer shall note thereon the date and the time on which it was delivered
- (4) The Returning Officer shall, on being satisfied as to the genuineness of notice of withdrawal and the identity of the person delivering it under sub-rule(1) cause a notice in Form 6 to be affixed in some conspicuous place in his office

24. *Preparation and Publication of list of contesting Candidates.*

- (1) Immediately after the expiry of the period within which candidature may be withdrawn under sub-rule (1) of rule 23, the Returning Officer shall prepare a list of contesting candidates.
- (2) The list of contesting candidates shall be in Form 7 and shall contain the particulars set out therein and shall be prepared in such language or languages as the Director of Panchayat Elections may direct.
- (3) The names of candidates in the list of contesting candidates shall be arranged in alphabetical order and if the list is prepared in more languages than one, the names of candidates therein shall be arranged alphabetically according to the script of each one of those languages as the Director of Panchayat Elections may direct.
- (4) The Returning Officer shall cause a copy of the list of contesting candidates to be affixed in some conspicuous place in his office and if poll becomes necessary the Returning Officer shall supply a copy of the list of contesting candidates to each such candidate or his election agent and then shall all publish the list in the Official Gazette.

CHAPTER II**CANDIDATES AND THEIR AGENTS**

25. *Appointment and revocation of election agent.*-(1) A candidate at an election may appoint anyone person other than himself to be his election agent

Provided that any person who is for the time being disqualified under the Act for being a member of Gram Panchayat or for 'voting at election shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.

(2) The Appointment of an election- agent shall be made in Form 8 and the notice of such appointment shall be given by forwarding the same in duplicate to the Returning Officer who shall return one copy thereof to the election agent after affixing thereon his seal and signature in token of approval of the appointment.

(3) The candidate may revoke the appointment of his election agent at any time and such revocation of the appointment of election agent shall be made in Form g and shall be operative from the date on which it is lodged with the Returning Officer

(4) In the event of such a revocation or of death of an election agent whether that event occurs before or during the election, the candidate may appoint another person to be his election agent in the manner specified in sub-rule (1) and when such appointment is made notice of the appointment shall be given in the manner specified in the said sub-rule.

26. *Appointment and revocation of polling agent.*-(1) A contesting candidate for the election or his election agent may appoint in writing to be delivered to the Presiding Officer one person to act as his polling agent and two relief agents at each polling station and such appointment shall be made in Form 10.

(2) No polling agent shall be admitted into the polling station unless he has been duly appointed under sub-rule (1) and he has delivered to the Presiding Officer the letter of his appointment.

(3) The revocation of the appointment of a polling agent shall be made in Form 11 and lodged with the Presiding Officer.

(4) In the event of any such revocation, the candidate or his election agent may at any time before the poll is closed, make a fresh appointment in the manner specified in sub-rule (1).

27. *Functions of Election Agents and Polling Agents.* -(1) An election agent may perform such functions in connection with the election as are authorised by or under the Act and the rules to be performed by an election agent.

- (2) A polling agent may perform such functions in connection with the poll as are authorised by or under these rules to be performed by a polling agent.

CHAPTER III
POSTAL BALLOT

28. *Person entitled to vote by post.*- The following persons at an election in a Panchayat Ward shall, subject to their fulfilling the requirements hereinafter specified, be entitled to vote by post, namely

- (i) Service voters;
- (ii) Voters on election duty; and
- (iii) Electors subjected to preventive detention.

29. *Intimation by Voters on Election duty.*-(1) A voter on election duty who wishes to vote by post at an election shall send an application in Form 12 to the Returning Officer so as to reach him at least seven days or such shorter period as the Returning Officer may allow before the date of poll; and if the Returning Officer is satisfied that the applicant is a voter on election duty, he shall issue a postal ballot paper to him,

(2) Where such voter, being a Polling Officer, Presiding Officer or other public servant on election duty in a Panchayat Ward of which he is an elector, wishes to vote in person at the election and not by post he shall send an application in Form 12A to the Returning Officer so as to reach him at least four days, or such shorter period as the Returning Officer may allow, before the date of poll; and if the Returning Officer is satisfied that the applicant is such public servant and- voter on election duty in the Panchayat Ward; he shall

- (a) issue to the applicant an election duty certificate in Form 12B;
- (b) mark 'EDC' against his name in the marked copy of the electoral roll to indicate that an election duty certificate has been issued to him; and
- (c) ensure that he is not allowed to vote at the polling station where he would otherwise have been entitled to vote.

30. *Electors under preventive detention.*-(1) The State Government shall, within 15 days of the calling of an election, ascertain and intimate to the Returning officer the names of the electors, if any, subjected to preventive detention together with their addresses and electoral roll numbers and the particulars about their places of detention,

(2) Any elector subjected to preventive detention may, within 15 days of the calling of an election, send an intimation to the Returning Officer that he wishes to vote by post, specifying his name, address, electoral roll number and place of detention.

(3) The Returning Officer shall issue postal ballot paper to every elector subjected to preventive detention whose name has been intimated to him under sub rule (1) or under sub-rule (2).

31. *Form of postal ballot paper-(1)* Every postal ballot paper shall have a counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages, as the Director of Panchayat Election may direct.

(2) The names of the candidates shall be arranged on the postal ballot paper in the same order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

32. *Issue of Ballot Paper-(1)* A postal ballot paper shall be sent by post under certificate of posting to the elector together with

(a) a declaration in Form 13 A;

(b) a Cover in Form 13 B;

(c) a large cover addressed to the Returning Officer in Form 13 C; and

(d) instructions for the guidance of the elector in Form 13 D.

Provided that the Returning Officer may, in the case of an elector under preventive detention or a voter on election duty, deliver the ballot paper and forms, or cause them to be delivered, to such voter personally.

(2) The Returning Officer shall at the same time

(a) record on the counterfoil of the ballot paper the electoral roll number of the elector as entered in the marked copy of the electoral roll.

(b) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him, without however, recording therein the serial number of the ballot paper issued to that elector; and

(c) ensure that the elector is not allowed to vote at the polling station.

(3) Every officer under whose care or through whom a postal ballot paper is sent shall ensure its delivery to the addresses without delay.

(4) After ballot papers have been issued to all electors entitled to vote by post the Returning Officer shall seal up in a packet that part of the marked copy of the electoral roll which relates to service voters and record on the packet a brief description of its contents and the date on which it was sealed and send the other relevant parts of the marked copy to the several Presiding Officers for marking the names of electors to whom ballot papers are issued at the polling stations without however, recording therein the serial numbers of the ballot papers issued to the electors.

(5) The Returning Officer shall also seal up in a separate packet the counterfoils of the ballot papers issued to electors entitled to vote by post and record on the packet a brief description of its contents and the date on which it was sealed.

33. *Recording of Vote* -(1) An elector who has received a postal ballot paper and desires to vote shall record his vote or votes on the ballot paper in accordance with the directions contained in Part 1 of Form 13D and then enclose it in the cover in Form -13B.

(2) The elector shall sign the declaration in Form 13A in the presence of and have the signature attested by, a stipendiary magistrate or such other officer specified below, as may be appropriate, to whom he is personally known or to whose satisfaction he has been identified.

(a) in the case of a service voter such officer as may be appointed in this behalf by the Commanding Officer of the unit, ship or establishment in which the voter or her husband, as the case may be, is employed or such officer as may be appointed in this behalf by the diplomatic or consular representative of India in the country in which such voter is resident;

(b) In the case of a voter on election duty, any gazetted officer or the Presiding Officer of the polling station at which he is on election duty;

(c) in the case of an elector under preventive detention the Superintendent of the Jail or the Commandant of the- detention camp in which the elector is under detention; and

(d) in any other case, such officer as may be notified in this behalf by the State Government.

Explanation- An honorary magistrate shall not be competent to attest any ballot paper and a member of the Parliament or State Legislative Assembly will not be deemed to be a gazetted officer for the purposes of attestation of postal ballot paper.

34. *Assistance to illiterate or infirm voters.*-If an elector is unable through illiteracy, blindness, or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper, together with the declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of rule 34 and request that officer to record his vote and sign his declaration' on his behalf.

(2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form 13A.

35. *Re-issue of ballot papers.*- (1) When a postal ballot paper and other papers sent under rule 32 are for any reason returned undelivered" the Returning Officer may re-issue them by post under certificate of posting or deliver them or cause them to be delivered to the elector personally on a request being made by him.

(2) If any elector has inadvertently dealt with the ballot paper or any of the other papers sent to him under rule 32 in such a manner that they cannot conveniently be used, a second set of the papers shall be issued to him after he has returned the spoiled papers and satisfies the Returning Officer of the inadvertence.

(3) The Returning Officer shall cancel the spoilt papers so returned and keep them in a separate packet after noting thereon the particulars of the election and the serial numbers of the cancelled ballot papers.

36. *Return of Ballot Paper.*- (1) After an elector has recorded his vote and made his declaration under rule 33 or rule 34 he shall return the ballot paper and declaration to the Returning Officer in accordance with the instructions communicated to him in Part II of Form 13D so as to reach the Returning Officer before the hour fixed for commencement of counting of votes.

(2) If any cover containing a postal ballot paper is received by the Returning Officer after the expiry of the time fixed in sub. rule (1) he shall keep all such covers together in a separate packet.

(3) The Returning Officer shall keep in safe custody until the commencement of the counting of votes all covers containing postal ballot papers received by him.

CHAPTER IV

GENERAL PROCEDURE

37. *Death of Candidate before poll*-If a candidate whose nomination has been found valid on scrutiny under rule 22 and who has not withdrawn his candidature under rule 23 dies and a report of his death is received before the publication of the list of contesting candidates under rule 24 for if a contesting candidate dies and a report of his death is received before the commencement .of the Poll, the Returning Officer shall, upon being satisfied of the fact of death of the candidate, countermand the poll and report the fact to the State Government and the Director of Panchayat Elections and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election;

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided further that no person who has given a notice .of withdrawal of his candidature under rule 23 before the countermanding .of the poll shall be ineligible for being nominated as a candidate for election after such countermanding.

38. *Procedure in contested and uncontested elections.* -(1) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken,
 (2) If the number of such candidates is equal to the number .of seats to be filled, the Returning Officer shall forthwith declare in Form 14 all such candidates to be duly elected to fill those seats.
 (3) If the number .of candidates is less than the number of seats to be filled, the Returning Officer shall forthwith declare in Form 14 all such candidates to be elected and send copies of declaration to the Director of. Panchayat Elections and the State Government for taking appropriate action under sub-section (4) of rule 6.

CHAPTER-V

VOTING PROCEDURE AT POLLING STATION

39. *Manner of Voting*-At every election where a poll is taken ,votes shall be given by ballot in the manner hereinafter provided and no votes shall be received by proxy.

40. *Ballot Box*.-Every ballot box shall be .of such design as may be approved by

the Director of Panchayat Elections.

41. *Form of ballot paper.*-(1) Every ballot paper shall have its counterfoil attached thereto, and the said ballot paper and the counterfoil shall be in such form and language particulars therein shall be in such or languages as the Director of Panchayat Elections may direct.

(2) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates.

(3) If two or more candidates bear the same name they shall be distinguished by the addition of their occupation or residence or in some other manner.

42. *Arrangement at polling stations.*-Outside each polling station there shall be displayed prominently

- . (a) a notice, specifying the polling area the electors of which are entitled to vote at the polling station; and
- (b) a copy of the list of contesting candidates.

43. *Admission to polling stations.* - The Presiding Officer shall regulate the number of electors to be admitted at any one time inside the polling station and shall exclude therefrom all persons other than

- (a) polling officer;
- (b) public servants on duty in connection with the election;
- (c) persons authorised by the Director of Panchayat Elections;
- (d) candidates, their election agents and one polling agent of each candidate at a time;
- (e) a child in arms accompanying an elector;
- (f) a person accompanying a blind or infirm elector who cannot move without help and
- (g) such other persons as the Returning Officer or the Presiding Officer may employ for the purpose of identifying the electors.

44. *Preparation of ballot boxes* --(1) Every ballot box used at a polling station shall bear labels outside marked with

- (a) the serial number, if any, and the name of the Panchayat Ward
- (b) the serial number and name of the polling station

(c) the serial number of the ballot box where more than one ballot box is used in respect of a particular election; and

(d) the date of poll,

(2) The Presiding Officer shall immediately before the commencement of the poll satisfy all persons present that the ballot box is empty and bears the labels referred to in sub-rule (1).

(3) The Presiding Officer shall then close, seal and secure the ballot box in such . manner that the slit for the insertion of ballot papers remains open and shall allow the polling agents present to affix, if they so desire, their seals,

(4) The ballot box shall then be placed in full view of the Presiding Officer and the polling agents.

45. *Marked copy of electoral roll.*- (1) Immediately before the commencement of poll, the Presiding Officer shall also demonstrate to the polling agents and others present that the marked copy of the electoral roll to be used during the poll does not contain

(a) any entry other than that made in pursuance of clause (b) of sub-rule (2)' and rule 29;

(b) any mark other than mark made in pursuance of clause (b) of sub-rule (2) of rule 32.

46. *Facilities for women voters.* - (1) Where a polling station is for both men and women electors the Presiding Officer may direct that they shall be admitted into the polling station alternately in separate batches.

(2) 'The Returning Officer or the Presiding Officer may appoint a woman to serve as an assistant at a polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of women electors and in particular, to help in searching any woman elector in case it become; necessary.

47. *Identification of electors.* - (1) The Presiding Officer may employ at the polling station such persons as he thinks fit to help in the identification of the electors or to assist him otherwise in 'taking the poll.

(2) As each elector enters the polling station the Presiding Officer or the polling officer authorised by him in this behalf shall check the elector's name and other particulars with the relevant entry in the list of electors and then call out the' serial number, name and other particulars of the elector.

(3) Where the electors have been supplied with identity cards, the elector shall produce his identity card before the Presiding Officer or the polling officer authorised by him in this behalf.

(4) In deciding the right of the person to obtain a ballot paper, the Presiding Officer or the polling officer, as the case may be, shall overlook merely clerical or printing errors in an entry in the list of electors, if he is satisfied that such person is identical with the elector to whom such entry relates.

48. *Facilities for public servants on election duty.*-(1) The provisions of rule 47 shall not apply to any person who produces at the polling station an election duty certificate in Form 12 B and asks for the issue of a ballot paper to him although the polling station is different from the one where he is entitled to vote.

(2) On production of such certificate the Presiding Officer shall

- (a) obtain thereon the signature of the person producing it;
- (b) have the person's name and electoral roll number as mentioned in the certificate entered at the end of the marked copy of the electoral roll; and
- (c) issue to him a ballot paper, and permit him to vote, in the same manner as for an elector entitled to vote at the polling station.

49. *Challenging of identity.*-(1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of Rupees in cash with the Presiding Officer for each challenge.

(2) On such deposit being made, the Presiding Officer shall

- (a) warn the person challenged of the penalty for impersonation;
- (b) read the relevant entry in the list of electors in full and ask him whether he is the person referred to in that entry;
- (c) enter his name and address in the list of challenged electors in Form 15;
- (d) require him to affix his signature or thumb impression in the said list.

(3) The Presiding Officer shall thereafter hold a summary inquiry into the challenge and may for that purpose

- (a) require the challenger to produce evidence in proof of the challenge and the person challenged to produce evidence in proof of his identity;
- (b) put to the person challenged any questions necessary for the purpose of establishing identity and require him to answer them on oath;

(c) ,administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the Presiding Officer considers that the challenge has not been established, he shall allow the person challenged to vote; and if he considers that the challenge has been established he shall debar the person challenged from voting.

(5) If the Presiding Officer is of the opinion that the challenge is frivolous or has not been made in good faith he shall direct that the deposit made under sub-rule (1) be forfeited to the State Government and in any other case, he shall return it to the challenger at the conclusion of the inquiry.

50. *Safeguards against impersonation.*-(1) Every elector about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or the Polling Officer and an indelible ink mark to be put on it.

(2) *If any elector*

(a) refuses to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark; or

(b) fails or refuses to produce his identity card as required by sub-rule (3) of rule 47, he shall not be supplied with any ballot paper or allowed to vote.

(3) Any reference in this rule to the left forefinger of an elector shall, in the case where the elector has his left forefinger missing, be construed as a reference to any other finger of his left hand, and in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall, in the case where all his fingers of both ,the hands are missing be construed as reference to such extremity of his left or right arm as he possesses.

51. *Issue of ballot papers to electors* -(1) Every ballot paper before it is issued to an elector, and the counterfoil attached thereto shall be stamped on the back with such distinguishing mark as the Director of Panchayat Elections may direct and .every ballot paper, before it is issued, shall be signed in full on its back by the Presiding Officer. .

(2) At the time of issuing a ballot paper to an elector the Polling Officer shall

(a) record on its counterfoil the electoral roll number of the elector as entered in the marked copy of the electoral roll.

(b) obtain the signature or thumb impression of that elector on the said counterfoil; and

(c) mark the name of the elector in the marked copy of the electoral roll to indicate that a ballot paper has been issued to him without however recording therein the serial number of the ballot paper issued to the elector.

Provided that no ballot shall be delivered to an elector unless he has put his signature or thumb impression on the counterfoil of that ballot paper.

(2) Notwithstanding anything contained in sub-rule (2) of rule 2, it shall not be necessary for any Presiding Officer or Polling Officer or any other Officer to attest the thumb impression of the elector on the counterfoil.

(3) No person on the polling station shall note down the serial numbers of the ballot papers issued to particular electors.

52. *Maintenance of secrecy of voting by electors and others within polling station and voting procedure-(1)* Every elector to whom a ballot paper has been issued under rule 51 shall maintain secrecy of voting within the Polling Station and for that purpose observe the voting procedure hereinafter laid down.

(2) The elector on receiving the ballot paper shall forthwith

(a) proceed to one of the polling compartments;

(b) there make a mark or marks on the ballot paper with the instrument supplied for the purpose on or near the symbol or symbols of such of the candidates for whom he intends to vote;

(c) fold the ballot paper so as to conceal his vote;

(d) if required, show to the Presiding Officer the distinguishing mark on the ballot paper;

(e) insert the folded ballot paper into the ballot box; and

(f) quit the polling station.

: *Explanation* - Under clause (b), an elector - may place marks on or near the symbols of as many candidates, but not more, than the number of members to be elected at a particular election from a Panchayat Ward.

(3) Every voter shall vote without undue delay.

(4) No voter shall be allowed to enter a polling compartment when another voter is inside it.

(5) If an elector *to* whom a ballot paper has been issued, refuses, after warning given by the Presiding Officer, *to* observe the procedure as laid down in sub-rule(2) the ballot paper issued *to* him shall, whether he has 'recorded his vote thereon or not, be taken back from him by the Presiding Officer or a polling officer under the direction *of* the Presiding Officer.

(6) *After* the ballot paper has been taken back, the Presiding Officer shall record on its back the words "Cancelled-Voting Procedure Violated" and put his signature below those words.

(7) All the ballot papers on which the words "Cancelled-Voting Procedure Violated are recorded, shall be kept in a separate cover which shall bear on its face the words "Ballot papers; Voting Procedure Violated" and such ballot papers shall not be counted.

53. *Recording of vote of blind or infirm elector.*-(1) If the Presiding Officer is satisfied that owing *to* blindness or other physical infirmity an elector is unable to recognize the symbols on the ballot paper *or to* make a mark thereon without assistance, the Presiding Officer shall permit the elector *.to* take with him a companion *of* not less than twenty - one years *of* age *to* the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and, if necessary, for folding the ballot paper *so* as to conceal vote and inserting it into the ballot *box*:

Provided that no person shall be permitted *to* act as the companion of more than one elector at. any polling station on the same day:

Provided further that before any person is permitted *to* act as the companion *of* an elector on the day, the person shall be required *to* declare that he will keep secret the vote recorded by him on behalf *of* the elector and that he has not already acted as the companion *of* any other elector at any polling station on that day.

(2) The Presiding Officer shall keep a record in Form 16 *of* all such cases.

54. *Spoilt and returned ballot papers*-(1) An 'elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on returning it *to* the Presiding Officer and on satisfying him of the inadvertence, be given another ballot paper, and the ballot paper *so* returned and the counterfoil *of* such ballot paper shall be marked "Spoilt: Cancelled" by the Presiding Officer.

(2) If an elector after obtaining a ballot paper decides not *to* use it, he shall return it to the Presiding Officer and the ballot paper *so* returned and the counterfoil of such ballot paper shall be marked "Returned :Cancelled by the Presiding Officer

(3) All ballot papers cancelled under sub-rule (1) or sub-rule (2) shall be kept in a separate packet.

55. *Tendered votes-* (1) If a person representing himself to be a particular elector applies for a ballot paper after another person has already voted as such elector he shall, on satisfactorily answering such questions relating to his identity as the Presiding Officer may ask, be entitled, subject to the following provisions of this rule, to mark a ballot paper. (hereinafter referred to as 'tendered ballot paper') in the same manner as any other elector.

(2) Every such person shall, before being supplied with a tendered ballot paper, sign his name or put his thumb impression against the entry relating to him in a list in Form 17.

(3) A tendered ballot paper shall be the same as the other ballot papers used at the polling station except that

(a) such tendered ballot paper shall be serially the last in the bundle of ballot papers issued for use at the polling station; and

(b) such tendered ballot paper and its counterfoil shall be endorsed on the back with the words "tendered ballot paper" by the Presiding Officer in his own hand and signed by him.

(4) The elector, after marking a tendered ballot paper in the voting compartment and folding it, shall, instead of putting it into the ballot box, give it to the Presiding Officer, who shall place it in a cover specially kept for the purpose.

56. *Closing of poll-* (1) The Presiding Officer shall close a polling station at the hour fixed in that behalf under rule 16 and shall not thereafter, admit any elector into the polling station:

Provided that all electors present at the polling station before it is closed shall be allowed to cast their votes.

(2) If any question arises whether an elector was present at the polling station before it was closed, it shall be decided by the Presiding Officer and his decision shall be final.

57. *Sealing of ballot boxes after poll-* (1) As soon as practicable after the closing of the poll, the Presiding Officer shall close the slit of the ballot box, and where the box does not contain any mechanical device for closing the slit, he shall seal up the slit and also allow any polling agent present to affix his seal.

(2) The ballot box shall, thereafter, be sealed and secured.

(3) Where it becomes necessary to use a second ballot box by reason of the first ballot box getting full, the first ballot box shall be closed, sealed and secured as provided in sub-rules (1) and (2) before another ballot box is put into use.

58. *Account of Ballot Papers.*-(1) The Presiding Officer shall at the close of the poll prepare a ballot paper account in Form 18 and enclose it in a separate cover with the words "Ballot Paper Account" super scribed thereon.

(2) The Presiding Officer shall furnish to every polling agent at the close of the poll a true copy of the entries made in the ballot paper account after obtaining a receipt from the said polling agent therefore, and shall also attest it as a true copy.

59. *Sealing of other packets.* (1) The Presiding Officer shall then make into separate packets

- (a) the marked copy of the electoral roll;
- (b) the counterfoils of the used ballot papers;
- (c) the ballot papers signed in full by the Presiding Officer under sub-rule (l) of rule 51 but not issued to the electors;
- (d) any other ballot papers not issued to the electors;
- (e) the ballot papers cancelled for violation of voting procedure under sub rule (6) of rule 52;
- (f) any other cancelled ballot papers;
- (g) the cover containing the tendered ballot papers and the list of Form 17
- (h) the list of challenged votes; and
- (i) any other papers directed by the Director of Panchayat Elections to be kept in sealed packet.

(2) Each such packet shall be sealed with the seals of the Presiding Officer and with the seals either of the candidate or his election agent or of his polling agent who may be present at the polling station and may desire to affix his seal thereon.

60. *Transmission of ballot boxes, packets etc. to the Returning Officer.*-(1) The Presiding Officer shall then deliver or cause to be delivered to the Returning Officer at such place as the Returning Officer may direct

- (a) the ballot boxes;
- (b) the ballot paper account;
- (c) the sealed packets referred to in rule 59, and (d) all other papers used at the poll.

- (2) The Returning Officer shall make adequate arrangements for the safe transport of all ballot boxes, packets and other papers and for their safe custody until the commencement of counting of votes.

61. *Adjournment of poll in emergencies-*(1) If at an election, the proceedings at any polling station are interrupted or obstructed by any riot or upon violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity or any other sufficient cause, the Presiding Officer for such polling station shall announce an adjournment of the poll to a date to be notified later and he shall forthwith inform the Returning Officer concerned.

(2) Whenever a poll is adjourned under sub-rule (1) the Returning Officer shall immediately report the circumstances to the District Collector, the Director of Panchayat Elections and the Returning Officer shall, in consultation with the Director of Panchayat Elections, appoint the day on which the poll shall recommence, and fix the polling station at which, and the hours during which, the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed.

62. *Procedure on adjournment of poll-* (1) If the poll at any polling station adjourned under Rule 61, the provisions of Rules 57 to 60 shall, as far as practicable, apply as if the poll was closed at the hour fixed in that behalf under rule 16.

(2) When an adjourned poll is recommenced, the electors who have already voted at the poll so adjourned shall not be allowed to vote again.

(3) The Returning Officer shall provide the Presiding Officer of the polling station at which such adjourned poll is held with the sealed packet containing the marked copy of the electoral roll and a new ballot box.

(4) The Presiding Officer shall open the sealed packet in the presence of the polling agents present and use the marked copy of the electoral roll for marking the names of electors to whom ballot papers are issued at the adjourned poll, without recording therein the serial numbers thereof.

(5) The provisions of rules 39 to 60 shall apply in relation to the conduct of an adjourned poll as they apply in relation to the poll before it was so adjourned.

63. *Fresh poll in case of destruction, etc. of ballot boxes-*(1) If at any election

(a) any ballot box used at a polling station is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer or is accidentally or intentionally destroyed or is lost, or is damaged or tampered with, to such an extent that the result of poll at the polling station cannot be ascertained, or

(b) . any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station, the Returning Officer shall forthwith report the matter to the District Collector and the Director of Panchayat Elections,

(2) Thereupon, the Director of Panchayat Elections shall after taking all material circumstances into account, either

(a) declare the poll at that polling station to be void, appoint a day and fix the hours for taking a fresh poll at that polling station and notify the day so appointed and the hour so fixed in such manner as he may deem fit; or

(b) If satisfied that the result of a fresh poll at that polling station will not, in any way, alter the result of the election or that the error or irregularity in procedure is not material, issue such directions to the Returning Officer as he may deem proper for the further conduct and completion of the election.

14. *Maintenance of Secrecy of Voting.*-Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy,

PART IV

COUNTING OF VOTES AND DECLARATION OF RESULTS

CHAPTER-I

COUNTING OF VOTES

65. *Counting of Votes*-At every election where a poll is taken, votes shall be counted by or under the supervision and direction of the Returning Officer, and each candidate, his election agent and his counting agents, shall have a right to be present at the time of counting.

66. *Time and place for Counting of Votes* - The Returning Officer shall, at least one week before the date, or the first of the dates fixed for the poll, appoint the place or places where the counting of votes will be done and the date and time at which the counting of votes will commence and shall give notices of the same in writing to each candidate or his election agents;

Provided that if for any reason the Returning Officer finds it necessary to do so he may alter the date, time and place or places so fixed, or any of them, after giving notice of the same in writing to each candidate or his election agent.

67. *Appointment of counting agents and revocation of such appointment.*-(1) The number of counting agents that a candidate may appoint shall, subject to such general or special direction as the Director of Panchayat Elections may issue in this behalf, not exceed sixteen at the place or each of the places fixed for counting under rule 66.
- (2) Every such appointment shall be made in Form 19 in duplicate, one copy of which shall be forwarded to the Returning officer while the other copy shall be made over to the counting agent for production before the Returning Officer not later than one hour before the time fixed for counting under rule 66,
- (3) No counting agent shall be admitted into the place fixed for counting unless he has delivered to the Returning Officer the second copy of his appointment under sub-rule (2) after duly completing and signing the declaration contained therein and receiving from the Returning Officer an authority for entry into the place fixed for counting.
- (4) The revocation of appointment of a counting agent shall be made in Form 20 and lodged with the Returning Officer.
- (5) In the event of any such revocation before the commencement of the counting of votes, the candidate or his election agent may make a fresh appointment in accordance with sub-rule (2).
68. *Functions of counting agents.*- A counting agent may perform such functions in connection with the counting of votes as are authorised by or under these rules to be performed by a counting agent.
69. *Admission to the place fixed for counting.*- (1) The Returning Officer shall exclude from the place of counting of votes all persons except
- (a) such persons to be known as counting supervisors and counting assistants as he may appoint to assist him in the counting;
- (b) persons authorised by the Director of Panchayat Elections;
- (c) public servants on duty in connection with the election; and
- (d) candidates, their election agents and counting agents.
- (2) No person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election shall be appointed under clause (a) of sub-rule (1).

- (3) The Returning Officer shall decide which counting agent or agents shall watch the counting at any particular table or group of counting tables.
 - (4) Any person who during the counting of votes misconducts himself or fails to obey the lawful directions of the Returning Officer, he may be removed from the place where the votes are being counted by the Returning Officer or by any police officer on duty or by any person authorised in this behalf by the Returning Officer.
70. *Maintenance of secrecy at counting centre*- The Returning Officer shall before the commencement of counting read out and explain the provisions of rule 64 to such persons as may be present.
71. *Counting of votes received by post*- (1) The Returning Officer shall first deal with the postal ballot papers in the manner hereinafter provided.
- (2) No cover in Form 13C received by the Returning Officer after the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.
 - (3) The other covers shall be opened one after another and as each cover is opened the Returning Officer shall first scrutinize the declaration in Form 13A contained therein.
 - (4) If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective, or if the serial no. of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form 13B, that cover shall not be opened, and after making an appropriate endorsement thereon, the Returning Officer shall reject the ballot paper therein contained.
 - (5) Each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 13C and all such covers in Form 13C shall be kept in a separate packet which shall be sealed and on which shall be recorded the names of the Panchayat Ward, the date of counting and a brief description of its contents.
 - (6) The Returning Officer shall then place all the declarations in Form 13A which he has found to be in order in a separate packet which, shall be sealed before any cover in Form 13B is opened and on which shall be recorded the particulars referred to in sub-rule (5).
 - (7) The covers in Form 13B not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the Returning Officer shall scrutinize each ballot paper and decide the validity of the votes recorded thereon

(8) A postal ballot paper shall be rejected

- (a) If it bears any mark (other than the mark to record the vote) or writing by which the elector can be identified; or
- (b) if no vote is recorded thereon; or
- (c) if votes are given on it in favour of more candidates than the number of candidates to be elected; or
- (d) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (e) if it is a spurious ballot paper; or
- (f) if it is not returned in the cover sent along with it to the elector by the Returning Officer.

(9) Each valid mark made on the ballot paper in favour of a candidate shall be counted as one vote for that candidate.

(10) A vote recorded on a postal ballot paper shall not be counted in favour of any candidate if the mark indicating the vote is placed on the ballot paper in such a manner as to make it doubtful to which candidate the vote has been given; but the whole ballot paper shall not be rejected on that account.

(11) A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

(12) The Returning Officer shall count all the valid votes given by postal ballot in favour of each candidate, record the total thereof in the result sheet in Form 21 and announce the same.

(13) Thereafter, all the valid ballot papers and all the rejected ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seals of the Returning Officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the Panchayat Ward, date of counting of and a brief description of its contents.

72. *Scrutiny and opening of ballot boxes.*-(1) The Returning Officer may have the ballot box or boxes used at more than one polling station opened and the ballot papers found in such box or boxes counted simultaneously.

(2) Before any ballot box is opened at a counting table, the counting agents present at that table shall be allowed to inspect the paper seal, if any, as might have been affixed thereon and to satisfy themselves that it is intact.

(3) The Returning Officer shall satisfy himself -that none of the ballot boxes has .in fact been tampered with.

(4) If the Returning Officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in that box and shall follow the procedure laid down in rule 63 in respect of that polling station.

73. *Counting of votes* :- (1) The ballot papers taken out of each ballot box shall be arranged in convenient bundles and scrutinized.

(2) The Returning Officer shall reject a ballot paper

(a) if it bears any mark or writing by which the elector can be identified; or

(b) if it bears no mark at all or, to indicate the vote, it bears a mark elsewhere than on or near the symbols of the candidates on the face of the ballot paper or,- it bears a mark made otherwise than with the instrument supplied *for* the purpose; or

(c) if 'votes are given on it in favour of more candidates than the number *of* candidates to be elected; or

(d) if it is a spurious ballot paper; or

(e) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or

(f) if it bears a serial number, or is of a design, different from the serial numbers or as the case may be, design, of the ballot papers authorised for use -the particular polling station; or

(g) if it does not bear both the mark and the signature which it should have borne under the provisions of sub. rule (l) of rule 51, provided that where the Returning Officer. is satisfied that any such defect as is mentioned in clause (f) or clause (g) has been caused by any mistake or failure on the part of the Presiding. Officer or Polling Officer. the ballot paper shall not be rejected merely on the ground of such defect;

. Provided further that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once if. the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.

'(3) Each valid mark on the ballot paper in favour of a candidate shall counted as one vote for that candidate.

(4) A *vote* recorded on a ballot paper shall not be counted in favour of any candidate if the mark indicating the vote is placed on the ballot paper in such a

manner as to make it doubtful to which candidate the vote has been given, but. the whole ballot paper shall not be rejected on the account.

(5) Before rejecting any ballot paper under sub-rule (2) or rejecting any vote under sub. rule (4) the Returning Officer shall allow each counting agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

(6) The Returning Officer shall endorse on every ballot paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form either in his own hand or by means of a rubber stamp and shall initial such endorsement.

(7) All ballot papers rejected under this rule shall be bundled together.

(8) No cover containing tendered ballot papers shall be opened and no such ballot paper shall be counted.

(9) After the counting of ballot papers contained in all the ballot boxes used at the polling station has been completed,

(a) the counting supervisor shall fill in and sign Part II, Result of counting in Form 18 which shall also be signed by the Returning Officer and the Returning Officer shall make entries in a result sheet in Form 21 and announce the particulars.

74. *Sealing of used ballot papers*-The valid ballot papers and the rejected ballot papers shall thereafter be bundled separately and the several bundles made up into a separate packet which shall be sealed with the seals of the Returning Officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals thereupon and on the packets so sealed shall be recorded the following particulars, namely

(a) the name of the panchayat ward,

(b) the particulars of the polling station where the ballot papers have been used,
and

(c) date of counting.

75. *Counting to be continuous*.- The Returning Officer shall as far as practicable, proceed continuously with the counting and shall during any intervals when the counting has to be suspended keep the ballot papers, packets and all other papers relating to the election sealed with his own seal and the seals of such candidates or election agents as may desire to affix their seals and take sufficient precaution for their safe custody during such intervals.

76. *Recommencement of counting after fresh poll-(l)* If a fresh poll is held under rule 63, the Returning Officer shall, after completion of that poll, recommence the counting of votes on the date and at the time and place which have been fixed in that behalf and of which notice has been previously given to till candidates and their election agents.

(2) The provisions of rules 73 and 74 shall apply so far as may be to such further counting.

77. *Recount of votes-* (1) After the completion of the counting the Returning Officer shall record in the result sheet in Form 21 the total number of votes polled by each candidate and announce the same.

(2) After such announcement has been made, a candidate or in his absence his election agent or any of his counting agents may apply in writing to the Returning Officer to re-count the votes whether wholly or in part stating the grounds on which he demands such recount.

(3) On such an application being made the Returning Officer shall decide the matter and may allow the application in whole or in part or may reject it i toto if it appears to him to be frivolous or unreasonable.

(4) Every decision of the Returning Officer under sub-rule (3) shall be in writing and contain the reasons therefor.

(5) If the Returning Officer decides under sub- rule (3) to allow a re-count.

the votes whether wholly or in part, he shall

(a) do the re-counting in accordance with rules 71 and 73;

(b) amend the *result* sheet in Form 21 to the extent necessary after such recount and

(c) announce the amendments so made by him.

(6) After the total number of votes by each candidate has been announced under sub-rule (l) or sub-rule (5), the Returning Officer shall complete and sign the result sheet in Form 21 and no application for recount shall be entertained thereafter.

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub rule(2)

78. *Equality of votes-*If, after the counting of the votes is completed an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.
79. *Destruction, Loss, etc. of ballot papers at the time of voting-(1)* If at any time before the counting of votes is completed any ballot papers used at a polling station are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that the result of the poll at that polling station cannot be ascertained, the Returning Officer shall forthwith report the matter to the Director of Panchayat Elections.
- (2) Thereupon, the Director of Panchayat Elections, shall after taking all material circumstances into account, either
- (a) direct that the counting of votes shall be stopped, declare the poll at the polling station to be void, appoint a day and fix the hours for taking a fresh poll at that polling station and notify the date so appointed and the hours so fixed in such manner as he may deem fit, or
- (b) if satisfied that the result of a fresh poll at that polling station will not, in any way, affect the result of the election, issue such directions to the Returning Officer, as he may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.
- (3) The provisions of rules 39 to 60 or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

CHAPTER II

DECLARATION OF RESULTS

16. *Declaration of results-* (1) After the counting of votes recorded in favour of each candidate both in ballot papers contained in the ballot boxes and in postal ballot papers have been completed, the Returning Officer shall, in the absence of any direction by the Director of Panchayat Elections to the contrary, forthwith declare the result of the election in the manner hereinafter provided in this rule.
- (2) The Returning Officer shall declare as many candidates as the. number of
 Members to be elected from the panchayat ward, to whom the largest,
 number of valid votes has been given, to be duly elected at the election.
- (3) The Returning Officer shall, make such declaration of result in Form 22 or Form 22
 A as may be appropriate, and send signed copies thereof to the State Government,
 Director of Panchayat Elections and District Collector.

(4) The Returning Officer shall also complete and certify the return of election in Form 22B and send signed copies thereof to the State Government, Director of Panchayat Elections and the District Collector.

81. *Report of the result*-As soon as may be after the result of any election has been declared, the Returning Officer shall report the result to the State Government and the Director of Panchayat Elections and the State Government shall publish in the official gazette the declarations containing the names of elected candidates
82. *Grant of certificate of election to returned candidate*-As soon as may be after, candidate has been declared by the Returning Officer under the provisions of rule 38 or rule 80 to be elected, the Returning Officer shall grant to such candidate a certificate of election in Form 23 and obtain from the candidate an acknowledgement of its receipt duly signed by him.
83. *Publication of results of general elections to the Gram Panchayat*.- Where a general election is held for the purposes of constituting a new Gram Panchayat, there shall be notified by the State Government in the Official Gazette as soon as may be after the result of the election in all the Panchayat Wards (other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of rule 14 or for which the time of completion of the election has been extended under the provisions of rule 119 have been declared by Returning Officers,) the names of the members elected for those Panchayat Wards and upon the issue of such notifications that Gram Panchayat shall be deemed to be duly constituted:

Provided that the issue of such notification shall not be deemed- (a) to preclude the taking of the poll and the completion of the election in any Panchayat Ward in which the poll could not be taken for any reason on the date originally fixed under clause (d) of rule 14 or the completion of the election in any Panchayat Ward for which time has been extended under the provisions of rule 19; or

(b) to effect the duration of the Gram Panchayat, if any, functioning immediately before the issue of the said notification.

PART-V

BYE-ELECTIONS

84. *Casual vacancies in a Gram Panchayat*.-When the seat of a member elected a Gram Panchayat becomes vacant or is declared vacant or his election to the Gram Panchayat is declared void, the Director of Panchayat Elections shall, by notification in the official gazette, call upon the Panchayat Ward concerned to elect a person for the purpose of filling the vacancy so caused before such date

as may be specified in the notification, and the provisions of the Act and the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a Member to fill such vacancy.

PART-VI
DISPUTES REGARDING ELECTIONS

85. *Definition.*- In this part unless the context otherwise requires

(a) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at any election to Gram Panchayat;

(b) "costs" means all costs, charges and expenses of or incidental to a trial of an election' petition;

(c) 'electoral right' means a right of a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate, or to vote- or refrain from voting at an election;

(d) 'returned candidate' means a candidate whose name has been published under rule 8 I as duly elected.

86. *Election Petitions.*- No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

87. *Presentation of Petitions.*- (1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub rule (1) of rule: to the Civil Judge by any candidate at such election or any elector within forty - five days from, but not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates.

Explanation.- In this sub-rule 'elector' means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

88. *Parties to the petition.*- A petitioner shall join as respondents to his petition

(a) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

89. *Contents of petition.*- (1) An election petition

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the law relating to the Code of Civil Procedure for the time being in force in this State for the verification of pleadings;

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in Form 24 annexed to these rules in support of the allegation of such corrupt practice and the particulars thereof,

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

90. *Relief that may be claimed by the petitioner.*- A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidates has been duly elected.

91. *Trial of election petitions.*-(1) The Civil Judge shall dismiss an election petition which does not comply with the provisions of rule 87 or rule 88 or rule 114

Explanation.- An order of the Civil Judge dismissing an election petition under this sub-rule shall be deemed to be an order made under clause (a) of rule 98.

(2) Where more election petitions than one are presented to the Civil Judge in respect of the same election, the Civil Judge may in his discretion, try them separately or in one or more groups.

(3) Any candidate not already a respondent shall, upon application made by him to the Civil Judge within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the Civil Judge, be entitled to be joined as a respondent.

Explanation. - For the purposes of this sub-rule and of rule 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the Civil Judge and answer the claim or claims made in the petition.

(5) The Civil Judge may, upon such terms as to costs, and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as it may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The trial of an election petition shall, so far as practicable, consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the Civil Judge finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavor shall be made to conclude the trial within six months from, the date on which the election petition is presented to the Civil Judge for trial.

92. *Procedure to be followed* - (1) Subject to the provisions of these rules, every election petition shall be tried by the Civil Judge, as nearly as may be, in accordance with the procedure applicable under the law relating to the Code of Civil Procedure for the time being in force in this State to the trial of suits:

Provided that the Civil Judge shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the law relating to the Evidence Act for the time being in force, in this State shall, subject to the provisions of these rules, be deemed to apply in all respects to the trial of an election petition.

93. *Documentary evidence*-Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition, on the ground that it is not duly stamped or registered.

94. *Secrecy of voting not to be infringed.*- No witness or other person shall be required to state for whom he has voted at an election.

95. *Answering of- incriminating questions and certificate of indemnity;-* . (l) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may incriminate or may tend to incriminate him or that it may expose or may tend to expose him to any penalty or forfeiture: Provided that

(a) a witness, who answers truly all questions which he is required to answer, shall be entitled to receive a certificate of indemnity from the Civil Judge; and,

(b) an answer given by a witness to a question put by or before the Civil Judge shall not except in the case of any criminal proceeding for perjury in respect of the evidence be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defense to or, upon any charge under Chapter IXA of the Indian Penal Code (45 of 1860) or of the Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

96. *Expenses of witnesses-*The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Civil Judge to such person and shall, unless the Civil Judge otherwise directs, be deemed to be part of the costs

97. *Recrimination when seat claimed* -(1) When in 'an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election - of such candidate would have been void if he had been the returned candidate and a petition has been presented calling in question his election

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of commencement of trial, given notice to the Civil Judge of his intention to do so and also give the security and the further' security referred to in rule 117 and 118 respectively,

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and particulars required by rule 89 in the case of an election petition and shall be ,signed and verified in the like manner.

98. *Decision of the Civil Judge-*At the conclusion of the trial of an election petition the Civil Judge shall make an order-

(a) dismissing the election petition; or

- (b) declaring the election' of all or' any of the returned candidates to be void; or
- (c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.

99 *Other orders to be made by the Civil Judge-* (1) At the time of making an order under rule 98 the Civil Judge shall also make an order

- (a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording
 - (i) a finding whether any corrupt practice has or has not been proved to have been committed at the election, and the nature of that corrupt practice; and
 - (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and
- (b) fixing the total amount of cost payable and specifying the persons by and to whom cost shall be paid:

Provided that a person who is not a party to the petition shall be named, in the order under sub-clause (1) of clause (a) unless

- (a) he has been given notice to appear before the Civil Judge and to show cause why he should not be so named; and
- (b) if he appears in pursuance of the notice he has been given an opportunity of cross-examining any witness who has already been examined by the Civil Judge and has given evidence against him, of calling evidence in his defense and of being heard.

(2) In this rule and in rule 100, the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate:

100. *Grounds for declaring election to be void-(1)* Subject to the provisions of sub. rule (2) if the Civil Judge is of the opinion

- (a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or the Act;
- (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or
- (c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected

(i) by the improper acceptance of a nomination; or

(ii) by any corrupt practice committed in the interest of the returned candidate, by an agent other than his election agent; or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or

(iv) by any non-compliance with the provisions of the Constitution or of the Act or of any rules or orders made under the Act.

The Civil Judge shall declare the election of the returned candidate to be void

(2). if in the opinion of the Civil Judge, a returned candidate has been found guilty by an agent, other than his election agent, of any corrupt practice but the Civil Judge is satisfied

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent of the candidate or his election agent;

(b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices, at the election and

(c) that in all other respects the election was free from any corrupt practices on the part of the candidate or any of his agents, then the Civil Judge may decide that the election of the returned candidate is not void.

101. *Grounds for which a.. candidate other than the returned candidate may be declared to have been elected.* - If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate claimed a declaration that he himself or any other candidate has been duly elected and the Civil Judge is of the opinion

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes the Civil Judge shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

102. *Procedure in case of an equality of votes.*- If during the trial of an election petition it appears that there is an equality of votes between any of the candidates;

the election and that the addition of a vote would entitle any of those candidates to be declared elected, then

(a) any decision made by the Returning Officer under the provisions of the Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition and

(b) in so far as that question is not determined by such a decision the Civil Judge shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

103. *Communication of orders of the Civil Judge.*- The Civil Judge, shall as soon as may be after the conclusion of the trial of an election petition, intimate the substance of the decision to the Director of Panchayat Elections and, as soon as may be thereafter, shall send to the Director of Panchayat Elections an authenticated copy of the decision.

104. *Transmission of order to the appropriate authority, etc., and its publication.*- As soon as may be after the receipt of any order made by the Civil Judge under rule 98 or rule 99, the Director of Panchayat Elections shall forward copies of the order to the State Government and shall cause the order to be published in the Official Gazette.

105. *Effect of orders of the Civil Judge.*- Subject to the provisions contained in rule III relating to the stay of operation of an order of the Civil Judge under rule 98 or rule 99, every such order shall take effect as soon as it is pronounced by the Civil Judge.

(2) Where by an order under rule 98 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has before the date thereof, participated as a member of Gram Panchayat shall not be invalidated by reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.

106. *Withdrawal of election petitions.* (1) An election petition may be withdrawn only by leave of the Civil Judge.

(2) Where an application for withdrawal is made under sub-rule (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

107. *Procedure for withdrawal of election petitions.*- (1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the Civil Judge, such application has been induced by any bargain or consideration which ought not to be allowed.

- (3) :If the application is granted
 - (a) the petitioner shall be ordered to pay the costs of the respondents thereto, for incurred or such portion thereof as the Civil Judge may think fit;
 - (b) the Civil Judge shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly;
 - (c) a person who' might himself have been a petitioner may, within fourteen days ,of such publication, apply to be substituted as a petitioner in place of the party withdrawing, and upon compliance with the conditions, if any as to, security shall be entitled to be so substituted and to continue to proceedings upon such terms as the Civil Judge may deem fit-.
108. *Report of withdrawal by the Civil Judge to the Director of Panchayat Elections.* When an application for withdrawal is granted by the Civil Judge and no person has been substituted as petitioner under clause (c) of sub-rule (3) of rule 106, in place of the party withdrawing the Civil Judge shall report the fact to the Director of Panchayat Elections and thereupon the Director of Panchayat Elections shall publish the report in the Official Gazette.
109. *Abatement of Election petitions-(1)* An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.
- (2) Where an election petition abates under sub-rule (1), a Civil Judge shall cause the fact to' be published in such manner as it may deem fit.
- '(3) Any person who might himself have been a petitioner may. within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with, the conditions, if any, as to security, shall be entitled to be substituted and to continue the proceedings. upon such terms as the Civil Judge may deem fit.
110. *Abatement or substitution on death of respondent-If* before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents die or. give such notice and there is no other respondent who is opposing the petition, the Civil Judge shall cause notice of such event to be published in the Official Gazette, and thereupon any person who might have been a petitioner may, within. fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Civil Judge may think fit.

111 .*Appeals to District: and Sessions Judge-(I)* Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the District and Sessions Judge on any question (whether of law or fact) from every order made by the Civil Judge under rule 98 or rule 99.

(2) Every appeal shall be preferred within a period of thirty days *from* the date, of the order of the. Civil Judge under rule 98 ,or rule 99:

Provided that the District and Sessions Judge may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that the appellant, had sufficient cause *for* not preferring the appeal within such period.

112. *Stay of operation of order of Civil Judge-(I)* An application .may be made to the District and Sessions Judge for stay of operation of an order made by the Civil Judge under rule 98 or rule 99 before the expiration of the time allowed for appealing there from and the District and Sessions Judge may, on sufficient cause being shown on such terms and conditions as it may think fit stay the operation of the order, but no application *for* stay shall be made after an appeal has been preferred to the District and Sessions Judge.

(2) Where an appeal has been preferred against an order made under rule 98 or rule 99 the District and Sessions Judge may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from.

(3) When the operation of an order is stayed by the Civil Judge or, as the case may be, the District and Sessions Judge, the order shall be deemed never to have taken effect under sub rule (1) of 105 and a copy of the stay order shall immediately be sent by the District and Sessions Judge to the Director of Panchayat Elections.

113. *Procedure in appeal-(I)* Subject .to the provisions of the rules, if any. made thereunder, every appeal shall be heard and determined by the District and Sessions Judge as nearly as may be in accordance with the procedure applicable to the hearing and determination of an appeal *from* any final order passed by the Civil Judge in the exercise of its original civil jurisdiction; and all the provisions of the law relating to the Code of Civil Procedure, for the time being in force. and the Rules of the Court (including provisions as to the furnishing of security and the execution of any order of the Court) shall so far as may be apply in relation to such appeal.

(2) As soon as an appeal is decided, the District and Sessions Judge shall intimate the substance of the decision to the Director of Panchayat Elections and ,the Speaker or Chairman, and as soon as may be thereafter shall send to the Director of Panchayat Elections an authenticated copy of the decision; and upon its receipt, the Director of Panchayat Elections shall publish the same in the Official Gazette.

114. *Security for costs.*- (1) At the time of presenting an election petition, the petitioner shall deposit in the District and Sessions Court a sum of one thousand rupees as security for the costs of the petition.

(2) During the course of the trial of an election petition, the Civil Judge may at any time, call upon the petitioner to give such further security for .cost as it may direct.

115. *Security for costs from a respondent.*- No person shall be entitled to be joined as a respondent under sub-rule (3) of rule 91 unless he has given such security for costs as the Civil Judge may direct.

116. *Costs.*- Costs shall be in the discretion of the Civil Judge:

Provided that where a petition is dismissed under clause (a) of rule 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the Civil Judge shall make an order for costs in favour of the returned candidate.

117. *Payment of costs out of security deposits and return of such deposits.*- (1) If in any order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or as far as possible, out of the security deposit, if any, made by such party under this Part, on an application made in writing on that behalf within a period of one year, from that date of such order to the District and Sessions Judge by the person in whose favour the costs have been awarded.

(2) If there is any balance left of the said security deposits after payment under sub-rule (1) of the costs referred to in that sub-rule, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year, the whole of the said security deposits may, on an application made in that behalf in writing to the District and Sessions Judge by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

118. *Execution of orders as to costs.*- Any order as to costs under the provisions of this Part may be produced before the civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-rule (1) of rule 117 no application shall lie under this rule within a period of one year from the date of such order, unless it is for the recovery of the balance of any costs which has been left unrealized after an application has been made under that sub-rule owing to the insufficiency of the amount of the security deposits referred to in that sub-rule

PART VII

MISCELLANEOUS

119. *Extension of time for completion of Election.*- It shall be competent for the Director of Panchayat Elections for reasons which he considers, sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by him under rule 14.

120. *Custody of ballot boxes and papers relating to election.*- (1) All ballot boxes used at an election shall be kept in such custody as the Director of Panchayat Elections may direct.

(2) The District Collector shall keep in safe custody

(a) the packets of unused ballot papers with counterfoils attached thereto

(b) the packets of used ballot papers whether valid, tendered or rejected

(c) the packets of the counterfoils of used ballot papers;

(d) the packets of the marked copy of the electoral roll;

(e) the packets of the declarations by electors and the attestation of their signatures;

(f) all other papers relating to the election

121 *Production and inspection of election papers.*- (1) While in the custody of the District Collector or as the case may be the Returning Officer

(a) the packets of unused ballot papers with counterfoils attached thereto;

(b) the packets of used ballot papers whether valid, tendered or rejected

(c) the packets of the counterfoils of used ballot papers;

(d) the packets of the marked copy of the electoral roll and

(e) the packets of declarations by electors and the attestation of their signatures;

, shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the order of the competent court.

(2) Subject to such conditions and to the payment of such fee the Director of Panchayat Elections may direct

(a) all other papers relating to the election shall be opened to public inspection; and

(b) copies thereof shall on application be furnished

(3) Copies of the returns by the Returning Officer forwarded under rule 80 shall be furnished by the Returning Officer, District Collector or the Director of Panchayat Elections on payment of a fee of two rupees for each copy.

122. *Disposal of election- papers.*- Subject to any direction to the contrary given by the Director of Panchayat Elections or by a competent court

(a) the packets of unused ballot papers shall be retained for a period of six months and shall thereafter be destroyed in such manner as the Director of Panchayat Elections may direct

(b) the other packets referred to in sub-rule (1) of rule 120 shall be retained for a period of one year and shall thereafter be destroyed:

Provided that packets containing the counterfoils of used ballot papers shall not be destroyed except with the previous approval of the Director of Panchayat Elections;

(c) all other papers relating to an election shall be retained for such period as the Director of Panchayat Elections may direct.

123. *Removal of difficulties, if any, by Government.*- (1) The State Government may issue such general or special directions as it may, in its opinion, be necessary for the purpose of giving effect to the provisions of these rules or in holding election under the Act.

(2) If any difficulty arises in giving effect to the provisions of these rules or in holding any election, the State Government, as occasion requires, may, by

order, do anything which appears to it to be necessary for the purpose of removing the difficulties.

SCHEDULE SYMBOLS

TABLE

(See rule 19)

GRAM PANCHAYAT ELECTIONS

1. Airplane
2. Bucket
3. Car
4. Chair
5. Clock
6. Deer
7. Drum
8. Eagle about to fly
9. Fish
10. Flaming Torch
11. Goat
12. Hand Pump
13. Hurricane Lamp
14. Lock and Key
15. Pot
16. Radio
17. Railway Engine
18. Sewing Machine
19. Sparrow
20. Tractor

FORM- I
NOTICE OF ELECTION

(See rule 15),

Notice is hereby given that

1. An election is to be held to elect member/members to

*Gram Panchayat. from the

*Panchayat Ward

2. nomination papers may be delivered by a candidate or his proposer to the
Returning Officer/Assistant Returning Officer (designation) at.....
between 11.00 a.m. and 3.00 p.m. on any day (other than a public holiday
not later than the.

3. form of nomination paper may be obtained at the place and time aforesaid

4. the nomination papers will be taken up for scrutiny at (place)
.....on
at (time)

5. Notice of withdrawal of candidature may be delivered by a candidate or his
election agent to either of the officers specified in paragraph (2) above
at his office before 3.00 p. m. on the (date)

6. in the event of the election being contested the poll will be taken *on*
.....
..... between hours of.....

and

Place.....

Date.....

Returning
Officer

*Appropriate particulars of the election to be inserted here.

15
FORM 2
NOMINATION PAPER

(See Sub-rule (3) of Rule 18)

I nominate as a candidate for election to, the
Gram Panchayat from the * Panchayat Ward.

Candidate's name.....

His Postal address.....

His name is entered at serial Noin the electoral roll of
the said Panchayat
Ward.

My name is and it is entered
at Serial Noin the electoral roll of the said Panchayat Ward.

Date:.....

(Signature' of . proposer)

*Appropriate particulars of the election be inserted here.

I, the above mentioned candidate, assent to this nomination and hereby declare:

(a) that I am not set up at this election "by any *Political party*,"

(b) that the symbols I have chosen are, in order of preference:

i.....

ii..... and

iii..... "....."

*I further declare that I am a member of the..

caste/tribe* which is a Scheduled caste/Scheduled tribe ** of the State of Sikkim.

Date....

(Signature. of candidate)

*Score out this paragraph. if not applicable.

**Score out the word not applicable.

(To. be filled by the Returning Officer)

Serial No.. of nomination paper.....

This nomination was delivered to. me at my office at
(hour) on {date) by the *candidate/proposer.

Date..
.....

Returning
Officer

*Score out the word not applicable.

Decision of Returning Officer accepting or rejecting the nomination paper.

I have examined this nomination paper in accordance with rule 18 and decision
as follows:

Date.....

Returning
Officer

Receipt for nomination paper and notice of scrutiny (To. be handed over to the
person presenting the nomination paper)

Serial No.. of nomination paper.....

The nomination' paper of a candidate
was election to. the Gram Panchayat constituency was
delivered to. me at my office at... .. (hour) on
(date) by the candidate/proposer. All nomination papers will be taken up for scrutiny
at (hour) on..... (date) at ...
..... (place)

Date

Returning
Officer

*' Appropriate particulars of the election to. be inserted here.
**Strike off the inappropriate alternative.

FORM 3**NOTICE OF NOMINATION**

(See rule 21)

Election to the*... GramPanchayat
from Panchayat Ward.

Notice is hereby given that the following nominations in respect of the above election have been received upto 3. 00 p. m. today:

Sl.No. of nomi- nation paper	Name of candidate	Name of father/ Mother/ husband	Address	Electoral roll No. ,of candi- date	Name of proposer	Electoral roll No. of proposer
1	2	3	4	5	6	7

Place

Date.....

Returning Officer

.Appropriate particulars of the election to be, inserted here.

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FORM 4

LIST OF VALIDLY NOMINATED CANDIDATES

See Sub-rule 22 of rule 7

Election to the.....Gram' Panchayat

from..... Panchayat Ward.

Sl. No.	Name of candidate	Name' of father mother husband **	'Address of candidate
1	2	3	4

Place...

Date

. Returning Officer

Appropriate particulars of the election to be inserted here.

***Strike off the inappropriate alternative.

FORM 5

NOTICE OF WITHDRAWAL BY THE CANDIDATE

(See sub-rule (3) of rule 23)

Election to the*Gram Panchayat

from Panchayat . Ward.

To
The Returning Officer.

I..... a candidate nominated at the above election
do hereby give notice that I withdraw my candidature.

Place... ..

Date... .. Signature of Candidate

This notice was delivered to me at my office at.....

(hour) on.....(date) by..... (name)

the**

Place

Date..... Returning Officer

Receipt for notice of withdrawal

(To, be ,handed over to the person delivering the notice)

The notice of withdrawal of candidature by
candidate for the election to the*

was delivered to me by the** . at my office

at (hour) on...(date)

Place

Date Returning Officer

*Appropriate particulars of the election to be inserted here.

**Here insert one of the following alternatives as may be appropriate:

- 1. Candidate.
- 2. Candidate's election agent who has been authorised in writing by the candidate to deliver it.
- 3. Candidate's proposer who has been authorised in writing by the candidate to deliver it.

620
FORM 6
NOTICE OF WITHDRAWAL OF CANDIDATURES

(See sub-rule (4) of rule 23)

Election to theGramPanchayat
fromPanchayat Ward.

Notice is hereby given that the following.....candidate/candidates at the
above election withdrew... his candidature/their candidatures today:

Sl 'No	Name of the candidate	Address of candidate	Remarks
1.	2	3	4
1.			
2.			
3.			
4.			
etc.			

Place.....

Returning Officer

Date... ..

*Appropriate particulars of the election to be inserted here.

...:Strike off the 'inappropriate alternative.

FORM 7
LIST OF CONTESTING CANDIDATES
(See sub-rule (2) of rule 24)

Election to the.....Gram Panchayat

fromPanchayat Ward.

Sl. No.	Name of candidate	Address of candidate	Symbol allotted
1.	2	3	4
1			
2.			
3.			
4.			
etc.			

Place.. ..

Date

Returning
Officer

* Appropriate particulars of the election to be inserted here.

FORM 8

APPOINTMENT OF ELECTION AGENT

(See sub-rule (2) of rule-25)

Election to the* Gram Panchayat
from.....Panchayat Ward.

To

The Returning Officer,

I,of..... a

candidate at, the above election .do hereby appoint.....

of.....as my election agent from this day at ,the above
election. . .

Place

Date.....

Signature of candidate

I accept the above, appointment.

Place... ..

Date.....

Signature of election agent

FORM 9

REVOCATION OF APPOINTMENT OF ELECTION AGENT

(See sub-rule (3) of rule 25)

Election to the* Gram Panchayat
from Panchayat Ward.

To

The Returning Officer,

Ia candidate at the above election, hereby
revoke the appointment ofmy 'election agent.

Place

Signature- of candidate.

. Appropriate particulars of the election to be inserted here.

FORM 10

APPOINTMENT OF POLLING AGENT

(See sub-rule (1) of rule 26')

Election to the*

I a candidate/the election agent of
..... who is a candidate at the above election do hereby
appoint... as a polling agent to attend polling station

No.:... .. at.

Place:.....

Date Signature of candidate/election agent

I agree to act as such polling agent.

Place... Signature of polling agent

Date

FORM 11

REVOCATION OF APPOINTMENT OF POLLING AGENT

(See sub-rule (4) of rule 26)

Election to the*

To

The Presiding Officer,

I(the election agent of.....
... ..) a candidate at the above election, hereby revoke the appointment of
my /his polling agent.

place.....

Signature of person revoking

Date

Appropriate particulars of the election to be inserted here.

623

FORM 12

LETTER OF INTIMATION TO RETURNING OFFICER

(See sub-rule (1) of rule29)

To

The Returning Officer .

Sir

I intend to cast my vote by post at the ensuing election to the Gram Panchayat from Panchayat Ward.

My name is entered at SI No..... in the electoral roll of the said Panchayat Ward.

The ballot paper may be sent to me at the following address:

.....
.....

Place..

Yours faithfully,

Date

.....

FORM 12 A

APPLICATION FOR ELECTION DUTY CERTIFICATE.

(See sub-rule (2) of rule 29)

To

The Returning Officer,

..... : Panchayat Ward.

Sir

I intend to cast my vote in person at the ensuing election to.....

Gram Panchayat from the Panchayat Ward.

I have been posted on election duty' within the Panchayat Ward, but elsewhere than the polling station at which I am entitled to vote.

My name is entered at SI. Noin..... the electoral roll of the said Panchayat Ward.

I request that an Election Duty Certificate- in Form 12 B may be issued to enable me to vote at the polling station where I may be on duty on the polling day. It may be sent to me at the following address.

.....
Place .

Date

.....
Yours faithfully,

FORM 12 B
ELECTION DUTY CERTIFICATE
(See sub-rule 2 (a) of rule 29)

Certified that..... is an elector in Panchayat Ward,
..... his electoral roll number being..... that by reason of his
being on election duty he is unable to vote at the polling station where he *is* entitled to vote
and that he is therefore, hereby authorised to vote at. any polling station he may be on duty
on the date of poll.

Place
.....

Date.....

Signature
.....

Returning Officer.

SEAL

FORM 13 A
DECLARATION BY ELECTOR
(See ,clause (a) of sub-rule (1) of rule 32)

Election to the*

(This side is to be used only when the elector signs the declaration himself)

I hereby declare that I am the elector to whom the postal ballot paper bearing serial number _____ has been issued at the above election.

Date.. _____ Signature of elector
..... . Address

Attestation of signature

The above has been signed in my presence by..... elector) who is personally known to me/has been identified to my satisfaction by (identifier) who is personally known to me.

Signature of identifier, if any.....

Address.....: Signature of Attesting, Officer
Designation
Address
Date.....

(This side is to be used when the elector cannot sign himself)

I hereby declare that I am the elector to whom the postal ballot paper bearing serial.....number has been issued at the above election.

Signature of Attesting Officer on behalf of elector
Address of Elector

CERTIFICATE

I hereby certify that

- (i) the above named elector is personally known to me/has been identified to my satisfaction by _____ (identifier) who is personally known to me;
- (ii) I am satisfied that the elector is illiterate/suffers from (infirmary) and is unable to record his vote himself or sign his declaration;
- (iii) I was requested by him to mark the ballot paper and to sign the above declaration on his behalf; and

.Appropriate particulars of the elector to be inserted' here.

(iv) the ballot paper was marked and the declaration signed by me on his behalf in his presence and in accordance with his wishes.

Signature of identifier, if any Signature of attesting Officer.....

Address Designation

Address

Date

*Appropriate particulars of the election to be inserted here.

**FORM 13 B
COVER**

(See-clause (b) of sub-rule (1) of rule 32)

**NOT TO BE OPENED BEFORE COUNTING
ELECTION**

'to the'"

POSTAL BALLOT PAPER

Serial No of ballot paper.....

**FORM 13 C
COVER**

(To be used at an election to the Gram Panchayat)
(See clause (c) of sub-rule (1) of rule 32)

NOT TO BE OPEN ED BEFORE COUNTING

ELECTION IMMEDIATE

POSTAL BALLOT PAPER

The Returning Officer

*Appropriate particulars of the election to be inserted here.

FORM 13D**INSTRUCTIONS FOR THE GUIDANCE OF ELECTORS**

Election to the*

The persons whose names are printed on the ballot paper sent herewith are candidates at the above election. If you desire to vote, you should record your vote in accordance with the directions given in Part I below and then follow the instructions detailed in Part II.

'PART I Directions to Electors.

1. The number of members to be elected is.....
2. You have as many votes as there are candidates to be elected.
3. You must not vote for more than the number *of* candidates to be elected. If you do your ballot paper will be rejected.
4. Record the votes by placing clearly a mark opposite the name of the candidate to whom' you wish to give your vote.
5. The mark should' be so placed as to indicate clearly and beyond doubt to which candidate you are giving your vote. If the mark is, so placed as to make it doubtful to which candidate you have given the vote that vote will be, invalid.
6. Do not put your signature or write any word or make any mark, sign or writing whatsoever on. the ballot paper other. than the mark which you' are required to make thereon in accordance with paragraph 4.
7. An elector shall obtain the attestation of his signature on the declaration in Form 13A by a magistrate, or
 - (a) if he is a member of the armed forces of the Union, or of an armed police force of a State but is serving outside that State, by such officer as may be appointed in 'this' behalf by the Commanding Officer of the unit, ship or establishment in which the voter or her husband, as the case may be, is employed, or if he 'is an employee under the Government of India in a post outside India, by such officer as may be appointed in this behalf by the diplomatic or consular representative of India in the, country in which 'such voter is resident;
 - (b) if he is on election duty, by any Gazetted Officer or by the Presiding Officer of the polling' station in which he is on election duty; and
 - (c) if he is under preventive detention, by the Superintendent of the Jail or the Commandant of the detention .camp in which he is under detention.

PART II

Instructions for Electors.

(a) After you have recorded your votes on the ballot paper, place the ballot paper in the smaller cover marked 'A' sent herewith. Close the cover and secure it by seal or otherwise.

(b) You have then to sign the declaration in Form 13A also sent herewith, in the presence of a magistrate or any other officer competent to attest your signature (See direction 6 above). Take the declaration to any such Officer and sign it in his presence after he has been satisfied about your identity. The officer will attest your signature and return the declaration to you. You must not show your ballot paper to the attesting officer nor tell him how you have voted.

(c) If you are unable to mark the ballot paper and sign the declaration yourself in the manner indicated above by reason of illiteracy, blindness or other infirmity, you are entitled to have your vote marked and the declaration signed on your behalf by any officer referred to in item (b). Such an officer will at your request mark the ballot paper in your presence and in accordance with your wishes. He will also complete the necessary certificate in this behalf.
Appropriate particulars of the election to be inserted here.

(d) After your declaration has been signed and your signature has been attested in accordance with item (b) or item (c), place the declaration in form 13A as also the smaller cover marked 'A' containing the ballot paper, in the larger cover marked 'B'. After closing the larger cover, send it to the Returning Officer by post or by messenger. You have to give your full signature in the space provided on the cover marked 'B'. No postage stamps need be affixed by you, if the cover is posted within India. If, however, you are an elector employee under the Government of India in a post outside India, you should return the cover to the Returning Officer concerned directly by air mail service after the requisite postage stamp is duly affixed thereon by the Office in which you are serving except where it is sent by diplomatic bag.

(e) You must ensure that the cover reaches the Returning Officer before
on*

(f), please note that

(i) If you fail to get your declaration attested or certified in the manner indicated above, your ballot paper will be rejected, and

(ii): if the cover reaches the Returning Officer after*
on the your vote will not be counted.

Here specify the hour and date fixed for the commencement of counting. of votes.

FORM 14

(For the Use in Panchayat elections. when seat is uncontested)

(See rule 38)

Declaration of the result of election under 'sub-rule (2) of rule 38 of the Sikkim Panchayat Election Rules, 1982.

Election to _____ .Ward (Revenue Block)

In pursuance of the provisions contained in sub-rule (2) of rule 38 of the Sikkim Panchayat Election Rules, 1982,

_____ (Name)

.....:(Address)

has been duly elected to fill the seat in the Ward.

.Place

Date

Signature. _____
Returning .Officer

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FORM 16
LIST OF ILLITERATE, BLIND & INFIRM VOTERS
(Sub-rule (2) of Rule .53)

Election to the.....

No. and name of polling Station

Part No. & Sl. No. of elector	Full name of elector	Full name of companion	Address of companion	Signature of companion
----------------------------------	-------------------------	---------------------------	-------------------------	---------------------------

Date....

Signature of Presiding Officer

FORM 17
LIST OF TENDERED VOTES
(See sub-rule (2) of rule 55)

Election to the*

No. and name of polling station.

Part No. Sl. No. and name of elector	Address of elector	Sl. No, of tendered ballot paper	Sl. No. of ballot paper issued to the person who has already voted.	Signature or thumb impression of person tendering vote.
--	-----------------------	---	---	--

Date

Signature of Presiding Officer.

FORM 18

(See sub rule (2) of rule 58)

PART I BALLOT PAPER ACCOUNT

Election to the

No and name. of Polling Station.....

Serial Nos.

Total No

from To

Ballot papers received

2. Ballot paper unused (i. e. not issued to Voters)

(a) With the signature of Presiding Officer

(b) Without the signature of Presiding Officer.

Total (a+b)

3. Ballot papers used at the Polling Station

(1-2=3)

4. Ballot papers used at the Polling Stations but NOT INSERTED INTO THE BALLOT BOX.

(a) Ballot papers cancelled for violation of voting procedure under. rule

(b) Ballot papers .cancelled for other reasons.

(c) Ballot papers used as tendered ballot papers

Total (a+b+c)

5. Ballot papers to be found in the ballot box.

(3-4=5)

(Serial numbers need not be given

Date

Signature of the Presiding Officer

FORM 19

APPOINTMENT OF COUNTING AGENT

Election to the(Sub-rule (2)of rule 67)

To the Returning Officer,

I a candidate/the election agent of who
is a candidate at the above election, do hereby appoint the following persons as my
counting agents to attend the counting of votes at

Name of the counting agent

Address of the counting agent

1

2.

3.

etc.

Signature of candidate/election agent.

We agree to act as such counting agents.

1

2

3

Signature of counting agent.

DECLARATION OF COUNTING AGENTS

(To be signed before the Returning Officer).

We hereby -declare that. at the above election we will not do anything which violates secrecy of voting.

I,

2.

3:

etc. Signature of counting agent

Signed before me

Date:

Returning Officer

Strike off the inappropriate alternative

FORM 20

REVOCATION OF APPOINTMENT OF COUNTING AGENT

(See rule (4) of rule 67)

Election to the*

To

The Returning Officer,
I.....(the election agent of.....)

a candidate at the above election hereby revoke the appointment of.....
my/his counting agent.

Place: Signature of person
revoking

Date: ...

* appropriate particulars of the election to be inserted here. Omit the words ()necessary

FORM 21
FINAL RESULT SHEET

. (See rule)

(To be, used for recording the result of voting at polling, stations other than notified stations)

Election to the Ward (Block)

Name of Ward (Block)

Total No. of electors

Sl. No. of Polling Station.	No. of 'Valid votes cast in favour' of			Total of valid votes	No. of rejected, Total votes	No. 'of tendered votes
	A	B	C			

(1)

(2)

(3) etc.

Total No. of votes recorded at Polling Stations.

No. of votes recorded on postal ballot papers

Total votes polled.

Place: ..

Date:

Returning Officer.

FORM 22

TO BE USED FOR DECLARATION OF THE RESULT

Election to the Gram Panchayat from the
Panchayat Ward.

In pursuance of the provisions contained in sub-rule (3) of rule 80 of the Sikkim
Panchayat Election Rules. 1982. I declare that

- (1)
- (2)
- .(3)

has/have been duly elected to fill the seat (s) (name address)
that Gram Panchayat from the above Panchayat Ward.,

Place:

Date: Signature.....

Returning Officer..

FORM 22A

TO BE USED FOR DECLARATION OF THE RESULT

Election to the Gram Panchayat from the
Panchayat Ward.

In pursuance of the provisions contained in sub-rule (3) of rule 80. of the Sikkim
Panchayat Election Rules. 1982, I declare-

.....
..... (name)
.....(address)

has been duly elected to fill the vacancy caused in that Gram Panchayat by the
resignation of

* death of

,election of

having been declared void

seat of...*having become vacant
having been declared

Place:

Date:

Signature

Returning Officer

Score out if inappropriate

FORM 23
CERTIFICATE OF ELECTION

I, the Returning Officer for the Gram Panchayat Ward
hereby certify that I have on the : day of ..: :.....:19.declared
Shri : of to have been duly elected by the
said Ward to be a member of Gram Panchayat and that
in token thereof I have granted to him this certificate of election.

Place

Returning Officer

Date

Gram Panchayat Constituency

FORM 24

AFFIDAVIT

(See provision to sub-rule (1) of rule 89)

I, ... the petitioner in the accompanying election petition calling in ...

question the election of Shri/Shrimati. ... (respondent No
In the said petition) make solemn affirmation/oath and say

(a) that the statements made in paragraphs of the accompanying
election petition about the commission of the corrupt practice of and
particulars of such corrupt practice mentioned in paragraphs of the same
petition and in paragraphs of the Schedule annexed thereto are
true to my knowledge;

(b) that the statements made in paragraphs of the said petition about
the commission of the corrupt practice of* and the particulars of
such corrupt practice given in paragraph of the said petition and
in paragraphs... no... of the Schedule annexed thereto are true to my information:

(c)

(d)

etc.

Signature of deponent.

'Solemnly affirmed /sworn by shri/shrimatiat

this.....day of19

:Before me.

Magistrate of the first Class.

PART II

-RESULT OF COUNTING

1.	Name of Candidate	Number of valid votes cast
1.		
2.		
3.		
4.		
5.		
etc.		

II. Rejected Ballot Papers

III. TOTAL

Whether the total number of ballot papers shown against item No. III above tallies with the total shown against item No.5 of Part I or any discrepancy noticed between these two totals.

Place:

Date:

Place:

Date:

Signature of counting supervisor.

Signature of the Returning Officer.

GOVERNMENT OF -SIKKIM
LOCAL SELFGOVERNMENT & HOUSING DEPARTMENT
GANGTOK
NOTIFICATION

No2/LSGHD.

Dated Gangtok, the 6th June, 1984.

In exercise of the powers conferred by sub-section (1) of section 9 of the Sikkim Entertainment Tax Act, 1980 (8 of 1980), the State Government hereby authorizes the Entertainment Tax Inspector of the Local Self Government and Housing Department and the Police Officers not below the rank of Sub-Inspectors of the Sikkim Police to enter at any reasonable time any place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment for the purpose of checking whether the provisions of the Act or of any rules made thereunder are being complied with.

GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT DEPARTMENT
GANGTOK
NOTIFICATION

No. 3/LSGHD.

Dated Gangtok, the 5th July, 1984

In exercise of the powers conferred by sub-rule (1) of rule 20 of the Sikkim Entertainment Tax Rules, 1981. the State Government hereby empowers the Entertainment Tax Inspector of the Local Self Government Department to require at anytime, the proprietor/management to produce for inspection all his books and records, and all tickets or portions of tickets in his possession, relating to the entertainment, and also seize and take in his possession all such records, books, tickets or portions of tickets, etc., relating to such entertainments as he may consider necessary in case he suspects evasion of tax or any irregularity.

GOVERNMENT OF SIKKIM
LOCAL SELFGOVERNMENT & HOUSINGDEPARTMENT
GANGTOK

Notification No. 3/LSGHD.

Dated Gangtok, the 25th August, 1984.

In exercise of the powers conferred by sub-section (2) of section 4 of the Sikkim Housing and Development Board Act, 1979 (4 of 1979), the Governor is hereby pleased to appoint Shri J. T. Densapa, Home Secretary as Chairman of the Sikkim

Housing and Development Board with immediate effect and makes the following amendment in the Notification of the Government of Sikkim in the Local Self Government Department No. 5/LSG, dated the 20th April, 1979, namely:

In the said Notification, for serial number (1) and entry, the following serial number and entry shall be substituted,

(1)Shri J. T. Densapa, Home Secretary, Chairman.

GOVERNMENT OF SIKKIM
GOVERNMENT LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT
GANGTOK

No. 26 (25) LSG/78/79/49

Dated Gangtok, the 6th August, 1985

ORDER

In exercise of the powers conferred by sub-section (3) of Section 5 of the Sikkim Cinemas (Regulation) Act, 1978, the State Government hereby directs that every Cinema Licensee shall exhibit one approved film on Family Welfare, whenever supplied by the Government of India, free of charge, at the beginning of each show in his theatre, (such film being approximately 150. metres in length, and the duration of exhibition of such film does not extend beyond five minutes) on the condition that such film is actually available for exhibition, at the beginning of each show.

GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT
GANGTOK

No. 3/LSG & HD

Dated Gangtok, the 7th August, 1986

NOTIFICATION

In exercise of the powers conferred by Section 3BB of the Sikkim Cinemas (Regulation) Act, 1978, (20. of 1978). the Government of Sikkim hereby authorizes the District Magistrates, Sub-Divisional Magistrates, Police Officers not below the rank of Sub-Inspectors of Sikkim Police having jurisdiction over the area and the Deputy Secretary in-Charge of Cinemas and Amusement Tax Officer of Local Self Government & Housing Department, for the purposes of the said Section.

GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT
GANGTOK

Notification No. 2/LSG & HD

Dated Gangtok, the 7th August, 1986.

In exercise of the powers conferred by Section 9 of the Sikkim Cinemas (Regulation) Act, 1978, (20 of 1978), the State Government hereby makes the following rules to amend the Sikkim Cinemas (Regulation) Rules, 1979, namely:

- | | |
|--|---|
| <i>Short title, extent and commencement.</i> | 1 (1) These rules may be called the Sikkim Cinemas (Regulation) Amendment Rules, 1986.

(2) They shall come into force at once. |
| <i>Amendment of Rule 2.</i> | 2. In the Sikkim Cinemas (Regulation) Rules, 1979 (hereinafter referred to as the said - rules), in Rule 2, in Clause (V), after the words 'Appendix-I' and before the words 'to these rules', the words 'in case of Cinematograph exhibition and Appendix IA in case of Video Cassette Library' shall be inserted. |
| <i>Amendment of Rule 4.</i> | 3. In the said rules, in rule 4, the existing first paragraph shall be renumbered as 'sub-rule (1)' and thereafter the following new sub-rule shall be inserted namely

(2) An application for keeping a Video Cassette Library shall be made in writing and shall contain

(a) Name and Address of the applicant;

(b) the place where the Video Cassette Library is proposed to be opened; and
(c) such other particulars as may be required by the Licensing Authority for the purpose. |
| <i>Amendment of Rule 14.</i> | 4. In the said rules, in rule 14, after Clause (ii), the following Clause shall be inserted, namely:

'(iii) for the grant and renewal of licence for keeping a Video Cassette Library Rs. 500/- per annum. |
| <i>Amendment of Rule 40.</i> | 5. In the said rules, in rule 40, in the last line, after the words 'exhibition of films' and before the word 'in' the words 'and keeping a Video Cassette Library' shall be inserted. |

**GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT
GANGTOK.**

"APPENDIX IA"

(See Clause (V) of rule 2)

FORM OF LICENCE FOR KEEPING LIBRARYCASSETTE

1. Name and address of the licensee
2. Name of his father and address.....
3. If the licensee is not the owner of
the building, the name and
address of the owner thereto
4. Situation of the place of building..
- 5 The period for which the licence
is to be -in force

CONDITIONS OF THE LICENCE

This licence is granted to the above named licensee under Section 5 of the Sikkim Cinemas (Regulation) Act, 1978 (20 of 1978) and is subject to the following conditions-

1. This licence does not exempt the licensee or his servants or agents from taking out any other licence required by or otherwise complying with any other law or rules or bye-law made thereunder;
2. The Licensing Authority or his subordinate duly authorised by him in that behalf and any police officer deputed to maintain order shall at all times have free access to the said premises in order to see whether the conditions of the licence are fulfilled ;
3. The Licensee shall in respect of each film in his possession produce when demanded by any police officer not below the rank of a Sub-Inspector, a letter of consent ,from the person who is the first owner of the copyright of the Cinematograph Film, under Section 17 of the Copyright Act, 1957 (Central Act No .XIV of 1957) and in case such copyright has been assigned under Section 18 of the said Act, from .the assignee of such copyright;

4. The Licensee shall not possess any other film other than a film which has been certified as suitable for public exhibition by the authority constituted under Section 3 of the Cinematograph Act, 1952 (Central Act No. XXXVII of 1952) and which when exhibited displays the prescribed mark of that authority and has not been altered or tampered with in any way since such mark was affixed thereto.

Gangtok :

Dated198.....

LICENSING AUTHORITY

GOVERNMENT OF SIKKIM
LOCAL SELF GOVERNMENT & HOUSING DEPARTMENT
GANGTOK

Notification No.1 / LSG & HD

Dated Gangtok, the 31st March, 1987

In accordance with notification No.8 (41) 5 1980 dated 18 / 7 / 81, under sub. section (1) of section 3 of the Sikkim Entertainment Tax Act, 1980 (8 of 1980), the State Government hereby orders that with effect from 31/3/87 from evening show 5 P.M., the following rates of Entertainment Tax shall be levied on the admission fees realized for Vazra Cinema Hall.

This notification shall supercede all previous orders on the subject:

Vazra Cinema Hall

Sl. No.	Class	Admission Rate	Entertainment Tax	Total
1.	Box	Rs. 5.70	Rs. 4.30	Rs. 10.00
2.	Dress Circle	Rs. 4.50	Rs. 3.40	Rs. 7.90
3.	Balcony	Rs. 3.95	Rs. 2.95	Rs. 6.90
4.	Rear Stall	Rs. 2.55	Rs. 1.95	Rs. 4.50
5.	Middle Stall	Rs. 1.40	Re. .85	Rs. 2.25
6.	Front Stall	Re. 1.00	Re. .50	Rs. 1.50

The State Government may reduce the admission rates specified above if:

- (1) There is a public complaint that maintenance is not in accordance with approved standard.
- (2) The management has violated the provisions of the Sikkim Cinema Laws.

GOVERNMENT OF SIKKIM
MOTOR VEHICLES DEPARTMENT,
GANGTOK

No. 5/MV

Dated the 11th May, 1984.

NOTIFICATION

In exercise of the powers conferred by sub-section (3) of Section 1 of the Sikkim Motor Vehicles Taxation Act, 1982 (5 of 1982), the State Government hereby appoints the 1st day of July, 1984 as the date from which the provisions of the said Act shall come into force in the whole of Sikkim.

GOVERNMENT OF SIKKIM
MOTOR VEHICLES DEPARTMENT, GANGTOK

Notification No. 4/1 (297)

Dated Gangtok, the 11/5/84.

SIKKIM MOTOR VEHICLES TAXATION RULES 1984

In exercise of the powers conferred by section 18 of the Sikkim Motor Vehicles Taxation Act, 1982 (5 of 1982), the Government of Sikkim hereby makes the following rules, namely:

1. *Short title and commencement*
 - (1) These rules may be called the Sikkim Motor Vehicles Taxation Rules, 1984;
 - (2) They shall come into force from the 1st day of July, 1984.
2. *Definitions.*

In these rules, unless the context otherwise requires.

 - (a) "Act" means the Sikkim Motor Vehicles Taxation Act, 1982. 5 of 1982;
 - (b) "Form" means a form appended to these rules;
 - (c) "owner of a motor vehicle" means the person registered as such in relation to such motor vehicle by the registering authority and includes a person having the use of a motor vehicle under a hiring or hire purchase agreement;
 - (d) "section" means a section of the Act;
 - (e) "token" means a token issued under rule 5;
 - (f) "year" means the period covered by any four consecutive quarterly periods specified in rule 9:

3. Production of motor: vehicle before Taxation Officer.

For the purpose. of assessing the tax, the Taxation Officer may require the owner of the motor vehicle to produce or cause to be produced such motor vehicle for inspection on such date, time and place specified in this behalf by the Taxation Officer.

4. . Grant of receipt. - If the Taxation Officer is satisfied that the amount of tax paid in respect of a motor vehicle is correct he shall accept payment of the tax and grant a receipt for the same in Form A which may if found necessary, contain such other particulars as are specified below.

- (1) The class of motor vehicle and the rate of tax payable thereof;
- (2) For what period the tax has been paid;
- (3) Whether the tax or additional tax has been paid or is due for a particular period or quarter;
- (4) Whether non-use of the vehicle has been intimated;
- (5) Whether refund of the tax has been claimed or allowed;
- (6) Whether the vehicle is exempted from payment of tax.

5. GRANT OF TOKEN.- (1) If the Taxation Officer is satisfied that the period-for which tax has been paid and that the registration of the motor vehicle for which such tax is paid is valid, he shall deliver to the person who has paid the tax a token in Form 8,

(2) When a token is issued for a motor vehicle of which the registration is still pending with the registering authority, the Taxation Officer shall leave the item relating to the registration number blank. On receipt of the certificate of registration, the owner of the motor vehicle shall produce the token together with the certificate of registration before the Taxation Officer who shall thereupon enter the registration number of the motor vehicle in the token and in his register.

(3) Every token issued under this rule shall be returned to the Taxation Officer either on its expiry or at the time of payment of the tax for the subsequent year or quarter. It shall be defaced by the Taxation Officer and filed in his office.

6. MANNER OF EXHIBITING TOKEN,-The token granted under rule 5 in respect of every motor vehicle shall be carried in a holder made of metal which shall be water proof. It shall be exhibited in a conspicuous portion on the front side of a motor vehicle and affixed in such a way so as to be clearly visible to a person standing beside the vehicle in front of or in level with the driver's seat;

Provided' that in the case of a trailer the token shall be affixed on the left hand side of the trailer and in' the case of a motor cycle it shall be affixed on the handle bar.

7. RESPONSIBILITY OF OWNER FOR TOKEN.- (1) If any token issued under the Act and these rules is lost, destroyed, defaced, changed, altered or has otherwise become illegible, the owner of the motor vehicle in respect of which it was issued, shall immediately report the facts to the Taxation Officer and apply for a duplicate token.

(2) If the original token which has been reported to be lost is subsequently found the same shall be surrendered to the Taxation Officer.

8. VEHICLES EXEMPT FROM PAYMENT OF TAX.- (1) Any motor vehicle exempted from payment of the tax under section 17 of the Act shall carry documents in support of such exemption instead of token.

(2) Any person in charge of motor vehicle exempted from the payment of the tax shall make, a. report to the Taxation Officer, in the month of April every year stating whether the circumstances in consideration of which' the motor vehicle was so exempted during the preceding 'year exists at the time.

9. QUARTERLY PERIODS.- The quarterly periods referred to in section 4 of the Act shall be the following four periods

beginning <i>from</i> the	and ending on the
First day of April	last day of June;
First day of July	last day of September;
First day of October, and	last day of December; and
First day of January;	last day of March respectively.

10. Appeal under section 11 of the Act to Appellate Authority.

(1) The Secretary, to the Government, of Sikkim in the Motor Vehicles Department, shall be the appellate authority under the Act.

(2) Any person aggrieved by an order made by a Taxation Officer under the Act or these rules may, within 'thirty days' from the date of receipt of such order, prefer an appeal to the appellate authority;

provided that an appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) An appeal under sub-rule (2) shall be preferred in duplicate' in 'the form of a memorandum setting forth concisely the grounds of appeal in relation- to the order appealed against and shall be accompanied by a certified copy of that order and a fee of twenty-five rupees.

11. Procedure on appeal.-Where an appeal is preferred under rule 10, the appellate' authority shall give an intimation thereof to the Taxation Officer against 'whose order the appeal is preferred and may, after giving an opportunity to the parties concerned to be heard and after making such enquiry as it deems fit, either confirm, modify or set aside the order of the Taxation Officer. The decision of the appellate authority on such appeal shall be final.

FORM-A
(See Rule 4)
Grant of receipt

No... .. Dated the.....199...

Received from.....

the sum of Rs

on account of.....:

credited to... :.....

Rs.....

Signature

Designation

Cashier

FORM A(D UPLIC A T E)
(SEE Rule 4)
Grant of Receipt

No Dated the..... 199...

Received from.....

the sum of Rs

on, account of.....

credited to.....

Rs.....

Signature

Cashier... Designation....

.....

FORM B

(See Rule 5.)

Grant of Token

SIKKIM MOTOR VEHICLES

TAXATION ACT, 1982

Token No.....

Area

Vehicle

Class.....

Expires.....

Taxation Officer.

Counterfoil of Token

(See reverse)

The Sikkim Motor Vehicles Taxation Act, 1982.

.. ..Area.

Token No.....Granted to

in respect of vehicle No... ..on

which tax has been paid under sub-part

of part . of the

.schedule for the period from.....

vide receipt/challan

Nodated.. ..

Clerk

Taxation Officer.

Description

The token shall consist of a circular piece of cardboard or stout paper with a diameter of 2 11/16 inches on which shall be entered:

- (1) The number of the token,
- (2) the area for which the token has been granted,
- (3) the registration mark of the vehicle in respect of which the token has been granted,
- (4) the sub-part and part of the Schedule under which the tax has been paid e. g. a private car will have "A(3)" entered under the heading "class",
- (5) the date on which the token expires, and
- (6) the signature of the Taxation Officer.

GOVERNMENT OF SIKKIM
MOTOR VEHICLES DEPARTMENT

No. 6/MV/S.

Dated Gangtok, the, 26th July, 1984.

NOTIFICATION

In exercise of the powers conferred by section 3 of the Sikkim Motor Vehicles Taxation Act, 1982 (5 of 1982), the State Government hereby appoints, the officer mentioned in column (2) of the Table below and further specifies that they shall exercise their powers in the areas mentioned in column (3) of the 'said Table: .

THE TABLE

Sl. No.	Designation of officer	Areas
(1)	(2)	(3)
1.	Secretary, State Transport, Authority.	Throughout the State of Sikkim.
2.	Senior Regional Transport Officer, Jorethang.	South and West Districts.
3.	Regional Transport Officer, Gangtok.	North and East Districts.

**RURAL DEVELOPMENT DEPARTMENT GOVERNMENT
OF SIKKIM**

Notification No.1 (37A) NOT/RW/P/75-76/PI/4953/RDD, Dated Gangtok the 23rd
February, 1983

THE SIKKIM PANCHAYAT (Election of Sabhapati, Up-Sabhapati and Sachiva of Gram
Panchayat and Adhakshya, and Upadhakshya of Zilla Panchayat and manner of convening
meetings) RULES, 1983.

**RURAL DEVELOPMENT DEPARTMENT
(GOVERNMENT OF SIKKIM)**

NOTIFICATION No.1 (47A) NOT/RW/P/75-76/PI/4953/RDD

Dated Gangtok the 23rd February, 1983.

In exercise of the powers conferred by section 118 of the Sikkim Panchayat Act, 1982 (3
of 1982) the State Government hereby makes the following rules, namely.

1. *Short title and commencement.*

(1) These rules may be called the Sikkim Panchayat (Election of Sabhapati, UpSabhapati
and Sachiva of Gram Panchayat and Adhakshya and Upadhakshya of Zilla
Panchayat and manner of convening meetings) Rules, 1983.

2. *Definitions.*

(1) In these rules, unless the context otherwise requires.

- (a) "Act" means the Sikkim Panchayat Act, 1982;
- (b) "ballot box" includes any box or other receptacle used for insertion
of ballot papers by voters;
- (c) "candidate" means a person who has been or claims to have been
duly proposed and seconded as a candidate at any election by the
members;
- (d) "Director of Panchayat Election" means the officer of the State Government
appointed as such under rule 3 of the Sikkim Panchayat Election Rules, 1982 ;
- (e) "Form" means a form appended to these rules and includes a form in any of the
languages used for the official purposes of the State of Sikkim ;

(f) "prescribed authority" means the Director of Panchayat Elections and includes the District Collector and the Deputy District Officer-cum Planning Officer

(g) -"presiding Officer" includes any polling officer performing any of the functions of a presiding officer under the provisions of these rules;

(h) "section" means a section of the Act.

(2) The expressions used in these rules and not defined but defined in the Act or the Sikkim Panchayat Election Rules, 1982 shall have the meaning respectively assigned to them in the Act and the Rules.

3. *Election of Sabhapati and Up-Sabhapati of- Gram Panchayat.*

(1) As soon as may be after the constitution of a Gram Panchayat is notified in the official gazette under sub-section (1) of section 6, but before the expiration of thirty days from the date of publication of the notification, the prescribed authority shall call a meeting of all the members of such Gram Panchayat for taking of the oath of office and for the election of a Sabhapati. Upsabhapati and Sachiva of the Gram Panchayat by serving on each member a notice of not less than seven days specifying therein the date and time of such meeting.

(2) Such meeting shall be -presided over by the prescribed authority or such other officer as may be authorised by the prescribed authority. The prescribed authority or such other officer authorised by him shall not be entitled to vote at the election.

(3) On the date of the meeting if there is no quorum as provided for in subsection (3) of section 13 within an hour of the time fixed for the meeting the Presiding Officer shall adjourn the meeting. The adjourned meeting shall be held on such date, place and time as may be fixed by the prescribed authority and the provisions regarding notice to members of the Gram Panchayat referred to in sub-rule (1) shall apply:

Provided that no quorum shall be necessary for an adjourned meeting.

(4) The members who are required to take oath of office under section 88 shall, before taking their seats, make and subscribe an oath or affirmation before the Presiding Officer in the form set out for the purpose in the Schedule appended to the Act.

(5) The Presiding Officer shall, immediately after the commencement of the meeting, call upon the members present to propose and second names of the candidates from amongst themselves for election of Sabhapati of the Gram

Panchayat. He shall record the names of the candidates proposed together with the names of the proposers and seconders. The Presiding Officer shall reject any proposal if the candidate refuses to stand for the election and he may not accept any proposal after the list of candidates has been finalized by him.

- (6) If only one candidate is proposed and seconded the Presiding Officer shall declare him to be the duly elected Sabhapati of the Gram Panchayat by filling up Form 2.
- (7) If more than one candidate have been proposed and seconded and have agreed to stand for election, the Presiding Officer shall conduct the election in the following manner, namely :-
 - (a) The Presiding Officer shall cause to be prepared as many ballot papers as there are members present containing the names of candidates arranged according to the alphabetical order of their surnames in Form 3 in such language or languages as the Director of Panchayat Elections may direct.
 - (b) The Presiding Officer shall, immediately before the commencement of the election, satisfy all members present that the ballot box is empty and also allow the members present to inspect the ballot box and thereafter secure and seal such ballot box and have it kept at a place which can be seen by himself and all the members present.
 - (c) The Presiding Officer shall, thereafter, hand over one such ballot paper as prepared under clause (a) to each member present after putting his initial on the back of each ballot paper. He shall then ask each member in turn to record his vote at a table so placed that no other person can see such member while putting the mark "X" in the place provided for the purpose in the ballot paper opposite the name of the candidate for whom he intends to vote, to fold it up and insert it into the ballot box.
 - (d) If a member is unable to write or is physically incapacitated from voting, the Presiding Officer shall, at the request of such member, take him to record his vote to the table so placed, ascertain his choice and accordingly mark the ballot paper, fold it up and insert it into the ballot box. The Presiding Officer shall cause such arrangements to be made as to ensure secrecy of the ballot paper.
- (8) Immediately after the voting is over, the Presiding Officer shall open the ballot box in the presence of the members present, take out the ballot papers there from, count them and record the number thereof in Form 4. The Presiding Officer shall reject any ballot paper if

- (a) it 'bears the signature of the voter or contains any word or sign or visible representation by which such voter can be identified; or
 - (b) the mark "X" is placed against more than one name; or
 - (c) the mark "X" is so placed thereon as to make it doubtful for which candidate the vote was intended to be given; or
 - (d) it does not bear the signature of the Presiding Officer.
- (9) After completion of counting and recording the number of votes received by each candidate, the Presiding Officer shall declare the candidate who has secured the highest number of votes to be duly elected Sabhapati of the Gram Panchayat. In case of equal number of votes being recorded in favour of two or more candidates, selection shall be made from such candidates by draw of lots in such manner as the Presiding Officer shall deem fit and thereupon the candidate thus selected shall be declared to be duly elected as Sabhapati of the Gram Panchayat.
- (10) After the election of the Sabhapati, the election of the Up-Sabhapati shall be taken up and be conducted in the same manner as specified in sub-rules (5), (6), (7), (8), and (9).
- (II) (I) After the election of Up-Sabhapati, the election of Sachiva of Gram Panchayat under section 24 shall be conducted in the same manner as specified in sub-rules (5), (6), (7), (8), and (9).
- (2) No member who is not able to read or write any of the official languages of the State shall be qualified to be elected as a Sachiva.
- (3) Where no such person as referred to in clause (2) is available, the Gram Panchayat may appoint any person including a person in Government service with the - previous approval of the State Government and such person may be paid such honorarium as the State Government may determine.
- (12) The Presiding Officer shall forward the names of the Sabhapati and the UpSabhapati to the prescribed authority who shall publish the same in the locality in such manner as he may think fit. The prescribed authority shall forward the names of Sabhapati and Up-Sabhapati to the Director of Panchayat Elections for publication. The Director of Panchayat Elections shall publish the names of the Sabhapati, Up-Sabhapati and Sachiva in the Official Gazette.
- (13) The Forms and other papers relating to the election of Sabhapati, Up-Sabhapati and Sachiva shall be sent by the Presiding Officer to the prescribed authority for safe custody. The prescribed authority shall keep the papers in safe custody for six months after which these Forms and papers may be destroyed in such manner as the Director of Panchayat Elections may direct.

4. . *Election of Adhakshya and Upadhakshya of Zilla Panchayat.*

- (1) As soon as may be after the constitution of a Zilla Panchayat is notified in the Official Gazette under sub-section (1) of section 42 but before the expiration of thirty days from the date of publication of the notification. the prescribed authority shall call a meeting of all the members of the Zilla Panchayat for taking of the oath of office and for the election of Adhakshya and Upadhakshya of the Zilla Panchayat, by serving on each member a notice of not less than seven days specifying therein the date and time of such meeting.
- (2) Such meeting shall be presided over by the prescribed authority or such officer not below the rank of a Gazetted Officer of the State Government as may be authorised by the prescribed authority and such officer as well as the prescribed authority shall not be entitled to vote at the election.
- (3) On the date of the meeting if there is no quorum as provided for in subsection (3) of section 48 within an hour of the time so fixed for the meeting, the presiding officer shall adjourn the meeting. The adjourned meeting shall be held on such date, place and time as may be fixed by the prescribed authority and the provisions regarding notice to members of Zilla Panchayat as referred to in sub-rule (1) shall apply:

Provided that no quorum shall be necessary for an adjourned meeting.

- (4) The members, other than member referred to in clause (c) of sub-section (2) of section 12, who is required to take the oath of office under section 88 shall before taking the seats, make and subscribe an oath or affirmation in the Form set out for the purpose in the Schedule appended to the Act.
 - (5) The Presiding Officer shall then conduct the election of the Adhakshya and Upadhakshya in the same manner as is specified in sub-rules (5), (6), (7), (8), (9), (10), (12), and (13), of rule 3.
5. Resignation of and filling up of a casual vacancy in the office of the Sabhapati or Up-Sabbapati of a Gram Panchayat and Adhakshya or Up-adhakshya of a Zilla Panchayat.
- (1) As soon as may be but not before the expiration of thirty days from the date any casual vacancy in the office of Sabhapati, Up-sabhapati or Sachiva ; of Gram Panchayat and Adbakshya or Upadhakshya of a Zilla Panchayat is caused by reason of death, resignation, removal or otherwise, a Gram Panchayat or Zilla Panchayat shall call a meeting of all the members for the election of a Sabhapati, Up-sabhapati, or Sachiva of a Gram Panchayat or an Adhakshya or an Upadhakshya of a Zilla Panchayat, as the case may

be, by fixing a--date, place and time. and causing a written notice to this. effect. to be served on each member by giving a reasonable time being not less than seven days before .the date so fixed for such meeting.

- (2) On the date .of the meeting if there is no quorum as provided for in subsection (3) .of section 13 or sub-section (3) of section 48 within an hour of the time so fixed for the meeting, the Gram Panchayat or Zilla Panchayat, as the case may be, shall adjourn the meeting. The adjourned meeting shall be held on such date, place and time as may be fixed by ,the Gram Panchayat or the Zilla Panchayat, and the provisions regarding notice to members referred to in sub-rule (1) shall apply:

Provided that no quorum shall be necessary for an adjourned meeting.

- (3) The Gram Panchayat or Zilla Panchayat shall then conduct the election of 'the Sabhapati or Up-sabhapati or Sachiva or Adhakshya or Upadhakshya as .the case may be, in the same .manner as is specified in sub-rules (5), (6), (7), (8), (9), (10), (11) and (12) of rule 3 as far as applicable.
- (4) The papers relating to an election to fill a casual vacancy shall be kept in the safe custody by the Gram Panchayat or Zilla Panchayat for six months after which they may be destroyed in such manner as the Director of Panchayat Elections may direct

FORM 1

[See sub-rule (1) or sub-rule (3) of rule 3 or sub-rule (1) or sub-rule (3) of rule 4]

Form of notice of meeting for taking of oath and/or for election of *Sabhapati, or Up-Sabhapati and Sachiva of Gram Panchayat or Adhakshya and Upadhakshya of Zilla Panchayat.

In pursuance of the provisions under *sub-rule (1) or sub-rule (3) of rule 3 and sub-rule (1) or sub-rule (3) of rule 4 of the Sikkim Panchayat (elections of Sabhapati, Up-Sabhapati and Sachiva of Gram Panchayat and Adhakshya and Upadhakshya of Zilla panchayat and manner of convening meeting) Rules, 1983, notice is hereby given for a meeting of the**... ..Gram Panchayat/ Zilla Panchayat to be held at the time, place and on the date fixed below to take oath and/or to elect Sabhapati, Up-Sabhapati and Sachiva of Gram Panchayat and *Adhakshya and Upadhakshya of Zilla Panchayat.

All members of Gram Panchayat/Zilla Panchayat are requested to attend.

Date	Place	Time
(1)	(2)	(3)

Date.. .. .

Place

Prescribed Authority .

*Strike off the words and figures which are not applicable.

*Appropriate particulars of the election to be inserted here.

FORM 2

[See **sub-rule (6) or sub-rule (10) or (11) of rule 3, or sub-rule (5) of rule 4 or sub-rule (3) of rule 5*]

Form of declaration of result of an uncontested election in the Office of

*Sabhapati or Up.Sabhapati or Sachiva of Gram Panchayat and Adhakshya or Up-adhakshya of Zilla Panchayat.

In pursuance of the provisions of sub-rule (6) or sub-rule (10) or sub-rule (11) of rule 3. or sub-rule (5) or rule 4 or sub-rule (3) of rule 5 of the Sikkim Panchayat (Elections of Sabhapati, Up-Sabhapati and Sachiva of Gram Panchayat and Adhakshya and Up.adhakshya of Zilla Panchayat and manner of convening meetings) Rules, 1983, the following candidate(s) is/are hereby declared as duly elected Sabhapati/Up-Sabhapati/Sachiva of Gram Panchayat and Adhakshya/Upadhakshya of Zilla Panchayat.

Name of the Gram Panchayat/Zilla Panchayat	Name and address of the candidate(s) elected.	Name of Office to which elected
(1)	(2)	(3)

Date

Place..

Signature of the Presiding Officer,

658.

FORM 3

(See *sub-rule (7) or sub-rule (10) or sub-rule (11) of rule 3, sub-rule (5) of rule 4. sub-rule (3) of rule 5).

Form of Ballot Paper for election of *Sabhapati/Up-Sabhapati/Sachiva of **

..... Gram Panchayat and Adhakshya/Upadhakshya/of

..... Zilla Panchayat.

Serial No. (1)	Name (s) of candidate (s) (2)	For mark (X) by voter (3)
-------------------	----------------------------------	------------------------------

1

2

3.

4.

5.

6

Place.....

~

Date

(Signature of Presiding Officer)

** Strike off the words and figures which are not applicable.
Appropriate particulars of the election to be inserted here.

FORM-4

(See sub-rule (6) or sub. rule (10) or sub-rule (11) of rule 3, or sub-rule (5) of rule 4 or sub-rule (3) of rule 5).

Form of recording the number of valid votes in an election of *Sabhapati/Up-Sabhapati of Gram Panchayat/Adhakshya/Up-adhakshya of Zilla Panchayat.

In pursuance of the provisions under *sub-rule (3) or sub-rule (10) or sub-rule (11) of rule 3 or sub-rule (5) of rule 4 or :sub-rule (3) of rule 5 of the. Sikkim Panchayat (Elections of Sabhapati and Up-Sabhapati of Gram Panchayat and Adhakshya and Upadhakshya of Zilla Panchayat) Rules, 1983 the number of valid votes received by the candidate(s) in an election of *Sabhapati/Up-Sabhapati' of a Gram Panchayat or Adhakshya / Upadhakshya of Zilla Panchayat is recorded below:

Name of *Gram Panchayat Zilla Panchayat. (1)	Name of candidates. (2)	Nature of Office on which election held. (3)	Number of valid votes secured. (4)
--	----------------------------	--	--

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Date

.....

Place

(Signature of the Presiding Officer)

*Strike off the words and figures which are not applicable.

**SIKKIM NATIONALISED TRANSPORT
GANGTOK**

Notification No. 11- T

Dated 7.7-83.

In exercise of the powers conferred by Section 45 of the Sikkim

Nationalized Transport (Prevention of Ticketless Travel and Miscellaneous

Provisions) ACT, 1981 (Act No. 10 of 1981), the State Government hereby makes, the following rules, namely:

*Short title &
Commencement.*

1. (1) These rules may be called the Sikkim Nationalised Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Rules 1983.

(2) They shall come into force from the date of their publication in the Official Gazette.

Definitions.

2. In these rules, unless the context otherwise requires:

- a) "Act" means the Sikkim Nationalised Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Act, 1981
- b) "section and sub-section" means the section and the sub-section of the Act
- c) the expressions used in these rules and not defined shall have the meanings respectively assigned to them in the Act.

Rate of the excess charges payable under section 9(2)

3. A person who carries or causes to be carried goods by a transport vehicle of the Sikkim Nationalised Transport without payment of carriage charges or makes a false declaration in relation to the weight of the goods so carried shall pay the excess charge at the rate of Re. 1/per Kg for the quantity carried in excess of the permissible limit:

Provided that the excess charges shall not exceed rupees. Rs 100/ in one case

4. (1) A passenger may carry goods upto twenty kgs. either inside the vehicle or on the luggage carrier without making payment for the same.

(2) Small suit cases like brief case etc. of the size not exceeding twenty-one inches in length may be carried inside the transport vehicle, provided that carrying of such suit cases etc. does 'not' result in any inconvenience to the other travelling passengers.

(3) Beddings and bed rolls shall not ordinarily be permitted to be carried inside the vehicle.

- (4) Besides the weight of the goods specified in sub-rule (1), a passenger may carry with him inside the vehicle an umbrella or a hand bag not exceeding eighteen inches in length.

Form of forwarding note. 5. (1) The forwarding note shall be prepared in quadruplicate in Form A and shall be signed by the consignor and the member of the staff of the Sikkim Nationalised Transport.

(2) The delivery of goods may be given to the consignee or its agent or an endorsee on production of a copy of the consignment note.

(3) Where the consignee fails to produce a copy of the consignment note for any reason or the consignment note is found to be in a mutilated condition, a member in charge of the staff responsible for giving delivery of the goods may deliver the goods on execution of a security bond signed by the consignee, its agent or endorsee in Form B.

Offensive or dangerous goods which may not be carried in the transport vehicle. 6. (1) Any goods which emit foul or unpleasant smell which may cause annoyance to the passengers may notwithstanding anything contained in sub-rule (1), including the following goods, shall not be permitted inside the vehicle:

- | | |
|-------------------------------|-----------------------------------|
| a) dry fish, | b) . gas cylinders, |
| c) live chicken/goat or sheep | d) Skins of animals, |
| e) dogs and pups | f) explosives as defined in the |
| | Explosives Act, 1884 (4 of 1884), |

g) any other goods which are considered dangerous for carrying inside the vehicle due to their tendency to explode or due to their tendency to cause any communicable or epidemic disease;

Provided that dry fish, live chicken, dogs and skins of animals may be allowed to be carried on the luggage carrier if they are properly packed and secured.

7. (1) The free time for which goods may be kept at a destination shall be three hours.

(2) The consignee, his agent or endorsee shall take delivery of goods within one hour of the receipt of the intimation about arrival of goods at the destination station.

(3) The intimation referred to in sub-rule (2) shall be in form C.

(4) As soon as may be or after the expiry of three hours the goods shall be unloaded and kept in the warehouse of the Sikkim Transport.

(5) The cost of unloading the goods at a destination station shall be payable by the consignee, his agent *or* endorsee.

(6) If the consignee, his agent or endorsee fails to take delivery of goods within the free-time referred to in sub. rule(1) such consignee, his agent or endorsee shall pay to the Sikkim Transport the following' charges on account of detention, demurrage and wharfage:

- (a) DETENTION OR DEMURRAGE CHARGES:
- i) for full truck weighing 5 tons or more at the rate of Rs. 30/ per hour or part of an hour up to three hours;
 - ii) full truck weighing less than 5 tons at the rate of Rs. 20/-per hour or part thereof upto three hours;
 - iii) for detention exceeding three hours the charges for trucks referred to in clauses (i) and (ii) shall be Rs. 45/- and Rs. 50/respectively.
- (b) WHARFAGE CHARGES: When goods are booked in smalls at the rate of 0.50 per quintal for every twenty four hours' or part thereof.

8. (1) Where the consignee, his agent or endorsee fails to take delivery of goods of perishable nature, the Sikkim Transport may, after the expiry of twenty four hours from the free-time referred to in sub-rule (1) of Rule 7 dispose off the goods by public auction by giving oral intimation to the dealers who ordinarily deal in such perishable goods.

(2) The sale proceeds of the public auction referred to in sub. rule (1) shall be deposited in the suspense account and shall be paid to the consignor or consignee when they claim after deducting there from the charges on account of freight, if any, demurrage and wharfage charges including unloading charges.

(3) Where the consignor, consignee or endorsee fails to take delivery of goods, other than the perishable goods within thirty days of the date of intimation. the State Government may dispose off by public auction by publishing a notice to that effect in the Sikkim Herald giving the place, date and time of such public auction.

(4) The notice referred to in sub-rule (3) shall be published at least twice in the Sikkim Herald and shall also be affixed on the Notice Board of the Gangtok Offices and other Sikkim Transport offices, as the case may be.

(5) The sale proceeds of the goods disposed off by public auction referred to in sub-rules (1) and (3) shall be sold to the person who gives the highest bid:

Provided that no officer or employee of the Sikkim Transport shall be permitted to bid at such public auction.

9. The conditions with respect to the receiving, accepting, booking, loading, forwarding or carrying of any goods shall be such as are given *etc.* in the reverse of the consignment note.

SECURITY BOND

FORM-B

(See Rule 5)

I,.....son of.....

residing at hereby.....state that

I have.....

- (a) lost the consignment note,
- (b) the consignment note in my name is torn and the writing therein is not visible,
- (c) the consignment note is in a badly mutilated condition.

I request the S.N.T. Department to deliver the goods covered by the consignment note No:.....date other person claims under the same consignment note I shall return to the S.N.T. Department the goods in the same form in which I have taken delivery thereof or pay to that Department such amount on account of the price of the said, goods as may be determined by the said Department.

Signed in the presence of:

1.....

2.....

**INTIMATION FORM
FORM-C**

(See Rule 7)

Whereas the goods covered by consignment note
dated..... issued at have been
received at the Booking Station at..... at.....hours

You are hereby called upon to take delivery of the goods under the consignment aforesaid
within one hour from the receipt of the intimation.

Signature

1. Name of the consignor

Designation

Name of the consignee

.. ..

2 Mr.....

at.....

NOTIFICATION

Dated 7.7.83

In exercise of the powers conferred by sub-section (3) of section 1 of the Sikkim Nationalized Transport, (Prevention of Ticketless Travel and Miscellaneous Provisions) Act, 1981, (10 of 1981), the State Govt. hereby appoints the 15th July 1983 as the date on which the provisions of the said Act shall come into force.

NOTIFICATION

Dated 7. 7. 83

In exercise of the powers conferred by section 7 of the Sikkim Nationalised Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Act 1981 (10 of 1981) the State Government hereby declares the places specified in column (1) of the Table below as a Bus Stand or Bus Stops as mentioned in column (2) of the said table.

Place

(1)

Bus Stand or Bus Stop

(2) ...

.NOTIFICATION

II/T/3

Dated 1. 7. 83

In exercise of the powers conferred by section 8 of the Sikkim Nationalised Transport (Prevention of Ticketless Travel and Miscellaneous 'Provisions) Act, 1981 (10 of 1981), the State Government hereby authorizes all the S. Is of Police in the State to enter in any transport vehicle and require a person travelling in such transport vehicle' to present his ticket or carriage receipt for examination.

NOTIFICATION

II/T/4.

Dated 7.7.83

In exercise of the .powers conferred by Section 15 of the Sikkim Nationalized Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Act, 1981 (10 of 1981), the State Government hereby determines that every passenger who has attained the age of 12 years shall pay full fare while travelling in a transport vehicle of the Sikkim Nationalised Transport.

NOTIFICATION

II/T/5

. . . Dated 7.7.83

. . . In exercise of the . powers conferred by. section -24 of the Sikkim Nationalised- Transport (Prevention of Ticketless Travel and Miscellaneous provisions) Act,-1981 (10 of 1981) .the. Sikkim Nationalised Transport has authorized the following Agents for sale of tickets:

- | | |
|----------------------|---------------------|
| 1) Agent, Darjeeling | 2) Agent, Kalimpong |
| 3) Agent, Pakyong | 4) Agent, Penlong |
| 5) Agent, Ranipool. | |

NOTIFICATION

II / T / 6

Dated 7.7.83

In exercise of the powers conferred by Section 29 of the Sikkim Nationalised . Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Act, 1981 (10 of 1981) a table of passenger fares, tariffs distance tables, rate tables and a list of fares from Station to Station is to be displayed at all Sikkim Transport Offices.

NOTIFICATION

. II/T/7

Dated 7.7. 83

In exercise of the powers conferred by section 19 of the Sikkim Nationa1ised Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Act, 1981 (10 of 1981), the S. N. T. Department hereby authorizes drivers, conductors and checking staff of the Sikkim Nationalised Transport (including Transport Inspectors and other Officers) to remove passengers from the transport vehicles when such passengers do not behave in accordance with the provisions of clauses (a) and (b) of the said section.

**SIKKIM NATIONALISED TRANSPORT
GOVERNMENT OF SIKKIM**

HEAD OFFICE: GANGTOK

FORM A

C. No
 Originating Station.....
 Dated:.....
 Vehicle. No:
 T. M. C. No
 Name of driver.....
 D. L. No:.....

CONSIGNMENT NOTE

Consignor Consignee
 Address..... Address.....
 Phone No
 Carriage FROM : To : DELIVERY AT :
 Received the goods as detailed below for carriage subject to the conditions mentioned
 overleaf and published in the Sikkim Government Gazette No:..... 19.....

Sl. No.	Method of packing	Nature of goods said to contain	Actual Wt. Kg.	Wt. charged. Kg.	Consignors' declared value	Rate	Freight charged Rs. P.	B.R.No. & date. Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

TOTAL:

The consignor hereby declares that the particulars furnished by him or his agent are correct.
 No prohibited articles are included and he is aware of and accepts the conditions of carriage.

Signature of consignor

Signature of Booking-in-Charge

ACKNOWLEDGEMENT BY THE CONSIGNEE

Received the .above mentioned goods in sound condition.

Remarks, if any.....(Signature of the Receiver or his Agent with Rubber Seal & Date).

Distribution of copies of C/N.

- (1) Yellow : CONSIGNOR'S copy.
- (2) Green Copy: Originating Station for record.
- (3) Pink Copy: For H. O. for billing.
- (4) Blue Copy: To H, O. for billing. (WGY/Red numbers)
- (5) White Copy: Starting Station SNT.

SIKKIM NATIONALISED TRANSPORT

GOVERNMENT OF SIKKIM

GENERAL TERMS AND CONDITIONS OF CARRIAGE OF GOODS

No.1.

Every consignment shall (except as otherwise agreed in writing) be accompanied by a consignment note. or declaration in which shall be stated:

- a) the full name and addresses of the sender (consignor) and the consignee;
- b) the station or place of destination and the route by which the consignment is to be conveyed;
- c) where practicable the total weight of the consignment.

No.2.

The Sikkim Nationalised Transport shall carry the consignment booked at the owner's risk.

Provided that the terms "at the owner's risk" used in the consignment note shall only mean that the consignor would be liable for any loss or damage to the consignment which are lying with the Sikkim Nationalised Transport if such loss or damage was not caused by any negligence on the part of the Sikkim Nationalised Transport or its servants.

No.3.

The Sikkim Nationalised Transport shall not guarantee delivery of consignment within any specified period and shall not be liable for loss, damage,. deviation, misdelivery

delay. or detention. of .consignment or any part thereof unless occasioned by the neglect or default on the part of the Sikkim Nationalised Transport or its servants or its agents.

No.4.

a) In the event of any interruption of communications (including imposition of gate timings) on. the booked .and customary routes due to. causes beyond the control of the Sikkim Nationalised Transport, the Sikkim Nationalised Transport at its own discretion and on its own liability may cause the traffic to be diverted through the shortest route in order to meet its operational convenience.

b) Notwithstanding the change of route or of the carrier or: of enhanced freight ,any consignment note held in respect of. the consignment shall be equally operative over the route by which the consignment is conveyed.

No.5.

The Sikkim Nationalised Transport shall be liable for every act of its agents. Unless the loss or injury or damage of the goods booked through SNT is, while they were in the course of transit, caused by the act of God or is the consequence of inherent vice in the thing carried or is attributable to the consignor's own fault, the Sikkim Nationalised Transport shall still be liable even if, under the circumstances, it was found to have acted with reasonable care and prudence.

Provided that its liability shall be limited to the value declared and not value of the the actual contents of the package consigned.

No.6.

The consignee or any holder of the receipt of consignments or its authorised agent should ascertain the date and time of arrival of consignment from the Sikkim Nationalised Transport's nearest booking office or its Head Office and the delivery of goods shall be taken from its vehicles or ware-houses within one hour of arrival failing which detention charges as given in the Schedule shall be charged.

No.- 7.

The Sikkim Nationalised Transport shall reserve the right to reweigh and remeasure a consignment before delivery at the delivery station without assigning any reason thereon. This shall be done before the presence of the consignee or the holder of the receipt or his duly authorised agent and it shall collect any undercharge before effecting delivery of such consignment.

No.8.

The Sikkim Nationalised Transport shall deliver the goods to the consignee or the holder of the receipt or his duly .authorised agent in the like order and condition as received by it. The consignee or the holder of the receipt or his duly authorised agent shall have the right of recourse of action against the Sikkim Nationalized

Transport for all claims arising thereon. Such claims shall be made in writing to the General, Manager within the period as mentioned in Clause No. 15 after the termination of the transit of the consignment, or the part of the consignment in respect of which the claim arises.

No. 9.

The transit shall unless otherwise previously determined, be deemed to come to an end on the goods reaching its destination station.

No. 10.

The Sikkim Nationalised Transport reserves the right to refuse goods for transportation without assigning any reason thereon.

No. 11.

The Sikkim Nationalised Transport reserves the right to dispose of perishable goods lying undelivered after 24 hours of arrival, without giving any notice, if the consignee is unable, for no fault of the Sikkim Nationalised Transport, or is unwilling to take delivery.

No. 12.

(a) The Sikkim Nationalised Transport reserves the right to dispose of other than perishable goods lying undelivered after 30 days of arrival, at the expiration of one clear day after the receipt by the consignee or the holder of the receipt or his duly authorised agent of notice in writing (or by telephone) if so towards this effect or if refused by the consignee or not delivered because the name and address of the consignee are not known or cannot be ascertained and in either case the sender fails to take delivery or to give instructions *for* disposal.

(b) The Sikkim Nationalised Transport may sell the same and pay the proceeds of such sale, after deduction of freight and demurrage charges in relation thereto, and shall without prejudice to any claim or right which the sender or consignee may have against the Sikkim Nationalised Transport otherwise arising under these conditions discharge the Sikkim Nationalised Transport from all liability in respect of such consignments or part of the consignment.

No. 13.

The Sikkim Nationalised Transport shall not be responsible if any goods are detained, seized or confiscated en-route or at the destination by authorized agencies of Government.

No. 14.

a) The Sikkim Nationalised Transport shall have the right to entrust the goods to any other transporter or carrier. In the event of the goods being so entrusted by it to another transporter or carrier, it shall, as between the consignor and the Sikkim Nationalised Transport, be deemed to be its agent.

b) Notwithstanding the delivery of goods to such transporter or carrier, it shall continue to be responsible for the safety of the goods and for their delivery at the destination.

No. 15.

No suit shall lie against the Sikkim Nationalised Transport in respect of any consignment without a claim being made in writing to the General Manager in that behalf and preferred within 45 days from the date of booking or 48 hours in case of perishables and 30 days in case of non-perishables from the date of arrival at the destination by the party concerned. All claims in respect of shortages shall only be entertained if delivery has been effected in the presence of an Official of the Sikkim Nationalised Transport not below the grade of Junior Traffic Assistant.

No 16.

The consignor in all cases shall be responsible for any consequence or any incorrect or false declaration pertaining to the goods delivered to the Sikkim Nationalised Transport for carriage.

No. 17.

The Competent Court shall have jurisdiction in respect of all claims arising out of the consignment or of goods entrusted to the Sikkim Nationalised Transport for carriage.

SCHEDULE

(Ref. Condition No.6)

Detention Charges	Full truck loads
	5 tons or more-Rs. 30.00 per hour.
	Less than 5 ton loads-Rs. 20.00 per hour.

For detention exceeding 3 (three) hours the charges for trucks referred to above shall be Rs. 50.00 and Rs. 45.00 respectively.

Wharfage charges	00.50 paisa per quintal or part thereof for every 24 hours or part thereof.
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HOME DEPARTMENT

Notification No. 19/Hom:/76.

Dated the 9th April, 1976.

In pursuance of Section 1 (3) of the Charter of Incorporation of the Sikkim Research Institute of Tibetology (Amendment) Act, 1976, it is hereby notified that the State Government has fixed 9th April, 1976, as the date on which the Charter of Incorporation of the Sikkim Research Institute of Tibetology (Amendment) Act, 1976 (4 of 1976) shall come into force in the State of Sikkim.

HOME DEPARTMENT

Notification No. 20/Home/76.

Dated the 21st April. 1976.

Consequent upon the enactment of the Charter of Incorporation of the Sikkim Research Institute of Tibetology (Amendment) Act, 1976 (No. 4 of 1976) the Institute of Tibetology will henceforth be known as the Sikkim Research Institute of Tibetology.

HOME DEPARTMENT**NOTIFICATION**

No. 1369/Home/77.

Dated Gangtok, the 1st November, 1977

The Government of Sikkim has fixed the 1st November, 1977 as the date on which the Sikkim Interpretation and General Clauses Act, 1977 (Sikkim Act No. 6 of 1977) shall come into force in the whole State of Sikkim.

HOME DEPARTMENT**NOTIFICATION**

No. 16(44)-L L/78

Dated Gangtok, the 17th June, 1978.

In exercise of the powers conferred by sub-section (2) of section 1 of the Sikkim Civil Courts Act, 1978. (Sikkim Act No.9 of 1978), the State Government hereby appoints the 1st day of July, 1978, as the date on which the Sikkim Civil Courts Act, 1978 (Sikkim Act No.9 of 1978) shall come into force.

GOVERNMENT OF SIKKIM

HOME DEPARTMENT

NOTIFICATION

No. 140/HP/80-81

Dated Gangtok, the 4th July, 1980.

In exercise of the powers conferred by sub-section (2) of Section 1 of the Sikkim Police (Amendment) Act, 1980 (7 of 1980), the State Government hereby appoints the 4th day of July 1980 as the date on which the said Act shall come into force in the whole of Sikkim.

HOME DEPARTMENT

GOVERNMENT OF SIKKIM

No. 7(15) Home/82/2534.

Dated Gangtok, the 6th August, 1982.

NOTIFICATION

In exercise of the powers conferred by sub-section (3) of section 1 of the Sikkim Armed Police Force Act, 1981 (8 of 1981), the State Government hereby appoints the 6th day of August, 1982, as the date on which the said Act shall come into force in the State of Sikkim.

GOVERNMENT OF SIKKIM

HOME DEPARTMENT

NOTIFICATION

No.1 (46)/77 /Accounts.

Dated Gangtok, the 27th September, 1977.

In exercise of the powers conferred by sections 6 and 8 of the Sikkim Salaries and Allowances Act, 1977 (4 of 1977) the State Government hereby makes the following rules, namely:

THE SIKKIM MINISTERS, SPEAKER, DEPUTY SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY (MEDICAL ATTENDANCE) RULES 1977.

Short title and commencement

1. (1) These' rules may be called the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Medical Attendance) Rules, 1977.

(2) They shall be deemed to have come into force on and from the 28th day of March, 1977, the date of commencement of the Sikkim Salaries and Allowances Act, 1977.

Definition,

2. In these rules, unless the context otherwise requires:

(1) "Act" means the Sikkim Salaries and Allowances - Act, 1977 (4 of 1977).

(2) Words used in these rules and defined in the Act shall have the same meaning as assigned to them in the Act.

Medical Attendance 3.

(1) The Chief Minister, any Minister, any Minister of State, Speaker, Deputy Speaker and Members of their family shall be entitled, to free medical attendance and treatment and all other medical facilities on the same terms and conditions as are applicable' from time to time to an officer of the State Government holding the rank of a Secretary to the Government under the Sikkim Government Service (Medical Facilities) Rules published vide .Notification No. 236/GEN/ EST dated 13 October, 1976 subject to 'the provisions of sub-rule (3).

(2) Any Deputy Minister, Member of the Legislative Assembly and Members of their family shall be entitled to free medical attendance and treatment and all other Medical facilities on the same terms and conditions as are applicable from time to time to a Gazetted Officer of the State Government under the Sikkim Government Service (Medical Facilities) Rules published vide Notification No. 236/GEN/EST dated 13 October, 1976, subject to the provisions of sub-rule (3).

(3) For treatment outside Sikkim daily allowance admissible under the Sikkim Government Service (Medical Facilities) Rules shall be calculated at the rates prescribed in the Sikkim Ministers, Speaker, Deputy Speaker and Members (Travelling Allowance) Rules 1977 as amended from time to - time.

Relaxation

4. Where the Government is satisfied that it is necessary to relax any of the provisions of the Sikkim Government Service (Medical Facilities) Rules in any case, it may, by order in writing, do so to the extent and subject to such conditions as are deemed necessary for dealing with such a case.

GOVERNMENT OF SIKKIM .
HOME DEPARTMENT
NOTIFICATION

No.1 (45)/77fAccts.

Dated Gangtok, the 27th September, 1977.

In exercise of the powers conferred by . section 8 read with section 7 of the Sikkim Salaries and Allowances Act, 1977 (4 of 1917) the State Government hereby makes the following rules, namely:

. THE SIKKIM MINISTERS, SPEAKER. DEPUTY SPEAKER AND MEMBERS
 (TRAVELLING ALLOWANCE) RULES, 1977

- | | |
|---|---|
| <i>Short title
and
commencement</i> | <p>1. (1) These rules may be called the Sikkim Ministers, Speaker. Deputy Speaker and Members (Travelling Allowance) Rules, 1977.</p> <p>(2) They shall be deemed to have come into force on and from the 28th day of March, 1977.</p> |
| <i>Definitions</i> | <p>2. In these rules. unless the context otherwise requires:</p> <p>(i) "Act" means the Sikkim Salaries and Allowances Act, 1977</p> <p>. (ii) "On tour: on public business" shall mean a journey on business connected with the official duties of the person concerned and in the case of the Chief Minister, the Ministers of State, the Deputy Ministers, the Speaker and the Deputy Speaker. it shall also include journey to attend public functions in which their participation is necessary or required in the public interest.</p> <p>(iii) "Place of residence" in relation to a person shall mean the place in Sikkim where such person usually or ordinarily resides.</p> <p>(iv) "Travelling Allowance" shall include all amounts payable under the provisions of Rule 3.</p> <p>(v) Words and expressions used in the Act and not defined or otherwise defined in these rules shall have the same meaning as are assigned to them under the Act.</p> |
| <i>Travelling
Allowance</i> | <p>3. For all journeys or tour on public business, the Chief Minister, the Ministers of State, the Deputy Ministers, the Speaker, the Deputy Speaker and the Members shall be entitled to be paid as travelling allowance the amount determined according to the following provisions:</p> |

(A) Journeys by air

(i) The Chief Minister, any Minister any Minister of State, the Speaker and the Deputy Speaker shall be entitled to travel by air and to claim the actual fare paid.

(ii) The Deputy" Ministers. may, ,by ,an order of the State Government to that effect, be allowed" "to travel by air in special circumstances and in public interest and when so allowed, shall be entitled to claim the actual fare paid.

(iii) Members required to travel outside Sikkim in connection with any work in public interest, may be allowed to travel by air at the discretion of the Speaker: and when so allowed, shall be entitled to claim the actual fare paid.

(B) Journeys by rail

(i) The Chief Minister shall be entitled to travel in first class and to requisition at Government expense four berths or a compartment of four berths *for* the purpose and shall also be entitled to reimbursement of the railway fares for two personal servants by the lowest class and charges for the personal luggage accompanying him on tour, whether the servants travel and the luggage is carried by the same or different trains.

(ii) Any Minister, Minister of State, Deputy Minister, the Speaker or the Deputy Speaker shall be entitled to travel in first class and to requisition at Government expense two berths or a compartment of two berths *for* the purpose and shall also be entitled to reimbursement of the railway fare by the lowest class *for* one personal servant and charges for personal luggage accompanying him on tour, whether the servant travels or the luggage is carried by the same or a different train.

(iii) The Chief Minister, any Minister, any Minister of State, the Speaker or the Deputy Speaker may travel on tour by air conditioned class by requisitioning two berths in an air conditioned coach.

(iv) Any Deputy Minister may travel on tour by air conditioned class by requisitioning a single berth in an air conditioned coach.

(v) Within the reserved accommodation specified in (i) to (iii) above, the aforesaid persons may take one relative without payment.

(vi) Members required to travel outside Sikkim in connection with any work in public interest shall be entitled to, travel by first class.

(C) Journeys by road

(i) The Chief Minister, the Ministers, the Ministers of State, the Deputy Ministers, the Speaker and the Deputy Speaker shall be entitled to travel by road free of cost by Government conveyance from any place to any other place.

(ii) Any such person mentioned in (i) above shall be entitled to free transport for himself, his family, personal servants and personal effects from the place of residence to Gangtok, on being appointed to any of the aforesaid offices and from Gang. tok to the place of residence on relinquishing charge of such office.

(iii) Members shall be entitled to travel by Government conveyance free of cost or by a free pass for travel by any public transport service of the Government while proceeding to Bagdogra airport or Siliguri or Jalpaiguri railway stations, as the case may be, from any place in Sikkim, to board an air service or a train for the journey mentioned in sub-rules (A) (iii) and (B) (vi) of this rule.

(iv) If in any of the cases mentioned in (i) and (ii) above, any of the persons mentioned therein uses his own conveyance or performs the journey by hiring a conveyance, an amount at the rate of one rupee per kilometer shall be allowed for such journey.

(D) (i) While on tour on public business in any place outside Sikkim, the Chief Minister, the Ministers, the Ministers of State, the Deputy Ministers, the Speaker or the Deputy Speaker shall be entitled to reimbursement of actual expenses incurred by them for stay in any Central or another State Government guest house, inspection bungalow or in any Government or private hotel, otherwise than as a State Guest.

Provided that the Government may, by an order, fix any monetary or other limit for the reimbursement of such expenses.

(i) Except where actual expenses are claimed under sub-rule (D)

(ii) the Chief Minister, the Minister, the Ministers of State, the

Deputy Ministers, the Speaker, the Deputy Speaker and Members shall be paid for the period of tour an amount for each calendar day or part thereof at the following rates:

Minister	Chief Rs.	Ministers & Speaker Rs.	Ministers of State & Dy. Speaker Rs.	Deputy Ministers Rs.	Members Rs.
In New Delhi, Delhi, Bombay, Calcutta and Madras	90	80	70	60	55
In other places outside Sikkim	75	60	55	50	50
In any place in Sikkim	75	60	55	50	Nil

Routes

4. All journeys mentioned in rule 3 shall be performed by the shortest practicable route and when any question arises whether any route is the shortest practicable route, the decision of the Government in the case of the Chief Minister, Ministers, Ministers of State and Deputy Ministers and of the Speaker in the case of himself, Deputy Speaker and Members shall be final. If the journeys are actually performed by a route which is not the shortest practicable route, the claim for travelling allowance under these rules shall be restricted to the shortest practicable route.

Provided that the State Government or the Speaker, as the case may be, by order, permit the journeys to be performed by any route or routes, where the State Government or the Speaker, as the case may be, is satisfied that it was necessary to do so in public interest and the travelling allowance may thereupon be calculated, claimed and paid on the basis of the route or routes actually taken.

Stay in rest houses etc.

5. The Chief Minister, the Ministers, the Ministers of State, the Deputy Ministers, the Speaker and the Deputy Speaker shall while on tour on public business in any place be entitled to stay free of all charges in respect of their stay in any of the Government rest houses and inspection bungalows.

- Journeys outside India.* 6. The travelling allowance admissible to any person to whom these rules apply, when touring on public business outside India, shall be regulated by specific orders of the Government issued in each case.
- Advances.* 7. The State Government in the case of the Chief Minister, the Ministers, the Ministers of State, the Deputy Ministers and the Speaker in the case of himself, the Deputy Speaker and Members may permit the estimated travelling allowance admissible under these rules for any journeys outside Sikkim and outside India, being drawn in advance of the journey, subject to the advance being adjusted in the final claim preferred after completion of the journey.
- :Provided that if the advance, or any part of it, had not been utilized for any reason, or the detailed claim in adjustment of the advance is not furnished within a period of six months from the date of completion of the journey, the entire advance or part of it, as the case may be, shall be refunded to the State Government forthwith or may, at the discretion of the State Government 'be recovered from any other payments due to the person concerned.
8. Bills for claims under these rules shall be signed and counter-signed by the person concerned, except in the case of Members, whose bills shall be counter-signed by the Speaker, or if the Speaker so directs by a general or, special order, by the Deputy Speaker.
- Claims when due.* 9. Claims under these rules shall become due immediately on completion of the journeys to which they relate and shall be preferred within six months of their becoming due and any claim not so preferred shall not be paid save with the sanction of the State Government.
- Residuary matters.* 10. Any other matter not specifically covered by or under the said rules shall be regulated by the rules applicable to the officers of the State Government of the highest grade.

HOME DEPARTMENT

No.1 (47) 77-Accts./Home. Dated

Gangtok, the 1st May, 1978.

NOTIFICATION

In exercise of the powers conferred by the Sikkim Salaries and Allowances Act, 1977 as amended, the State Government hereby makes the following rules, namely:

*Short title and -
commencement.*

1. (1) These rules may be called the Sikkim Ministers, Speaker, Deputy Speaker and Members Travelling Allowance (Amendment) Rules, 1978.

(2) They shall be deemed to have come *into* force on and from the 28th day of March, 1977.

2. (1) In rule 3 (C) of the Sikkim Ministers, Speaker, Deputy of Speaker and Members (Travelling Allowance) Rules, 1977, a new sub-rule (v) shall be added as under:

"(v) While travelling on business connected with any Committee the Members shall be entitled either to free use of Assembly vehicle, if available, or to hire of conveyance as provided in sub-rule (iv) of this rule for travel from the place of residence to the place of business of the concerned Committee and back."

(2) At the end of rule 3 (D) (ii) the following Proviso shall be inserted:

" provided that an amount at the rate of Rs. 50 for each calendar day or part thereof shall be paid to the Members for the period spent within Sikkim on business of any Committee."

GOVERNMENT OF SIKKIM

HOME DEPARTMENT

NOTIFICATION

No. I (45) 77/Accts.

Dated 27 May, 1980.

In exercise of the powers conferred by section 8 read with section 7 of the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislature Assembly (Salaries and

Allowances) Act, 1977, the State Government hereby makes the following rules, namely :

- Short title and Commencement.* 1. (1) These rules may be called the Sikkim Ministers, Speaker, Deputy Speaker and Members (Travelling Allowance) Amendment Rules, 1980.
- (2) They shall be deemed to have come into force on the 25th day of October, 1979.
- Amendment of Rule 3.* 2. In clause (ii) of Sub-Rule CD) of Rule 3 of the Sikkim Ministers, Speaker, Deputy Speaker and Members (Travelling Allowance) Rules, 1977, in the heading above the table of rates
- (i) for the words, "Ministers and Speaker" the words "Ministers, Speaker and Deputy Speaker" shall be substituted.
- (ii) for the words "Ministers of State and Deputy Speaker, the words Minister of State" shall be substituted.

GOVERNMENT OF SIKKIM
SIKKIM LEGISLATIVE ASSEMBLY SECRETARIAT
GANGTOK
NOTIFICATION

No. SLAS/80-81/222/(3/3/Home 81).

Dated Gangtok ,the 7th March, 1981.

THE SIKKIM LEGISLATIVE ASSEMBLY MEMBERS (RESIDENTIAL ACCOMMODATION) RULES, 1981.

In exercise of the powers conferred by section 8 read with sub-section (4) of section 4 of the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Act, 1977 (No.4 of 1977), the State Government hereby makes the following rules, namely:

1. *Short title and commencement:* (I) These Rules may be called the Sikkim Legislative Assembly Members, (Residential Accommodation) Rules, 1981.
2. They shall come into force from the date of their publication in the Official Gazette.

2. *Definitions:* In these rules, unless the context otherwise requires:

(a) 'Act' means the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Act, 1977;

(b) 'day' means 24 hours from the time of occupation of accommodation;

(c) 'guest' means a guest of the

(a) member of the Sikkim Legislative Assembly; or

(b) member of Parliament; or

(c) member of any State Legislature who may accompany any member; or

(d) State Government;

(d) 'Government' means the State Government of Sikkim;

(e) 'Hostel' means the State Legislators' Hostel, Gangtok;

(f) 'member' means a member of the Sikkim Legislative Assembly

(g) 'member of Parliament' means a Member of Lok Sabha
or Rajya Sabha;

(h) 'rent' means charges for accommodation;

(i) 'Secretary' means the Secretary of the Sikkim Legislative Assembly and includes a Deputy Secretary and Under Secretary;

(j) 'Superintendent' means the Superintendent of the Hostel;

(k) 'week' means seven Calendar days;

(l) any other words and expressions used in these rules but not defined therein shall have the meanings respectively assigned to them in the Act.

3. *Control of the Hostel:* The Hostel shall be under the administrative control of the Secretary.

4. *Occupation:*

- (1) The Hostel is primarily meant for the occupation of the members, but subject to accommodation being available during non-session period and permission being granted by the Secretary, the following categories of non-members coming to Gangtok on Government Business may be accommodated for a period not exceeding one week on payment of usual rent:

- (a) members of Parliament;
 - (b) members of Legislative Assemblies of other States;
 - (c) State Guests;
 - (d) 1st Grade Officers of the Government of Sikkim ;
 - (e) Class I Officers of the Central and other State Governments.
- (2) A member shall be allowed to occupy a single seat or a room depending upon availability of accommodation on signing an agreement in the Form appended to these rules and shall invariably note the time and date of arrival in the occupation register kept at the counter by affixing his signature against the entries. In default, the entries made by the officer assigned with this task shall be conclusive and no dispute thereon shall be entertained.
- (3) During non-session period, a member may stay for a period of seven days and stay beyond that period with intimation to the Secretary.
- (4) The Hostel shall, on no account, be made available for occupation by any member with or without his family as all time residence.
- (5) No member shall be permitted to occupy more than one room at a time.
- (6) No one shall be allowed to occupy the dining room or the reception hall.
- (7) The Speaker may in his discretion allow any other category of persons not specified in sub-rule (1) of rule 4 to occupy seat/room in the Hostel on payment of rent subject to availability of accommodation.

Explanation:- The expression "no-session period" means the time when the assembly is not in session but does not include the period when any Committee of the Sikkim Legislative Assembly holds its sittings.

5. Reservation of Hostel seats:

- (1) The Hostel seats shall be reserved for the members during the Assembly sessions.
- (2) Accommodation for a person other than a member or his guest may be reserved on an application made to the Secretary at least seven days before the accommodation is required indicating the probable number of days which shall not exceed one week. The Secretary reserves the right to refuse accommodation to any person other than a member or his guest without assigning any reason thereof.

- (3) A member may be allowed- an extra seat in a separate room or a room for his guests not exceeding two in number at one time on payment of the tariff rates mentioned in item (b) of the Schedule appended to these rules subject to the availability of accommodation.
- (4) The rooms of the Hostel are furnished and no extra bed, linen and furniture shall be provided.
- (5) All requests for allotment of seats in the Hostel for any State shall come from the Home Department of the Government.

6. *Cancellation of Reservation:* Failure to occupy the seat on the due date shall amount to cancellation of the reservation.

7. *Rent for Hostel:* (1) The tariff rates for accommodation of the members of Parliament, the members of other State Legislatures, their guests and other occupants shall be charged as per rates given in the Schedule appended to these rules. The State Government reserves the right to add or alter the rates at its pleasure which shall be in force from the date such addition or alteration is made.

,(2) The occupants shall have to make entries in the occupation register at the time of vacating the occupation and leave the key with the Superintendent of the Hostel and in case of default he or she shall be treated to be in continuous occupation' and the charges thereof shall be double the usual rates.

8. The occupants shall keep 'all their personal belongings under lock and key at owner's risk and shall take them back while leaving. The Secretary shall not be responsible for the loss and/or damage of any articles which shall be kept exclusively at owner's risk.

9. The visitors may be allowed on request and with the concurrence of the occupants from 6. A. M. to 10. P. M. and prescribed rent shall be charged if any visitor stays beyond 10. P. M.

10. *Registers:*

- (1) There shall be separate occupation Registers for members and non .members.
- (2) The Registers shall be maintained by the Superintendent and kept in his custody or in his absence in the custody of the caretaker or chowkidar.

11. *Entry into Register:*

Every occupant shall enter the date and time of his arrival immediately when the accommodation is allotted to him and shall also enter the date and time of his departure in the Register.

12. *Payment of Rent:*

- (1) All dues for the occupation of the Hostel shall be paid to the Superintendent at the time of departure and necessary entries made in the Register kept with the Superintendent or in his absence kept with the Caretaker or Chowkidar of the Hostel by the occupant.
- (2) Rent for occupation of seats by any State Guest shall be paid by the Home Department of the Government after receipt of the bills from the Assembly Secretariat.
- (3) The Superintendent shall deposit the rent received by him weekly with the Secretary in the Assembly Secretariat.
- (4) The Secretary shall maintain a rent register and credit the rent in the State Bank of Sikkim every week under the proper Head.
- (5) The Secretary after crediting the rent shall enter the Bank Receipt number and date in the Occupation Register, Receipt Book and the Rent Register.
- 5) The payment of rent for occupation of seats by members during session of the Assembly or business connected with his duties as a member shall be made in cash to the Superintendent before their departure. For occupation of seats at other times by the members themselves, their families and guests shall similarly be paid before or while vacating the Hostel to the Superintendent and. receipt for such payment shall be issued to the members.

Explanation

The expression "business connected with his duties as member means any business arising out of Legislative Assembly duties and includes participation in the business at various committees, commissions, boards or study teams constituted, formed or appointed by the House or its Presiding Officer or. by the Government.

- (7) When rent is not paid in cash it shall be recovered from the pay or travelling allowances of the members.

(8) Rent for occupation of seat in the Hostel by any nonmember except the State Guest shall be paid in cash to the Superintendent before vacating the seat or room. The occupant shall also be given a receipt for such payment.

(9) In case of failure to pay seat rent by any non-member, the Department or the person on whose request seat has been allotted to the non-member shall be responsible for payment of the rent. The Superintendent or in his absence the Caretaker or Chowkidar shall report immediately to the Secretary, as soon as a non-member leaves the Hostel without payment or has made only part payment of rent.

13. *Stock Register.*:

A Stock Register shall be maintained in the Hostel for furniture, utensils, crockery's and other properties. The Stock Register shall be checked and verified half - yearly by the Secretary.

14. *Recovery on account of damage breakage etc.*: Any damage, breakage, or loss of utensils and furniture of the Hostel shall be made good by the person responsible for the damage, breakage or loss by paying the price of the kind at the current market rate.

15. *Gambling, drinking etc.* (1) Gambling, drinking of liquors and entertainment of persons of loose character in the premises are strictly prohibited.

(2) No occupant shall keep in his room any outsider except a Member of his family.

16. *Telephone*: (1) The telephone provided in the Hostel is for the use of the members. The members are entitled to use the telephone free of charge for the local calls. Trunk calls may be made with the prior permission of the Superintendent or in his absence information to the Caretaker or Chowkidar and entries for such trunk calls shall have to be made in the register kept for the purpose which shall be signed by the caller and the charges thereof as prescribed shall be recoverable from the caller.

(2) The non-member may also use the telephone on payment of the charges as notified from time to time by the State Government.

17. *Catering of Food*: (1) A canteen is attached to the Hostel and a member, his guest and/or the occupant may arrange for their own food directly with the caterer on payment of the tariff prescribed from time to time.

(2) A washerman is attached to the Hostel whose service may be available on payment.

(3) The services of room attendants may be available for the occupants except for the works outside the premises of the hostel.

(4) Cooking shall not be permitted in the rooms, balconies and or verandah of the hostel.

(5) No pet or animal shall be allowed in the premises of the hostel.

FORM

(See sub-rule (2) of rule 4)

I,.....hereby agree to the allotment

of seat No....., in Room No of the Hostel subject to the following conditions:

- (a) that I shall pay to the Government dues pertaining to such occupation .by deduction of allowance every month *and/or* after presentation of the bill if not paid in cash earlier;
- (b) that I shall not sublet any seat to any person;
- (c) that I shall abide by the existing rules and regulations formulated from time to time.

Signature of the M.L.A.

SCHEDULE

The tariff rates are noted below:

- (a) (i) For Members-Rs. 2/- per day for a single seat and Rs. 3/- per day for a double bed room.
(ii) For guest of the members Rs. 2/- per day for each guest.
- (b) Members of Parliament and their guests, Members of the other State Legislatures and their guests-Rs. 5/- per seat per day and part thereof.
- (c) For others - Rs. 8/- per day per seat for the first seven days and Rs. 12/ - per day per seat thereafter.

Note Part of day will be reckoned as a full day for the purpose of realizing occupation charges.

THE SIKKIM CHILDREN RULES, 1982,

13 (44) 80-81/SW/414

In exercise of the powers conferred by Section 64 of the Sikkim Children Act, 1982 (4 of 1982), the Government of Sikkim hereby makes the following Rules, namely :

1. Short title - These rules may be called the Sikkim Children Rules, 1982.
2. Definitions - In these rules, unless the context otherwise requires:
 - i) "Act" means the Sikkim Children Act, 1982;
 - ii) "Government" means the Government of Sikkim ;
 - iii) "Schedule" means a schedule to these Rules.
 - iv) "Section" means a section of the Act;.
3. *Certification of institutions-* Any institution or association desiring to be certified under sub-section (2) of section 8, sub-section (2) of section 9, sub-section (2) of section 10 as a fit person or fit institution or an approved. place .for, the reception and care of neglected children and juvenile delinquents, may make an application to the Chief Inspector, who shall cause the institution to be. inspected and shall make a report to .the Government regarding provisions made in the institution for the boarding, lodging and general health of the inmates and the quality of the literacy or vocational training made available.
4. *Registers to be maintained by certified school/s-* The Chief Inspector shall, subject to general control of the Government, prescribe the registers and records to be maintained by the managers of a certified school in respect of children committed to such school.
5. *Provision for literacy, craft education etc. in Children's Home/Special 'School:*
 - (1) It shall be the duty of the manager to provide adequate arrangements for furthering literacy, and imparting craft education and physical education to every inmate of the Children's Home/Special School so that he shall be kept gainfully occupied for at least 5 to 6 hours every day.
 - (2) For the purposes of imparting instruction, the manager shall in consultation with the Education Inspector divide the children into suitable age groups and lay down a syllabus for literacy and craft work separately for each age group. It shall also draw up a time-table for literacy and craft programme for each age 'group in consultation with the Education Inspector. No change in the final syllabus and time table shall be made without the previous approval of the Education Inspector.

(3) Adequate provision shall be made if possible for free recreation including organized games, walks and visits outside the Children's Home/Special School boundaries.

6. *Inspection by the Chief Inspector*- The Chief Inspector may visit any certified school at any time, hear complaints of inmates, if any, and make suggestions to the Managers thereof.

7. *Duties of the Inspection Staff*

(1) Every Chief Inspector and Inspector shall during his visit of a certified school give every child an opportunity to make verbal or written complaints to him if such child so wishes to make.

(2) Every Chief Inspector or Inspector shall at the conclusion of his inspection note in the visitor's book of the certified school the fact that he has inspected it on a particular date.

(3) The -Inspector shall submit his detailed report to the Chief Inspector of his inspection of the certified school.

(4) The Chief Inspector shall communicate to the Managers of *the* certified school inspected by him or his Inspector, such suggestions which may deem fit and necessary

8. *Educational Inspection*

(1) In addition to the Officers appointed under section 58, the District Education Officer of each district or his immediate assistant authorised by him in this behalf, shall also be ex-officio Inspector of certified schools within his jurisdiction. He shall carry out purely educational curriculum approved by the Education Department of the Government. He shall also carry out inspection of such certified schools within his jurisdiction as require recognition of the educational curriculum prescribed by them.

(2) The agricultural, industrial and other technical classes shall be inspected by the authorised officers of the concerned Departments of the Government.

(3) Every such Inspector or authorised officers of the concerned Department shall inspect the premises of each certified school, see the children and satisfy himself that all the registers pertaining to the various classes are maintained according to the rules for the time being in force and that proper arrangements are made for the safe custody of all such records. Each year he shall personally arrange for the inspection of the classes of each such school and shall submit an inspection report of such school to the Chief Inspector through the Head of his Department. The Head of Department shall forward such report to the Chief Inspector.

9. *Remand or Committal of Juveniles to Custody-*When a child is taken charge of under sub-section (l) of section 16 and sub-section (1) of section 21, a police officer shall unless, by an order of the court under the rule 15 is committed to the care or allowed to remain in the custody of his parent, guardian, relatives or fit person, be remanded to an Observation Home or in a place of safety until he can be brought before the Competent Authority.

10. *Inspection of a place of safety:-* (1) Every place of safety in the State in which a child is detained shall be open to inspection by the District Magistrate or any Magistrate deputed by the District Magistrate of the first class. In all cases, places of safety shall be liable to be inspected by the Chief Inspector and his inspecting staff.

(2) The occupier or Manager of such place of safety shall give every facility to the Probation Officer who visits for the purpose of making inquiries into his case.

11.. *Measures to be taken by After Care Organizations to enable the Child to live a useful life:*

The practical training given to the inmates of school - going age, as far as practicable, aim at giving the inmate training in Borne productive craft and keeping him usefully occupied. For this purpose, the manager after taking into account the stay of the inmate in the Children's Home/Special School may send him to an outside school in consultation with the Chief Inspector. Record shall be kept in respect of each inmate and in all suitable cases the parent or guardian if alive, shall be kept informed of the progress of the inmate.

(2) No inmate shall be employed in such manner as to impair his capacity for profiting by instruction or depriving him of reasonable recreation or leisure.

(3) No inmate shall be employed for private or domestic work either by the District Association or the Children's Home/Special School.

12. *Manner of detention of children not committed to the Observation Home or certified school:*

(1) Any offender ordered to be kept in safe custody under section 25 may be kept, if the court thinks fit, in the juvenile section to be specially provided and located away from adult criminals in every prison.

(2) No child shall be handcuffed or roped while in custody or in being escorted to Court or Hospital or to the place of safety, as the case may be and he shall not be accompanied by a Police Officer in uniform.

13 *Duties of Probation Officers:-* (1) A Probation Officer shall carry out all given to him, by the court and perform the following duties:

- (i) to make initial inquiries regarding the home and school conditions, conduct, character, antecedents and health of the children under his supervision;
- (ii) to attend regularly the court and submit reports
- (iii) to keep diary, case files and registers;
- (iv) to visit regularly children placed under probation or supervision and' also places of employment or schools attended by such children and to submit regular . monthly reports;
- (v) to take children, whenever possible from Court or Observation Home to certified schools or fit person institutions;
- (vi) to bring before the court immediately children who have not been of good behavior during the period of supervision;
- (vii) to advise and give guidance and assistance to the children placed under supervision or released on licence and endeavors to find them employment;
- (viii) to run recreation clubs; and
- (ix) to perform any .other duty which may be specified by the Court or any releasing authority in respect of children under his supervision.

(2) A Probation Officer shall not employ a child or youthful offender under his supervision, for his own private purpose or take away any private service from him.

14. *Constitution and procedure of Children's Courts:-*(1) Every Children's Court established under section 4 shall consist of a salaried Magistrate with such Honorary Magistrates not exceeding two in number, one of whom shall be a woman as may be specially appointed for this purpose, by the Government:

Provided that in the absence of anyone or both of the Honorary Magistrates, it shall be competent for the salaried Magistrate sitting singly or with the Honorary Magistrate who may be present, as the case may be, to exercise all or any of the powers of a Children's Court.

(2) The proceedings of the Children's Court shall be informal. The Police Officers shall not appear in the said courts in uniform. Usage of certain expressions such as sentence, conviction and accused shall be avoided.

(3) The Children's Court shall ordinarily holds its sittings within the complex of the Observation Home wherever it exists, subject to such directions as the Government may determine concerning the place at which, the day on which and the manner in which a Children's Court may - hold its sittings where there are no Observation Homes subject to sub-section (2) of section 31.

15. *Medical opinion regarding age and physical and mental condition of children:*

In every case, concerning a child, the Court shall obtain medical opinion regarding his age and his physical and mental condition and when passing orders in such a case shall, after taking into consideration the medical opinion and such other evidence as may be available record a finding in respect of his age.

16. *Supply of information regarding children by courts:-* (1) Whenever the court orders a child to be detained in a certified school or fit person institution, it shall forward to the Managers of such schools or institutions a copy of its judgment if any, or order, together with information regarding the age and address of the child, if known, and any particulars of his home and previous record, that may have been discovered.

(2) The officer-in-charge of the place of safety or the Police Station concerned shall, on the issue of orders by a court for the detention of a juvenile in a certified school, or institution forward to the Manager of such school or institution copies of any record he may have of the juvenile's previous history.

17. *Contribution of parent or other person:-* (1) The court making an order under subsection (1) of section 55 may direct the parent or other person liable to maintain the child or youthful offender to pay in court, in advance, in the beginning of each month such sum of money as the court may think fit, not exceeding Rs. 50/in the whole per mensem, towards the maintenance of such child or youthful offender.

(2) All such recoveries shall be credited by the court into a Government treasury as Miscellaneous Receipts of Government.

18. *Manner in which a child or youthful offender may be committed to the care of a parent, guardian, relative or other fit person:-* (1) The court making an order committing a child or youthful offender to the care of, or allowing a child to remain in ,the custody of a parent, guardian, relative or other fit person, as the case may be, under section 19 or clause(b) of section 24 may direct such parent, guardian. relative or fit person to enter into a bond in the form specified in Schedule I' or IA with or without sureties and in such sum of money as the court may think fit, to keep him under proper care and control, and to be responsible for his good behavior. In addition to the conditions prescribed/specified in the form of the bond Schedule I, . the court may impose such other conditions as it may think fit for securing that the child or youthful offender as the case ,may be. to lead an honest and industrious life.

(2) When a child or youthful offender has been placed under the supervision of a Probation Officer, the court shall impose a condition, that all necessary assistance may be rendered by the parent, guardian, relative or other person as the case may be, to the Probation Officer to enable him to carry out the duties of supervision

..

(3) When a child or a youthful offender has been ordered to be sent on his own bond, back to a relative or fit person or to his native place under section 38 the court shall take his bond in the form specified in Schedule II.

19. *Authorization of person to act under sub-section (1) of section 16*-The State Government may authorize the District Collector or such persons as they think fit to take action under sub-section (1) of section 16.

20. *Release on licence under section 52*-(1) A child detained in a certified school or fit person institution shall not be released by the Chief Inspector under sub-section (1) of section 52 except on the conditions specified in the form in Schedule III.

(2) On the release of any child on licence by order of the Chief Inspector under sub-rule (1), information shall be sent by the school or institution to the committing court of the actual date of release of the child.

21. *Short leave of absence to inmates of certified schools*-(1) The Manager of a certified school or fit person institution may, on sufficient cause being shown to his satisfaction grant permission in writing to an inmate to absent himself for short periods not exceeding 15 days in aggregate in the year, exclusive of the time required for going to and returning from the destination, for the purpose of visiting parents or relations:

Provided that as far as possible the previous consent of the Chief Inspector shall be obtained for granting leave exceeding a week at a time.

(2) The permission granted under sub-rule (1) may at any time be cancelled by an order in writing by the Manager and the inmate may be recalled by him without giving any reasons therefor.

(3) The Chief Inspector on the application of a parent or relative recommended by the Manager of a certified school or fit person institution may, in selected cases grant vacation leave upto six weeks, excluding the days of journey at a time to inmates from certified schools or fit person institutions. Such permission may be cancelled by the Chief Inspector by an order in writing and the inmate may be recalled by him without giving any reasons therefor.

(4). The time during which an inmate is absent from the school or institution under sub-rule (1) or (3) shall be deemed to be part of the time of the detention 'in the school or institution.

(5) If any inmate fails to return to the school or institution after the expiry of the period permitted under sub-rule (1) or (3) or when recalled under sub-rule (2) or (3), the Manager shall report the matter to the Chief Inspector and any Police Officer may, on the application in writing of such Manager or Chief Inspector, arrest the inmate without warrant and send him back to the school or institution.

(6) The time which elapses after the failure of an inmate under sub-rule (5) to return to the school or institution shall be excluded in computing the time of his detention in the school or institution.

(7) Any parent or guardian contributing towards the maintenance of the child in a certified school or fit person institution under an order passed by a court under sub-section (1) of section 55, shall be exempt from the payment of such contribution for the period during which the child is absent from the institution under sub-rule (1) or (3).

SCHEDULE I A

ANNEXURE

(Where a bond with surety/sureties is to be executed)

I/We..... of.....
residing in the Block of..in the
district of.....hereby declare myself/ourselves surety /sureties
for the aforesaid..... that he/she has undertaken to do and perform
and in case of his making default therein, I/we hereby bind myself/ourselves jointly
and severally to forfeit to the Government of Sikkim the sum of Rupees.....
(Rs.....)

Dated this the.....day of 19.

.In the presence of.....

Before me

(Signed)

SCHEDULE I

Form of bond to be executed by a parent, guardian, relative or fit person to whose care a child or youthful offender is committed (see rule 18).

Whereas I. being the parent/guardian/relative or person
in whose custody/to whose carehas been allowed to remain/
ordered to be committed by thechildren's court/Magistrate to execute
a bond in the sum of Rswith one surety/two
sureties. I hereby bind myself on the said.....being allowed to remain
in my custody/ committed to my care. I shall have the said.....properly

taken care of and I do further bind myself to be responsible for the good behavior of the saidand to observe the following conditions for a period of.....years commencing from.....

- 1. That I shall not change my place of residence without giving previous intimation in writing to the .court through the Probation Officer;
- 2. That I shall not remove the saidfrom the limits of the jurisdiction of the court without previously obtaining the written permission of the court;
- 3. That I shall send the said daily to school/to such daily work as is approved by the court. unless prevented from doing so by circumstances beyond my control;
- 4. That I shall report immediately to the court through the Probation Officer, if the said.....misbehaves or absconds from custody;
- 5. That I shall produce the said.....before the court whenever so required by the court;
- 6. That I shall render all necessary assistance to the Probation Officer to enable him to carry out the duties of supervision.
- 7.
- 8.
- 9.
- 10. In the event of my making default herein, I bind myself to forfeit to the Government of Sikkim the sum of Rs..... (Rupees.....) only dated this the day of..... 19

Before me

(Signed)
Signature of person executing
the bond.

SCHEDULE II

Bond to be signed by a child or youthful offender who has been repatriated or sent to a relative or fit person to his native place (see rule 18).

Whereas I, inhabitant of
 have been ordered to be repatriated or sent back to my
 native place by the Children's Court/Magistrate of under
 sub-section... .. of section of the Sikkim Children
 Act, 1982, on my entering into a bond to observe the conditions mentioned herein below.
 Now, therefore, I do solemnly promise to abide by these conditions during the period specified
 in the order made by the Court. I hereby bind myself as follows:

1. That during the period of I shall not leave the....

.....place of relative or fit person..... in which
 I am repatriated or sent and shall not return to or go any
 where else.

2. That during the said period I shall attend work/school in the place to which
 I am repatriated or sent

3. That I shall be of good behavior and shall not in any way commit any breach of conditions
 laid down in this bond and accepted by me.

4. That during the period specified in the order I shall particularly observe the
 following conditions:

(a) That I shall accept the guidance and assistance of the relative or fit person to whom I am
 repatriated or sent or to whose care and custody, I am entrusted as named in the. order
 and will obey the directions given to me from time to time by the said person;

(b) that I shall not play truant from home, school work or place to which I am repatriated or
 sent;

(c) that I shall live honestly and peaceably and will endeavor to earn an honest livelihood,
 attend school regularly and obey the authorities and shall not change any
 employment/school without the permission of the relative or fit person to whom I am
 repatriated or sent.

(d)

(e)

(f)

In case of my making default in observing any of the conditions specified above, I shall
 on my reappearance before the Court receive such order as the Court deems fit.

Signature or mark of.

SCHEDULE III

Form or order of release on licence (see rule 20) .

I Chief Inspector of certified schools, State of Sikkim, do by this licence 'permitson/daughter of..... caste..... of : son/daughter caste residing at number..... who was ordered to be detained in a certified school' by thecourt under section..... of the Sikkim Children Act, 1982 for a term -of years on the..... day of 19 ,and who is now detained in the..... school at..... to be discharged from the said school on condition that he/she be placed under the supervision and authority of' the Secretary/Society/Advisory Board/Probation Officer/Superintendent, during the remaining portion of the aforesaid period of detention.

This licence is granted subject to the conditions mentioned below:

1. The licensee shall proceed to the house of his parents/guardian/relative or a ;person residing . at. .. Block..... District.. and live under the authority of the..... until the expiry of the period of his detention unless the remission is sooner cancelled.
2. He/she shall not without the consent of the said Court remove himself/herself' from that place or any other place.
3. He/she shall. obey such instructions as he/she may receive from the said..... :with regard to punctual and regular attendance at employment or otherwise.
4. He/she shall abstain from committing any offence and shall lead a sober and industrious life to the satisfaction of the said.....
- 5.
6. In the event of his committing any breach of the above conditions, the remission of the period of detention shall be liable to be cancelled and on such cancellation . he shall be dealt with under section.

Signature of the Chief Inspector
of Certified Schools.

I hereby acknowledge, that I am aware of the conditions stated above which have been read over/explained to: me and that I accept the same.,

Dated.... Signature or mark of Licensee.

Certified that the conditions specified in the above have been read over/explained to and that he/she has accepted them as the conditions upon which the remission of the period of detention has been granted to him/her and that he/she has been released accordingly on the

Dated Signature of the Head of Office or Certifying Authority.

THE SIKKIM INDUSTRIES LICENSING ACT, 1982.
(ACT NO.1 OF 1983)
AN ACT

(10. 3 . 1983.)

to provide for licenses for regulation of industries in Sikkim for abolition of exclusive right in industries; for industrial progress of the State and matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Thirty third year of the Republic of India as follows:

- 1. (1) This Act may be called the Sikkim Industries Licensing Act, 1982. *Short title, extent and commencement.*
- (2) It extends to the whole of Sikkim.
- (3) Save as otherwise provided in section 8, this Act shall be deemed. to have come into force on the 19th day of June, 1982.

2. In this Act, unless the context otherwise requires, *Definitions.*

- (a) "government" means the Government of Sikkim;
- (b) "industry" means any establishment for manufacture.;
- (c) "licensing authority" in relation ,to

- (i) a small scale industry means the Department of the Government dealing with Industries; and
- (ii) other industries means the Government.

Explanation.- For the purpose of sub-clause (i), a small scale industry shall mean an undertaking having investment in fixed assets in plant and machinery (whether held on ownership terms- or by lease or by hire purchase) not exceeding rupees ten lakhs and that of approved ancillaries upto rupees fifteen lakhs.

- (e). "manufacture" means any process for making, fabricating, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;
- (f) "notification" means the notification published in the Official Gazette;
- (g) "owner of an industry" includes a person who has ultimate control over the affairs of the industry and where the said affairs are substantially entrusted to or carried on by a person such person shall be deemed to be the owner of such industry;
- (h) "prescribed" means prescribed by rules made under this Act.

3. (1) No person or authority other than the Government, shall, after the commencement of this Act, establish or carry on any industry in the State of Sikkim except under and in accordance with a licence issued in that behalf by the licensing authority under this Act.

Licence for establishing an industry.

(2) A licence under sub-section (1) may contain such conditions and in particular,

- (a) conditions as to percentage of shares to be offered to persons domiciled in Sikkim for subscription;
- (b) appointment of Managing Director or Chairman of an industry;
- (c) minimum employment of persons domiciled in Sikkim;
- (d) minimum and maximum production;

(e) right of the Government to inspect and control quality of goods produced;

(f) location of the industry, as may be prescribed.

(3) Notwithstanding anything contained in sub-section (2) or the rules made under section 16, the licensing authority may specify on the licence such other conditions as it may deem fit in the interest of development of industries in the State and in the interests of persons domiciled in Sikkim.

4. (1) An application for licence shall be made to the Licensing authority in such form as may be prescribed and shall be accompanied by such fees not exceeding rupees ten thousand as may be prescribed.

Procedure for obtaining Licence.

(2) Where before the commencement of this Act, any person was carrying on any industry, such person shall apply for licence under sub-section (1) and may be entitled to continue to carry on such business without a licence in respect of such industry

(a) for a period of six months from the date of publication of this Act in the Official Gazette; or

(b) if before the expiry of the said six months, such person has made an application, for grant of licence under this Act for such industry, until the final disposal of his application.

(3) On receipt of the application for licence, the licensing authority may either grant or refuse a licence:

Provided that no licence under this Act shall be granted if the licensing authority for reasons to be recorded in writing, is of opinion that granting of such licence shall be against the public interest.

5. (1) Every licence granted under this Act shall be valid for a period of ten years from the date on which it is granted and may be renewed as provided in this section.

Duration and renewal of Licence.

- (2) An application for renewal of licence shall be made to the licensing authority not later than three months before the date of its expiry in such form and shall be accompanied by such fees not exceeding rupees five thousand as may be prescribed.
6. (1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as has been prescribed and for that purpose require the holder of licence by notice in writing to deliver up the licence to it within such time as may be specified in the notice.
- (2) The licensing authority may, on the application of the holder of licence also vary the conditions of licence except such of them as have been prescribed.
- (3) The licensing authority may, by an order in writing, suspend a licence for such period as it thinks fit or revoke a licence,
- (a) if it is satisfied that the holder of licence is prohibited by any law for the time being in force to carry on an industry; or
- (b) if the holder of the licence has violated any of the conditions under which the licence was granted; or
- (c) if the licensing authority deems it necessary in the interest of public peace or public safety to suspend or revoke a licence; or
- (d) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of licence or any other person on his behalf at the time of applying for licence; or
- (e) if the holder of licence has failed to comply with a notice under sub-section (1) requiring him to deliver up the licence; or
- (f) if the holder of licence has been convicted for an offence under the Prevention of Food Adulteration Act, 1954, the Essential Commodities Act,

Variation, suspension and revocation of licence.

1955, the Foreign Exchange Regulation Act, 1973, the Essential Commodities (Special Provisions) Act, 1981 or any other offence involving moral turpitude.

(4) Where the licensing authority makes an order varying the conditions of a licence under sub-section (1) or an order suspending or revoking a licence under sub. section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand and on payment of a fee of rupees fifty a brief statement of the same.

(5) A court convicting the holder of a licence for any offence under this Act or the rules made thereunder or for any offence under the Acts referred to in clause (f) of sub-section (3), may also suspend or revoke a licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(6) An order of suspension or revocation under sub-section (5) may also be made by an appellate court of: by the High Court.

7. Notwithstanding anything contained in any law, order, custom, promise or contract to the contrary, no owner of an industry in Sikkim shall have an exclusive right to manufacture any article for any period within the State of Sikkim. Any person, company, body corporate or firm having exclusive right to carry on any industry or to manufacture any article (to the exclusion of others) shall cease to have such right from the date of commencement of this Act. *Abolition of exclusive right.*
8. The Notification No. 2/TIC, dated the 16th February, 1974 relating to Incentive for Growing industries in Sikkim except paragraph (v) (b) and paragraph (vii) (a) and (b) thereof (relating to Income Tax and Participation by the Government of Sikkim and Sikkimese people) is hereby repealed. This section shall be deemed to have come into force with effect from the 24th day of May, 1976. *Repeal of notification No. 2ITIC.*
9. Every licence holder shall submit to the licensing authority returns in respect of such statistics and other information at such intervals as the Government may, from time to time, require. *Submission of Returns.*

10. (1) Every licence holder shall deposit with the licensing authority such amount in such instalments as the said authority may, having regard to the nature of the industry and the number of persons employed therein, specify. (2) The amount also deposited may be utilized by the licensing authority for payment to the employees of the industry. compensation for loss of employment before the expiry of the period of licence.
- Licence holder
to deposit certain
amount with
Government.*
11. For promotion and development of traditional and small scale indigenous industries using local materials, the Government may grant such incentives as it may think fit in each case.
- incentives to certain
industries.*
12. (l) Where an offence under this Act or rules made thereunder 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:
- Offence. by
companies.*

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any 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.

Explanation.-For the purposes of this section,

- (a) "company" means any body' corporate and includes a firm or other association of individuals, and
- (b) "director" in relation to a firm means a partner in the firm.

13. No suit or other legal proceeding shall lie against the Government or any officer or authority empowered by the Government for anything which is in good faith done or intended to be done under this Act or rules made thereunder. *Protection of action in good faith.*
14. No suit or other proceedings shall lie against the Government or its officers for any damage caused or likely to be caused by any Act that may be enacted, extended and enforced by a competent legislature in this State and has the effect of amending, adding to, varying, altering or repealing of any of the provisions of this Act. *Bar to suits.*
15. Every person who contravenes any of the provisions of this Act or rules made thereunder shall, on conviction, be liable to be punished with imprisonment which may extend to six months or to fine or with both. *Penalties.*
16. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act. *Power to make rules.*
- (2) In particular, and without prejudice, to the foregoing powers, such rules may provide for all or any of the following matters, namely;
- (a) the form of application for renewal grant of licence and thereof;
- (b) the fees payable for grant and renewal of licence;
- (c) the conditions subject to which a licence may be granted;
- (d) any other matter which is required to be or may be prescribed.
17. (1) The Sikkim Industries Licensing Ordinance, 1982 (1 of 1982) is hereby repealed. *Repeal and saving.*
- (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SIKKIM SALES TAX ACT, 1983**(ACT NO.4 OF 1983)****AN ACT**(3. 3. 83)

to consolidate and amend the law relating to the levy of tax on the goods in the State of Sikkim.

Be it enacted by the Legislature of Sikkim in the Thirty-fourth year of the Republic of India as follows:

CHAPTER 1**PRELIMINARY**

1. (1) This Act may be called the Sikkim Sales Tax Act, 1983.

Short title, extent and commencement.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

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

Definitions.

(a) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture carried on with or without a motive for profit whether or not . any profit accrues from such activities and any transaction ancillary or incidental to or in connection with such trade, commerce or manufacture or adventure or concern;

(b) "commissioner" means the Commissioner of Commercial Taxes appointed under sub-section (1) of Section 3 ;

(c) "dealer" means any person who carries on business of buying and selling of goods for commission, remuneration or otherwise and includes any firm, Hindu Undivided Family, company, corporation, a department of Government. society, club or association, the incorporation of such society, club or association

Explanation 1.-A factor, broker, commission-agent, del-credere agent, auctioneer or any other mercantile agent, by whatever name called, who carries on the business of

buying or selling of goods and who has, in the course of his business, authority to sell goods belonging to their owners, shall be deemed to be a dealer for the purposes of this Act;

Explanation 2.- The manager or agent of a dealer residing outside the State, and who sells or purchases goods in the State, shall in respect to such business, be deemed to be a dealer for the purpose of this Act;

(d) "declared goods" means the goods declared by section 14 of the Central Sales Tax Act, 1956 to be of special importance in inter-State trade or commerce;

74 of 1956.

(e) "goods" means all kinds of movable property in solid, liquid or gaseous form, and includes all materials, commodities, articles and also electricity but does not include newspapers, actionable claims, stocks, shares and securities;

Explanation.-Materials, commodities and articles attached to or forming part of immovable property which are agreed to be severed under the contract of sale, shall be deemed to be goods within the meaning of this clause;

(f) "manufacture" with all its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing or adopting, any goods but does not include such manufacture or manufacturing process as may be prescribed;

(g) "notification" means a notification published in the Official Gazette;

(h) "place of business" includes

(1) in the case of any dealer who carries on business through an agent (by whatever name called), the place of business of such agent;

(2) a warehouse, godown or other place where a dealer stores his goods; and

(3) a place, where a dealer keeps his books. of accounts;

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

(j) "prescribed authority" means such authority as may be prescribed;

(k) "registered dealer" means a dealer registered section under 10;

(l) "rules" means the rules made under this Act;

2 [(m) "sale" with its grammatical variations and cognate expressions means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes the "transfer, delivery or supply of goods by one person to an other person in any of the following ways, namely:

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

(b) the transfer for property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(c) the delivery of goods on hire-purchase or any system of payment by instalments;

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

(e) the supply of goods by any unincorporated association, or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

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

does not include a mortgage or hypothecation of or a pledge on goods."]

3 [Explanation 1.- Transfer of goods on hire-purchase or other system of payment by instalments shall be deemed to be a sale if and when there is a transfer of property or goods from the seller to the buyer;]

2. Inserted by the Sikkim Sales Tax (Amendment) Act No.4 of ,1986 w.e..1/4/86
 3. Omitted by the Sikkim Sales Tax (Amendment) Act No, 4 of 1986 w.e.f.1/4/86

4 [Explanation 1.-A barter that is, sale by exchange of goods shall be deemed to be a sale only when the exchange is based or worked out in terms of the value of the goods, exchanged.]

5 [*Explanation 2.*-A sale of goods shall be deemed to have taken place in the State if it fulfils the requirements of the sub-section (2) of section 4 of the Central Sales Tax Act 1956;]

74 of 1956.

(n) "sale price" means the amount payable to a dealer as consideration for the sale of goods, less any sum allowed as cash discount but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;

Explanation 1.- The term cash discount shall refer only to the discount allowed by the seller to the buyer for the prompt or prior or early payment of sale price according to the practice prevailing in the trade;

Explanation 2. - The tax levied under this Act on the transaction of sale shall not form part of the sale price for the purpose of this Act, only if it is actually leviable under this Act on the seller and is recovered by the seller from the buyer by showing it separately as such in the cash memos, invoices or other sale memoranda;

6 [*Explanation 3.*- In respect of goods delivered on hire purchase or any system of payment by instalments, the sale price on the date of such delivery shall, for the purposes of this Act, be determined in such manner as may be prescribed."]

7 [*Explanation 4.*- The sale price shall include the excise duty, fee or any other levies on the goods, under any Central or State law for the time being in force, made at the time of

..

4. Renumbered by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w. e. f. 1/4/86
5. Renumbered by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w. e. f. 6/4/86
6. Substituted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w e. f. 1/4/86
7. Inserted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w. e. f. 1/4/86.

or before the delivery of the goods to the buyer whether such duty, fee or other levy is paid by the purchaser of the goods to the seller along with the consideration for the sale or directly to the Government.']

(o) "Sikkim" means the territory comprised in the State of Sikkim;

(p) "State Government" means the Government of Sikkim;

(q) "Tax' means tax payable under this Act;

(r) "turnover' used in relation to any period means the aggregate of sale price or part of sale price receivable or if a dealer so elects, actually received by the dealer during such period after deducting the amounts if any, refunded by the dealer in respect of any goods returned by the purchaser within such period as may be prescribed:

Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose

Explanation.- The turnover of sales shall include amounts realized by a dealer by sale of surplus, unserviceable and discarded goods, fixed or other assets of the business, bye-products and subsidiary products of manufacture or processing but shall not include sales in a canteen owned and run by the dealer for the benefit of his workman or laborers;

(s) "year" means the financial year commencing on the first day of April and ending on the 31st day of March next following.

CHAPTER II

Taxation authorities

- 3 (1) For carrying out the purposes of this Act, the State Government may appoint a person to be Commissioner of Commercial Taxes and such other persons with such designation to assist him as may be necessary and as may be specified in this behalf by the State Government by notification.

(2) The Commissioner and other persons appointed under sub-section (1) shall exercise such powers as may be prescribed and perform such duties as are imposed upon them by this Act or rules made thereunder within such areas in the State as may be specified in this behalf by the State Government by notification.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860

CHAPTER III
Incidence of Taxes

4. There shall be paid by every dealer who sells 8[goods manufactured, imported, produced or purchased by him in the State, a tax on sales made on and from the date of commencement of this Act.

incidence of taxation.

5. (1) The tax payable by a dealer under this Act shall be levied on taxable turnover at the following rates,

Rate of tax.

(a) in respect of goods specified in Schedule II, at the rate of ten paise in the rupee;

(b) in respect of declared goods, at such rate not exceeding four paise in the rupee as the State Government may, from time to time, by notification, specify;

(c) in respect of any other goods at such rate not exceeding five paise in the rupee as the State Government may, from time to time, by notification, specify;

(2) Notwithstanding anything contained in sub-section (1), the State Government may, in public interest, by notification and subject to such conditions as may be specified therein, direct that no tax or a lower rate of tax shall be payable in respect of any specified transactions or goods or class of dealers and such notification may be given such retrospective or prospective effect as may be specified therein. (3) For the purposes of this Act, the expression 'taxable turnover' means that part of dealer's gross turnover during the prescribed period in any year which remains after deducting there from

8. Inserted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 with effect from 12/5/1983.

(a) his turnover during that period on

(i) the sales, at the subsequent stages of sales, of such goods as are specified, by a notification, issued under section 6 to be subject to tax at the first point in the series of sales in Sikkim in respect of which tax due under this Act is shown to have been paid to the satisfaction of the prescribed authority;

(ii) the sales of goods exempted under section 8;

(iii) the transactions not liable to tax under section 9;

(iv) the sales of goods which are proved to the satisfaction of the Commissioner to have already been subjected to tax under this Act;

(v) the sales to a registered dealer

(a) of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for use by him as raw materials in the manufacture in the State of any goods, other than goods declared as tax-free under section 8,

(1) for sale inside the State; or

(2) for sale in the course of inter-State trade or commerce, being sale occasioning or effected by transfer of documents of title to such goods during the movement of such goods from the State; or

(3) for sale in the course of export outside India being a sale occasioning the movement of such goods from the State, or a sale effected by transfer of documents of title to such goods during the movement of such goods from the State, to a place outside India and after the goods crossed the customs frontiers of India; or

(b) of the goods other than those notified under section 6 as taxable at the first point in the series of sales, of the class or classes specified in the certificate of registration of such a dealer as being intended for resale by him in the State or for sale in the course of inter-State trade or commerce or in the course of export outside India in the manner specified in item (2) or item (3) of item (a) of this sub-clause as the case may be; and

(c) of containers or other materials for the packing of goods of the class or classes specified in the certificate of registration of such dealer, other than declared goods intended for sale or re-sale:

Provided that no deduction in respect of sale referred to in sub-clause (v) shall be allowed unless a true declaration duly filled and signed by the registered dealer to whom the goods are sold and containing the prescribed particulars in the prescribed form is furnished in the prescribed manner and within the prescribed time, by the dealer who sells the goods

Provided further that where any goods are purchased by a registered dealer for any of the purposes mentioned in sub-clause (v) but are utilized by him for a different purpose, the price of the goods so purchased shall be allowed to be deducted from the gross turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer;

(vi) such other transactions as are exempted from payment of tax by a notification issued under sub-section (2).

6. Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, specify the point of sale at which any goods or class of goods may be taxed.

Powers of Government to prescribe point at which goods may be taxed.

7. The burden of proving that the dealer is not liable to pay tax under this Act in respect of any sale effected by him, shall lie on him.

Burden of proof.

8. (1) No tax shall be payable under this Act on the sale of goods specified in Schedule I subject to the conditions and exceptions, if any, set out therein.

Tax:free goods. .

(2) The State Government, after giving by notification such previous notice as it considers reasonable of its intention so to do, may add to or omit from, or otherwise amend Schedule I and thereupon the said Schedule shall be deemed to be amended accordingly:

Provided that the said notification may be given such retrospective or prospective effect as may be specified therein.

9. Nothing in this Act or the rules -made thereunder shall be deemed to impose or authorize the imposition of tax on any sale or purchase of any goods when such sale or purchase takes place

certain sale and purchases not liable to tax.

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

(ii) outside the State: or

(iii) in the course of import of goods into. or export of goods out of, the territory of India.

CHAPTER IV

Registration of dealers. etc.

10. (1) Every dealer liable to pay tax under this Act shall apply, within 30 days of his becoming so liable, to the prescribed authority for registration under this Act.

Registration of dealers.

(2) No dealer liable to pay tax under this Act. shall sell or purchase goods unless he is in possession of a valid registration certificate granted to him by or on behalf of the prescribed authority or has applied for such registration within the time specified in sub-section (1) and his application has not been finally disposed of by the said authority.

(3) The prescribed authority may, on receipt of application in the prescribed form from a dealer for registration, and on being satisfied that the application is in order, grant registration from such date as may be specified, to such dealer:

Provided that the said authority granting the certificate may demand such security from the dealer as may be prescribed before the registration is granted to him:

Provided further that no application for' registration made by a dealer shall be refused, or partly granted unless he has been given a reasonable opportunity of being heard before the order is passed.

(4) If the prescribed authority is satisfied that a dealer liable to pay tax under this Act has failed to apply for and get himself registered, it may. by a notice in writing. direct the dealer to apply for and get himself registered

within 15 days of the service of the notice, failing which the dealer shall be liable to pay a penalty of rupees twenty-five for each day's delay after the expiry of the said period of 15 days:

Provided that the said authority may, on, an application by the dealer and for reasons to be recorded in writing, reduce or waive the penalty, if it is satisfied that the delay has been caused' by reasons beyond the control of the dealer.

(5) The registration certificate shall be in the prescribed form and contain such particulars as may be prescribed. The prescribed authority may on its own motion for reasons to be recorded in writing or on an application by the dealer, cancel, vary, modify, or amend any registration certificate granted under sub-section 5:

Provided that a registration certificate shall cease to be in force when the dealer has ceased to be liable to pay tax under this Act or his business has been closed:

Provided further that when the registration certificate is cancelled, varied, modified or amended otherwise than on application by dealer or when the application made by the dealer for the purpose is proposed to be rejected in whole or in part, a reasonable opportunity of being heard or to show cause against the proposed action shall be given to the dealer.

(6) The registration certificate granted to a dealer shall not be transferable and if the business to which it relates is transferred to another dealer, then that other dealer shall apply and get himself registered under subsection (1) and (2) unless he is already registered.

CHAPTER v

Return, Assessment, Recovery and Refund of Tax.

11 (1) Every registered dealer shall furnish such returns for such periods in such form, to such authority and within such time as may be prescribed:

*Returns and
payment of tax.*

Provided that if a dealer, having furnished a return discovers any omission, error or wrong statement therein, he may furnish a revised return in such manner as may be directed by the aforesaid authority at any time before the said authority passes the order determining the amount of tax payable by the dealer for the period for which the return has been furnished:

Provided further that the said authority may, for reasons to be recorded and after giving the dealer a reasonable opportunity of being heard, refuse to take the revised return into consideration if it is satisfied that the original or the revised return was deliberately false and it was furnished with intent to defraud the State Government of its revenue.

Explanation.-A dealer who is granted registration from any particular date shall also be liable after the grant of such registration, to furnish return also for the period prior to such date during which he - .was liable to pay tax under this Act, in such manner and within such time as may be prescribed.

(2) The dealer shall, before furnishing any return or revised return referred to in sub-section (1) pay to the Government in such manner and within such time as may be prescribed the amount of tax due under this Act according to the return or the revised return, as the case may be, and furnish along with the return or the revised return, such proof of the payment of tax due as may be prescribed, and any such return or revised return if not accompanied by any such proof of payment shall be deemed invalid and treated as if it has not been furnished.

(3) If a registered dealer fails, without reasonable cause to furnish any valid return within the time prescribed or within such further time as may be allowed on application, by the prescribed authority, a penalty at the rate not exceeding rupees five for each day of delay shall be imposed without prejudice to any action which is. or may be taken under any of the other provisions of this Act.

12. A rebate shall be allowed at the rate of one per cent of the amount of tax paid by the dealer within the time prescribed under sub-section (2) of section 11 :

Rebate

(d) appear or produce or cause to be produced- evidence on the date specified under sub-section (2);

the prescribed authority shall, after giving a reasonable opportunity to the dealer of being heard, determine the taxable turnover of the dealer to the best of its judgment and assess the tax on the basis of such determination and may, in addition, impose penalty of an amount not exceeding one half of the amount of tax so assessed:

Provided that no penalty under this sub-section shall be imposed unless the prescribed authority is satisfied that the failure of the dealer was willful, deliberate or unjustified and unless a reasonable opportunity of being heard is given to the dealer:

Provided further that in .cases covered by clause (a) of this sub-section, no proceedings for assessment shall be initiated after the expiry of four years from the' expiry of the relevant period due for assessment or in cases in which the assessment is made as a result of an order in appeal, revision or review, after the expiry of two years from the date of such order.

(4) If upon information received, the prescribed authority is satisfied that a dealer liable to pay tax under this Act in respect of any period wilfully failed to apply for registration under sub-section (1) of section 10 or having applied, wilfully failed to furnish any particulars or information required for the purpose of registration or having been registered fails to furnish returns within the period prescribed under sub-section (1) of section 11, the said authority shall, after giving the dealer a reasonable opportunity of being heard, assess, according to its best judgment, the amount of tax due from the dealer for such period or any subsequent periods and in addition, may impose a penalty of an amount not exceeding one half of the amount of tax so assessed:

Provided that no proceedings under this sub-section shall be initiated after four years from the expiry of such period.

Explanation.-For the purpose of sub-section (3) or sub-section (4), as the case may be, the proceedings shall be deemed to have been initiated when a notice therefor is served or deemed to have been served on the dealer.

(5) If upon information which has come into possession, the prescribed authority has reason to believe that any turnover of a registered dealer in respect of any period has for any reason escaped assessment or was under-assessed or assessed at a rate or rates lower than the rate or rates correctly applicable, or any deduction from turn over had been wrongly made, it shall, within six years of the expiry of such period, serve on the dealer a notice in the prescribed Form and proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover in the manner specified by or under this section:

Provided that the amount of tax shall be assessed or reassessed after allowing such deduction and applying the same rate of tax as was admissible during the said period:

Provided further that the said authority may, after giving reasonable opportunity to the dealer of being heard, impose a penalty not exceeding the amount of extra tax found leviable in the proceedings under this sub-section, if it is satisfied that the escape from assessment or underassessment had been caused by the deliberate and willful failure on the part of the dealer

(a) to disclose, at the time of original assessment the particulars of such turnover; or

(b) to furnish correct particulars.

14. (1) The tax admitted by the dealer to be due in any return or revised return furnished by him under section 11 shall be paid in the manner prescribed by or under sub-section (2) of that section.

Procedure of payment of tax or penalty.

(2) The amount of the tax and penalty assessed as due from the dealer under sub-section (3) of section 11 or under section 13 after deducting any amount paid by him along with the return. under sub-section (2) of section 11 shall be paid by him in such manner and within such time as may be specified in the notice. of demand in the prescribed Form issued by the prescribed authority; the date so specified

being not less than 30 days from the date of service of the said notice:

Provided that the said authority may, in its discretion and for reasons to be recorded, on application by the dealer extend the date for such payment or allow the payment to be made in such instalments as may be determined by it.

(3) If a dealer has failed, without reasonable cause, to make payment of any amount of tax together with the penalty, if any, by the date specified in the notice issued under sub-section (2) or by the date extended under the proviso thereto, interest at ten per cent per annum shall accrue and be charged on such amount from such date and such interest shall be treated as if it were tax due under this Act and shall be paid by the dealer in the prescribed manner:

Provided that interest shall not accrue or be charged on any amount the recovery of which is stayed under sub-section (5) during the period the stay operates.

(4) Any amount of tax, penalty or interest due from a dealer, which remains unpaid may be recovered on application by the prescribed authority to the Judicial Magistrate of the first class.. who shall realize it as if it were a fine imposed by him:

Provided that where, during the proceedings under this sub-section, the amount of tax, -penalty or interest due from the dealer is reduced as a result of appeal or otherwise, the prescribed authority shall inform the dealer and the authority before whom the proceedings are pending, and the amount so reduced and the reduced amount shall be deemed to be substituted for the amount originally intimated to the authority.

(5) Where an appeal against or an application for revision of the assessment of tax or .levy of penalty or interest is entertained, the appellate or the revisional authority as the case may be, may on application stay recovery of the tax, penalty or interest in whole or in part, subject to such conditions as it may impose till such date as it may direct:

Provided that the stay of recovery so granted shall stand vacated on the date the appeal or the application for revision is finally decided or on such other date as the appellate or the revisional authority may direct.

(6) No such proceedings for the recovery of tax under this section shall be commenced after the expiry of twelve years from the date on which the assessment was made:

Provided that where the assessment was under appeal or under any other proceedings under this Act, the aforesaid period of limitation shall commence from the date the appeal or other proceedings were terminated.

15. (1) No person other than a registered dealer shall collect or recover from any person any amount towards tax or purporting to be tax under this Act on the sale of goods.
 (2) No registered dealers shall collect from any person any such amount except in a case in which, and -to the extent to which, such dealer is liable to pay tax under this Act:

*Person authorised
to collect tax
from purchasers.*

Provided that where a registered dealer is in doubt about his liability, he may collect and keep in deposit the tax so collected towards his anticipated liability of tax; but shall refund the deposit to the person from whom it was collected or to his successors or assignees, if any, to the extent up to which it is finally determined in the proceedings under this Act, that the dealer is held not so liable.

(3) Nothing contained in sub-section (1) or sub-section (2) shall relieve a registered dealer from his liability for the tax under this Act.

16. (1) Subject to such rules as may be made the amount of tax, penalty or interest paid in excess of the amount finally determined as payable by the dealer under this Act, shall be refunded to him, on his application within 60 days of the date on which the application is filed by him:

*Procedure
when tax is
paid in excess.*

Provided that such application shall not be entertained unless it is filed before the prescribed authority within twelve months from the date on which the order of assessment was passed:

Provided further that where the assessment was under appeal, revision or any other proceedings under this Act. the said period of limitation shall commence from the date on which the order in appeal, revision or other proceedings is passed:

Provided also that any dealer may, by application, request or the prescribed authority may, on its own motion, set off the refund due against any other dues of the dealer under this Act or under any other Act.

(2) Where a tax has been levied under this Act in respect of sales or purchases inside the State of any declared good and such goods are subsequently sold in the course of inter-State trade or commerce, the tax so levied shall be reimbursed to the person making such sale in the course of inter-State trade or commerce, in such manner and subject to such conditions as may be prescribed:

Provided that no such reimbursement shall be made unless an application in writing is made before the prescribed authority under this Act within twelve months of the date on which the inter-State sale is made, which period may be extended for sufficient cause by the said authority by such time as may be considered necessary by it for reasons to be recorded in writing.

9 ["(3) where any goods are delivered under any agreement of hire-purchase or of any system of payment by instalments and tax under this Act has been levied on the dealer who made the delivery of the said goods and such goods are returned to the said dealer at any time during which the agreement of hire-purchase subsists, the proportionate amount of tax levied on the unpaid instalments of sale price shall be refunded to the said dealer:

Provided that no such refund shall be admissible unless a claim therefor is filed before the prescribed authority in such manner and within such time as may be prescribed. "]

17. (l) Every dealer liable to pay tax under this Act, who is an Undivided Hindu Family, a firm, company, corporation, society, club or association shall furnish to the

*Declaration by
the dealer.*

9. Inserted by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 w.e.f. 1/4/86.

prescribed authority in the prescribed manner and within the prescribed time, a declaration stating the name and prescribed particulars of the person who shall be deemed to be in charge of the business for the purpose of this Act.

(2) Any statement made, return furnished, accounts, registers and documents produced or evidence given by such person or any other person authorized by him or by the dealer in this behalf, in the course of any proceedings under this Act, shall be binding on and enforceable against the dealer.

CHAPTER VI

Maintenance and production of accounts by the dealer.

18. (1) Every registered dealer shall keep a true and complete account in respect of all goods produced, raised, manufactured, processed, purchased, sold or delivered by him:

Provided that the Commissioner may, by notification, lay down the forms or registers or the manner in which the said dealers shall maintain the accounts as aforesaid as well as cash memoranda, bills, invoices etc, and the dealer shall maintain the accounts and documents accordingly.

*Liability to maintain
and
produce accounts
and supply of
information.*

(2) The prescribed authority may direct the dealer to produce accounts or any information in such manner as may be required for the purpose of assessment of tax under this Act 'if the said authority is not satisfied that the accounts maintained and produced by the dealer are sufficiently clear and intelligible for determining the correct amount of the tax payable. by the dealer.

(3) Subject to such rules as may be made by the State Government under this Act, the prescribed authority may, either before or after the assessment of tax under this Act, require any dealer, including a dealer not registered under this Act, to produce before him all or any of the accounts, registers and documents maintained by the dealer and also to furnish any information relating to financial transactions of the dealer relating to his business, including information regarding stocks of goods held, imported, produced, manufactured, processed, bought, 'sold or delivered, the sale price realized, the profit derived there from, and the dealer shall comply with such requirements.

(4) Subject as aforesaid, all accounts and documents connected with the business of the dealer, stocks of all goods purchased or kept by him for sale, the cash, or bank pass books, statements or deposit receipts kept in any place of business shall at all reasonable times, be open to inspection and search by the prescribed authority or by any person appointed to assist him under sub-section (l) of section 3 or by such other person as may be authorised by him for the purpose in writing and the dealer shall render all possible assistance to such authority or person in the search or inspection, as the case may be.

Explanation 1.-It shall be open to the said authority or person to take or cause to be taken such copies of, or extracts from, the aforesaid accounts, registers and documents as may be considered by it or him necessary and to require the dealer or any of his employees present at the time to authenticate or witness such copies or extracts, as the case may be.

Explanation 2.- The authority or person *may*, subject to such rules as may be made, break open any door, window, almirah, safe or other containers in the place of business in which he has reason to believe that the dealer has kept or is keeping any accounts, registers or documents or stocks of goods or cash relating to the business which the dealer has refused to open or produce for inspection.

(5) If the prescribed authority has reason to suspect that any dealer is attempting to evade the payment of any tax due under this Act or under the Central Sales Tax Act, 1956, such authority or person may, for reasons to be recorded in writing, seize or cause to be seized such accounts, registers or documents including bank pass books or statements, as *may* be considered necessary, and shall grant a receipt for the same. Such seized accounts, registers or documents may be retained by the said authority for so long as *may* be necessary for examination or for conducting any prosecution under section 23 and shall thereafter be returned to the dealer who shall acknowledge in writing the receipt of the same:

74 of 1956.

Provided that the seized accounts, registers and documents shall not be retained by any authority other than the prescribed authority for over 90 days save with the approval, in writing, obtained from the prescribed authority.

19. (1) Notwithstanding anything contained to the contrary in any agreement, contract or understanding, when the ownership of a business of a dealer liable to pay tax under this Act, is transferred in whole or in part, the transferor or the transferee shall be jointly or severally liable for informing the particulars of the transfer to the prescribed authority in such manner as may be prescribed and for the payment of any tax, penalty or interest, if any, payable in respect of such business and remaining unpaid at the time of such transfer:

*Liability on the
transfer of business.*

(2) Where a dealer from whom any amount is due towards tax, penalty or interest dies, the executor, receiver manager, administrator or successors-in-interest to his estate or any other legal representative including a Court of Wards shall be liable to inform the prescribed authority in such manner as may be prescribed and to payout of the property of the deceased the amount so payable and shall also be liable and responsible to attend and participate or be represented in all proceedings under this Act pending at the time of the death of the dealer:

Provided that nothing in this sub-section shall require re-issue of notices or intimation already issued to the dealer and the proceedings pending on the date of death of the dealer shall be continued as if the said dealer is substituted by the person or persons mentioned in this sub-section.

(3) Where the dealer is a minor or is incapacitated and his business is carried on by any other person on his behalf, whether he is a guardian, trustee or agent, such person shall inform the prescribed authority and the tax shall be assessed upon and be recoverable from such person as if he were the dealer.

(4) Where the dealer is an Undivided Hindu Family, firm or other association of persons, and such family, firm or association is partitioned, dissolved or business thereof is, due to any reason, disrupted, as the case may be, the tax, penalty and interest for the period or periods upto the date of such partition, dissolution or disruption may be assessed, imposed and levied as if the partition, dissolution or disruption has not taken place and every person who was at

. the time of such partition, dissolution or disruption a member of such family, firm, or association shall be liable severally and jointly for furnishing such particulars as may be prescribed and for the payment of such tax, penalty or interest, whether the assessment, imposition or levy was made before or after such partition, dissolution or disruption.

CHAPTER VII

SUITS, APPEAL, REVISION AND REVIEW.

20. (1) No assessment made, proceedings taken or order passed under this Act shall be called into question in any court, save as provided in this Act.

Bar to certain proceedings.

(2) No suit, prosecution or other legal proceedings shall lie against any public servant or any person appointed under section 3 for anything done in good faith under this Act or the rules or notifications made thereunder save with the previous sanction of the State Government.

21. (1) Subject to such rules as may be made, any dealer may, in the prescribed manner, appeal to such authority as may be prescribed against any order passed under subsection (3) of section 11, section 13 and section 16 of the Act.

Appeal, revision and review.

(2) No such appeal shall be entertained unless

(a) it is accompanied by proof of payment, in such manner as may be prescribed, of the amount of tax admitted by the dealer to be due from him and ten per cent of the difference between such amount of tax including penalty and interest assessed; or

(b) it is filed within forty five days of the date of passing of the orders as aforesaid or 30 days from the date on which the demand, if any, for tax or penalty is served or deemed to have been served on the dealer, whichever is later:

Provided that the aforesaid authority may admit an appeal after the expiry of the said period, if on application by the dealer, it is satisfied that the dealer was prevented by sufficient cause from preferring the appeal within the aforesaid time.

(3) Subject to such rules as may be made, any order passed in appeal under sub-sections (1) and (2) may be revised by such authority as may be prescribed on an application by the dealer or by or on behalf of the State Government as the case may be:

Provided that no application for revision shall be entertained unless it is made before the 'said authority within 60 days of the date' of passing of the order under sub-section (1) or sub-section (2), as the case may be, but the said authority may, if it is satisfied, on application that there' was sufficient cause for the delay, admit the said application for revision after .condoning- the delay:

Provided further ,that the Commissioner may call for and examine the record of any proceedings under this Act in which any order other than an order passed in appeal under sub-sections (1) and (2) has been passed by any person appointed -- to assist the Commissioner for the purpose of satisfying himself as to the legality or propriety of such order and may, after such examination and after making or causing to be made such enquiry as he may deem necessary,' pass any order which he thinks fit and proper:

Provided that no action under the second proviso shall be initiated while any appeal under sub-section (1) is pending or when the time prescribed in sub-section (2) for filing the appeal has not expired and except before the expiry of four years from the date of order which is the subject of scrutiny by the Commissioner.

(4) The aforesaid appellate or revising authority may

(a) confirm, reduce, annul, enhance or otherwise modify the assessment of tax, penalty or interest;

(b) set aside any order and direct the authority which made the order, to pass a fresh order after further enquiry on specified points; *or*

(c) pass such other orders as it may deem fit and proper.

(5) No order prejudicial to any dealer shall be passed under this section without a reasonable opportunity of being heard being given to him.

(6) Subject to such rules as may be made, any authority under this Act or its successors in office may, on application or otherwise, review any order passed by it to correct any error or mistake apparent from records:

Provided that neither an application under this subsection nor the period during which it is pending shall be considered as cause for the delay, if any, in filing any appeal or application for revision

Provided further that no such review shall be made if it has the effect of enhancing the tax or penalty or both, or of reducing a refund, unless the dealer or the person who is liable to pay the tax or the penalty or both, or as the case may be, eligible to get refund, is given a reasonable opportunity of being heard.

22. The amount of fees payable for any appeal or application made under this Act shall be such as may be prescribed:

Payment of fee.

Provided that the amount of fees so prescribed shall not be less than a rupee and shall not exceed five hundred rupees

Provided further that no fee shall be payable for any appeal or application filed by or on behalf of the State Government.

CHAPTER VIII

Prosecution and penalties.

23. (1) Without prejudice to any action taken or that may be taken or any order passed or may be passed under any of the provisions of this Act, whoever-

Offences.

(a) being a dealer, sells or purchases goods in contravention of sub-section (2) of section 10 or fails or neglects to comply with the provisions of sub-section (1) thereof; or

(b) fails without sufficient cause, to submit any return required under section. 11 or wilfully submits a false return; or

(c) not being a registered dealer falsely represents that he is such a dealer; or

(d) fails or neglects to maintain or produce accounts under section 18 or produces false and incorrect accounts or

(e) prevents or obstructs any authority under this Act in the performance of its duties and functions under this Act; or

(f) fails to pay the tax due in accordance with section 14; or

(g) contravenes the provisions of section 15; or

(h) fails to furnish the information or particulars mentioned in section 19; or

(i) contravenes section 26; or

(j) abets any person in the commission of any of the offences specified in clauses (a) to (i);

shall be punishable with imprisonment of either description which may extend to one year or with fine which may extend to ten thousand rupees or with both and if the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period the offence continues.

(2) No court shall take cognizance of any offence under this Act or the rules made thereunder except with the previous sanction of the prescribed authority.

(3) All offences punishable under this Act shall be cognizable and bailable.

(4) Notwithstanding anything contained in sub-section (1), the prescribed authority may compound any offence under this Act or the rules made thereunder before or after the

institution of proceedings under that sub. section by accepting from the person charged with the offence a sum not exceeding twenty thousand rupees as may be determined by the said authority, in addition to the tax, penalty or interest that may be leviable under the Act, and on payment of the sum so determined together with the amount of tax, penalty or interest due, the proceedings before any court or prescribed authority under this section shall abate.

24. A dealer or any other person required to appear or to produce any accounts, documents or other records before any authority under this Act may appear, or produce as the case may be in person, or be represented by any other person in such manner as may be prescribed.

Appearance through authorised agent.

25. No particulars or information contained in any statement made, returns filed, books or documents produced by a dealer under this Act or any assessment made or order passed by any of the authorities under this Act shall be treated' as confidential and no person other than the said dealer shall be compelled to give evidence derived from any of the aforesaid records, save with the general or special previous sanction of the State Government which may give or withhold such sanction as it may deem fit:

Secrecy of information given by dealer.

Provided that nothing in this section shall prevent the disclosure of all or any such particulars or information to any Government servant for the purpose of

(1) investigation of any crime and prosecution of any person under this Act or under any of the laws of Central or State Governmel.1t; or

(2) audit of receipts and refunds of tax including penalty and interest and fees levied by or under this Act; or

(3) enforcing recovery of all amounts due under this Act:

Provided further that the State Government may by notification and subject to such conditions as it may impose, delegate its power under this section to any authority subordinate to it.

26. (1) The State Government may, by notification, set up and erect in such manner as it may deem fit, check posts and barriers at any place in the State, at which all persons

Check posts.

vehicles or other means of transporting goods intended for sale may be detained, intercepted or searched to prevent evasion of tax under this Act.

(2) Every person transporting such goods across the said check posts or barriers may be required to file such documents or other proof as may be prescribed along with a correct and complete declaration in the prescribed form before being allowed to proceed.

27. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Removal of difficulties.

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

28. (1) The State Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) The rules so made may be given effect from such date or with such retrospective effect as the State Government may specify therein.

(3) In making any rules, the State Government may direct that a breach thereof shall be punishable with a fine not exceeding rupees one thousand and when the offence is a continuing one - with a daily fine not exceeding rupees fifty during the continuance of the offence.

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

(a) the particulars to be contained in a declaration referred to in the proviso to sub-clause (v) of clause (a) of subsection (3) of section 5, the forms of such declarations, the manner in which, the conditions and restrictions subject to which and the authority from which such forms shall be obtainable and the manner in which such declarations are to be furnished;

(b) the authority to which the application for registration under section 10 shall be made;

(c) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration and the forms of such certificates under section 10;

(d) the intervals at which, and the manner in which the tax under this Act shall be payable under section 11;

(e) the returns to be furnished under section 11; and dates by which, and the authority to which, such returns shall be furnished;

(f) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 13;

(g) the manner in which refunds under section 16 shall be made;

(h) the accounts and forms of refunds and reimbursement under section 16;

(i) the conditions for the maintenance and production of accounts or documents or for furnishing information and the authority to which such accounts, documents or information may be furnished under section 13;

(j) the manner in which, and the authority to which appeals or revisions against any order passed under this Act may be preferred under section 21;

(k) the procedure for, the disposal of appeals and applications for revision and reviews under section 21;

(l) the amount of fees payable under section 22 for any appeal or application filed under this Act;

(m) the conditions under which, and the authority by which the offences may be compounded under section 23;

(n) the manner in which, and the time within which applications shall be made, information furnished and notices served under this Act;

(o) any other matter which may be or is required to be prescribed.

CHAPTER IX
MISCELLANEOUS

29. (1) On and from the commencement *of* this Act, all laws relating to Sales Tax in force in the State, shall stand repealed.

*Repeal and
Validation.*

(2) All collections *of* tax, penalty and interest, and all proceedings or assessments made, actions taken, things done or orders passed, by any authority under any law referred to in sub-section (1) are hereby, validated and shall for all purposes be deemed to have always been made, done, taken or passed in accordance with law.

(3) All proceedings pending on the commencement *of* this Act with regard to assessment, collection *of* tax, penalty or interest, or matters in appeal, revision or review shall continue and be disposed *of* as if this Act had not been passed.

SCHEDULE 1

(See Section 8)

1

2

1. All cereals and pulses including broken particles and husk and bran thereof
2. Wheat flour including atta and suji
3. Bread
4. Meat which has not been cured or frozen
5. Fresh fish
6. Vegetables, green or dried commonly known as sabji, tarkari or sak
7. Cooked food, other than cake, pastries, biscuits and sweetmeats
8. Gur and molasses
9. Salt

Except when sold in sealed container.

Except when sold in sealed container.

...

1	2
10. Milk	
11 Livestock, including poultry	
12. Agriculture implements	Except tractors and power tillers and spare parts accessories and component parts thereof.
13. Cotton Yarn	
14. Inferior grade of kerosene oil, that is to say, the kerosene referred to in item 7 of the first Schedule to the Central Excise and Salt Act, 1944 and having all the following characteristics also.	
(i) it is not lighter in color than solution with the following composition :	
Quarter normal aqueous solution of :	
(a) Ferric Chloride (FeCL 3. 6H 2 0),	
(b) Cobitous Chloride (C 0 CL2' 6H2 0),	
(c) Copper Sulphate (C u S04' 5H 2 0), mixed in the ratio of 6 : 3 : 1 : and	
(ii) it has flashing point below 65; 60 of centigrade thermometer.	
15. Tobacco for hookah, that is to say, tobacco paste ready for use in hookah.	
16. Texts & exercise books for educational purpose and such other sacred books as may be prescribed.	
17. Water, but not aerated or mineral waters when sold in bottles or sealed containers.	
18. Electrical energy.	
19. Raw Jute.	
20. Plain paper, commonly known as Darbar Paper Government Paper 'cartridge paper sold by Government Treasuries through the agency of licensed stamp vendors.	
21. Eggs.	
22. Sag and tapioca globules.	
23. Charkha.	
24. Cotton.	
25. Handloom Woven	

- (a) Gamchas.
 - (b) Khaddar or Khadi. Except those made from silk yarn.
 - (c) Garments made of khaddar or khadi referred in sub-item (b)
 - (d) Handicraft goods locally produced only.
26. Mustard Oil, rape oil and mixtures of mustard and rape oil.
27. Newspapers.
28. Mustard seed and rape seed.
29. Flowers and plants.
30. Vegetable seeds.
31. Hosiery goods.

SCHEDULE-II

(See Section 5)

1. Motor Vehicles, including chassis of motor vehicles, motor tyres and tubes and spare parts accessories and component parts of motor vehicles.
2. Motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts accessories and component parts, of motor cycles, motor scooters, and motorettes.
3. Refrigerators, air-conditioners, air-coolers and air-conditioning plants, and spare parts, accessories and component parts thereof.
4. Wireless reception instruments and apparatus, radios and radio-gramophones, television sets, electrical valves, transistor radios, accumulators, amplifiers and loudspeakers and spare parts accessories and component parts thereof.
5. Cinematographic equipment including cameras, projectors and sound recording and reproducing. equipment and spare parts accessories and component parts thereof. lenses, films and parts and accessories required for use therewith.
6. Photographic and other. cameras and enlargers and spare parts accessories and component parts thereof, lenses, films and plates paper and cloth, and other parts and accessories required for use therewith.
7. All clocks, timepieces and watches and parts thereof.
8. Iron and steel safes and almirahs.

9. All arms including rifles, revolvers and pistols, and ammunition for 'he same.
10. Cigarette cases and lighters.
11. Dictaphone and other similar apparatus for recording sound and parts thereof and electro-magnetic recording tapes including cassette tapes whether prerecorded or not.
12. Sound transmitting equipment including telephones and loudspeakers and spare parts thereof.
13. Typewriters, tabulating machines, calculating machines, duplicating machines and address printing machines and parts thereof.
14. Binoculars, telescopes and opera glasses.
15. Gramophones and component parts thereof and records.
16. Cushions, mattresses, pillows and other articles made wholly or partly of rubber foam.
17. Cushions, mattresses, pillows and other articles made wholly or partly of artificial or synthetic resin and plastic foam.
18. Vacuum flasks of all kinds and descriptions including refills for such flasks.
19. Articles made wholly or principally of stainless steel except tumblers, dishes and plates only such varieties of them as are commonly known as gelas, thala and rekabi, respectively.
20. Furniture made wholly or principally of iron or steel.
21. Furniture made wholly or principally of aluminum
22. Upholstered wooden furniture.
23. Perambulators including push-chairs for babies and spare parts, accessories and component parts thereof.
24. Carpets of all varieties and description except locally produced.
25. Linoleum.
26. Lifts. whether operated by electricity or steam, and spare parts, accessories and component parts thereof.
27. Exhaust fans and air circulators and spare parts. accessories and component parts thereof.
28. Electric heaters ,of all varieties and descriptions.
29. Diamond.
30. Precious and synthetic stones other than diamond. real or artificial.
31. Pearls-real, artificial or cultured.

32. Golden or silver filigree.
33. Furs and articles made of fur.
34. Marble chips, marble or mosaic floor and wall tiles, and articles made of marble or mosaic.
35. Laminated sheets, like Formica, Sunmica, etc.
36. Perfumes.
37. Ornaments set with diamond or stones (real or artificial) or with pearls (real, artificial or cultured).
38. All kinds of paints, including acrylic and plastic emulsion paints, lacquers, distempers, cement colors of paints, enamels, liquid paints, stiff paste paints, powder paints, whether ready for use or not.
39. Varnishes, vegetable paint removers and strainers of all kinds.
40. Cosmetics of all varieties, but excluding hair oil.

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 1983

(ACT No5 of 1983)

**AN
ACT**

[31.3.1983]

to amend the Sikkim Panchayat Act, 1982.

BE it enacted by the Legislature of Sikkim in the Thirty-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 1983. *Short title and commencement*
- (2) It shall be deemed to have come into force on the 18th day of December, 1982.
2. In the Sikkim Panchayat Act, 1982 (hereinafter referred to as the principal Act), section 6, clause (3) shall be omitted. *Amendment of section 6.*
3. In the principal Act, after section 101, the following sections shall be inserted, namely:- *Insertion of new sections 101A and 101B.*
 - "101 A. Any act of commission or omission which is an electoral offence in relation to elections to the Legislative *" Electoral Offences"*

Assembly of Sikkim under Chapter VII of the Representation of Peoples Act, 1951 or under any law for the time being in force shall be deemed to be an electoral offence in relation to the elections to the Gram Panchayats under this Act.

43 of 1951.

101 B. The State Government shall have the same powers in the matter of requisition of premises, vehicles and animals for the purpose of the conduct of elections to the Gram Panchayats as in the case of elections to the Sikkim Legislative Assembly."

Requisition of premises, vehicles etc., for election purpose.

4. In the principal Act, in section 115, after sub-section (3), the following sub-section shall be inserted, namely:

.Amendment of section 115.

"(4) Any person who contravenes the provisions of this Act or rules made thereunder for which no penalty is provided for under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both."

5. (1) The Sikkim Panchayat (Amendment) Ordinance, 1982 is hereby repealed.

Ordinance 3 of 1982.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Repeal and saving.

THE SIKKIM SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1983

(ACT NO.6 OF 1983)

AN ACT

[4. 4. 1983]

to provide for the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith or incidental thereto.

BE it enacted by the Legislature of Sikkim in the Thirty-fourth year of the Republic of India as follows :

CHAPTER I
PRELIMINARY

1. (1) This Act may be called The Sikkim Shops and Commercial Establishments Act, 1983.

*Short title, Extent,
Operation and
Application.*

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and for different areas or different classes of establishments.

2. In this Act, unless the context otherwise requires,

Definitions.

(1) "apprentice" means a person aged not less than fourteen years who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, business or employment in any establishment;

(2) "Chief Inspector" means the Chief Inspector appointed under section 68 (2);

(3) "child" means a person who has not completed his fourteenth year;

(4) "closed" means not open for the services of any customer or for any other purpose, whatsoever, relating to business;

(5) "commercial establishment" means an establishment which carries on any business, trade, profession or any work in connection with, incidental or ancillary to, any business, trade or profession and includes

(a) a society registered or deemed to have been registered under the Sikkim Co-operative Societies Act, 1978, and a charitable or other trust, whether registered or not, any business, trade, profession or work in connection with or incidental or ancillary to such business, trade or profession;

12 of 1978.

(b) an establishment which carries on the business of advertising, commission agency, forwarding or commercial agency or which is a clerical department of a factory or of any industrial or commercial undertaking;

(c) an insurance company, joint stock company, bank, broker's office and exchange; but does not include a

factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment

(6) "day" means the period of twenty-four hours beginning at midnight;

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

(7) "employer" means a person owning or having ultimate control over the affairs of an, establishment and includes the manager, agent or any other. person acting in the general management or control of such establishment;

(8) "establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment and includes such other establishment as the State Government may, by notification, declare to be an establishment for the purposes of this Act;

(9) "factory" means any premises which is a factory within the meaning of the Factories Act, 1948 or which is deemed to be a factory under section 85 of the said Act;

63 of 1948.

(10) "goods" includes all materials, commodities and articles;

(11) "holiday". means a day on which an establishment shall remain closed or on which an employee shall be given holiday under the provisions of this Act;

(12) "Inspector" means an Inspector appointed under this Act;

(13) "leave" means leave as provided for in Chapter VIII of this Act;

(14) "local area" means any area or combination of areas to which this Act applies;

(15) "local authority" means the Gangtok Municipal Corporation constituted under the Gangtok Municipal Corporation Act, 1975, and includes any other body which the State Government may, by notification, declare to. be local authority for the purposes of this Act;

4 of 1975.

(16) "manager" means a person declared to be a manager under section 6;

(17) "member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother, sister of an employer who lives with and is dependent' on such employer;

notification published in the

(18) "notification:" means a notification published in the Official Gazette;

(19) "opened" means opened for the services of any customer for any business of the establishment, for work, by or with the help of any employee of or connected with the establishment;

(20) "period of work" means the time during which an employee is at the disposal of the employer;

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

(22) "prescribed authority" means the authority prescribed under the rules made under this Act;

(23) "register of establishment" means a register maintained for the registration of an establishment;

(24) "registration certificate" means a certificate' showing the registration of an establishment;

(25) "residential hotel" means any premises in which a bonafide business is carried on of supplying for payment lodging or board and lodging to travelers and other members of the public -on payment and includes a residential club;

(26) "restaurant and eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;

(27) "shop" means' any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place whether in the same premises or otherwise used in connection with such trade or business

but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(28) "spread over" means the period between the commencement and the termination of the work of an employee on any day;

(29) "theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;

(30) "wages" means wages as defined in the Payment of Wages Act, 1936;

(31) "week" means the period of seven days beginning at midnight of Saturday;

(32) "year" means a year commencing on the first day of January;

(33) "young person" means a person who is not a child and has not completed his seventeenth year.

8. References to the time of day in this Act are references to the Indian Standard Time.
4. (1) Nothing contained in this Act shall apply to
- (a) a person whose work is inherently intermittent such as a traveler, canvasser, watchman or a caretaker;
 - (b) offices of the Central or State Government or of local authorities, of the State Bank of India, the State Bank of Sikkim and the Life Insurance Corporation;
 - (c) establishment for treatment or care of the sick, infirm, destitute or mentally unfit persons;
 - (d) bazaars, fairs or exhibitions for the sale of works for charitable or other purposes from which no profit is derived;
 - (e) stalls and refreshment rooms at railway stations or railway dining cars;
 - (f) clubs not being residential clubs ;

(g) any commercial establishment carrying on the business of transport of passengers and goods by motor vehicles and persons exclusively employed in relation to such business;

(h) offices of lawyers; and

(i) any other class of establishments or class of persons which the State Government may, by notification, exemption from the operation of this Act.

5. The State Government, may, if satisfied that the public interest so requires or that the circumstances of any establishment are such that it would be just and proper so to do. by notification, exempt either permanently or for any specified period, any establishment or class of establishments or person or class of persons to which or to whom this Act applies, from all or any of its provisions, subject to such restrictions and conditions as the State Government may specify in the notification.

CHAPTER II

REGISTRATION OF ESTABLISHMENTS

6. (1) Every establishment to which this Act applies shall be registered in accordance with the provisions of this section.
- (2) Within thirty days from the date on which the Act applies to an establishment, the employer shall send to the Chief Inspector, a statement in a prescribed form, together with such fees as may be prescribed containing:
- (a) the name of the employer and the manager. if any;
 - (b) postal address of the establishment;
 - (c) the name, if any, of the establishment;
 - (d) the category of the establishment, i. e. whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or place of public amusement or entertainment; and
 - (e) such other particulars as may be prescribed.

(3) On the receipt of the statement and the fees, the Chief Inspector on being satisfied about the correctness of the statements made therein, shall register an establishment in the register of establishments and shall issue in the prescribed form, a registration certificate to the employer. The registration certificate shall be displayed at a conspicuous place in the establishment.

(4) Registration certificate granted under sub-section (2), shall be valid upto the end of the year for which it is granted. An application for the renewal of a registration certificate shall be submitted not less than fifteen days before the date of expiry of the registration certificate or of the renewed registration, as the case may be, and shall be accompanied by such fees as may be prescribed and the renewed registration certificate shall be in such form, as may be prescribed.

(5) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the Chief Inspector, who shall, after such inquiry as he thinks proper, decide the category of such establishment and his decision shall be final for the purposes of this Act.

7. (1) The Chief Inspector may suspend or revoke a registration certificate granted under this Act and may for that purpose require the holder of certificate by notice in writing to deliver up such certificate to it or to any other officer within such time as, may be specified in the notice.

(2) The Chief Inspector may, by an order in writing, suspend a licence, for such; period as he thinks fit or revoke a licence,

(a) if he deems it necessary in the interest of public safety to suspend or revoke the licence; or

(b) if the licence was obtained by suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of sending an application for the licence; or

(c) if the holder of licence has failed to comply with notice under sub-section (1) requiring him to deliver up the licence.

- (3) The Chief Inspector may also revoke a licence on the application of the holder thereof.
- (4) Where the Chief Inspector makes an order suspending or revoking a licence under sub-section (2) he shall record in writing the reasons thereof and furnish to the holder of licence on demand a brief statement of the same.
- (5) A Court convicting the holder of licence of any offence under this Act or rules made thereunder may also suspend or revoke a licence:

Provided that if the conviction is set aside in appeal or otherwise, the suspension or revocation shall be final.

- (6) On the suspension or revocation of licence under this section, the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.
8. (1) Any person aggrieved by an order of the Chief Inspector refusing to grant a licence or by an order of the Chief Inspector suspending or revoking a licence may prefer an appeal against the order to the Secretary in the Department of Labour of the State Government within thirty days from the date of communication of the order of refusal, suspension or revocation, as the case may be:

Provided that an appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the Secretary that he was prevented by sufficient cause from preferring the appeal within the said period.

- (2) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished by the appellant and by such fees as may be prescribed.

(3) No appeal filed under this section shall be disposed of until the appellant is given reasonable opportunity of being heard.

(4) Every order of the Appellate Authority confirming, modifying or reversing the order appealed against shall be final.

CHAPTER III

SHOPS AND COMMERCIAL ESTABLISHMENTS

9. (1) No shop

*Opening hours of
shops.*

(a) dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods notified by the State Government shall on any day be opened earlier than 5 a. m,

(b) other than those specified in clause (a), shall on any day be opened earlier than 7 a. m.

(2) Subject to the provisions of sub-section (1) the State Government may fix different opening hours for different classes of shops or for different areas or for different periods of the year.

10. (1) No shop

*Closing hours
of shops.*

(a) other than those specified in clause (b) of this sub-section shall on any day be kept open after 7 p. m.

(9) dealing mainly in the sale of pan, bidis, cigarettes, safety matches and other ancillary articles shall, on any day, be kept open after 9 p m.:

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(2) Subject to the provision of sub-section (1), the State Government may fix earlier closing hours for different classes of shops or different areas or for different periods of the year.

11. (1) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 9 and 10 and for the shop dealing in the same class of goods in the locality in which such street or public place is situated:

Provided that nothing in this section shall apply to the sale of newspapers.

(2) Any person contravening the provisions of sub-section (1) shall be liable to have his goods seized by an Inspector.

(3) The goods seized under sub-section (2) shall be returned to the person- from whom they were seized on his depositing rupees fifty as security for his appearance in the court.

(4) If the person fails to make the deposit, the goods seized shall be produced without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit.

(5) Where no prosecution is instituted for contravention of the provisions of sub-section (1) within such period as the Magistrate may fix, in this behalf, the Magistrate shall direct their return to the person from whom they were seized.

(6) Subject to the provisions of sub-section (5), the provisions of any law relating to the criminal procedure for the time being in force, shall, so far as they may be applicable, apply to the disposal of the goods seized under this section.

12. (1) No commercial establishment shall on any day be opened earlier than 8.30. a. m. and kept open after 9.30. p. m.

(2) Subject to the provisions of sub-section (1), the State Government may fix different opening or closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

13. (1) Subject to the provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any-day and forty - eight hours in any week.

(2) Any employee may be required to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (1) if such periods does not exceed three hours in any week.

(3) On not more than six days in a year which the State Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period under sub-section (1) if such period does not exceed twenty - four hours.

14. The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour:

Provided that

- (a) in the case of employee in a commercial establishment engaged in any manufacturing process, interval for rest shall be at least half an hour; and
- (b) in the case of any other employee the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.

15. The spread over of an employee in a shop shall not exceed eleven hours in any day:

Provided that where an employee has worked on any day in accordance with the provisions of sub-section (2) of section 13, the spread over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (3) of the said section, the spread over shall not exceed sixteen hours in any such day.

16. The spread over of an employee in a commercial establishment shall not exceed eleven hours in any day:

Provided that the State Government may, by notification, increase the spread over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

17. (1) Every shop or establishment shall remain closed on one day of the week. The employer shall choose any day of the week and shall fix such day at the beginning of the year or within thirty days in case an establishment comes into existence at some time during the year other than the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed at a conspicuous place in the shop or establishment and shall be maintained in a clean and legible condition.

(2) Notwithstanding anything contained in sub-section (1) the Government may, by notification in the Government Gazette fix any day in respect of any area specified in the notification.

(3) If any day notified as a holiday under sub-section (1) happens to be a day of public festival, the employer may keep the shop or commercial establishment open on such day but in that event, he shall keep the shop or commercial establishment closed on some other day within three days before or after the date of such public festival and give notice of the change to the Inspector at least seven clear days before the day of such public festival.

(4) It shall not be lawful for an employer to call an employee at, or for any employee to go to, his shop or commercial establishment or any other place for any work: in

connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(5) No deduction shall be made from the wages of any employee of a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage he shall nonetheless be paid his daily wage for the day on which such shop or commercial establishment remains closed. If any employee is paid a piece rate wage, he shall nonetheless be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he actually worked during the six days preceeding such closed day exclusive of any earning in respect of overtime:

Provided that nothing in this section shall apply to any person whose total period of continuous employment is less than six days.

CHAPTER IV

RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES

18. (1) Notwithstanding anything contained in any other enactment for the time being in force no restaurant or eating house shall on any day be opened earlier than 5 am and be kept open after 11 p.m. for service:

Opening and closing hours of restaurants and eating houses.

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4.30 a.m. and shall not be required to work later than 11.30 p.m. :

Provided further that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

- (2) Subject to the provisions of sub-section (1), the State Government may fix different opening or closing hours for different restaurants or eating houses or for different areas or for different periods of the year.

(3) Notwithstanding anything contained in this section or any other enactment for the time being in force, the State Government may, by notification, fix not more than ten days in a year on festive or special occasions such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

19. Before and after the hours fixed for the opening and closing of shops under sections 9 and 10 no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

20. (1) Except on the day that may be notified under subsection (3) of section 18, no employee shall be required or allowed to work in a residential hotel, restaurant and eating house for more than nine hours in a day fixed under sub-section (1) of section 18 if such period does not exceed three hours on any day.

(2) On the days which may be notified under sub-section (3) of section 18, any employee may be required or allowed to work in a residential hotel, restaurant and eating house in excess of the period fixed under sub-section (1) of section 18 if such period does not exceed three hours on any day.

21. The period of work of an employee in a residential hotel, restaurant or eating house each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour.

22. The spread over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours:

Provided that the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest half an hour.

23. The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely :

- (a) the name of the employer;
- (b) the name, if any, and the postal address, of the establishment;
- (c) the name and age of the employee;
- (d) the hours of work, the interval for rest and holiday, of an employee;
- (e) passport size.. photographs of the employee;
- (f) the signature or thumb impression of the employee;
- (g) the signature with date of the employer or manager.

CHAPTER V

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT

24. Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day be kept open after 12 midnight.

Closing hour! of theatres or other places of public amusement or entertainment.

25. After the hour fixed for the closing of shops under section 10, no goods of the kind sold in a shop shall be sold in any theatre or other places of public amusement or entertainment except for consumption on premises.

Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hours of shops.

26. (1) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day.

Daily hours of work in a theatre or other places of public amusement or entertainment.

(2) Any employee may be required or allowed to work in a theatre or other place of public amusement or entertainment for any period in excess of the limit fixed under subsection (1), if such period does not exceed six hours in any week.

27. The period of work of an employee in a theatre or other place of public amusement or entertainment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour:

Provided that the State Government may on an application made in that behalf by the employees, permit the reduction of the interval for rest to half an hour.

28. The spread over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day:

Provided that the State Government may increase the spread over periods subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

29. (1) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday:

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any place for any work in connection with the business of his theatre or place of public amusement or entertainment on any day on which such employee has a holiday.

(3) No deduction shall be made from the wages of an employee in a theatre or place of public amusement or entertainment on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wage, he shall nonetheless be paid his wages for the holiday equal to the average of the daily wages earned by him during the preceeding six working days.

30. The employer shall furnish every employee in a theatre, or other place of public amusement or entertainment with an

identity . card which shall be kept by the employee when on duty and shall be produced on demand by an Inspector; such card shall contain the following and such other particulars as may be prescribed, namely;

- (a) the name of the employee;
- (b) the name, if any, and the postal address of the theatre and public place of amusement or entertainment;
- (c) the name and age of the employer;
- (d) the hours of work, interval for rest. if any, and the holidays of the employee;
- (e) passport size photograph of the employee;
- (f) the signature with date of the employer;
- (g) the signature or thumb impression of the employee.

CHAPTER VI

EMPLOYMENT OF CHILDREN YOUNG PERSONS AND WOMEN

31. No child shall be required or allowed to work as an employee or otherwise in any establishment notwithstanding that such child is a member of the family of the employer. *No child to work in any establishment.*
32. No young person and women shall be required or allowed to work whether as an employee or otherwise in .any establishment before 6 a. m. and after 7 p. m. notwithstanding that such young person or woman is a member of the family of the employer. *Young persons and women to work between 6 a. m. and 7 p. m.*
33. (1) Notwithstanding anything contained in this Act, no young person shall' be required or allowed to work whether all an employee or otherwise in any establishment for more than six hours in a day. *Daily hours of work for young persons.*
- (2) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

34. No young person or women working in any establishment, whether as an employee or otherwise, shall be required or allowed to perform work as may be declared by the State Government, by notification to be work involving danger to life, health or morals.
35. No woman shall engage herself in employment in any establishment during the six weeks following the day on which she is delivered of a child and ,no owner or manager of an establishment shall knowingly employ such woman.
36. (1) If any woman employed in an establishment is pregnant and gives notice in writing to the employer that she expects to be delivered of a child within six weeks from the date of such notice, the employer shall permit her, if she so desires, to absent herself from work up to the day of her delivery:

Provided that before granting such permission the employer may, at his own cost, require the woman to be examined by a qualified medical practitioner or midwife, and if the woman refuses to submit herself to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within six weeks, he may refuse such permission.

(2) The examination referred to in the proviso to sub-section

(1) shall, if the woman so desires, be carried out by a midwife.

37. The absence of a woman during the period she is entitled to maternity benefit. under this Act or, due to illness medically certified to arise out of pregnancy or confinement, shall be treated as authorised absence on leave.
38. (1) Every woman employed in an establishment who has been continuously' employed in such establishment or in establishments belonging to the owner of such establishment for a period of not less than six months preceeding the date of her delivery, shall be entitled to receive and the employer shall be liable to make to her, a payment of a maternity benefit at a rate for every day during the six weeks immediately preceeding and including the day of her delivery and for each day of the six weeks following

her delivery as may be prescribed by the State Government:

Provided that, no such payment shall be made for any day on which she attends work and receives payment therefor during the six weeks preceeding her delivery.

(2) The manner in which the maternity benefit shall be payable shall be in such manner as may be notified by the State Government.

39. Any woman employed in an establishment, who is delivered of a child, shall while she is nursing such child, be allowed half-an-hour twice a day during her working hours for purposes of such nursing in addition to regular intervals for rest.

40. (1) When a woman absents herself from work under section 38 it shall not be lawful for the employer to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman, but for such dismissal, would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of such maternity benefit if the Inspector is satisfied that her dismissal was without sufficient cause.

41. Any woman employee who has a miscarriage or has/under-gone operation for medical termination of her pregnancy shall also be entitled to leave for six weeks or such period as may be medically certified and her absence shall be treated as authorised absence on leave.

42. (1) Every employee who undergoes sterilization operation shall be entitled to special casual leave with wages for a period not exceeding

(a) six days in the case of a male employee; or

(0) fourteen days in the case of a female employee, with effect from the day on which he or she undergoes such operation.

(2) If an employee who has undergone sterilization operation is discharged by his or her employer during the period specified in sub-section (1). the employer shall

pay such employee wages payable during leave period in respect of the period of special casual leave which the employee was entitled to at the time of his or her discharge.

43. (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (hereinafter referred to in this section as "the said act"), the State Government may, by notification, direct that subject to the provisions of subsection (2), the said Act or any of the provisions thereof or of the rules made thereunder shall, apply to all or any class of establishment or to all or any class of employees to which or to whom this Act for the time being applies.

(2) On the application of the provisions of the said Act to any establishment or to any employee under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

CHAPTER VII

HEALTH AND SAFETY

44. The premises of every establishment shall be kept clean and free from effluvia arising out from any drain or privy or- other nuisance and shall be cleaned at such times and by such methods as may be prescribed and these methods may include lime-washing, color-washing, painting, varnishing, disinfecting and deodorizing.

45. The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

46. (1) The premises of every establishment shall be sufficiently lighted during all. working hours.

(2) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently kept clean, lighted or ventilated, he may serve on. the employer an order in writing specifying the measures which.

in his opinion, should be adopted and requiring them to be carried out before a specified date.

47. In every establishment such precautions against fire shall be taken as may be prescribed.
48. In every establishment wherein a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948, 'is' carried on, 'there shall be provided and maintained by the employer a first - aid box containing such articles as may be prescribed.

CHAPTER VIII

HOLIDAYS AND WAGES

49. (1) Every person employed in any establishment shall be entitled, after twelve months' continuous service, to holidays with wages for a period of twenty days, in the subsequent period of twelve months. provided that such holidays with wages may be accumulated upto a maximum period of sixty days.

Explanation.-For the purpose of this sub-section any continuous period of service preceeding the date on which this Act applies to any establishment shall also count, subject to a maximum period of twelve months.

(2) 'Every person employed in any establishment shall also be entitled during his first twelve months of continuous service after the commencement of this Act, and during every subsequent twelve months of such service

(a) to leave with wages for a period not exceeding 12 days, on the ground of any sickness incurred or accident sustained by him; and

(b) to casual leave with wages for a period not exceeding 12 days on any reasonable ground.

(3) If a person entitled to any holidays under sub-section (1) is discharged by his employer before he has been allowed the holidays, or if having applied for and been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay

him the amount payable under this Act in respect of the holidays.

(4) If a person entitled to any leave under sub-section (2) is discharged by his employer when he is sick or suffering from the result of an accident, the employer shall pay him the amount payable under this Act in respect of the period of leave to which he was entitled to at the time of his discharge, in addition to the amount, if any, payable to him under sub-section (3) or under any other provision of this Act.

(5) A person employed shall be deemed to have completed a period of twelve months' continuous service within the meaning of this section, notwithstanding any interruption in service during those twelve months brought about

(i) by sickness, accident, or authorised leave (including authorised holidays) not exceeding ninety days in the aggregate for all three;

(ii) by a lock-out; or

(iii) by a strike which is not an illegal strike; or

(iv) by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate;

and authorised leave shall be deemed not to include any weekly holidays or half-holidays allowed under this Act which occurs at the beginning or the end of an interruption brought by the leave.

(6) A person employed in a hostel attached to a school or college or in an establishment maintained in a boarding school in connection with the boarding and lodging of pupils and resident teachers shall be allowed the privileges referred to in sub-sections (1) to (5), reduced however proportionately to the period for which he was employed continuously in the previous year *or* to the period for which he will be employed continuously in the current year as the case may be; and all references to periods of holidays or of leave in sub-sections (1) and (2) shall be construed accordingly, fractions of less than one day being disregarded.

(7) The State Government shall have power to issue directions as to the manner in which the provisions of sub-section (6) shall be carried into effect in all or any class of cases or in any particular case.

50. Every person employed shall, for the holidays, or the period of the leave allowed under sub-sections (1) or (2) of section 49. be paid at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceeding three months exclusive of any earnings in respect of overtime.

51. Notwithstanding anything contained in section 49, the State Government may, by notification, increase the total number of annual holidays and the maximum number of days upto which such holidays may be accumulated in respect of any establishment or class of establishments.

52. (1) Any sum required to be paid by an employer under this Chapter but not paid by him shall be recovered "delayed wages" under the provisions of the Payment of Wages Act, 1936.

(2) Any Inspector may institute proceedings on behalf of any person employed to recover any sum required to be paid under this Chapter by an employer which he has not paid.

53. Every employer shall be responsible for the payment to persons employed by him of all wages and sums required to be paid under this Act.

54. (1) Every employer shall fix periods (in this Act referred to as wage periods) in respect of which such wages shall be payable.

(2) No wage period shall exceed one month.

55. Where any person employed in any establishment is required to work overtime, he shall be entitled, in respect of such overtime work, to wages at twice the ordinary rate of wages.

Explanation.- For the purpose of this section, the expression "ordinary rate of wages" shall mean such rate of wages as may be calculated in the manner prescribed.

56. An employee who has completed ten or more years of continuous service with full wages shall, on quitting the service or on his death his legal heirs, be entitled to gratuity equivalent to fifteen days' wages last drawn for each year of service.
57. (1) The wages of every person employed shall be paid before the expiry of the fifth day after the last day of the wage period in respect of which the wages are payable.
- (2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by such person shall be paid before the expiry of the second working day from the day on which his employment is terminated.
- (3) The State Government may, by general or special order, exempt an employer from the operation of this section in respect of the wages of any person employed or class of persons employed. to such extent and subject to such conditions as may be specified in the order.
- (4) All payments of wages shall be made on a working day.
58. An employee who has been allowed leave for not less than four days, in the case of an adult, and five days in the case of a child shall, before his leave begins, be paid wages due for the period of leave allowed.
59. All wages shall be paid in current coins or currency notes or in both.
60. (1) The wages of a person employed shall be paid to him without deductions of any kind except those authorised by or under this Act.

Explanation.-Every payment made by a person employed to the employer shall, for the purpose of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of a person shall be made only in accordance with the provisions of this Act. and may be of the following kinds only, namely:

- (a) fines;
- (b) deductions for absence from duty;

(c) deductions for damage to, or loss of, goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house accommodation, if any, supplied by the employer;

(e) deductions for such amenities and services supplied by the employer as the State Government may, by general or special order, authorize

(f) deductions for recovery of advance or for adjustment of over-payments of wages;

(g) deductions of income tax payable by the employed person;

(h) deductions required to be made by an order of a Court or other authority competent to make such order;

(i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Fund Act, 1925 applies or any provident fund approved in this behalf by the State Government during the continuance of such approval;

(j) deductions for payments to co-operative societies approved in this behalf by the State Government or to a scheme of insurance maintained by the Indian Post Office or by any insurance company approved in this behalf by the State Government;

(k) deductions made with the written authorization of the employed person in furtherance of any savings scheme approved by the State Government for the purchase of securities of the Central or State Government.

61 (l) No fine shall be imposed on any person employed save in respect of such acts and omissions on his part as the employer, with the previous approval of the State Government or of the Chief Inspector may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on.

(3) No fine shall be imposed on any person employed until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage period on any person shall not exceed an amount equal to paise three in a rupee of the wages payable to him in respect of that wage period.

(5) No fine shall be imposed on any person employed who has not completed his fifteenth year of age.

(6) No fine imposed on any person employed shall be recovered from him after the expiry of sixty days from the date on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and realizations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed; and all such realizations shall be applied only to such purposes beneficial to the persons employed in the establishment as are approved by the prescribed authority

Explanation.- When the persons employed are part only of the staff employed under the same management, all such realizations may be credited to a common fund maintained, for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

62. (1) Deductions may be made under clause (b) of sub-section (2) of section 61 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deductions shall in no case bear to the wages payable to the employed person in respect of the wage period for which the deduction is made, a larger proportion than the period for which he was absent

bears to the total period, within such wage period during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the State Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say, without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause such deductions from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

Explanation. - For the purpose of this section, an employed person shall be deemed to be absent from the place where he is required to work, if, although present in such place, he refuses, in pursuance of stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

63. (1) A deduction under clause (c) of sub-section (2) of section 61 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the person employed and shall not be made until the persons employed has been given an opportunity of showing cause, against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realizations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed.

64: A deduction under clause (d) or clause (e) of sub-section (2) of section 61 shall not be made from the wages of a person employed unless the house accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and in the case of a deduction under the said clause (e) shall be subject to such conditions as the State Government may impose.

65. Deductions under clause (f) of sub-section (2) of section 61 shall be subject to the following conditions, namely:

(a) recovery of an advance of money given before employment shall be made from the first payment of wages in respect of a complete wage period, but no recovery shall be made of such advances given for travelling expenses;

(b) .recovery of advances of wages not already earned shall be subject to any rules made by the State Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

66: Deductions under clauses (j) and (k) of sub-section (2) of section 61 shall be subject to such 'conditions as the State Government may impose.

67. No employer shall dispense with the services of an employee who has been in his continuous employment

(a) for not less than a year, without giving such persons at least thirty days' notice in writing or wages in lieu of such notice;

(b) for less than a year but more than .three months, without giving such persons at least fourteen days' notice in writing or wages in lieu of such notice

Provided that such notice shall not be necessary where the services of such employees are dispensed with for misconduct.

Explanation.-For the purposes of this section "misconduct" shall include

(a) absence from service without notice 'in writing or without sufficient reasons for seven days or more;

(b) going on or abetting a strike in contravention of any law for the time being in force;

(c) causing damage to the property of his employer.

CHAPTER IX

ENFORCEMENT AND PROSECUTION

68. (1) The State Government may, by notification, appoint as many Inspectors for different areas thereof as may be considered necessary.

*Appointment of
Chief Inspector and
Inspectors.*

(2) The State Government may, by notification, appoint one of the Inspectors to be the Chief Inspector for the purposes for this Act who may exercise all the powers of an Inspector.

69 (1) Subject to any, rules made by the, State Government . in this behalf an Inspector may. within. the, local limits for which he is appointed

(a) enter, at all the reasonable times and with such assistance as he thinks fit, any place which is or which he has' reason to believe. is an establishment;

(b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise record statement of any person as he may deem necessary, for carrying' out the purposes of this Act;

(c) exercise such other powers, as may be .prescribed or may ,be ,necessary for carrying out the purposes of this. Act

Provided that no one. shall. be required under this section to answer any question or to give any statement tending to incriminate himself.

(2) For the purpose of investigation of offences under this Act. an Inspector shall have the same powers as an Officer-in-charge of a police station has under the Code of Criminal Procedure 1898 ,for investigation of cognizable offences except that he shall not have the power of arrest.

5 of 1898.

70. Every Inspector appointed under the section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal. Code.

71. No suit, prosecution or legal proceedings shall lie against any person for anything which is in good, faith done or intended to be done under this Act or rules made thereunder.
72. Every employee and in his absence the Manager shall, on demand produce for inspection to an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

CHAPTER X

OFFENCES AND PENALTIES

73. Save as otherwise provided in this Chapter, whoever being an employer or manager of an establishment contravenes any of the provisions of this Act or rules made thereunder shall

(a) on first conviction, be punished with fine which shall not be less than fifty rupees and may extend to five hundred rupees; and

(b) for second and subsequent conviction for contravening the same provision of this Act or rules made thereunder, shall be punished with fine which shall not be less than one hundred rupees and may extend to one thousand rupees

74. If any employer, or manager with intention to deceive, makes, or causes or allows to be made in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge is false in any material particular, or willfully omits, or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends or causes or allows to be sent, to the Chief Inspector or Inspector any statement, information or notice prescribed to be sent under the provisions of this Act, or the rules made thereunder which to his knowledge is false in any material particular, he shall, on conviction, be punished with imprisonment

not exceeding six months or with fine which may extend. to two thousand rupees, or with both.

75. Whoever wilfully obstructs the Chief Inspector or an Inspector in the exercise of any powers under this Act or rules made thereunder or conceals or prevents any employer in an establishment from appearing before or being examined by the Chief Inspector or an Inspector, shall, on conviction, be punished with fine which shall not be less than one hundred rupees and which may extend to one thousand rupees.

76. (1) Where the owner of an establishment is a firm or other association of individuals, any one of the individuals, partners or members thereof, may be prosecuted and punished under this Act for any offence for which an employer of an establishment is punishable:

Provided that, the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the State to be the employer for the purposes of this Act and such individual shall, so long as he is so resident, be deemed to be the employer for the purposes of this Act, until the notice canceling nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company any one of the directors thereof, or in the case of a private company any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the employer of the establishment is punishable

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder who is resident in the State, to be the employer in the establishment for the purposes of this Act, and such director, or shareholder shall, so long as he is so resident, be deemed, to be the employer of the establishment for the purposes of this Act, until further notice canceling his nomination is received by the, Inspector or. until he ceases to be a director or shareholder.

77. (1) No prosecution under' this, Act or the rules made thereunder shall be instituted except by an Inspector.
- (2) No court inferior to that of a Magistrate of the first class shall try any offence under' this Act or any rule made thereunder
- (3) Notwithstanding anything' contained in any law relating to the criminal procedure for the time being in force, all offences under 'this Act or rules made thereunder; may be tried summarily.
78. No court shall hie cognizance of an offence under' this Act or any rule or order made thereunder unless complaint thereof is made within six months of the date on which the alleged commission of the offence first came to the knowledge of an Inspector.

CHAPTER XI

MISCELLANEOUS AND SUPPLEMENTARY

- 79 Subject to the general ,or special orders of the, State Government every employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed All ,registers and records shall be kept on- the premises of the establishment to which they relate.
80. (1) The State Government may, subject to previous publication, make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or, any of the following matters, namely:
- (a) the appointment of prescribed authority
- (b) the period for which, the conditions subject to which and the holidays and occasions on which the operation of the provisions of this Act may be suspended
- (c) the form of submitting a statement. the fees and other. particulars, the manner in which ,the registration of establishments is to be made and the form of registration certificate and the form and the period for notifying a change and the fees;

Maintenance of registers or records and display. of the notice.

Power to make rules.

- (d) fixing six days in a year for additional overtime;
- (e) fixing ten days in a year for overtime;
- (f) further particulars to be prescribed for an identity card;
- (g) fixing times, and methods for cleaning the establishments, fixing standards and methods for ventilation, and prescribing such establishments as are to be exempted from the provisions of, and, precautions against fire to be taken in this Act;
- (h) the articles which a first-aid box maintained shall contain;
- (i) the qualification of Inspectors appointed under this Act and their powers and duties;
- (j) the register and records to be maintained and notices to be displayed;
- (k) any other matter which is to be or may be prescribed.

81. (1) All the notifications, rules, regulations and orders relating to shops and establishments in Sikkim in force immediately before the commencement of this Act are hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under, the notifications, rules, regulations, orders, on the subject, shall be deemed to have been done or taken, as far as may be, under the corresponding provisions of this Act.

THE SIKKIM COURT FEES (EXEMPTION AND MISCELLANEOUS PROVISIONS) ACT 1983

**(ACT NO.7 OF 1983)
AN**

ACT

4.4.1983

to provide for exemption from payment of court fees in certain cases in Sikkim and for matters connected therewith.

BE it enacted by the Legislature of Sikkim in the Thirty-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Act, 1983. *Short title, extent and commencement.*

(2) It extends to the whole of Sikkim.

(3) This Act shall come into force from such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In this Act, unless the context otherwise requires,.

(a) "court fees" means the cash court fees payable under any law for the time being in force;

(b) "Court" includes any Tribunal or Authority in the State;

(c) "High Court" means the High Court of Sikkim.

Definitions.

3. Notwithstanding anything contained in any law relating to payment of court fees, for the time being in force, no court fees shall be payable by a person whose annual income from all sources does not exceed 1 [rupees ten thousand] 2 ["3A. (1) A person claiming exemption under section 3 shall satisfy the court by filing an affidavit or if so required by the Court by adducing oral or documentary evidence that the annual income of such person from all sources is less than 3 [ten thousand rupees].

(2) The court may cancel the exemption granted, at any time, before the passing of judgment or final order, on being satisfied that such exemption ought not to have been granted."

4 ["(3). No court shall grant the exemption as claimed under section 3 without giving notice to the opposite party and if necessary, conducting an enquiry and passing necessary orders thereof."]

1. Substituted by the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Amendment Act No.2 of 1988 w.e.f. 3/11/87.

2. Inserted by the Sikkim Court Fees Exemption and Miscellaneous Provisions) Amendment Act, 1985 (1 of 1986) w. e. f. 1/5/83.

3. Substituted by the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Amendment Act No.2 of 1988 w. e. f. 3/11/87.

4. Inserted by the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Amendment Act No.2 of 1988 w. e. f. 3/11/87.

4.(1), The High Court, shall as soon as may be, make rules providing for

- (a) the fees chargeable for serving and executing processes issued by, such Court in its appellate jurisdiction, and by other Civil and Revenue courts established within the local limits of its jurisdiction
- (b) the fees chargeable for serving and executing processes issued by Criminal Courts established within its local limits in .the case of offences other than offences for which police officers may arrest without a warrant
- (c) the remuneration of the persons appointed as process servers and other persons' employed, by leave of the High Court, in the service and, execution of processes.

(2) The High Court may, from time to time, alter and add to the rules made under sub-section (1).

(3) All rules, alterations and additions made under this section shall be confirmed by the State Government and shall be published, in the Official Gazette.

5. Notwithstanding anything to the contrary, contained in any notification, order, proclamation, bye-law, rules and regulations, court fees' shall be payable in cases filed by or on behalf of the State Government of Sikkim.

*Court fees payable
in cases filed by
Government.*

5 [6. No court shall refund' the court fees paid in suits and appeals except, on the following grounds:

- (i) (a) Withdrawal of a suit without any hearing
- (b) Settlement or compromise before the commencement, of the trial.
- (ii) Settlement or compromise in an appeal before the passing of the judgment or final order to the extent of the amount paid as court fees . in such appeal.
- (ii) On remand in, an ,appeal, to the extent of amount paid as court fees in such appeal.

5. Inserted by the Sikkim Court Fees, (Exemption and Miscellaneous Provisions Amendment Act, 1985 (No.1 of 1986) w. e. f. 1. 5. 1983.

THE TASHI-NAMGYAL ACADEMY BOARD ACT, 1983
(ACT NO.8 OF 1983)

AN
ACT

to provide for the establishment of a Board for managing the affairs of the school known as the Tashi 'Namgyal' Academy, Gangtok, and its properties and for matters connected therewith.

[4.4.1983]

. BE it enacted by the Legislative, Assembly of the State of Sikkim in the Thirty-fourth Year of the Republic of India ,as follows:

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Tashi Namgyal Academy Board Act, 1983.
- (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires,:

Definition

- (a) "appointed day" means the date of commencement of this Act;
- (b) "appointing authority" means the Chairman;
- (c) "auditor" means the auditor appointed under section 7 (3);
- (d) "Board" means the Tashi Namgyal Academy Board established under section 3; .
- (e) "Chairman" means the Chairman of the Tashi Namgyal Academy Board;
- (f) "Executive Committee" means the Executive Committee constituted un per section 13;
- (g) "Government". means the State Government of Sikkim;
- (h) "Fund" means' the Tashi' Namgyal Academy Board Fund referred to in section 9

- (i) .prescribed :means prescribed by regulations made by the Board under section 20
- (j) "President" means President of the Executive Committee
- (k) "school" means Tashi Namgyal Academy;
- (l) "Secretary" means Secretary of the Board or the Executive Committee, as the case may be.

CHAPTER- II

Establishment of ,the Tashi Namgyal Academy Board

- 3.
 - (1) On and from the appointed. day there shall be established a Board to be called 'the Tashi Namgyal Academy Board.
 - (2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose, of property, both movable, and immovable, and to contract, and ,shall by the same name sue and be sued.
 - (3) The Head Office of the Board shall ,be at, Gangtok in ,the State of Sikkim.
- 4 (1) The Board shall, consist of ,the following members, namely:
 - (a) Minister for Education, Sikkim State, Chairman;
 - (b) Chief Secretary to the Government, Vice-Chairman;
 - (c) Secretary, Education Department of the Government, Member;
 - (d) Secretary, Finance Department of the Government, Member;
 - (e) Secretary, Law Department of .the Government, Member;
 - (f) Secretary, Establishment Department of the Government, Member; .
 - (g) Chief Engineer, SPWD(Buildings), Government of Sikkim, Member;

- (h) The Principal Government College, Gangtok. Member
- (i) Representative of parents, Member;
- (j) Representative of parents, Member
- (k) The .Principal of the school

(2) The Principal of the school shall function as the.

Secretary to the Board.

- (3) The members specified in clauses (i) and (j) of sub-section (1) shall be elected in accordance with such procedure as may be prescribed and shall hold office for a term of five years.

5. (1) The Board may, at any time, remove any member if it is proved that such member is guilty of misusing his office for private profit or he is incapable of discharging his duties as a member due to mental or physical infirmity.

(2) The Board may remove from office any member other than an ex-officio member who is absent without leave of the Board for more than three consecutive meetings thereof without cause sufficient in the opinion of the Board to exonerate his absence:

Provided that no member shall be removed from office under sub-sections (1) or (2) unless a reasonable opportunity has been given to him to show cause against such removal

(3) Any member (other than one who holds office in ex-officio capacity) may resign from office by giving notice in writing to the Chairman and such resignation being accepted by the Chairman he shall be deemed to have vacated his office with effect from the date of his resignation or such other later date as may be specified

6. (1) The Board shall meet once a year in a meeting called Annual Meeting and such Annual Meeting for any year shall be held before the expiry of three months from the end of the immediately preceding academic session of the school. The procedure for holding such meeting shall be such as may be prescribed.

(2) At an Annual Meeting the Board shall consider the Annual Report presented to it by the Executive Committee including the audited accounts and auditor's report relating to the immediately preceding year and pass the same without notification or pass the same with observations for consideration of the Executive Committee.

(3) In the Annual Meeting the Board shall appoint or reappoint an auditor as required under section 7 (3).

(4) In addition to an Annual Meeting, the Board may meet as often as is necessary (such a meeting being called 'Special Meeting') provided that the following conditions are satisfied:

(i) The proposal to hold any special meeting should originate from the Executive Committee except where a Special Meeting is summoned under section 7 (4).

(ii) The agenda for the meeting should be circulated among all members of the Board at least seven days before the date of the proposed meeting.

(iii) There should be proper notice of the meeting to all members of the Board in accordance with procedure prescribed in respect of an Annual Meeting.

(iv) Other procedural regulations regarding a Special Meeting shall be the same as in the case of an Annual Meeting.

CHAPTER III

Powers and Functions of the Board

7. (1) The Board shall be the legal Owner of the school and all its properties and the employer of all employees of the school including its Principal.

(2) The Chairman shall be the appointing authority of all employees of the school including its Principal. The Board's prior sanction shall be obtained (in an Annual Meeting or a Special Meeting) by the Executive Committee before any immovable properties are acquired by outright purchase or disposed of by way of sale or otherwise, and such acquisitions and disposals shall be made in the name of the Board.

(3) 'The Board shall in its Annual Meeting, appoint an auditor (which term includes a firm of auditors) who is qualified to audit Company Accounts, to audit the accounts of the school for the year in which the Annual Meeting is held:

Provided that the same auditor shall not be appointed for more than three consecutive years.

(4) The Board may remove any member *of* the Executive Committee in a Special Meeting summoned at the instance *of* the Chairman for proved misuse *of* power and grave infringement of the provisions of this Act and the regulations made thereunder, and make such transitory provisions as it deems fit to remedy the vacancy thus caused.

(5) Any alterations in the structure of the school of the type described below shall be within the' exclusive competence of the Board, and it may consider them in an Annual Meeting or a Special Meeting;

(i) Change in the medium of instruction in the school.

(ii) Abolition or addition of class (Provided that this does not apply to abolition or addition of a division or section of an existing class).

(iii) Change over of the affiliation of the school to any Board, Council or other body for Examinations to any other Board, Council or other body for Examinations.

CHAPTER IV

Finance, Properties and Accounts

8. (1) On and from the appointed day, the land, buildings, furniture and equipments or any other assets, in which the school is on that day housed or, as the case may be, which are on that day owned *by* the school or owned by the Government. but given over for the use or benefit of the school, shall stand transferred to, and vest in, the Board.

(2) The Government may, at any time, transfer to the Board, any land, buildings or any other property, movable or immovable, either absolutely or on lease, for use and management by the Board to run the school and comply with the provisions of this Act.

9. (1) The Board shall have a fund to be called the Tashi Namgyal Academy Board Fund.
- (2) The Board may accept grants, subventions, donations and gifts and loans from the Government or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.
- (3) The Government may, from time to time, make grants to the Board including grant of part or whole of the amount required to meet the expenditure on establishment of the Board.
- (4) All moneys received *by* or on behalf of the Board, all proceeds of sale of land or any other property; all rents, betterment charges and all interest, profits and other moneys accruing, to the Board shall be deposited in the fund of the Board:

Provided that the provisions of this sub-section shall not apply to the TNA Capital Fund referred to in section 10.

10. (1) The Government shall, on the date of commencement of this Act, or as soon thereafter as possible, transfer absolutely a sum of rupees five lakhs which shall form the nucleus of the corpus of a fund to be created and known as the TNA Capital Fund the income from which is to be exclusively used for purpose of acquisition of new capital assets (moveable or immovable) and the maintenance of the land and buildings of the school. The Government may, through periodical grants enhance the corpus of the said Fund to such limit as it may deem fit.

(2) The Government may, in respect of the 'Fund referred to in sub-section (1), lay down such rules regarding the custody and management of the said Fund as it deems fit, and such restrictions and stipulations as it deems fit to ensure that the corpus of the Fund is preserved and the income there from is utilized only for the purposes stated in the said sub-section.

11. All property, fund and all other assets vested in the Board shall be held and applied by it subject to the provisions and for the purposes of this Act.

12, (1) Subject to the provisions of sub-section (2) of section 7, all transactions in money and property covered in this Chapter shall be entered into and carried out by the Executive Committee on behalf of the Board, and it shall have power to enter into and carry out such transactions without prior reference to the Board:

Provided that

(a) all such transactions are within the competence of the Board; and

(b) all such transactions are reported to the Board, in the immediately following Annual Meeting.

(2) The Executive Committee may open such accounts, in such banks, as it deems fit, to deposit and operate the moneys belonging to the Board's Fund referred to in section 9 and any other funds and moneys belonging to the Board, including the TNA Capital Fund referred to in section 10 (1) (Subject to the restrictions and stipulations, if any, made by the Government regarding the said funds), and may operate such accounts on behalf of the Board at its discretion for the benefit of the school and the Board and for giving effect to the provisions of this Act.

(3) Subject to the powers and functions assigned by it to him, the Executive Committee may delegate, from time to time, through written orders any or all, part or whole, of its powers stated in sub-sections (1) and (2) above to the Secretary.

(4) (a) The Executive Committee shall ensure that proper accounts are maintained in respect of all financial transactions of the Board, and that the auditor is enabled to audit all such accounts, effectively and on proper time.

(b) The Executive Committee may also cause internal audit to be conducted as and when it deems fit.

CHAPTER V EXECUTIVE**COMMITTEE**

13. (1) Every year, at its Annual Meeting, the Board shall constitute an Executive Committee consisting of persons referred to in sub-section (3), in order to carry *out* the purposes of this Act and run the school on behalf of the Board.

(2) The tenure of the Executive Committee shall be only for the period starting with the date *of* its constitution and ending with the date *of* the constitution *of* the next year's Executive Committee in the next Annual Meeting.

(3) Subject to sub-section (4), the Executive Committee shall consist of five members, one of whom shall be named as its President, who shall be an ex-officio member of the Board (other than the Principal/Secretary) and the remaining members shall consist *of* another ex-officio member of the Board (other than the Principal Secretary), the Principal (who shall be named its Secretary), and two experts in the field *of* education to be nominated as he. rein after provided, who mayor may not be members *of* the Board.

(4) Notwithstanding the provisions *of* sub-section (3) the Chairman may nominate not more than two additional members *of* his choice to function as members of the Executive Committee as, and when he considers it necessary.

(5) One of the experts in the field *of* education nominated as members *of* the Executive Committee shall be the Principal/Headmaster *of* any residential public school *of* good standing located in Sikkim or Northern Bengal and the other shall be an educationist of high standing who normally resides *or* works in -any part 'Of North' Eastern India, including the State of West Bengal.

(6) The initial constitution of the Executive Committee in the year in which this Act comes into force shall be . the following:

- (i) Secretary, Department of Education, Government of Sikkim-President ;
 - (ii) Secretary, Department of Finance, Government of Sikkim ;
 - (iii) Secretary, Establishment Department;
 - (iv) Two experts in the field of education to be nominated by the Chairman;
 - (v) The Principal, who shall be the Secretary of the Executive Committee.
- (7) The members of the Executive Committee (other than the two experts in the field of education) shall hold office only in an ex-officio capacity, and shall cease to be members once they cease to be members of the Board.
- (8) If no new Executive Committee is constituted, or there is delay in its constitution, the existing Executive Committee shall continue to function till a new Executive Committee is constituted.
- (9) The Chairman shall issue all orders, on behalf of the Board, constituting the Executive Committee.

14. (1) The President may constitute a Consultative Committee consisting of two representatives of the members of the teaching staff of the school and two representatives of the parents or guardians of the students of the School.

(2) The nomination of these representatives and their tenure shall be such as may be prescribed.

(3) The members of the Consultative Committee shall have right only to attend the meetings of the Executive Committee if and when invited to do so, and to tender their advice or express their views but shall have no right to vote. They also shall have right to attend only those parts of the proceedings to which the President has invited them.

(4) Nothing contained in this Act shall bar the President from seeking the advice from experts in the field; of education, law, etc. and allowing them to take part in the proceedings of the Executive Committee but they shall have no right to 'vote.

15. If any vacancy arises in the Executive Committee due to resignation, death or such other causes' of a nominated member of the Executive Committee, the Chairman shall, in consultation with ,the remaining members of the Executive Committee fill in the vacancy, and such new member shall be in office till the term of the said Executive Committee expires.

16. (1) The Executive Committee shall meet as often as required by ' exigencies, provided that there shall be not less than four meetings in a year.

(2) At least ten day's 'notice shall be given to all members of the Executive Committee and the agenda shall be circulated ,among them at least seven days in advance of, 'the meeting

Provided that in fit cases the above time limits may be reduced at the discretion of the President.

(3) The, quorum shall be a majority of the members . . .

(4) Other rules of procedure of the meetings shall be such as may be prescribed.

CHAPTER VI

Powers and Functions of the Executive Committee

17. The Executive Committee shall have the following powers, functions and duties, and those shall be in addition to those enumerated in section 12,.

(a)To review and advice in the proper care, upkeep. and administration of the school its staff, finances, land, buildings furniture, and equipment and maintenance of necessary records and accounts.

- (b) Every appointment, .termination of service dismissal, retirement, extension of service or re-employment of any of the employees of the school other than its Principal, and every case of disciplinary action against any such employee where, according to the relevant service rules, the maximum punishment involves dismissal or compulsory retirement, shall be considered and decided by a Sub-Committee consisting of the President, Secretary, Establishment Department of the Government and Principal/Secretary which shall make recommendations to the Chairman.
- (c) (i) The Principal and the Vice-Principal of the school shall be appointed by the Board.
- (ii) All matters regarding the service of the Principal including any disciplinary proceedings against him and his dismissal, discharge, extension of service etc., shall be considered and decided by the Board.
- (d) To frame service rules staff governing the Principal and of the school:
- Provided that when such rules are framed for the first time they shall be placed before the first Annual Meeting of the Board taking place after that, and any amendments in the rules made in any year shall be recorded in the Annual Report submitted to the immediately following Annual Meeting.
- (e) To sanction or refuse to sanction any leave (with or without pay) of more than three months or any extension of such leave beyond three months.
- (f) To sanction or refuse to sanction any study leave (with or without pay).
- (g) To prescribe scales of salary and allowances as may be necessary from time to time.
- (h) To sanction new posts or abolish existing posts or upgrade existing posts.
- (i) To sanction expenditure on major repairs and 'purchase of furniture and equipment beyond the powers delegated by the Executive Committee to the Principal.

- (j) To negotiate and carry through all transactions relating to property on behalf of the Board.
- (k) To approach and negotiate with Government or any local authority or any individual or body, whether incorporated or not, for grants, subventions, donations and gifts and loans on behalf of the Board.
- (l) To sanction opening of bank accounts by the Principal Secretary and prescribe procedure for operation of such bank accounts.
- (m) To consider the yearly budgets, supplementary budgets and revised estimate submitted by the Principal and pass such budgets and estimates.
- (n) To define the powers and functions of the Principal, delegate to him any of the powers vested in it under this Act and regulations made thereunder and to amend those from time to time.

CHAPTER VII

Powers, functions and Duties of the Principal.

18. (1) The Principal shall be the ex officio Secretary both of the Board and the Executive Committee.
- (2) It shall be the duty of the Principal, in his capacity as Secretary, to convene meetings of the Board and the Executive Committee, to record their proceedings, circulate the minutes and keep records of the Board and the Executive Committee.
- (3) (i) He shall be in overall charge of the school, exercising immediate control and supervision of all staff, and all powers not specifically reserved for the Executive Committee or the Board elsewhere in this Act shall be exercised by him on behalf of the Executive Committee and the Board.
- (ii) In particular, he shall be subject to the powers and functions delegated to him by the Executive Committee, responsible for the planning and execution..

of the academic and co-curricular activities of the school and discipline among staff and students.

- (4) The Principal shall have power to incur expenditure upto such extent as may be determined by the Executive Committee from time to time.

CHAPTER VIII MISCELLANEOUS

19. . If any difficulty arises in giving effect to any of the provisions of this Act, the Government may by order remove such difficulty.

20. (1) The Board may, from time to time, make regulations consistent with this Act;

(2) In particular, and without prejudice to the generality of the foregoing provision, such regulations may be made on the following matters, namely:

(a) procedure for election of members referred to in clauses (i) and (j) of section 4;

(b) procedure for holding meetings of the Board;

(c) nomination and tenure of members of Consultative Committees referred to in section 14 ;

(d) rules and procedure of the meetings of the Executive Committee other than those enumerated in sub-sections (1) to (3) of section 16;

(e) procedure for preferring appeals to Executive Committee by members of the staff of the school;

(f) any other matter which has to be, or may be, prescribed.

(3) Till such time as regulations regarding the terms and conditions of service of the school employees and finance and money matters are made under the provisions of the Act, the corresponding rules of the Government may be followed, or followed to the extent the circumstances permit:

Provided that this is without prejudice to any provisions already incorporated in this Act relating to such matters.

21. All decisions may be made, and resolutions passed by the Board and the Executive Committee as far as possible unanimously, and where there is disagreement, a simple majority of members present and voting shall decide the issue. In case of equality of votes, the presiding officer shall have a second and casting vote.
- 22: A member of the Board or Executive Committee who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or Executive Committee shall as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting, and the disclosure shall be recorded in the minutes of the 'Board or 'Executive Committee, as the case may be, and the member shall not take any part in any deliberation or decision of the Board or Executive Committee with respect to that matter.
23. No act or proceeding of the Board or the Executive Committee shall be invalidated merely by reason of
 - (a) any vacancy in, or any defect in, the constitution of the Board or Executive Committee;
 - (b) any defect in the appointment of a person acting as a member of the Board or Executive Committee; or
 - (0) any irregularity in the procedure of the "Board or Executive Committee not affecting the merits of the case.
24. On and from the appointed day, any law . proclamation, order, rules, regulations or notifications 'in relation to the Tashi Namgyal Academy, Gangtok 'shall stand repealed.

**THE SIKKIM PUBLIC WORKS (LIABILITY OF GOVERNMENT
AND CONTRACTOR) ACT, 1983**

(ACT NO. II OF 1983)

AN

ACT

[1. 10. 83]

to provide for liability of the Government and the contractor for certain damage caused to the property in the course of executing a public work and for matters connected therewith.

Be it enacted by the Legislature of Sikkim in the Thirty-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Public Works (Liability of Government and Contractor) Act, 1983.

Short title, extent and commencement.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires,

Definition..

(1) "avoidable damage" means cutting of trees, standing crops, damage to huts, camping or dumping materials on the land of another person .without the authority of the owner of the said land and includes any other damage which, in the opinion of the Government, is not an unavoidable damage;

3. (2) "Chief Engineer" means an officer of the Government appointed as such whether or not in the Public Works Department;

(3) "Collector" means the District Collector and includes any Officer especially appointed by the Government to perform the - functions of the Collector under this Act;

(4) 'contractor' means a person or association of persons whether incorporated or not, who is entrusted with a public work; .

(5) "Government" means the Government of Sikkim ;

(6) land includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(7) "notification " means a notification published in the Official Gazette;

(8) person interested" includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land or on account of damage to any land under this Act;

Explanation.-A person shall be deemed to be interested in land if he is interested in an easement affecting the said land;

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

(10) "public work" means any work relating to construction of road, building, bridges or any other work entrusted by the Government to a contractor for execution;

(11) "unavoidable damage" means,.

(a) damage caused due to rock cutting on steep slopes where it is not possible or practicable on the part of the contractor to contain debris by erecting suitable barriers;

(b) landslides not caused due to negligence on the part of the contractor;

(c) any other damage which, in the opinion of the Chief Engineer, for reasons to be recorded in writing, is not an avoidable damage.

3. (1) Whenever it appears to the Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any public work or of any site intended to be used or to be acquired for any such work, it may, by notification, impose such restrictions on such land as it may deem necessary.

(2) A sketch plan of the land in respect of which the notification referred to in sub-section (1) is issued shall be prepared on a scale not smaller than 6 inches to the mile indicating the boundaries of such land and the Collector shall cause public notice of the substance of such notification to be published at convenient places in the locality. (3) The notification referred to in sub-section (1) shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions specified therein.

- 4 It shall be lawful for such officer as the Government may, by general or special order, authorize in this behalf, and for his employees, servants and workmen, at any time after the publication of the notification under section 3, to enter upon and survey and take levels of any land in such locality, to dig or bore into the sub-soils, to do all other acts necessary to ascertain whether any land, if so, what restrictions should be imposed on the use and enjoyment of the land, to set out the boundaries of the land upon the use and enjoyment of which restrictions are to be imposed, or of any part of such land, to mark such levels and boundary lines by placing marks and cutting trenches, and where the survey cannot be completed or the levels cannot be taken or the boundary lines cannot be marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed courtyard or garden attached to a dwelling house unless with the consent of the occupier thereof or without previously giving such occupier at least seven days' notice in writing of its intention to do so

5. The Officer authorised under section 4 (hereinafter referred to as the authorised officer) shall at the time of such entry pay, or tender payment for all avoidable damage done or proposed to be done and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector whose decision shall be final.
6. (1) Whenever a notification has been issued under section 3, it shall be lawful for the authorised officer or his employees, servants and workmen to enter and demolish any buildings or other construction on the surface, to cut down or

grub up all or any trees, to remove or alter all or any of the banks, fences, hedges and ditches, to make underground and other drains, to fill up all excavations, and demolish all buildings and other constructions below the surface, and generally, to level and clear the said land and to do all such acts for leveling and clearing the same as he may deem necessary or proper, but, in such manner, nevertheless that evidence of the boundaries held by different owners may be preserved.

(2) In case of emergency, the Government may, by notification, declare that all or any powers conferred by sub section, (1) may be exercised at any time within one month after the, publication of the notification under section 3 and such powers may be exercised accordingly.

(3) Nothing in sub-section (1) shall preclude the authorised officer or his employees, servants or workmen from exercising at any time the said powers for the purpose of removing, wholly or in part, any building or other obstruction, maintained, created or added to, altered, planted, stacked, stored or otherwise accumulated in contravention of this Act or of any rules or orders made thereunder.

7. On and from the date of publication of the notification under section 3, such of the following restrictions, as the Government may, in its discretion, declare therein, shall attach with reference to such land, namely:
- (a) no variation shall be made in the ground-level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the previous written approval of the Government or any officer authorised by it in this behalf;
 - (b) no wood, earth, stone, brick, gravel, sand or other material shall be stacked or stored or otherwise accumulated, and if any of such materials have been stacked or stored they shall be removed forthwith;
 - (c) no live-hedges, rows or clumps of trees or orchards shall be maintained, planted, added to or altered otherwise than with the previous approval of, the Government or any *officer* authorised by it in this behalf.

8. (1) Before the expiry of 3 months from the date of publication of the notification under section 3, the Collector shall issue a notice to all persons interested in such land giving the date and time on which an enquiry for assessment of damage is to be held.
 - (2) Such notification shall be served in accordance with the provisions of the Code of Civil Procedure, 1908.
 - (3) A person interested may, if he so desires, file a written objection before the Collector.
 - (4) On the day so fixed under this section or any other date to which the enquiry is adjourned, the Collector shall proceed, enquire into the objections (if any) filed by any person interested in the land and determine the amount of damage and the interest of the person claiming the compensation and shall make an award under his hand of:
 - (a) the true area of the land and the nature of damage;
 - (b) the compensation which, in his opinion, should be allowed for any damage caused or likely to be caused due to the execution of any public work or imposition of any restrictions;
 - (c) the apportionment of the compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether or not they appeared before him.
 - (5) The Collector shall give immediate notice of the award made by him to such of the persons who are interested in the land but who are not present personally or by their representatives when the award was made.
9. The Collector may, for any cause he thinks fit, from time to time, adjourn the enquiry to a day to be fixed by him.
10. For the purpose of enquiry under this Act, the Collector shall have power to summon and enforce the attendance of witnesses including the persons interested or any of them and compel the production of documents by the same means and in the same manner as far as may be as is provided in the case of Civil Courts in the Code of Civil Procedure, 1908.

11. (1) In determining the amount of compensation to be awarded for damage caused, or likely to be caused, or for restrictions imposed under this Act, the Collector shall take into consideration

- (a) the actual decrease in market value of the land owing to the publication of the notification under section 3;
- (b) the damage sustained by the person interested by reason of the removal of any standing crops, staking or storing of sand, stones or other materials required in executing the public work;
- (c) the damage, if any, sustained by the person interested by reason of ceasing to be able to use such land conjointly with his other land;
- (d) the damage, if any, sustained by the person interested by anything which injuriously affects his other property, moveable or immovable, in any other manner, or his earnings and
- (e) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business the reasonable expenses incidental to such change.

(2) In addition to amount or award, the Collector shall in every case award a further sum equivalent to fifteen percent of such award.

12. (1) In determining 'the amount of compensation to be awarded for damage caused or likely to be caused for restrictions imposed under this Act, the Collector shall not take into consideration-

- (a) the degree or urgency which has led to the damage or the imposition of restrictions;
- (b) disinclination of the person interested to submit to damage or restrictions;
- (c) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

- (d) any increase in the value of the other land of the person interested occurring or likely to occur from anything done under this Act; or
 - (e) any outlay or improvements on, or disposal -of, the land commenced, made or effected without the previous approval of the Government after the date of publication of the notification under section 3.
- (2) While making the award under this Act the Collector shall indicate therein whether the damage is avoidable or unavoidable.
13. (1) Where the damage is unavoidable the compensation shall be paid by the Government or any other person or agency on whose behalf the work is being executed, to the persons interested in accordance with the award made by the Collector and where the damage is avoidable it shall be payable by the contractor within such time as may be specified in the notice issued by the authorised officer.
- (2) The authorised officer. shall issue or cause to be issued a notice upon the contractor calling upon. him to deposit with such officer the amount of the award within such time and in 'such. manner 'as may be specified in the notice.
- (3) Where the contractor fails to comply with the notice issued under sub-section (2), it shall be' lawful for the authorised officer to recover the amount on account of damage as given in the award from the payments due to the contractor or from the earnest money or security deposit of the said contractor lying with the Government whether or not under the said contract.
- (4) The authorized officer may pay to the person interested the amount of compensation on execution of indemnity bond by the person concerned.
- (5) It shall be the duty of the Government to make available to the authorised officer the amount. of compensation payable for unavoidable damage and the authorised officer shall distribute the said amount in the 'manner specified in sub-section (4).

(6) Where any amount of compensation lies undisbursed with the authorised officer, he shall keep the same in deposit in the bank as may be directed by the Government.

14. (1) Where the payments due to a contractor in respect, of any public work, or the earnest money or security deposits of such contractor are found by the authorised officer to be insufficient to meet the amount stated in the award, such authorised officer shall prepare a certificate of dues and send the same to the Judicial Magistrate of the first Class of the area in which the land is situated.

(2) The Judicial Magistrate of the first Class to whom such certificates is sent shall forthwith realize the amount due from the contractor as if it were a fine imposed by him and upon recovery of the amount, transmit the same to the authorised officer.

15. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, by the officer therein mentioned and in the case of any other notice, by an order of the Collector.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the services may be made on any adult male member of his family residing with him, and if no such adult male can be found, the notice may be served by affixing a copy on the outer door of the house in which the person therein ordinarily dwells or carries on business, or by fixing a copy thereof at some conspicuous place in the Court House and also in some conspicuous part of the land upon which restrictions are to be imposed:

Provided that, if the Collector so directs, a notice may be sent by registered post in a letter addressed to the person named therein at his last known residence, address or place of business, and service of it may be proved by the production of the addressee's receipt or postal receipt.

16. (1) Any person aggrieved by the award made by the Collector under this Act may, within 30 days from the date of the

knowledge of award, prefer an appeal to the Government in the form of a Memorandum giving the grounds of such appeal:

Provided that the Government may admit the appeal after the expiry period of 30 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the time prescribed.

(2) No appeal shall be disposed of unless after giving the person concerned an opportunity of being heard.

(3) The decision of the Government under this section shall be final and an appeal against such decision shall, notwithstanding anything to the contrary contained in any other law lie to the High Court only.

17. No award made or appeal preferred under this Act shall be chargeable with stamp duty and no person claiming under any such award shall be liable to pay fee for a copy of the said award or decision of the Government.

18. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

19. (1) If the person committing an offence under this Act, or the rules thereunder is 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 contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment 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 the offence under this Act or the rules made there under 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 or 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.

Explanation.-For the purposes of this section,

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

(b) "director" in relation to a firm means a partner in the firm.

20. Whoever contravenes the provisions of this Act or any rules, or notifications made thereunder shall be liable to be punished with imprisonment for a term which may extend to six months or to a fine which may extend to rupees two thousand.

11. If any difficulty arises in giving effect to any of the provisions of this Act the Government may, by order, remove such difficulty:

Provided that no such order shall be made after the expiration of a period of two years from the date of commencement of this Act.

22. The Government may, by notification, make rules for the purpose of giving effect to the provision. of this Act.

23. All things done actions taken or payments realized from a contractor for any damage in respect of a public work entrusted to that contractor before the commencement of this Act shall be, and shall always be deemed to be legal and valid notwithstanding anything to the, contrary contained in this Act.

**THE SIKKIM ENTERTAINMENT TAX (AMENDMENT)
ACT, 1984
(ACT NO 3 OF 1984)
AN
ACT**

to amend the Sikkim Entertainment Tax Act, 1980.

[22. 3. 1984]

Be it enacted by the, Legislature of Sikkim in the
Thirty-fifth Year of the Republic of India as follows:

- | | |
|--|---|
| <p>1. (1) This Act may be called the Sikkim Entertainment Tax (Amendment) Act, 1984.
(2) It extends to the whole of Sikkim.
(3) It shall come into force at once.</p> | <p><i>Short title, extent
and
commencement.</i></p> |
| <p>2. In the Sikkim Entertainment Tax Act, 1980 (hereinafter referred to as the principal Act), in section 2, in clause (c), after the word "entertainment" and before the word "includes" the words "means exhibition of films and" shall be inserted.</p> | <p><i>8 of 1980.
Amendment of
section 2.</i></p> |
| <p>3. In the principal Act, after section 3, the following sections shall be inserted, namely :</p> | <p><i>Insertion of new
sections 3A, 3B,
3C and 3D.</i></p> |
| <p>"3A. (1) Where the entertainment is provided by video exhibition, the Government may realize the entertainment tax in a lump sum not exceeding three thousand rupees per month as the Government may, from time to time, by notification, specify and having regard to the population different rates may be specified for different areas in the State.
(2) The provisions of this section and section 3D shall also apply to the entertainment provided by video exhibition by any association or club of more than ten individuals.
(3) The entertainment tax under this section shall be payable monthly' in advance in such manner as may be specified by the Government, by notification.</p> | <p><i>Tax for admission
to entertainment
'realizable in a
lump sum.</i></p> |
| <p>3B. (1) The proprietor of the place where entertainment is provided by video exhibition shall, before the licence is granted, be required, to deposit an amount not exceeding three thousand rupees as may be specified by, the Government, by notification, by way of security for the payment of the entertainment tax under subsection (1) of section 3A.</p> | <p><i>Proprietor to furnish
security and other
information.</i></p> |

- (2) Such proprietor shall, by an application in writing, intimate to the Government or an officer authorized by it under section 9 of this Act the place where entertainment is provided by video exhibition

3C. Notwithstanding anything contained in any law relating to criminal procedure for the time being in force in Sikkim, every offence under this Act and the Sikkim Cinemas (Regulation) Act, 1978 shall be cognizable, bailable and triable summarily by a Judicial Magistrate of the first class.

3D. Where more than ten persons are found gathered at a place where entertainment is being provided by video exhibition, the burden of proving that the persons so gathered are members of the family of, or have been admitted without payment for admission shall lie on the person providing such entertainment.

4. In the Sikkim Cinemas (Regulation) Act, 1978

(a) in section 2,

(i) after clause (a), the following clause shall be inserted, namely

"(aa) "film" means a cinematograph film and includes any tape or cassette of moving pictures or series of moving pictures used in video cassette player or recorder

(ii) after clause (d), the following clause shall be inserted, namely:

"(e) ".video exhibition" means the exhibition of film through video cassette recorder or player and includes the exhibition of film through television or apparatus attached to television or the machine for transferring the film to the television screen or any other apparatus which shows a film on screen through any means other than the cinema projector";

(b) after section 4, the following section shall be inserted, namely:

"4A. The procedure for grant of licence, the fees payable therefor, the terms, conditions and restrictions subject to which licence may be granted under this Act for public exhibition by means of a cinematograph including video exhibition shall be such as may be prescribed".

THE SIKKIM LEGISLATIVE ASSEMBLY MEMBERS

(PAYMENT OF PENSION) ACT, 1984.

(ACT NO.4 of 1984)

AN ACT

to provide for the payment of pension to persons who have been members of the Sikkim Legislative Assembly.

(22. 3. 1984)

Be it enacted by the Legislature of Sikkim in the Thirty. fifth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Legislative Assembly Members (Payment of Pension) Act, 1984.

Short title and commencement

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,

Definitions.

1 [(a) "Assembly" means the Sikkim Legislative Assembly duly constituted under the Constitution (Thirty-sixth Amendment) Act, 1975 and thereafter. "]

(b) "term of office"; in relation to a member of the Assembly, means the period beginning with the date of publication of the notification of his election as a member and ending with the date on which his seat becomes vacant.

Explanation | Where a general election to the Assembly is held and election does not take place in any constituency for any reason and a Member is elected in that constituency at the election held subsequently, in his case the term of office shall be deemed to have begun on the date on which the results of the general election in other constituencies were published in the Official Gazette:

1. Substituted by the Sikkim Legislative Assembly Members' (Payment of Pension) Amendment Act No.4 of 1989 w. e. f. 1. 4. 1989.

Provided that where a person having been elected in a general election from more than one constituency resigns from a constituency, then the person who is elected subsequently from that constituency shall be deemed to have been elected on the date on which the results of the general election in other constituencies were published in the Official Gazette.

Explanation II. - Where any Member of the Assembly resigns his seat for any cause, then, for the purpose of calculating his term of office, the period during which he would have continued to be a Member but for his resignation shall be taken into consideration and he shall be deemed to have served as a Member for that period also:

Provided that the maximum period which may be taken into consideration shall not exceed three months in the case of any Member.

Explanation. III.- Where any Assembly is dissolved earlier, but not earlier than six months prior to the date on which its duration would have expired under the provisions of clause (1) of article 172 of the Constitution of India, then, for the purpose of calculating the term of office of any Member thereof, the period during which he would have continued to be a Member of the Assembly if it had not been dissolved earlier, shall be taken into consideration and he shall be deemed to have served as a Member for that period also.

3. (1) On and from the commencement of this Act, there shall be paid a life long pension of three hundred rupees per month to every person who has served as a Member of the Assembly for a period of five years whether before or after the commencement of this Act and whether continuous or not:

Provided that, where any person has served as aforesaid for a period exceeding five years, there shall be paid to him an additional pension of fifty rupees per month for every year in excess of five, so, however, that in no case the pension payable to such person shall exceed five hundred rupees per month:

Provided further that, any person who has served as aforesaid for a period which falls short of five years by

not more than sixty days, shall also be paid a pension of three hundred rupees per month.

(2) In computing the number of years for the purposes of subsection (1) the period during which a person has served as a Speaker or Deputy Speaker of the Assembly or as Chief Minister, Minister, Minister of State or Deputy Minister or in more than one of those capacities by virtue of his membership of the Assembly, shall also be taken into account.

4. (1) Where any person entitled to pension under section 3,
- (a) is elected to the office of the President or Vice President of India or is appointed, to the office of the Governor of any State or the Administrator of any Union Territory; or

 - (b) becomes a Member of the Council of States or the House of the people or any Legislative Assembly of a State or Union Territory or any Legislative Council of a State; or

 - (c) is employed on a salary under the Central Government, or any State Government, or any Corporation owned or controlled by the Central Government or any State Government, or any local authority or otherwise receives any remuneration from such Government, Corporation or local authority

such person shall not be entitled to any pension under section 3 for the period during which he continues to hold such office or continues as such Member or is so employed or continues to receive such remuneration:

Provided that where the salary payable to such person for holding such office or being such Member or so employed, or where the remuneration referred to in clause. (c) paid to such person is in either case, less than the pension payable to him under section 3 such person shall be entitled only to receive the balance as pension under that section.

- (2) Where any person entitled to pension under section 3 also receives any pension from the Central Government or any State Government, or any Corporation, owned or con

trolled by the Central Government or the State Government, or any local authority, under any law or otherwise, then

- (a) where the amount of pension which he receives under such law or otherwise is more than five hundred rupees per month, such person shall not be entitled to any pension under section 3
- (b) where the amount of pension which he receives under such law or otherwise is less than five hundred rupees per month, such person shall be entitled to full or portion of the pension under section 3, so that the total amount of the pensions does not exceed five hundred rupees per month
- (3) Notwithstanding anything contained in sub-section (2), where any person entitled to pension under section 3 also receives any pension from the Central Government or any State Government as a freedom-fighter, then such pension shall not be taken into consideration in deciding the amount of pension to which he is entitled under that section.

5. If any person to whom pension is payable under this Act has not paid any amount payable by him to the State Government or the Assembly, the amount so payable may be recovered from the amount payable as pension.

6. (1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions 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:
- (i) the form in which and the authority to which an application for pension shall be made
 - (ii) the certificates to be furnished along with an application for pension;
 - (iii) the declarations to be made at the time of drawing pension;

- (iv) any other matters necessary for proper implementation and enforcement of this Act.
- (3) Any rules under this section may be made so as to be retrospective from any date not earlier than the date of commencement of this Act.

7. If there is any doubt or dispute as to whether a person is entitled to pension or as to the amount of pension or all to the period for which he shall be entitled to pension under this Act, the matter shall be referred to the Speaker of the Assembly, who shall in consultation with the State Government, decide the question and such decision of the Speaker shall be final.

Decision on questions relating to pensions.

THE SIKKIM HOUSING AND DEVELOPMENT BOARD

(AMENDMENT) ACT, 1985

(ACT NO.3 OF 1985)

AN ACT

[23-6-85;]

to amend the Sikkim Housing and Development Board Act, 1979.

WHEREAS it is expedient to amend the Sikkim Housing and Development Board Act, 1979;

It is hereby enacted in the Thirty-sixth Year of the Republic of India by the Legislature of Sikkim as follows:

1. (1) This Act may be called the Sikkim Housing and Development Board (Amendment) Act 1985.

Short title and commencement

(2) It shall be deemed to have come into force on the 22nd day of April, 1985.

2. In the Sikkim Housing and Development Board Act, 1979, in section 4. in sub-section (1), after the words "State Government"; and before the words "and the following", the words "or any other person so appointed by the State Government" shall be and shall be deemed always to have been inserted.

Amendment of section 4. 4 of 1979.

3. (1) The Sikkim Housing and Development Board: (Amendment) Ordinance, 1985 (No.1 of 1985) is hereby repealed.

Repeal., and Savings.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of the powers conferred by or under that Ordinance, shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or such action was taken.

THE SIKKIM (LIVESTOCK AND LIVESTOCK PRODUCTS CONTROL) ACT, 1985.

(ACT NO.4 OF 1985)

AN ACT

28-6-85

to provide, in the interests of the general public, for entry of healthy livestock into the State of Sikkim for slaughtering and consumption by the general public, for regulating hygienic conditions in places where livestock are slaughtered, to maintain regular supply at reasonable prices of meat to the general public, to maintain regular and continuous supply of hides and skins for the development of leather and allied industries in the State of Sikkim and for matters connected therewith or incidental thereto.

WHEREAS many places in Sikkim being located on high altitudes have cold climate where meat is consumed in large quantities;

AND WHEREAS in the interests, of the general public it is necessary to ensure regular supply of healthy livestock for human consumption and also to ensure the hygienic conditions" in places where livestock is slaughtered as also to maintain regular supply of meat at reasonable prices to the general public;

AND WHEREAS there is large potential for developing, leather and, allied industries. in the State of Sikkim for which regular and continuous supply 'of good hides and skins and other livestock is necessary at reasonable prices.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows, namely:

- (1) This Act may be called the Sikkim Livestock and Livestock Products Control Act 1985.
- (2) It extends to the 'whole of Sikkim

Short title. extent and commencement.

- (3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,

(i) "appointed day" means the date of commencement of the Act;

(ii) "Government" means the Government of Sikkim;

(iii) "livestock" includes buffalo, sheep, lamb, pig, boar, sow, goat, kid, bullock, calf, ox, yak, jho, or mithun and such other animals as may be notified by the Government by notification..

(iv) "Livestock Products" includes meat, hides, skins, bones" hooves, horns, blood and other inedible parts of slaughtered livestock; and such products as may be notified by the Government by notification;

(v) "meat" means flesh or other edible parts of livestock which are sold or intended for sale for human consumption and includes the edible part of the muscle of cattle, sheep, swine's or goats which is selected or which is found in the tongue, in the diaphragm, the heart or in the oesophagus, with or without the accompanying and over-lying fat and the portions of the bones, stain, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing but does not include muscle found in the lips snout or ears;

(vi) "notification" means a notification published in the Official Gazette;

(vii) "State" means the State' of Sikkim.

(viii) rules means rules made under this Act.

3. The Government, so far as it appears to them to be necessary or expedient for maintaining or securing supplies of livestock or livestock products or for arranging for equitable distribution of livestock products and availability thereof at fair prices, may from time to time, by notification, provide for regulating or prohibiting the supply, distribution and bring livestock into the State and trade and commerce in livestock and livestock products.

(2) A notification made under sub-section (1) may provide:

(a) for regulation by licenses, permits or otherwise bringing livestock into the State and slaughter thereof;

- (b) for regulating the prices at which any of the livestock products may be sold;
 - (c) for prohibiting the withholding from sale of any livestock product ordinarily intended for sale;
 - (d) for requiring any person holding in stock any livestock product, whether processed or not to sell the whole or specified part of such stock at such price to the Government or to an officer or, authorised agent. of the Government;
 - (e) for collecting any information with a view to regulating or prohibiting any livestock or sale of livestock products;
 - (f) for requiring any person engaged in the supply or distribution of or trade or commerce in, any livestock product to declare their stocks of such products and allow inspection of, or produce for inspection, any books, accounts and records relating to trade and commerce;
 - (g) for regulating the processing of any livestock product;
 - (h) for any incidental and supplementary matters, including in particular, the entering and search of premises vehicles, the seizure by a person authorised to make such search in respect of livestock or livestock products where such person has reason to believe that a contravention of the notification has been, is being or is about to be committed;
 - (i) for the grant of issue of licenses, permits or other documents and the charging of fees therefor
- 4 (1) On and from the appointed day. no livestock or livestock product shall be allowed to be entered in the State without veterinary check: up at such check posts as may be set up for the purpose by the Government by notification.
- {2} No livestock: or livestock product shall be allowed to be brought into the State,' unless a tax as may be notified by the Government' is. 'paid in such manner as may be specified in the said notification.
5. The Government may, by notification, fix fees for rendering such services as. may be specified in. the said notification and different rates may be specified for different categories of livestock, livestock.. products ;and services rendered at Check: Posts.

6. The Government may, by notification, collect slaughter house ' fees as. may be notified by the Government from time to time head of livestock, specified in the Schedule to. this Act whose meat is fit for human consumption and the Government may by notification, from time. to time, *specify* different rates *for* different categories' live-stock.
- 7 (1) On and *from* the appointed day, no person other than the Government or its authorised agent, shall deal in the trade and commerce of' hides and skins of such categories of livestock as the' Government may, by notification, specify.
- (2) The Government may, by notification, appoint any
(a) corporation owned or controlled by the Government; or
- (b) Co-operative society registered *or* deemed to have' been registered under the Sikkim Co-operative Societies Act, 1978 (12 of 1978) as its agent to deal in trade and commerce of hides' and skins and other livestock products. .
- (3) The agent authorised or appointed under' sub-section (2) shall act under the direction, control and 'supervision of the Government. Every direction or order issued by the Government shall be binding on the agent so authorised or appointed.
8. On and *from* the appointed day no person shall remove any hides and skins of livestock out of the limits *of* the State of Sikkim without obtaining a permission in writing *from* the Government *or* an officer authorised by Government to be obtained by payment *of* fees specified in this behalf 'by notification. :
9. On and from the appointed day. no owner of hides and skins shall sell them to any person other than the Government *or* its authorised agent at such prices as the Government may, by notification, specify.
10. The Government may, from time to 'time, by notification, fix the maximum retail prices for sale of various types and classes of meat.

11..As soon as may be after the' appointed day the Government shall establish .slaughter houses in the State at such places as the Government may, by notification, specify.

12. (1) On and from the establishment of Government slaughter houses, no livestock shall be slaughtered at a place other than the Government slaughter houses.

(2). The provision of sub-section (1) shall not apply to . . slaughter of livestock for personal and family purposes.

13. (1) The Government may make rules regulating the slaughter of livestock in the Government slaughter houses.

(2) Such rules may provide for all or any of the following matters, namely:

(a) the manner in which livestock of different categories is to be slaughtered;

(b) placing of identification marks. on the slaughtered livestock;

(c) disposal of the slaughtered livestock which. is unfit for human consumption.;

(d) disposal of the portion or portions of the slaughtered livestock which are ordinarily not fit for human consumption;

(e) disposal of waste materials of the slaughtered lives tock;

(f) grant, renewal, revocation and suspension of licenses of butchers and their qualifications;

. (g) fixation of age of different categories. of .livestock . . for slaughter;

(h) sanitary conditions and other facilities to be provided at the slaughter house;

(i) the persons who. may be allowed to. enter the slaughter house;

(j).separation of livestock for slaughter;

(k) closure of slaughter house;

(l) any other matter on which it is necessary to make rules.

14. The Government or its authorised agent acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment, of property as little as may be consonant with the general interests of the public.

15. Any person who attempts to contravene, or abets the contravention of, any provisions of this Act, rule or notification made under this Act shall be deemed to have contravened such provision of the Act, rule or notification, as the case may be.

16. (1) When an offence under this Act has been committed by a company, every person, who, at the time the offence was committed, was directly in charge of and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any 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 officers shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section:

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

(b) "director" in relation to a firm, means a partner in the firm.

17. Any person who contravenes the provisions of this Act, any rule made or notification issued under this Act shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.
18. Notwithstanding anything contained in the law relating to Criminal Procedure for the time being in force in the State, it shall be lawful for a Judicial Magistrate of the First Class to pass a sentence or fine exceeding the pecuniary limits specified in such law on any person convicted of contravening any provision of this Act or any rule made or notification issued thereunder.
19. Notwithstanding anything contained in the law relating to Criminal Procedure for the time being in force in the State all offences under this Act shall be cognizable and bailable.
20. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) No suit or other legal proceedings shall lie against the Government, its officer or its authorised agent for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provision of this Act or rule made or notification issued thereunder.
21. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

 Provided that no such order shall be made after the expiry of a period of two years from the appointed day.
22. The Government may, by notification, make rules for carrying out the purposes of this Act.
23. All proclamations, orders, rules, regulations, notifications and bye-laws in force on the appointed day relating to the matters covered by this Act shall stand repealed.

- (2) Such repeal shall not effect any 'investigation, legal proceeding *or* remedy in respect *of* any right, privilege, obligation, penalty, liability, forfeiture or punishment and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been repealed.

I ["SCHEDULE

(See section 6)

LIST OF LIVESTOCK INTENDED FOR SLAUGHTER

1. Bullock, Buffalo, Sheep, Lamb, Ewe, Wether, Pig."]

1. Inserted by Sikkim (Livestock and Livestock Products Control) Amendment Act No.9 of 1986 w. e. f. 28.6. 1985.

THE SIKKIM CULTIVATORS PROTECTION ACT, 1985

(Act No.5 of 1985)

AN ACT

[28-6-85]

to make provisions for protection *of* cultivators against termination *of* cultivation *of* lands cultivated by them, for restoration of such lands in case *of* illegal termination, for limiting the liability *of* the cultivators for termination of cultivation by the owner in certain circumstances and for other matters connected therewith.

Be it enacted by the Legislative Assembly Year *of* Sikkim in the Thirty-sixth *of* the Republic *of* India as follows namely:

1. (1) This Act may be called the Sikkim Cultivators' Protection Act, 1985.

(2) It extends to the whole *of* Sikkim.

(3) It shall come into force at once.

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

Definitions.

- (a) "agricultural year" means the year commencing from the first day of February;
 (b) "civil court" does not include the High. Court or the Supreme Court;

(c) "cultivator" means a person who cultivates the land of another person / on' condition of payment of rent, in . cash or in kind, *or* on condition of delivering or receiving share or any fixed quantity of the produce and includes a person who cultivates the land of another person on any terms and conditions except as a paid servant or hired labourer but does not include persons who are cultivating under work permits granted. under laws in force at present in the State of Sikkim with their addresses .outside the country.

(d) "owner". means a person whose land is cultivated by a cultivator

(e)"personal .cultivation" means cultivation of the land by 'the owner himself or through members of his family or his heirs and dependents or through paid servants or hired laborers;

(f) "prescribed" means prescribed by Rules made under this Act;

(g) "Prescribed Authority" means the District Collector within whose jurisdiction the land is situated and shall also include any" other officer specially empowered by the State .Government in this behalf.

3. (1) The provisions of this Act and of any rules made 'hereunder shall have effect notwithstanding anything to the contrary contained in any other law or in any custom, usage, contract or instrument.
- (2) Any law or custom or usage having the force of law immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act.
- (3) Any other law in force immediately before the commencement of' this Act shall cease to have effect in so far as it is inconsistent with any of the provisions of this Act.
4. (1) No owner shall have the right to terminate the cultivation of his land by a cultivator except in execution of an order made by the prescribed authority.

(2) The prescribed authority shall not make an order for termination of the cultivation by a cultivator except on one or more of the following grounds and on no other ground, namely;

(a) the cultivator has without any reasonable cause, failed to cultivate the land or a part of the land exceeding, one fourth of the total area of the land in any agricultural year -

(b) the cultivator has failed to pay the rent in cash or in kind or a share or fixed quantity of the produce from the land within the period as stipulated in any contract or in the absence of any contract within a period of two months from the date of harvest of any particular crop;

(c) the cultivator has sublet the land to another person for cultivation;

(d) the owner having no land other than the land which is being cultivated by the cultivator desires to cultivate the land personally:

Provided that the owner shall have no right to terminate the cultivation of the land on this ground unless he has given notice of not less than six months of his intention to resume personal cultivation and such notice expires with the beginning of the agricultural year next following.

(e) the cultivator has erected or caused to be erected a residential house or any other permanent structure on the land without the written permission of the owner.

(3) The prescribed authority while making an order under subsection (2) shall also determine the amount which is to be paid by the owner to the cultivator or by the cultivator to the owner as the case may be:

Provided that no order under subsection (2) shall be made except after giving the owner and the cultivator an opportunity of being heard.

5. If any owner terminates or causes to be terminated the cultivation of any land by a cultivator, in contravention of the provisions of this Act, the prescribed authority, shall, on receipt of any application made by or on behalf of the cultivator and after giving the cultivator and the

owner, an opportunity of being heard and after making such inquiries as such authority may deem necessary. by order direct-

(a) in case where such land has not been cultivated or has been cultivated by the owner or by any person on his behalf other than the cultivator, that the land be immediately restored to the cultivator and further that forty per cent of any produce of the land shall be forfeited to the State Government, and the remaining sixty per cent of such produce shall be retained by the cultivator

(b) in case where such land has been cultivated by a new cultivator engaged by the owner, that the land be restored at the end of the cultivation season to the applicant cultivator and further that the new cultivator shall retain fifty per-cent of the produce harvested before restoration and make over the remaining fifty per cent of such produce, to the applicant cultivator.

6. For the cultivation of any land, no cultivator shall be required to pay or deliver, to the owner and no owner shall be entitled to receive from the cultivator more than half of the principal produce of the land or the price thereof as the case may be as rent or share or any, other account.

7. (1) If a cultivator

(a) surrenders his right to cultivate in respect of the land cultivated by him as a cultivator, or

(b) abandons cultivation of such land, the owner of the land shall give information in writing of such surrender or abandonment to the prescribed authority within three months from the date of surrender or abandonment.

(2) on receipt of such information the prescribed authority shall, after giving the cultivator and the owner an opportunity of being heard and making such inquiries as he may deem necessary, by order, determine whether the cultivator voluntarily surrendered or abandoned his right of cultivation' in relation to such land.

(3) If the prescribed authority determines that the cultivator 'had not voluntarily surrendered or abandoned the

cultivation of the land which was being cultivated by him as such and that he had been compelled by force .or otherwise to surrender or abandon the cultivation .of such land, the prescribed authority shall restore to the cultivator the cultivation of the land.

(4) If the cultivator or his heirs are not available .or is not willing to be restored to the cultivation of such, land .or if the prescribed authority determines that the cultivator had voluntarily surrendered or abandoned such land, the owner may, with the permission of the prescribed authority

(a) resume personal cultivation of such land, or

(b) have such land cultivated by another cultivator of the locality who is willing to cultivate the land as cultivator.

8. Where a cultivator cultivating any land dies, the cultivation

. of such land may be continued for the remaining period .of that agricultural year by the lawful heirs of the cultivator and if such lawful heir continues the cultivation, he shall have all the rights and be subject to all the, liabilities .of a cultivator under this Act in respect .of such land.

9. (1) If the cultivator fails or .omits or neglects to pay the rent in cash or in kind or a share or fixed quantity of the produce payable to the owner, the owner shall be entitled to recover such rent or produce due to him or its value in cash.

(2) If the produce of any land cultivated by a cultivator whether before or after it is harvested is taken away by the owner forcibly or otherwise, the cultivator shall be entitled to recover from such owner the share or quantity of' the produce due to him or its value in cash.

10. Every dispute. between a cultivator and the owner in respect of the following matters, namely:

(a) division or delivery of the produce or payment of rent;

(b) recovery of rent, share .or fixed quantity of the produce under the provisions of sub-section (1) or sub-section (2) of section 9;

(c) termination of cultivation by the cultivator *or* the owner;

(d) the type of the house or other structure erected on the land,

shall be decided by the prescribed authority.

11. Any person aggrieved by an order of the prescribed authority may, within thirty days from the date of receipt of such order, prefer an appeal to such officer or authority, as the State Government may, by notification in the Official Gazette, appoint:

Provided that such office or authority may, if the appellant was prevented by sufficient cause from preferring the appeal, entertain the appeal preferred beyond the said period of thirty days.

- 12 (1) The procedure to be followed by the prescribed authority or by the office, or authority referred to in section 11 shall be such as may be prescribed.
- (2) An order made by the prescribed authority or the officer or authority referred to in section 11 shall be executed by the prescribed authority in such manner as may be prescribed.

- 13 No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under or in pursuance of the provisions of this Act or rules made thereunder.

14. No order or other proceedings whatsoever under this Act, shall be questioned in any civil court and no civil court shall entertain any suit or proceedings in respect of any matter for which provision is made in this Act.

15. Notwithstanding anything contained in any other law for the time being in force, all suits and other proceedings including appeals instituted and pending in any court, tribunal or other officer or authority for eviction of any cultivator, after the expiration of the Sikkim Cultivators Protection (Temporary Provisions) Act, 1975 and before the commencement of this Act, shall 'abate and' shall not be maintainable.

16. Notwithstanding anything contained in 'any 'judgment, decree or order of any court, tribunal or other officer or authority and subject to the provisions. of this Act, every cultivator who had been evicted from any land on or after the expiration of the Sikkim Cultivators Protection (Temporary Provisions) Act, 1975 but before the commencement of this Act on any ground shall on an application made 'to the prescribed authority within a period of three. months from the commencement of this Act, be entitled to be restored to the possession of such land and to hold it with all the rights and subject to all the liabilities of a cultivator under the provisions of this Act:

Provided that any application received after the period of three months aforesaid, may be received after the said period if the prescribed authority is satisfied that the applicant had sufficient cause for not making the application within the said period of three months.

17. (1) The State Government may make rules for carrying .out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:
- (a) the period within which the cultivator shall pay or deliver to the owner, the rent, or share or fixed. quantity of the produce to which the owner is entitled' under this Act
 - (b) the procedure to be followed by the prescribed authority or the other officer or authority referred to in section 12;
 - (c) the manner in which the final order by the prescribed authority or other officer or authority shall be executed;
 - (d) any other matter which is necessary for. proper implementation or enforcement of this .Act

THE SIKKIM COOPERATIVE SOCIETIES (AMENDMENT)**ACT, 1985.****ACT NO. 6 OF 1985 .****AN ACT**

(28.6. 85)

to amend the Sikkim Co-operative Societies Act, 1978

Be it enacted by the Legislative Assembly of Sikkim

. in the Thirty-sixth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Co-operative Societies (Amendment) Act, 1985. *Short title and commencement.*
 (2) It shall be deemed to have come into force on the 1st day of July, 1978.
2. In the Sikkim Co-operative Societies Act, 1978, in section 38. in sub-section (1), after the word "nominate" and before the word "members," the words "Chairman and" shall be inserted. *Amendment of ,section 38.*

THE SIKKIM ESSENTIAL SERVICES MAINTENANCE ACT 1985**(ACT NO.7 OF 1985),****AN,****ACT**

(28. 6. 85)

to make provisions for the maintenance of certain essential services and the normal life of the community.

WHEREAS it is expedient to make provisions for the maintenance of certain essential services and the normal life of the community

Be it enacted in the Thirty-sixth Year of the Republic of India by the Legislative Assembly of Sikkim as follows:

1. (1) This Act may be called the Sikkim Essential Services Maintenance. Act. 1985.
 (2) It extends to the whole of Sikkim.
 (3) It shall be deemed to. have come into force on the 27th day of .April, 1985

(4) It shall remain in force, for a period of four years from the date of its commencement:

Provided that the said period may be extended by the Government, by notification in the Official Gazette, for a period of two years not exceeding one year at a time.

2. In this Act, unless the context otherwise requires....

(1) "Essential service" means

(a) any service connected with the supply of water;

(b) any service connected with any department of the State Government or any local authority relating to procurement, storage, distribution and supply of food and other essential commodities;

(c) any service connected with the supply of electricity;

(d) any service connected with medical aid, treatment or administration of hospitals and dispensaries and other similar establishments or institutions;

(e) any service connected with any department of the State Government or any local authority or other organisation or institution relating to fire service, extinguishment or control of fire or conservancy or drainage or sanitation;

(f) any transport service for the carriage of passengers or goods;

(g) any service connected with the loading, unloading or storage of goods;

(h) any other service which the State Government, being of opinion that strikes therein would prejudicially effect the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would, result in the infliction of grave hardship on the community may, by notification in the Official Gazette, declare to be an essential service for the purpose of this Act;

(2) "Strike" means the cessation of work: by persons employed in any essential service, acting in combination or a concerted refusal or a refusal under a common understanding

of any number of persons who are or have been so employed to continue to work or to accept employment and includes

(a) refusal to work: overtime where such work is necessary for the maintenance of any essential service;

(b) any other conduct which is likely to result in or results in, cessation or substantial retardation of work any essential service.

3. (1) If the State Government is satisfied that in the public interest it is necessary or expedient so to do so it may, by general or special order, prohibit strikes in 'any essential service specified in the order.

(2) An order made under sub-section (1) shall be published in the Official Gazette or in such manner as the State Government considers best calculated to bring it to the notice of the persons to be effected 'by the' order

(3) An order made under sub-section (1) shall be in force for six months only but *the* State Government may, by a like order extend it for any period not exceeding six months if it is satisfied that in the public interest it is necessary or expedient to do so

(4) Upon the issue of an order under, sub-section (1)

(a) no person employed in any essential service to which the order relates shall go or remain on strike

(b) any strike declared or commenced, whether before or after the issue of the order, by persons employed in any such service shall be illegal..

4 Any person,

(a) who commences a strike which is illegal, under this Act or goes or remains on, or otherwise takes part in.. any such strike, or

(b) who instigates or incites other persons to take part in or otherwise acts in, furtherance of a ,strike which is illegal under this Act. or.

(c) who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Act, or

(d) who by the use of force or show of force or otherwise, prevents any other person employed in any essential service, specified in the order issued under sub-section (1) of section 3, from performing his duties under such employment. shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

5. Any offence under this Act shall be cognizable and non-bailable. *Offences to be cognizable and non-bailable.*
6. The provisions of this Act and of any order issued thereunder shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force. *Act to override other laws.*
7. (1) The Sikkim Essential Services Maintenance Ordinance, 1985 is hereby repealed. *Repeal and Saving.*
- (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

Notification No. 9/LD/1985

Dated the 29th June, 1985.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 28th day of June, 1985, is hereby published for general information:

**THE SIKKIM NATIONALISED TRANSPORT (PREVENTION
OF TICKETLESS TRAVEL AND MISCELLANEOUS
PROVISIONS) AMENDMENT ACT, 1985.
(ACT NO.9 OF 1985)
AN ACT**

(28. 6..85)

to amend the Sikkim Nationalised Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Act, 1981.

Be it enacted by the: Legislative Assembly of Sikkim in the
Thirty-sixth Year of the- Republic of India as follows:

1. (1) This Act may be called the Sikkim Nationalised Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Amendment Act, 1985.
(2) It shall come into force at once.
2. In the Sikkim Nationalised Transport (Prevention of Ticketless Travel and Miscellaneous Provisions) Act, 1981 (hereinafter referred to as the "principal Act"), in section 2, in subsection (14), for the word "goods" the words "suitcase, trunk or other baggage" shall be substituted.
3. In the principal Act, in section 9, after sub-section (2), the following sub-section shall be inserted, namely:
(3) "the Sikkim Transport or any officer authorised to inspect a transport vehicle carrying goods shall be entitled to collect the excess charge and actual fare as specified in sub-section (2) on the spot and at the time of inspection. The goods are liable to be detained till the payment of the excess charge and such other charges to be levied by the Sikkim Transport."
4. In the principal Act, for sub-section (2), the following section shall be substituted, namely:
"(2) The excess charge referred to in sub-section (1) shall be the actual fare for the distance referred to in that subsection or a sum of rupees twenty, whichever is more. The excess charge shall be payable to the inspecting employee at the spot of inspection along with the actual fare.
Explanation.-Where there is any doubt at the stage from which he started for purposes of calculating the excess charge, the fare from the stage from which the transport vehicle originally started for from the place, if any, where the tickets are last examined to the place where he was detected to be travelling without tickets shall be deemed to be the distance which he has travelled."
5. In the principal Act, in section 11, to sub-section (2), the following Explanation shall be added, namely:
"Explanation.-The words "ticket, and fare" in this section mean and include luggage, tickets consignment note, fare or luggage charges respectively."

**THE SIKKIM (REPEAL AND MISCELLANEOUS
PROVISIONS) ACT, 1985.
(ACT NO. 10 OF 1985)**

AN ACT

[28.6.85]

to repeal the Sikkim Bazar Committees Act, 1969 and the Gangtok Municipal Corporation Act, 1975 and to provide for transfer of duties, functions and powers, and for certain matters incidental thereto.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim (Repeal and Miscellaneous Provisions) Act, 1985.
(2) It shall come into force at once.
2. In this Act unless the context otherwise requires,
 - (a) "appointed day" means the date on which this Act comes into force;
 - (b) "Committee" means the Bazar Committee constituted under section 5 of the Sikkim Bazar Committees Act, 1969;
 - (c) "Corporation" means the Gangtok Municipal Corporation constituted under section 3 of the Gangtok Municipal Corporation Act, 1975.
 - (d) "State Government" means the Government of the State of Sikkim or any Department of the Government of Sikkim or any person or persons authorised in this behalf by a notification by the State Government.
 - (e) "Regular Employee" means an employee whose services have been regularized as per rules in force.
- 3.) " On the appointed day, the Sikkim "Bazar Committees Act, 1969 and the Gangtok Municipal Corporation Act, 1975 shall stand repealed, and the Committee and the Corporation shall stand dissolved.
4. On the dissolution of the Committee and the Corporation
 - (a) functions, powers and duties of the Committee and the Corporation shall stand 'transferred to and vest in the State Government in the local Self Government and Housing Department;

Short title and commencement

Definitions.

Repeal of Act of 1969 and Act IV of 1975 and dissolution of Committee and the Corporation.

- .(b) all moneys and other property of whatever kind (including the fund of the Committee and the Corporation) owned by or vested in the Committee and the Corporation, immediately before the appointed day shall, on the appointed day, stand transferred to and vest in the State Government in the Local Self Government and Housing Department;

 - (c) subject to the provisions of clause (d), any suit, appeal or other proceeding of whatever nature pending immediately before the appointed day before any Court or any other authority or the Tribunal constituted under section 49F of the Gangtok Municipal Corporation Act, 1975 in which the Committee or the Corporation, as the case may be, is a party shall, on the appointed day, continue;

 - (d) all liabilities and obligations of the Committee or the Corporation, as the case may be, of whatever kind is subsisting immediately before the appointed day, shall, on and from the appointed day, be deemed to be the liabilities or obligations, as the case may be, of the State Government in the Local Self Government and Housing Department and any proceeding or cause of action pending or existing immediately before the appointed day by or against the Committee or the Corporation in relation to such liability or obligation may, as from the appointed day, be continued and enforced by or against the State Government in the Local Self Government and Housing Department.
5. (1) Every regular employee in the Corporation shall become, on and from the appointed day or such later date as the shall hold office or service under the State Government with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him and shall continue to do so unless and until his employment under the State Government is duly altered by the State Government.
- (2) In respect of other categories of employees the State Government shall have the right to determine the continuance of their service and appoint them on such terms and conditions as may be specified.

- (3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of services of any officer or other person employed in the Corporation to the State Government shall not entitle such officer or other employees to any compensation under this Act or under any law for the time being in force and no such claim shall be entertained by any court or other authority.
 - (4) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the State Government by reason of the provisions of this Act, such person shall be entitled to any arrears of salary or wages or any other payment, not being payment by way of gratuity or pension and such payment shall be made from the budget provision of the concerned Department.
 - (5) Anything or any action, which ought to have been done or taken by the Corporation before the appointed day with respect to the termination of service of its employees or with respect to any matters in relation thereto or arising therefrom, but not so done or taken by the Corporation, may, on and from the appointed day, be done or taken by the State Government.
6. On and from the appointed day, any reference to Committee or Corporation in any law (other than this Act) or in any contract or other instrument shall, except as otherwise provided in any general or special order made by the State Government be deemed to be a reference to the Local Self Government and Housing Department.
7. The Government may, impose the following rates, taxes and fees or any of them:
- (a) a rate on holdings situated within the limits of Gangtok town assessed on the annual value including different rates for different grades of valuation;
 - (b) a conservancy rate on the annual value of holdings;
 - (c) a water rate as per the consumption;

- (d) a tax on trade or profession or calling;
- (8) any other tax, rate or fee which the Government may deem necessary.

Explanation- The annual value of holding shall be gross annual rental to which the holding may reasonably be expected to let after deducting, the maintenance not exceeding ten per cent. .

1 ["7A. If any person contravenes

- (a) any of the provisions and conditions of licence .
issued under the rules; or
- (b) any order or direction or notification issued under the Act or rules made thereunder,

the officers of the Local Self Government and Housing Department specially authorised in this behalf by the Secretary of the said Department, without prejudice to any other action that may be taken against him under the Act or rules made thereunder, may

- (i) seize the goods involved and
- (ii) by written order restrain or prohibit the said person from carrying on his activity in contravention of the licence issued under the rules or order or direction' or notification issued under the Act or rules made thereunder."]

2 ["7B. The goods so seized under section 7A shall be liable to be sold in public auction and the sale proceeds thereof shall be forfeited:

Provided that no such auction shall be held without affording an opportunity to such person concerned whose goods are to be sold in public auction.

8. (1) The State Government may, by notification published in the Official Gazette, make rules.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may
- (a) provide for assessment and recovery of any tax, rate and fee;

1. Inserted by the Sikkim (Repeal and Miscellaneous Provisions) Amendment Act No. 6 of 1987 w. e. f: 4. 7. 1987.
2. Inserted by *ibid*.

- (b) prescribe for qualifications of and the procedure to be followed by an assessor;
- (c) prescribe the procedure to be followed by an assessor;
- (d) prescribe the form of notice of demand and. for .fixing the fees payable in connection with distress;
- (e) prescribe for condition and limitation- under which. the form in which, a trade licence may be granted, the amount of licence fees, manner of payment thereon and the cancellation, revocation or suspension of trade licence;
- (f) provide for the removal of sewerage, rubbish and offensive matters from all public latrines, urinals and drains and making necessary arrangements for their proper cleansing and disinfection;
- (g) provide for prohibition of certain offensive and dangerous trades without license and regulating places used for such trade;
- (h) provide for licensing for keeping cattle, horses, ponies and birds;
- (i) provide for regulating the granting of licenses for holding fairs and' melas and fixing the fees in , respect thereof;
- (j) provide for power to open or maintain markets, stockyards and such stalls, shops, sheds and other buildings or conveniences for the use of persons carrying on trade or business, regulate the use of- such places, charge rents, tolls and fees in respect thereof and close such markets, stockyards, stalls, shops, sheds and other buildings;
- (k) provide for the prevention of the spread of any dangerous disease by the carrying on of any .business. trade or occupation;
- (l) provide for the regulation of the trade in second hand clothing, beddings or similar articles and the requiring of such clothing, beddings and articles to be disinfected before its sale or exposure for sale;

- (m) provide for disposal of any refuse waste matter or other matter or thing which has been contaminated with or exposed to infection;
 - (n) provide for the prohibition or regulation of advertisement in markets, public streets or parks;
 - (o) provide for the regulation of burial and burning grounds and other places for the disposal of corpses or carcasses
 - (p) provide for taking precautionary measures against outbreaks of fire;
 - (q) provide for construction and maintenance of dharam salas, sarais or rest houses;
 - (r) provide for improvement and reclamation of planning, surveying and control of extension of town or bazar;
 - (s) provide for construction, maintenance, repair, improvement and cleansing and watering of roads, drains, gardens, tanks, wells and channels within a town or bazar area;
 - (t) provide for construction and maintenance of public libraries, reading rooms, gymnasias or any other institutions for the diffusion of mental or physical culture or technical instruction;
 - (u) provide for inspection by officer or staff of the Department;
 - (v) provide for manner and the period in which appeal shall be preferred to the appellate authority to be appointed by the State Government;
 - (w) provide for in general for securing cleanliness, safety, order and good Government and other works of public utility calculated to promote health, comfort or convenience of the inhabitants.
- (3) In making any rule under this section the State Government may provide that a breach of any rule, order or direction issued thereunder shall be punishable with, fine which may extend to five thousand rupees..

(4) Every rule made by the State Government under this Act shall be laid, as soon as may be, after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two 'or more successive sessions, and if, before the expiry of the session' immediately 'following the session or the successive sessions the House resolves to make any modification in the rule or resolves that such rules shall not have effect, the rules shall thereafter have effect only in such modified form or be of no effect. as the case may be, so, however. that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. Notwithstanding anything contained in the law relating to Criminal Procedure for the time being in force, all offences against any rule or order or direction issued thereunder shall be cognizable and bailable. *Cognizance of offences.*
10. Notwithstanding anything contained in the law relating to the Criminal Procedure for the time being in force, it shall be lawful for a Magistrate of the First Class to pass any sentence authorised by this Act in excess of his power. *Magistrates' power to impose enhanced penalties.*
11. Every order passed or direction issued by the State Government or order passed or- notice issued by any officer authorised under this Act shall be final and shall not be questioned in any suit or other legal proceeding. *Finality of order.*
12. The existing rules governing the subjects enumerated in section 8 and other rules dealing with bazaars shall continue till they are varied, altered or amended under section 8 of the Act. *Continuance of existing rules.*

**THE SIKKIM ALLOTMENT OF HOUSE SITES AND
CONSTRUCTION OF BUILDING (REGULATION
AND CONTROL) ACT 1985.
(ACT NO. 11 OF 1985)
AN ACT**

[28.6.85]

to provide for the allotment of house sites. regulation of construction, alteration and repair of buildings in Sikkim and for matters connected therewith.

Whereas house sites have been allotted without consulting the Sikkim Public Works Department and other concerned Departments;

Whereas such allotment of sites have resulted in encroachment of septic, water supply tanks, land within compound of Government quarters, within the notified green belt and effecting and likely to cause land slides during monsoons; and

Whereas it is expedient to bring about an equitable and proper distribution of house sites and promote planned, organized and systematic growth of towns and bazaars in the State of Sikkim and matters connected therewith.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows:

CHAPTER 1

1. (1) This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.
 - (2) It shall extend to the whole of Sikkim.
 - (3) It shall come into force at once.
2. In this Act, unless the context otherwise requires:
 - (a) "allotment" means allotment of sites for construction of building for the purpose of residence, commerce, residential-cum-commercial or any other trade or industry;
 - (b) "building" includes a house, out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall, not exceeding ten feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, and includes any temporary shed erected on ceremonial or festive occasions;
 - (c) "family" means father, mother and their minor children and includes major children living jointly with the parents.
 - (d) "Government" means the Government of Sikkim in the Local Self Government and Housing Department and includes such other officers of the said Department and of any other Department as may be authorised by the Government for carrying out the purposes of this Act.

(e) "notified area" means any area notified for purposes" of Chapters II and III of this Act;

(f) "notified green belt" means the green belt area notified by the Government vide notification No.6 *ILSGHD* dated the 10th April, 1982 and "includes such other area, which may be so declared by the Government, by notification, from time to time;

(g) "notification" means a notification published in the Official Gazette;

(h) "person" means any individual and includes any member of the family, any society or association of persons, whether incorporated or not, and all legal and juristic persons;

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

(j) "salami" means the amount payable by a person for allotment of a site under the provisions of this Act but does not include ground rent or other rates. taxes or fees payable under this Act or, any, other law in force in this State.

CHAPTER II

3. (1) The Government shall, from time to time, by notification, declare any area as a notified area for the purposes of this Act.

(2) The Government shall, within six months but not later than one year from the date of commencement of this Act, prepare a plan indicating the area

(i) for residential purposes

(ii) for commercial purposes;

(iii) for residential-cum-commercial purposes;

(iv) for industrial purposes

(v) for public and semi-public open places, parks, play grounds and Community Hall.

- (3) The Government shall indicate and specify sites for residential, commercial and industrial purposes.
- (4) The Government shall publish within fifteen days from the preparation of such plan with details as mentioned in sub-section (2), by notification, and in such other manner as may be specified in this behalf.
4. (1) The Government may allot sites on application made by any persons in such form and in such manner as may be prescribed.
- (2) An allottee shall pay such salami as may be notified by the Government, from time to time.
- (3) The Government shall, by notification, fix different rates of salami for purposes of allotment on the basis of the area, user and location.
5. (1) All allotments in which the registration whether complete or not and those falling under the notified green belt shall stand cancelled.

Explanation:

Allotments for purpose of sub-section (1) mean allotments of house sites on which construction is not completed.

(2) The salami paid by the allottee shall be refunded within one month from the date of commencement of this Act.

- (3) Subject to section 6 such of the allottees whose sites have been cancelled under sub-section (1) shall be given preference for allotment of sites in notified area as notified under sub-section (3) of section 3 if an application is made to that effect.
- (4) The sites allotted under this Act may be cancelled on grounds of fraud, misrepresentation of facts or bonafide mistake:

Provided that no order of cancellation shall be made unless the person concerned has been given an opportunity of making representation.

CHAPTER III

6. The Government shall not allot more than one site to one family in the State.
7. (1) No construction shall be undertaken in any notified area without obtaining the prior permission. of the Government.
 - (2) The Government shall make regulations regulating ,the construction *of* building in any notified area.
 - (3) While granting permission for construction of buildings, the Government shall give due consideration to the cultural and traditional values of the people of Sikkim.
 - (4) All permissions for the construction of buildings which are obtained prior to the commencement of this Act shall stand cancelled.
8. The Government may demolish any construction or building which have been commenced, continued or completed in contravention *of* the provisions of the Act or the regulations made thereunder.
9. (1) If at any time it appears to the State Government that any structure in any notified area (including under this expression any building, wall or other structure and anything affixed to or projecting from any building, wall or other structure) is found unsafe for human habitation or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structures or place in the neighborhood thereof the State Government may, by a written notice of not less than seven days, require the owner or occupier
 - (a) to demolish or to repair such structure in such manner as may be specified in the notice; or
 - (b) to repair protect or enclose such structure in such . manner as may be specified in the notice.
- (2) Where it appears *'to* the State Government that immediate action-is. necessary for the purpose of preventing imminent danger to any person or property, it shall be the duty of the State Government itself to

take such immediate action; and in such case it shall not be necessary for the State Government to give notice, if it appears to it that the object of taking immediate action shall be defeated by the delay incurred in giving notice.

- (3) Where any owner or occupier fails to comply with the notice served upon him, the State Government may demolish or remove such structure or fixture under sub-section (1) or sub-section (2) and recover the expenses of such demolition or removal from the owner or occupier, as the case may be.
10. If, upon considering the facts and circumstances of a case, the Government is satisfied that any building already constructed before the commencement of this Act in contravention of the existing laws, rules, notifications, orders or directions and does not fall under the notified green belt, it may pass order for regularization of such construction on payment of such fees as may be fixed by the Government by notification In this behalf.

CHAPTER IV

11. Without prejudice to any other actions to be taken under the provisions of this Act, any person who contravenes the provisions of this Act or rules, regulations, notifications, orders or directions issued thereunder, shall be punishable with a simple imprisonment not less than six months or with a fine not less than rupees five hundred or with both.
12. All offences under this Act or rules or regulations made thereunder shall be cognizable and shall be triable by a Judicial Magistrate of the First Class.
13. All complaints shall be filed by an Officer not below the rank of an Under Secretary to the Government after obtaining the approval of the Government.
14. All complaints shall be filed within one year from the date of an offence.
15. No action, civil or criminal shall lie against, any officer of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or rules or regulations made thereunder.

16. The, State Government may, by notification, in the Official Gazette, make rules to carry out the purposes of this Act. *.Power to make rules.*
17. The State Government. may, by notification, in the Official Gazette, make regulations regulating constructions of buildings and all other connected matters. *Power to make regulations.*
18. All bye-laws rules, regulations and notifications in force concerning constructions of buildings shall continue to be in force as though they are regulations made under this Act till they are altered, amended or varied. *Present Rules and Bye-laws to continue.*

THE SIKKIM CINEMAS (REGULATION) AMENDMENT ACT, 1985.

(ACT NO.2 OF 1986)

AN ACT

[21. 1. 1986]

to amend the Sikkim Cinemas (Regulation) Act, 1978 (No. 20 of 1978).

Be it enacted by the Legislature of Sikkim in the Thirty-sixth Year of the Republic of India. as follows

1. (1) This Act may be called the Sikkim Cinemas (Regulation) Amendment Act, 1985. *Short title, extent and commencement.*
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force at once.
2. In the Sikkim Cinemas (Regulation) Act, 1978 (hereinafter referred to as the principal Act), in section 2, *.Amendment of Section 2.*
- (a) in clause (e), after the words 'a film on' and before the words 'screen' the word 'television' shall be inserted;
- (b) after clause (e), the following clause shall be inserted, namely:
- (c). 'Video Library' means a place, .by whatever name called, where the business of selling, letting on hire, distribution, exchange or putting into circulation, in any manner whatsoever, of film for purposes of exhibition is carried on."

4. In the principal Act, after section 3, the following section shall be inserted, namely:-
- 3A. (1) No person shall keep any Video Library except under and in accordance with' a licence granted under sub-section (1) above.
- (2) Where a person keeps more than one Video Library, whether in the same town or Village or in different towns or villages, he shall obtain a separate licence in respect of each Video 'Library.
- (3) Every person keeping a Video Library under this Act shall, in respect of each film in his possession, produce when demanded by an officer authorised by Government in this behalf, a letter of consent from the person who is the first owner of the Copyright of the Cinematograph film under section 17 of the Copyright Act, 1957 (Act XIV of 1957) and in case such copyright has been assigned under section 18 of the said Act, from the assignee of such copyright;
- (4) No person who. is granted a licence shall sell, let to hire, distribute, exchange, or put into circulation in any manner whatsoever, any film other than a film which has been certified as suitable for public exhibition, by the authority constituted under section 3 of the Cinematograph Act, 1952 (Act 37 of 1952) and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto."
- . 5. . In the principal Act, in section 4, after the words proposed to be given" and before the words" is situated", the words "or the Video Library is proposed to be opened" shall be inserted.
6. In the principal Act, 'in section' 4A, after 'the words 'Video exhibition' and before, the word "shall" the, words "and for keeping a Video Library" shall be inserted.
7. In the Sikkim ,Entertainment Tax Act 1980, after section 3B, the following section shall be inserted, namely:
3BB. Any officer authorised by the Government in this behalf, by notification. may

*Insertion of new
section 3A.*

*"Video Library
to be licensed.*

(a) enter, if necessary by force, whether by day or night, with such assistance as he considers necessary, any premises, which he has reason to suspect, are being used for purposes connected with the exhibition of films on the television screen through Video Cassette Recorder or keeping a Video Library in contravention of the provisions of the Sikkim Cinemas (Regulation) Act, 1978 and the rules made thereunder;

20 of 1978.

(b) search the premises and persons whom he may find therein;

(c) take into custody and produce before the Magistrate mentioned in section 3C, all such persons as are concerned or against whom a reasonable complaint has been made or credible information has been received or a reasonable complaint has been received or a reasonable suspicion exists of their having been concerned with the exhibition of film or keeping a Video Library in contravention of the provisions of the Sikkim Cinemas (Regulation) Act, 1978 and rules made thereunder;

20 of 1978.

(d) seize all things found therein which are intended to be used or reasonably suspected to have been used in connection with such exhibition of film or keeping a Video Library."

**THE SIKKIM AGRICULTURAL LAND. CEILING AND
REFORMS (AMENDMENT) ACT, 1985
(ACT NO.3 OF 1986)
AN ACT**

(25. 2. 1986)

to amend the Sikkim Agricultural Land Ceiling and Reforms Act, 1977.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Agricultural Land Ceiling and Reforms (Amendment) Act, 1985.

(2) It shall come into force at once.

2. In the Sikkim Agricultural Land Ceiling and Reforms Act, 1977, to section 7, the following proviso shall be added, namely:

"Provided that a transfer by any person holding land in excess of ceiling limit in favour of landless person or persons having land below the ceiling limit and not exceeding the ceiling limit with the prior permission of the State Government shall not be deemed to be null and void."

THE SIKKIM WATER SUPPLY AND WATER TAX ACT, 1986.

(ACT NO.8 OF 1986)

AN ACT

[6. 9 86]

to provide for regulation of the supply of water, realization of charges for supply of water and tax on water and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Thirty-seventh Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Water Supply and Water Tax Act, 1986.

*Short title, extent
and
commencement.*

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of this Act.

2. In this Act, unless the context otherwise requires,

Definitions

(i) 'area' means the area declared by Government by notification to be an area for the purposes of this Act;

(ii) 'Government main' means the water pipe lines owned and maintained by the Government;

- (iii) 'Consumer's main means water pipe lines which. connect Government main with the consumer's premises and includes service pipe and internal plumbing lines of the consumer's premises;
- (iv) 'Competent authority' means the Chief Engineer-cum Secretary, Buildings, Public Health Engineering and Housing Department of the Government or any other officer authorised by him in this behalf;
- (v) 'Consumer' means any person getting the benefit of any water supply from the Government
- (vi) 'notification' means a notification published in the Official Gazette;
- (vii) 'notified order' means any order published in the Official Gazette;
- (viii) 'occupier' in relation to any premises, means
- (a) any person in occupation of the premises or part thereof paying or liable to pay rent to the owner in respect of such premises or part of the premises;
 - (b) an owner who is in occupation of ,the premises.;
 - (c) a tenant of the premises who is exempted from payment of rent;
 - (d) a licensee who is in occupation of the premises; and
 - (e) any person who is liable to pay damages to the owner in respect of use and occupation of the premises;
- (ix) owner' in relation to any premises, means the person who receives the rent of the said premises or who would be entitled to receive the rent if the premises were let or leased and includes
- (a) an agent or trustee, who receives such rent on behalf of the owner;
 - (b) an agent or trustee who receives ,the rent of, or is entrusted 'with, the management of any premises devoted to religious or. charitable purposes

(c) a receiver or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of an owner in respect of, the said premises; and

(d) a mortgagee in-possession;

(x) 'prescribed' means prescribed by the rules made under this Act;

(xi) 'connection point' means a point where 'Government main' is joined with the 'consumer's main';

(xii) 'water works' means a lake, pump, reservoir, cistern, tank, duct, whether covered or open sluice mains, pipes, culverts, engine, hydrant, machinery, land, building or thing for supplying or used for supplying water and includes such other streams, springs, and wells as the Government may, by notification, specify;

(xiii) 'service line' means the portion of consumer main starting from the point where consumer main joins the 'Government main' upto the point in the consumer main where water meter is installed.

3. (1) The Government may provide any area with a water supply of wholesome water for public, for commercial, domestic and other purposes subject to availability of water.

Provision of water.

(2) For the purpose of such supply the Government shall cause to be constructed or maintained such water works as may be necessary and may erect stand pipes, wells or pumps for the use by public of the area.

Explanation:- The supply of water for domestic purposes under this Act means supply for any purpose except the following, namely:

- (a) for any trade, manufacture or business,
- (b) for gardens or for purposes of irrigation,
- (c) for building purposes including construction of streets,
- (d) for fountains, swimming pools, public bath or tanks or for any ornamental or mechanical purposes,

(e) for animals, where they are kept for sale or hire or for the sale of their produce,

(f) for the consumption and use at a restaurant or by inmates of a hotel, boarding house or residential club,

(g) for the consumption and use by persons resorting to the theatres and cinemas,

(h) for watering streets or

(i) for washing vehicles where they are kept for sale or hire.

4. No person shall, use or allow to be used water supply sanctioned for use for domestic purposes or for any other purpose except with the previous approval of the competent authority.

5. (1) An application for supply of water shall be made in the prescribed form and shall be addressed to the competent authority and shall specify the purpose for which supply of water is required and the quantity of water for such purpose.

(2) The competent authority may, on receipt of an application, allow applicant to use water for purposes other than domestic purposes on execution of a deed by the applicant in the prescribed form and manner:

Provided that the competent authority may withdraw such supply at any time if it considers necessary so to do in order to maintain sufficient supply of water for domestic purposes.

(3) The supply of water for the purposes of watering lawns and gardens shall be made on meter basis or in such other manner and on payment of such charges as the competent authority may determine.

(4) No person shall; without the previous written permission of the competent authority, use water supply under this Act for any purpose other than that for which its use is sanctioned.

6. (1) No owner or occupier of any premises to which water is supplied by the Government shall cause or suffer any water to be wasted, or cause or suffer the service

pipe, tap, other fitting or work connected therewith to remain out of repair so as to cause wastage of water.

(2) Where the competent authority has reason to believe that as a result of defect in the service pipe, tap, other fitting or work connected therewith, water is being wasted, it may, by a written notice, require the consumer to repair and make good the defect within such time as may be specified in such notice.

(3) If such repair is not carried out within the time specified in the notice referred to in sub-section (2), the competent authority may, without prejudice to any action which may be taken against the consumer under any other provisions of this Act, cause such repair to be made and recover the cost of repair from the consumer.

7. (l) The competent authority may cut off the water supply from any premises

(a) if any fee, rental, cost of water or any charge or other sum due under this Act is not paid by the consumer within the period of fifteen days after receipt of a bill for the sum; or

(b) after the receipt of a written notice from the competent authority requiring him to refrain from so doing, the consumer continues to use the water or permits the same to be used in contravention of the provisions of this Act or any rules made thereunder; or

(c) if the consumer damages or causes to be damaged the water meter or any connection pipe or ferrules; or

(d) if the consumer refuses to admit any officer, or his employee, of the Government duly authorised by the competent authority in this behalf into the premises which he proposes to enter for the purposes of executing any work or placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or prevents any such officer or his employee, from executing any work or placing or removing any apparatus or making such other examination or inquiry; or

(e) if the service pipe or any tap or other fitting or work connected therewith is found on examination by an

officer of the Government duly authorized in this behalf or by his employee to be out of repair to such an extent as to cause wastage or contamination of water and immediate prevention thereof is necessary; or

(f) if the consumer causes or allows to be caused the service pipe or any tap or other fittings or work connected therewith to be placed, removed, repaired or otherwise interfered with in contravention of the provisions of this Act or the rules made thereunder; or

(g) if by reason of leakage in the service pipe or any tap or other fitting or work, damage is caused to a public street or any private or public property and immediate prevention thereof is necessary.

(2) No action taken under, or in pursuance of, this section shall relieve a person from any penalty or liability which he may have otherwise incurred under the provisions of this Act or the rules made thereunder.

(3) The competent authority may order reconnection of supply of water disconnected under sub-section (1) on payment of such charges and on such terms and conditions as may be prescribed.

8. The competent authority may, on receipt of an application by the owner of any premises in the prescribed form and manner and on execution of a deed in the prescribed form, arrange for supply of water from the Government main or distribution pipe to him for domestic purposes or for other purposes in such quantities as it may deem reasonable, and may at any time limit the amount of water to be so supplied whenever it considers necessary so to do.
9. The competent authority shall ordinarily dispose of an application for supply of water within one month from the date of its receipt and it shall record reasons for not being able to dispose of an application within one month and communicate the same to the applicant.
10. (1) When the request of the applicant for grant of water supply is accepted by the competent authority under section 5 or section 8, the person so applying shall, at his own cost, provide all service pipe and fittings and cause

to be carried out all work of laying and applying ,such service pipe and fitting in the premises for which the water supply is sanctioned:

Provided that the competent authority may order to be undertaken the work of laying of service pipe, at the consumer's cost in certain areas where the competent authority for reasons to be recorded in writing, deems it necessary so to do.

(2) The charges for giving initial connection shall be not less than one hundred rupees and not more than five hundred rupees as may be notified.

11. (1) The sanction permitting supply of water under this Act shall be valid for a period of six months from the date of its issue and if -the person in whose name such sanction is issued fails to get his premises fitted with pipes and necessary connections within the said period of six months or such extended time as may be allowed by the competent authority, the permission shall be deemed to be inoperative:

Provided that the sanction which may become inoperative may be revalidated for a further period not exceeding, 'three months on payment of a fee of rupees twenty-five.

12. If at any time, supply of water is proposed to be stopped for more than twenty-four hours in any local area or to any premises, the competent authority may by giving twenty-four hours' oral or written notice, inform the local authority and the inhabitants of such local area or the owner of such premises, as the case may be.
13. The Government may lay or carry any pipes, for the purposes of arranging or maintaining supply of water, through, across, under or over any road or street or a place laid out as or intended to be laid out as, a road or street or any other place under the control of a local authority or any person, and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining such pipes in any effective state for the purpose for which the same may be used:

Provided that such work shall be carried with least annoyance to the public and within a reasonable time:

Provided further that reasonable compensation as may be determined by the Government shall be paid to the owner or the local authority, as the case may be, for any damage sustained by him or it and directly occasioned by the carrying out of any such operations:

Provided also that the competent authority shall cause not less than seven days' notice in writing to be given to the owner or the local authority, as the case may be, before commencing of any operations under this section except in cases where immediate action is considered necessary, then, the competent authority may, by order and for reasons to be recorded in writing, dispense with the notice.

14. The Government may, from time to time, by notification, fix the rate or rates of charges on metered basis or on the basis of number of taps installed or on the dimension of the service pipe payable by the consumer for supply of water under this Act and different rate or rates may be fixed for different areas and for different consumers:

Provided that the rate of charges for supply of water for purposes other than domestic purpose shall not be less than double the rates charged in respect of water supplied for domestic purposes as may be prescribed.

15. (1) The competent authority may, from time to time, by .
notification, order,-
- (a) the fixing, within such time as may be specified in the said order by the consumer at their own cost, of meters on all pipe connections (whether new or existing unmetered, connections), within the whole of the area or a part thereof;
- (b) the disconnections of the water supply if any consumer fails to comply with the said order; or
- (2) Where any person fails to comply with the order issued under sub-section (1), the competent authority may

order installation of meters for. the purpose of measuring and recording the quantity. of water consumed in any premises or by any person at the cost of the consumer who will deposit such amount as the cost as may be fixed by the Department or may pay such fee for installation of a meter as may be prescribed.

(3) The competent authority may order fixing of a meter at a convenient point between the premises of the consumer and the consumer's main.

16. All meters, connections. pipes and other works incidental to the supply of water to any building or land shall be supplied, repaired, extended and altered as may be necessary at the expenses of the person requiring such supply but shall remain under the control of the Government.
17. In any case in which a service pipe from the Government main supplies, water to .two or more premises, the competent authority may, by written notice, require the owner of such premises to lay down separate service pipes for their premises and the expenses of so doing shall be borne by all such owners in such proportion as may be determined by the competent authority.
18. No person shall, without the permission of the competent authority make or cause to be made any connection with the Government main.
19. Notwithstanding anything contained in any other law for the time being in force or any deed executed under this Act or rules made thereunder, the Government or its officers and employees shall not be liable for any damage to, or penalty for, discontinuing the supply of water or failure to supply water to any person or to any area if the cause of such failure is beyond the control of the Government, its officers and employees.
20. The competent authority may, from time to time, regulate the supply of water under this Act for domestic purposes.
21. No building, wall, fence or structure of any kind shall be erected on. any water works without the written permission of the competent authority.

2. (1) The Government may, from time to time, identify and declare certain water sheds or water sources or both, or water main routes as 'notified water sheds or water sources' or 'notified water main routes'.
- (2) Such 'notified water sheds or water sources' or 'notified water main routes' shall be thereupon be under the administrative control of the Buildings, PHE & Housing Department.
- (3) Any use of such 'notified water sheds or water sources' or 'water main routes' by the public, local authority or any other agency shall require prior approval of the Competent Authority.
- (4) The Government may. impose tax *for* use of water from the 'notified water sheds or water sources' or water main routes by the public, local authority or any other agency and the charges shall not be less than seventy per cent of the charges for supply of water for domestic purposes, as may be prescribed.

Explanation.-- For the purposes of this section

- (a) 'water shed' means an area surrounding any spring, stream or pond (whether formed naturally or otherwise) which conserves and sustains a source of water the quantity whereof is likely to be varied by erosion of soil, falling of trees or disturbances by cattle grazing or human settlement and includes the gathering ground of a river system;
- (b) 'water-route' means the strip of land along which the pipe line for supply of water is laid and includes the land adjoining such pipe line which, if disturbed by quarrying, digging, felling of trees, cattle grazing or human settlement, is likely to disturb the stability of 'the pipe line';
- (c) 'water source' means any spring, stream or pond (whether formed naturally or otherwise) from where water is tapped for domestic or other purposes.

23. No person shall,

- (a) remove, alter, injure, damage or in any way interfere with the demarcated water works;

- (b) carry on within the area aforesaid any operation 'of manufacture, trade or agriculture or do any act whereby injury may be caused or is likely to be caused to any such water works or whereby the water of any such water works may be fouled. polluted or tender such water to be less wholesome;
 - (c) cause or suffer to percolate or drain into or upon any water works anything whereby the water therein may. in any way be fouled, polluted or its quality altered;
 - (d) cause or allow to enter any animal into such water works;
 - (e) bathe or wash clothes in such water works;
 - (f) throw or put anything into or upon such the water in such water works;
 - (g) do any other act which the Government may, by notification, prohibit.
24. (1) The competent authority may authorize any person to take reading of meters installed in any premises to which water is supplied under this Act and make an entry thereof in a register as may be prescribed.
- (2) Every entry in the register maintained under sub-section (1) shall be prima facie evidence of the quantity of water consumed.
25. (1) The owner of any premises to which water is made under the provisions of this Act and where such water is being misused or wasted within his knowledge shall forth with give notice in writing to the competent authority of . such misuse or wastage.
20. (1) Any officer not below the rank of a Junior Engineer authorised in this behalf by the competent authority may. between 9 a. m. and 5 p. m. enter into any premises for the purpose of inspecting any water installation.
- (2) If such officer is. at any such time, refused admittance into such premises for the purpose specified in sub-section (1) or is prevented .from making such inspection the competent authority may, after giving the consumer. an

opportunity of being heard, cut off the supply of water to that premises:

Provided that if any such premises is an apartment in the actual occupancy of a woman who, according to the custom does not appear in public, such officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then enter the apartment.

27. No person shall wilfully injure or suffer to be injured any meter or any of the fittings of any meter.
28. (1) No person shall fraudulently
- (a) alter the index of any meter, or prevent any meter from recording the actual quantity of water supplied, or
 - (b) abstract or use water before it has been recorded by a meter set up for the purpose of recording the same.
- (2) Where there has been any such alteration, prevention, abstraction or use, the existence of artificial means under the control of the consumer for causing any such alteration, prevention, abstraction or use, shall be the evidence of the consumer having fraudulently effected the same.
29. Use of water shall be free of charge for extinguishing fire.
30. (1) Any person aggrieved by an order made by the officer authorized by the Chief Engineer-Cum-Secretary, Buildings, PHE & Housing Department may prefer an appeal to the Chief Engineer-Cum-Secretary, Buildings, PHE & Housing Department and where such order is made by the Chief Engineer-Cum-Secretary, Buildings, PHE & Housing Department to the Government within thirty days from the date of the communication to him of such order:
- Provided that the authority before whom an appeal is filed may entertain the appeal after the expiry of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the prescribed period of thirty days.

(2) The appellate authority may, after giving the parties an opportunity of being heard, confirm, set aside or modify the order under appeal.

31. The Minister-in-Charge of Water Supply Department may, either on his own motion or upon an application made to him, at any time, for reasons to be recorded in writing, call for the record of any case disposed of by any authority under this Act and if in such case it appears to the Minister that any order passed should be modified, annulled or reversed, he may pass such order as he may deem fit not inconsistent with the provisions of this Act or the rules made thereunder and such order shall be final and shall not be called in question in any court:

Provided that nothing in this section shall apply to cases where an appeal lies unless the time for preferring an appeal has expired.

32. The rate or rates of charges for supply of water mentioned in section 14 shall be payable by the owner or occupier of the premises as may be decided by the competent authority.

33. For the purposes of this Act, the Government shall levy, on premises situated in an area where water supply is made by it, a tax at such rate not being less than two per cent and not more than ten per cent of the assessed annual value of the premises as the Government may, from time to time, by notification, specify and different rates of tax may be specified for different areas after taking into consideration the economic condition of the people residing in that area:

Provided that no such tax shall be levied and collected in any area where such tax is already being collected by any local authority, or any other authority under the provisions of Sikkim laws.

34. (1) For the purposes of section 33. annual value means.
five per cent of the market value of the premises:

Provided that the annual value in the case of premises occupied by the owner himself shall be deemed to be twenty per cent less than the annual value otherwise determined under this section.

(2) The annual value of premises for the ' purpose' of levy of water tax shall be assessed by such officer or authority as the competent authority may, by general or special order, direct.

(3) Until an assessment of the annual value of premises in any area is made by an officer or authority referred to in sub-section (2) the annual value of the premises in that area as assessed by the local authority for the purposes of levy of house tax shall be deemed to be the annual value of the premises for the purposes of this Act as well.

(4) Any person aggrieved by an order of assessment of the annual value made by an officer or authority under subsection (2) may, within thirty days from the date of the order, prefer an appeal to such authority as may be prescribed (hereinafter referred to as the prescribed authority) in such manner as may be prescribed.

(5) The prescribed authority may stay the enforcement of the order under appeal for such period and on such terms as it may deem fit.

(6) The prescribed authority may after giving to the parties an opportunity of being heard; confirm, set aside or modify the order under appeal.

(7) The decision of the prescribed authority under subsection (6) shall be ,final and binding on the parties.

35. The competent authority may charge such fees for connection, disconnection, re-connection of water 'supply or testing or supervision or for any other service rendered or work executed or supervised as may be prescribed.

36. The Government may, by notified order and for reasons to be recorded in writing, exempt any premises or land situated in any area from payment of ,water tax or remit any portion thereof for such period as may be recorded in the said order.

37. (1) The competent authority may by notice require the owner or occupier of the premises to pay within fifteen days from the date of receipt of notice the charges on account due and recoverable from such owner or occupier.

(2) Where the owner or occupier of the premises fails to pay the amount due, from him within the period specified in the notice issued under sub-section (1), the competent authority may prepare a certificate indicating the amounts due from such owner or occupier and send the same to the Judicial Magistrate of the First Class of the area in which the premises or land is situated.

(3) The Judicial Magistrate to whom the certificate is sent shall realize the amount specified in such certificate as if it were a fine imposed by such Magistrate and remit the same to the competent authority.

38. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was responsible to the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment, 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 any 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 shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation-*For the purpose of this section

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

(b) 'director' in relation to a firm. means a partner in the firm.

39. No prosecution shall be instituted under this Act without the permission in writing of the Government.

40. (1) The Government may, by notification, direct that any power exercisable by it under this Act or rules made thereunder shall in relation to such matters and subject to such conditions as may be specified in the notification, be exercisable also by such officer or authority subordinate to as may be specified in the said notification.
- (2) The competent authority may, in . the like manner, delegate its powers except the power conferred upon it under section 30 to any officer subordinate to him.
41. Whoever contravenes the provisions of this Act or rules made' thereunder shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both.
- 42 No suit, prosecution or other proceeding shall lie against any person for anything done or intended to be done under this Act in good faith.
43. (1) The Government may, by notification, make rules for giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for
- (a) regulating the size and nature of mains, pipes, taps and other fittings whether within or outside any premises;
- (b) the prevention of injury or contamination to sources and mains of water supply and appliances for the distribution of water;
- (c) the manner in which connections with water works, mains, etc. may be constructed, altered or maintained;
- (d) the use, maintenance and inspection of meters and all meters in connection with the use of water 'and turning on 'and turning off and .preventing waste of water;
- (e) the area of a lawn or garden other than the area under clause (d) of Explanation to section 3;
- (f) form and manner of filing an appeal;

(g) fees for connection, disconnection, reconnection and other services rendered to the consumer;

(h) any other matter that is required to be or may be prescribed.

- 44 On and from the commencement of this Act, all rules, regulations, notifications, or any other Sikkim laws relating to the supply of water or realization of charges and tax on water, shall stand repealed save as things done or omitted to be done. *Repeal and savings.*

**THE SIKKIM MINISTERS, SPEAKER, DEPUTY SPEAKER
AND MEMBERS OF THE LEGISLATIVE ASSEMBLY (SALARIES AND ALLOWANCES)
AMENDMENT ACT, 1986.
(ACT NO. 10 OF 1986)**

AN ACT

[6/9/86]

further to amend the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Act, 1977.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-seventh Year of the Republic of India as follows:

1 (1) This Act may be called the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Amendment Act, 1986.

Short title and commencement.

(2) It shall come into force on the 1st day of September, 1986.

2.. In the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Act, 1977 (hereinafter referred to as the 'said Act'), in section 3, in subsection (3),

.Amendment of section 3.

(a) For the words "eight hundred rupees per month" the words "one thousand rupees per month", and

(b) For the words "three hundred rupees per month" the words "five hundred rupees per month"

shall be substituted.

3. In the said Act, for the existing Schedule, the following Schedule shall be substituted, namely:

"SCHEDULE

sub-sections (1) and (2) of section 3

Sl. No.	Designation	Salary	Sumptuary Allowance
1.	Chief Minister	Rs. 3,800/-	Rs.7'00/-
2.	Speaker	Rs. 3,500/-	Rs.500/-
3.	Minister	Rs. 3,000/-	Rs. 500/
4.	Deputy Speaker	Rs. 3,000/-	Rs. 500/
5.	Minister of State	Rs. 2,500/	Rs. 300/
6.	Deputy Minister	Rs. 2,200/	Rs. 250/

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 2/LDI1987.

Dated the 18th March. 1987.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the. 13th day of March, 1987, is hereby published for general . information:

**THE SIKKIM RELIEF UNDERTAKING ACT 1987
(ACT NO.1 OF 1987)
AN ACT**

(13-3-87)

To make temporary provisions for empowering the Government to take over the management and administration of certain undertakings for better management and improvement in the public interest;

WHEREAS it is expedient to empower the Government to take over the management and administration of certain undertakings for better management and improvement;

Be it enacted by the Legislative Assembly of Sikkim in

the Thirty-eighth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Relief Undertaking Act, 1987.

Short title and commencement

- (2) It shall come into force at once.
2. In this Act, unless, the context otherwise requires.
- (a) "Committee" means a Committee appointed by the State Government consisting of one or more persons not exceeding five in number;
- (b) "Government" means the State Government of Sikkim;
- (c) "Notification" means notification published in the Official gazette;
- (d) "Undertaking" includes any establishment carrying on social; religious or charitable activities.
3. Where the Government is of the opinion that an undertaking is not properly functioning or the functioning of an undertaking is to be improved for the benefit of the undertaking and all persons connected with the undertaking and if it is so necessary in the public interest, the Government may, by notification, take over - management and administration of such undertaking.
4. On and from the issue of the notification under Section 3, the Government shall appoint a Committee for the management and administration of such an undertaking
5. On and from the date of issue of the notification under . . . Section 3, the management of such an undertaking shall 'vest in the Committee so appointed under section 4.
6. The management and administration of an undertaking under this Act shall be taken over initially for a period of five years and may be extended for a period of another five years not exceeding one year at a time, by notification.
7. (1) The tenure of the Committee so appointed under. Section 4 shall be for a period of three years which may be extended by the Government if it deems fit.
- (2) If the Government is of the opinion that the Committee so appointed is not functioning properly, the Government shall remove the same and appoint .a fresh Committee..
- (3) The terms and conditions of the members of the Committee and the conduct of the business by the Committee shall be as may be prescribed.

8. During the period of management and administration of an undertaking under this Act, all liabilities incurred by the past management shall stand suspended as against the management under this Act. *Liabilities incurred by past management.*
9. The State Government may, by notification, make rules for carrying out the purposes of this Act. *Power to make rules.*
10. (1) The Sikkim Relief Undertaking Ordinance, 1986 is hereby repealed. *Repeal and saving. Ordinance No. 1 of 1987.*
- (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act'.

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK
NOTIFICATION

No. 3/LD/1987

Dated the 18th March, 1987.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on, the 13th day of March, 1987 is hereby published for general information:

SIKKIM SEWERAGE AND SEWAGE DISPOSAL ACT, 1987
(ACT NO.2 OF 1987)
.AN ACT

(13: 3. 1987)

to provide for regulation of Sewerage and Sewage Disposal and for matters connected thereto.

Be it enacted by the Legislative, Assembly of Sikkim in the Thirty-eighth Year of the Republic of India as follows

1. (1). This Act may be called the Sikkim. Sewerage and Sewage Disposal Act, 1987. ..

- (2) It extends to the whole of Sikkim.
- (3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas or different provisions of this Act.

2. In this Act, unless the context otherwise requires,

- (i) "Cess, pool" includes a settlement tank or other tank to receive or dispose of foul matters from any premises;
- (ii) "Chief Engineer-cum. .Secretary" means the Chief Engineer-cum-Secretary to the Government of Sikkim in the Buildings, Public Health Engineering and Housing Department;
- (iii) "Competent Authority" means the Chief Engineer cum-Secretary, in the Buildings, Public Health Engineering and Housing Department of the Government of Sikkim or any other officer authorised by him in this behalf;
- (iv) "Department" means the Buildings, Public Health Engineering and Housing Department in the Government of Sikkim;
- (v) "Drain" means a sewer, tunnel, pipe, ditch, gutter or channel or any cistern, flush tank, septic tank or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water or sub.. soil water and includes any culvert, ventilation-shaft or pipe or other appliances or fittings connected with such drain, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;
- (vi) "Government Sewer main" means any pipe or system of pipes along with all fittings thereto laid by the State Government by means of- which Sewage is transported from any premises to its final disposal point;
- (vii) "Occupier", in relation to any premises, means the following

(a) any person for the time being paying .or liable to pay rent or any portion thereof to the owner in respect of those premises;

(b) an owner who is in occupation of those premises;

(c) a tenant of those premises who is exempted from payment of rent;

(d) a licensee who is in occupation of, those premises; and

(e) any person. who is liable to pay damages to the owner in respect of use and occupation-of those premises;

(viii) "Owner" in relation to any premises, means the person who receives the rent of the said 'premises or who would be entitled to receive the rent thereof if the premises were let out and includes- .

(a) an agent or trustee who receives the rent on account of the owner;

(b) an agent or trustee who receives the rent of, or is entrusted with the management of any premises devoted to religious or charitable purposes;

(c) a receiver or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises; and

(d) a mortgagee in possession;

(ix) "premises". means any land and/ or building or any part thereof;

(x) "prescribed" means prescribed by rules;

(xi) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bathrooms, stables and other like places and includes trade effluent;

(xii) "sewer" means closed or open conduit for carrying sewage, offensive matter, polluted water; waste water, or sub-soil water;

(xiii) "sewerage" means: a system of collection of waste water from community from its houses, institutions, industries and public places, pumping, treatment, utilization and disposal of such waste water, its effluent, sludge, gas and; other products

(xiv) "Trade Effluent" means any liquid either with or without particles, of matters in suspension or dissolved therein; which' is wholly 'or in part produced or discharged in the course of any trade or industry. including agriculture and horticulture, but it doe not include domestic sewage; and

(xv) "User" means any person getting the benefit of any sewerage service from the Department.

3 (1) (a) All public 'drains, all drains in alongside or under any public street except those constructed alongside the National Highways declared as such under the National Highways Act, 1956.

(b) All sewage disposal works whether constructed by the Department 'or otherwise, and; all works, materials and things appertaining thereto,
shall vest in the Department.

(2) For the purpose of enlarging, ,deepening or otherwise repairing, maintaining any such drains or sewage disposal work so much of the sub-soil appertaining there. to as may be necessary for the said purposes shall be deemed also to vest in the Department.

(3) An drains and ventilation-shafts, pipes and all 'appliances and fittings connected with the sewerage, drainage works constructed/erected or set. up out of the Department fund or upon premises not belonging to the Department, whether

(a) before or after the commencement of this Act, and

(b) for the use of the owner or occupier of such' premises or not

shall, unless the Department has otherwise determined, vest, and be deemed always to have vested in the Department.

4. The owner or occupier of any premises shall be entitled to empty sewage of the premises into the Government Sewer main provided that, before doing so, he

(a) obtains connection from the department on payment of connection fee and other charges as may be prescribed; and

(b) complies with such other conditions as may be specified.

5. The Government may, from time to time, by notification, fix the rate or rates of charges for sewerage services on the basis of number of connection points, number of lavatories, size of house connections or quantity of sewage flow as may be assessed by the Department.

6. For the purposes of this Act, the Government shall levy, on premises situated in an area where sewerage service is made by it, a tax' at such rate not being less than one per cent. and not more than ten per cent. of the assessed annual value of the premises as the Government may, from time to time, by notification, specify and different rates of tax may be specified for different areas after taking into consideration the economic condition of the people residing in that area;

Provided that no such tax shall be levied and collected in any area where such tax is already being collected by any local authority under the provisions of any Sikkim Law.

7. (1) For the purposes of section 6, annual value means five per cent. of the market value of the premises:

Provided that the annual value in the case of premises occupied by the owner himself, shall be deemed to be twenty per cent. less than the annual value otherwise determined under this section.

(2) The annual value of premises for the purpose of levy of sewerage tax shall be assessed by such officer or authority as the competent authority may, by general or special order, direct.

(3) until an assessment.. of the annual value of premises in any' area is made by an officer or authority' referred to in sub-section (2), the annual value *of* the premises in' that area as assessed by the local authority for the purpose of levy of house tax shall be deemed to be the annual value of the premises for the purposes of this Act as well.

8. Where any premises are, in the opinion of the Department, without sufficient means of effectual disposal of sewage and the Government Sewer main is situated at a distance of not more than hundred meters from any part of the premises, the Department may, by written notice, require the owner of the said premises to have sewer connection.
9. The Government may lay or carry any sewer, for the purposes of arranging or maintaining sewerage system, through, across, under or over any road or street or a place laid out as, or intended to be laid out as, a road or street or any other place under the control of a local authority or any person, and at all times do all acts and things which may be necessary or expedient for repairing or maintaining such sewer system in an effective state for the purpose for which the same may be used:

Provided that such work shall be. carried with least annoyance to the public and within a reasonable time:

. Provided further that reasonable compensation as may be determined by the Government shall be paid to the owner or the local authority, as the case may be, for any damage sustained by him or it and directly occasioned by carrying out of any such operations:

Provided also that the competent authority shall cause not less than seven days' notice in writing to be given to the owner or the local authority, as the case may be, before commencing of any operations under this section except in cases where immediate action is considered necessary, then, the competent authority may, by order and for reasons to be recorded in writing, dispense with the notice.

10. No person shall, make or cause to be made any connection or communication with any Government Sewer main.

11. No person shall, without the permission of the 'Department, construct any private street, buildings or other structure on any Government Sewer main.

12. No person shall
 - (1) wilfully obstruct any person acting under the authority of the Department in setting out the lines of any work or pull up or remove any pillar, post or stay fixed in the ground for the purpose of setting out the lines of such works or deface or destroy any work made for the said purposes; or

 - (2) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, valve, pipe or other works or apparatus belonging to the Department and pertaining to its duties and functions under this Act and the rules made thereunder; or

 - (3) unlawfully obstruct the flow of, or flush, draw off or divert or take sewage from any works belonging to the Department; or

 - (4) obstruct any officer or staff of the Department in the discharge of his duties under this Act and the rules made thereunder or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to sewerage works.:

13. The Department may, for the purpose of ,ventilating any sewer or cess-pool, whether vested in the Department or not, erect upon any premises or affix to the outside of any building, or to any tree any shaft or ,pipe as may appear to it to be necessary.

14. (1) Where it appears to the Department that there are reasonable grounds for believing that a private sewer or cess-pool is in such condition to be prejudicial to public health or to be a nuisance or that the private sewer communicating directly or' indirectly with a Government sewer main is so defective' as to admit sub-soil water or grit or other materials, the Department may examine its condition and for that purpose may apply any test, and if it deems it necessary, open the ground.

- (2) If on examination the sewer or cess pool is found to be in proper condition, the Department shall, as soon as possible, reinstate any ground which has been opened by it and determine and pay compensation for the damage caused by it.
15. (1) Any officer or staff of the Department authorised by it in that behalf, may, with or without assistants or workmen, enter into or open any premises in order-
- (a) to make any inspection, survey, measurement, valuation or inquiry;
 - (b) to take levels;
 - (c) to dig or bore into the sub-soil;
 - (d) to set out the boundaries and the intended line of work;
 - (e) to make such levels, boundaries and lines placing by marks and cutting trenches; or
 - (f) to do any other thing necessary for the purpose of this Act or any rules made thereunder:

Provided that, in exercising the powers under this sub-section, the owner or the occupier of the premises has been given written notice at least three days before such entry.

- (2) When any person is entitled to enter into or upon any premises in exercise of the powers under sub-section (1), he may also enter in similar manner into or upon any adjoining premises for any work authorised by or under this Act or for the purpose of depositing therein, any soil, grind stone or other materials or for obtaining access to such work or for any other purpose connected with the execution of the same.
- (3) It shall be lawful for any authorised officer or staff to make any entry into any place or cause to be opened any door, gate or other barrier
- (a) If he considers the opening thereof necessary for the purpose of such entry and

(b) if the owner or occupier is absent or on being present refuses to open such door, gate or barrier.

16. Any officer or servant authorised by the Department in that behalf may have any tank, pool or well, cleaned or disinfected after notice to the owner or occupier, if any, when it appears that such cleaning or disinfection will prevent or check the spread of any dangerous disease. The cost of cleaning or disinfection shall be recoverable by the Department from the owner or occupier of such tank, pool or well.

17. (l) No person shall throw, empty, or turn into any public drain or into any drain communicating with public drain

(a) any matter likely to injure the drain or interfere with the free flow of its contents, or affect prejudicially the treatment or disposal of its contents; or

(b) any chemical, refuse or waste, steam, or any liquid of a temperature higher than forty-five degrees centigrade being refuse or steam which, or a liquid which when so heated, is, either alone or in combination with the contents of the drain, dangerous, or the cause of a nuisance or prejudicial to health; or

(c) any dangerous petroleum.

(2) In this section, the expression "dangerous petroleum" has the same meaning as in the Petroleum Act, 1934 (30 of 1934).

18. If any person refuses or fails to pay any sum due to the Department on account of tax, charge, penalty or damages or any portion of such tax, charge, penalty or damages within the time, if any, specified therefor in the order relating thereto, the department shall proceed to recover the amount due as arrears of land revenue or public demand.

19. Whoever contravenes any of the provisions of this Act or of any rule made thereunder or fails to comply with any notice or order issued under this Act or any rule made thereunder shall on conviction be

- (a) punished with fine which may extend to one thousand rupees, and
- (b) with further fine which may extend to five hundred rupees for every day on which such contravention or failure continues after the conviction; or
- (c) imprisonment for a term which may extend to two years or both.

20. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was responsible to the company for the conduct of its business- as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment 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 any 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.

Explanation.-For the purpose of this section-

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

(b) 'director' in relation to a firm means a partner in the 'firm'.

21. It shall be lawful for any officer of the Department authorised by it in this behalf to arrest and hand over to the officer-in-charge of the nearest police station any person who commits or is suspected to have committed an offence punishable under Section 19 and who on demand refuses to give his true name or address or where there is reason

to believe that the name or address given by him is not correct, such police officer shall adopt legal measures as may be necessary or cause that person to be taken before a Magistrate with the least possible delay.

22. (1) The Chief Engineer-cum-Secretary or any other officer of the Department authorised by him either before or after the institution of proceedings for any offence punishable under this Act, except from any person charged with such offences by way of composition of the offence a sum not exceeding three thousand rupees as he thinks proper.

(2) On payment of such sum no further proceedings shall be taken against the said person in respect of the same offence.

23. No court shall take cognizance of any offence under this Act except on the complaint of the Department made within six months next after the commission of the offence.

24. (1) Any person aggrieved by an order made by the officer authorised by the Chief Engineer-cum-Secretary of the Department may prefer an appeal to the Chief Engineer cum-Secretary of the Department and where such order is made by the Chief Engineer-cum-Secretary of the Department to the Government within thirty days from the date of the communication to him of such order:

Provided that the authority before whom an appeal is filed may entertain the appeal after the expiry of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the prescribed period of thirty days.

(2) The appellate authority may, after giving the parties an opportunity of being 'heard, confirm, set aside or modify the order under appeal.

25. No suit or other legal proceeding shall lie against the Government or any officer or authority empowered by the Government for anything which is in good faith done or intended to be 'done under this Act or the rules made thereunder.

26. The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

27. Every rule made under this Act shall be laid as soon as may be after it is made before the Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the sessions or the successive sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule shall not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of rules before the Assembly.

**GOVERNMENT OF SIKKIM LAW
DEPARTMENT
GANGTOK
NOTIFICATION**

No. 4/LD/1987.

Dated the 18th March, 1987.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 13th day of March, 1987, is hereby published for general information:

**SIKKIM MOTOR VEHICLES TAXATION
(AMENDMENT) ACT, 1987
(ACT NO.3 OF 1987)
AN ACT**

[13. 3. 37]

to amend the Sikkim Motor Vehicles Taxation Act, 1982.
Be it enacted by the Legislative Assembly of Sikkim in the
Thirty-eighth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Motor Vehicles Taxation (Amendment) Act, 1987.
- (2) It extends to the whole of Sikkim.

Short title, extent and commencement.

- (3) It shall come into force on such date as the State Government may, by notification, appoint.
2. In the Sikkim Motor Vehicles Taxation Act, 1982 (hereinafter referred to as the principal Act), after sub-section (l) of Section 4, the following sub-section shall be inserted:
- "(I-A). The State Government may, by notification in the Official Gazette, from time to time, increase the rate of tax specified in the Schedule:
- Provided that such increase shall not exceed in the aggregate fifty per cent. of the rate specified in the Schedule appended to this Act.
3. In the principal Act, for the existing Section 9, the following Section shall be and shall be deemed always to have been substituted.
- "9. (l) Every person paying the tax or additional tax in respect of any motor vehicle shall be granted and delivered a receipt in which shall be specified the particulars of the tax paid and such other particulars as may be prescribed.
- (2) The Taxation Officer shall endorse the particulars of the tax paid in the certificate of registration of the vehicle concerned.
4. In the principal Act, in Section 10, in sub-section (1), the words, "at the time of granting receipt for the tax," shall be deleted.
5. In the principal Act, for the existing Schedule, the following Schedule shall be substituted.

Motor

SCHEDULE

(See Section 4)

Description of Motor Vehicles and the rate of tax.

A. Vehicle for carrying passengers not plying for hire.

1. Vehicle other than Omnibuses

- (1) Motor Cycle/Scooters kept for the personal use of the owners, not being companies registered under the law relating to registration of companies for the time being, in force.

- (2) Motor Cycles Scooters with side car far the personal use of the owners, not being companies registered under the law relating to. registration of companies *for* the time. being in farce.
- (3) (a) Fiat Car kept for the- personal use of owners not being companies registered under the law relating to. registration of companies *for'* the time being in force and invalid carriages.
- (b) Fiat Car owned by companies registered under the law relating to. registration of companies *for* the time being in force *for* carrying employees or other passengers.
- (4) (a) Ambassador Car kept far the personal use of owners, not. being companies registered under the law relating to. registration of companies for the time being in force and invalid carriages.
- (b) Ambassador Car owned by companies registered under the law relating to. registration of companies *for* the time being in force for carrying employees or other passengers.
- (5) (a) Jeep (private) kept far the personal use of owners not being companies registered under the lay relating to. registration of companies for the time being in force and invalid carriages.
- (b) Jeep (private) owned by companies registered under the law relating to registration *of* companies for the time being in force for carrying employees or other passengers.
- (6) Motor Cycle/Scooters owned by companies registered under the law relating to registration of companies *for* the time being in force *for* carrying employees or other passengers. .
- (7) Motor Cycle/Scooters with side car owned by companies registered under the law relating to registration of companies for the time being in force *for* carrying employees or other passengers.

II Omni buses ,with seating capacity for:

(a) Not more than 8:

Rs. 375-00

(b) More than 8. but not more than 20.

Rs. 450-00 for 9
seats plus. Rs. 45-00
for every additional
seat beyond 9; & upto 20.

(c) More than 20.

Rs. 990-00 for 21
seats plus Rs. 38-00
for every additional
seat beyond 21 :

Provided that if an Omnibus is fitted with solid tyres there shall be a surcharge per annum of 12.5% of the amount payable under clause (a) or. (b) or (.c) above. as the case may be.

B. Vehicles for carrying passengers plying for hire:

Rate of tax payable
for the year.

I. Stage carriage with seating capacity for

(a) Not less than 8 but not more than 26.

Rs 525-00 for 8 plus Rs.
60-00 for every
additional seat beyond
8. and upto 26.

(b) Not less than 27 but not more than 45.

Rs. 1650-00 for 27 plus
Rs. 53-00 for every addi-
tional seat beyond 27and
upto 45:

Provided that if a stage carriage is fitted with solid tyre there shall be a surcharge per annum of 12.5% of the amount payable under clause(a) or (b) above. as the case may be, for such stage carriage.

II. Vehicles other than stage carriage with seating capacity for

Rate of tax payable for
the year.

(a) Not more than 4

. 3 Wheelers

Rs. 150-

. 4' Wheelers

Ra. 225-00

(b) More than 4

Rs. 450-00 for 5 plus Rs.
45-00 for every additional
seat beyond 5.

(c) In case of Jeep (Tourist Taxi) plying in Sikkim, there shall be payable an additional charge per annum of 25% of the amount payable under clause (b) above:

Provided that if a vehicle for .carrying passengers plying for hire which is not a stage carriage. is fitted with solid tyres there shall be a surcharge per annum of 12.5% of the amount payable under clause (a) or (b) above, as the case may be, for such vehicle.

C. Vehicle, for transport of goods including private. carriages	Rate of tax payable for the year.
(a) Upto 500 Kilograms registered laden weight.	Rs. 265-00
(b) Exceeding 500 Kilograms but not exceeding 2000 Kilograms registered laden weight.	Rs. 265-00 plus Rs. 30-00 for every additional 250 Kilograms or part thereof above 500 Kilograms.
(c) Exceeding 2000 Kilograms but not exceeding 4000 Kilograms registered laden weight.	Rs. 445-00' plus Rs. 38-00 for every additional 250 Kilograms or part thereof above 2000 Kilograms.
. (d) Exceeding 4000 Kilograms but' not exceeding 8000 Kilograms registered laden weight.	Rs. 745-00 plus Rs. 22-00 for every additional 250 Kilograms or part thereof above 4000 Kilograms.
(e) Exceeding 8000' Kilograms registered 'laden weight.	Rs.985-00 'plus Rs.' 30-00 for every additional 250 Kilograms or part thereof above 8000 Kilograms:

Provided that where a vehicle for transport of goods is fitted with solid tyres there shall be a surcharge per annum of 12.5% of the amount payable under clause (a) or (b) or (c) or (d) or (e) above, as the case may be, for such vehicles.

D. Tractors not used solely for agricultural purposes.	Rate of tax payable for the year.
'(a) Upto 500 Kilograms laden weight.	R8. 150-00

- | | |
|---|--|
| (b) Exceeding 500 Kilograms but not exceeding 2000 Kilograms unladen weight. | Rs. 150-00 plus Rs 40-00 for every additional 250 Kilograms or part thereof above 500 Kilograms. |
| (c) Exceeding 2000 Kilograms but not exceeding 4000 Kilograms unladen weight. | Rs. 375-00 plus Rs. 45-00 for every additional 250 Kilograms or part thereof above 2000 Kilograms. |
| (d) Exceeding 4000 Kilograms but not exceeding 8000 Kilograms unladen weight. | Rs. 735-00 plus Rs. 75.00 for every additional 250 Kilograms or part thereof above 4000 Kilograms. |
| (e) Exceeding 8000 Kilograms unladen weight. | Rs. 1935-00 plus Rs. 115-00 for every additional 250 Kilograms or part thereof above 8000 Kilograms: |

Provided that where a tractor is fitted with solid tyres there shall be a surcharge per annum of 12.5% of the amount payable under clause (a) or (b) or (c) or (d) or (e) above, as the case may be, for such tractor.

E. Trailers.

- | | |
|--|--|
| | Rate of tax payable for the year. |
| (a) Upto 500 Kilograms registered laden weight. | Rs. 150-00 |
| (b) Exceeding 500 Kilograms but not exceeding 2000 Kilograms registered laden weight. | Rs. 150-00 plus Rs. 15-00 for every additional 250 Kilograms or part thereof above 500 kilograms. |
| (0) Exceeding 2000 Kilograms but not exceeding 4000 Kilograms registered laden weight. | Rs. 240-00 plus Rs. 25-00 for every additional 250 Kilograms or part thereof above 2000 Kilograms. |
| (d) Exceeding 4000 Kilograms but not exceeding 8000 Kilograms registered laden weight. | Rs. 420-00 plus Rs. 30-00 for every additional 250 Kilograms or part thereof above 8000 Kilograms. |

(e) Exceeding 8000 Kilograms laden weight.

Rs. 990-00 plus Re. 40-00 for
every additional 250
Kilograms or part thereof
above 8000 Kilograms:

Provided that where a trailer is fitted with solid tyres there shall be a surcharge per annum of 12.5% of the amount payable under clause (a) or (b) or (c) or (d) or (e) above, as the case may be for such trailer.

**THE SIKKIM (COLLECTION OF TAXES AND PREVENTION
OF EVASION OF PAYMENT OF TAXES), ACT 1987
(ACT NO.7 OF 1987)
AN ACT**

(13-8-87)

to provide for collection of taxes and prevention of evasion of payment of taxes.

WHEREAS the machineries for collection of taxes leviable under the Taxation Laws in force in the State of Sikkim and prevention of evasion of taxes thereof are not adequate;

AND WHEREAS it is necessary to empower the Government with adequate powers to enforce the tax laws in force in the State;

AND WHEREAS it is necessary to provide for measures for effective collection of taxes due under several Taxation Laws in force in the State;

AND WHEREAS it is also necessary to provide for the measures for prevention of evasion of due tax under the Taxation Laws in force in the State;

Be it enacted by the Legislative Assembly of Sikkim In the Thirty-eight Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987.

(2) It shall extend to the whole of Sikkim.

(3) It shall come into force at once.

*Short title,
extent and
commencement.*

2. It shall apply to all persons, firms, companies and association of persons in the State of Sikkim.

Applicability.

3. In this Act, unless the context otherwise requires,

Definitions.

- (a) 'Inspector' means any officer of the Government appointed as Inspector; by notification under section 4 of this Act;
 - (b) 'notification' ,means a notification published in the Official Gazette;
 - (c) 'person' includes company, firm and association of persons whether registered or not,;
 - (d) 'tax' means a tax payable under Taxation Laws in force in the State of Sikkim ;
 - (e) 'Tax due' means tax assessed as per the procedure laid down under the concerned, law;
 - (f) 'Taxation Laws' means all laws dealing with levy of tax in force in the State of Sikkim.
4. The Government shall appoint one or more Inspectors for the purposes of this Act for such areas as may be specified in the notification.
 5. Every tax due to the Government of Sikkim shall be collected by the Inspector by distraint and sale of moveable and immoveable properties.
 6. (1) The Inspector shall. serve a demand directing the payment of tax due on the person who is liable to pay, within seven days.
(2) Such demand may be served by personal service or by affixing a copy thereof on the front main door of the house of that person or through registered post, as may be necessary.
 7. (1) The Inspector shall attach the moveable and immoveable properties upon failure to pay the tax demanded within the stipulated time.
(2) The procedure for attachment of moveable and immoveable properties shall be the same as mentioned in Order XXI of the Code of Civil Procedure, 1908 for execution of decrees.
 - 1) The Inspector shall, after due publication, sell the properties attached under section 7 by public auction.
 - (2) The sale by public auction shall be held as laid down in Order XXI of the. Code of Civil Procedure, 1908 'for execution of decrees.
 - . (3) The Inspector shall appropriate the amount of tax due to the Government from out of the sale proceeds and

refund the excess amount, if any, to the person whose property has been auctioned after defraying the expenditure incurred on public auction.

9. (1) The Inspector or any person authorised in this behalf, by notification, by the Government, may enter upon the premises of any person for inspection of books of accounts and for any other relevant records connected with the business, trade, occupation or profession and seize such books or records.

(2) The books of accounts or records so seized shall be returned within three months from the date of seizure.

Provided that the books of accounts or records so seized may be kept for another three months by a specific order in writing of the Government of Sikkim.

10. Any person who

(a) commits default in payment of tax as determined;
(b) fails or refuses to submit any return of his annual gross income;

(c) obstructs the Inspector or other officials authorised by the Government in the discharge of his or their duties under this Act and other taxation laws in force in the State of Sikkim;

(d) is guilty of contravention of or non compliance with any of the requirements of taxation laws in force in this State or orders, notifications or directions made thereunder for which no special penalty is provided;

(e) wilfully furnishes incorrect or false returns of his annual income,
shall be punishable with fine which may extend to five thousand rupees or imprisonment for a period of three years, or with both.

11. All offences under this Act are cognizable and non-bailable and triable by a Magistrate of the First Class only.

12. No prosecution under this Act shall be instituted except with the previous sanction of the Government or such other officer as may be authorised by the Government in this behalf.

13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any order made thereunder.

THE SIKKIM PUBLIC DEMANDS RECOVERY ACT, 1988**(ACT NO.1 OF 1988)****AN ACT**

[27-2.1988]

to make provisions for the recovery of public demands in Sikkim.

Whereas it is expedient to make provisions for the recovery of public demands in Sikkim

Be it enacted by the Legislative Assembly of Sikkim in the Thirty .ninth Year of the Republic of India as follows:

PRELIMINARY

1. (1) This Act may be called the Sikkim Public Demands Recovery Act, 1988.

*Short title, extent
and
commencement.*

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

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

Definitions.

(a) "Certificate-debtor" means the person named as debtor in a Certificate filed under this Act and includes any person whose name is substituted or added as debtor by the Certificate Officer;

(b) "Certificate-holder" means the State Government or Corporation or Company owned or controlled by the State Government or any State Government Officer, Officer of the Corporation or Company or any local authority in whose favour a Certificate has been filed under this Act and includes any person whose name is substituted or added as creditor by the Certificate Officer;

(c) "Certificate Officer" means the Collector of the District and includes any other officer appointed by State Government, by notification, to perform the functions of a Certificate Officer under this Act;

- (d) "Moveable property" includes growing crops;
 - (e) "Notification" means a notification published in the Official Gazette;
 - (f) "Public Demand" means any money payable to the State Government or to a department or to any Corporation or Company owned or controlled by the State Government or to any local authority, under any law for the time being in force or under a written agreement with the above authority or institution or instrument or any decree or award of any Court or Authority competent to adjudicate the claims.
3. (1) Every Certificate Officer shall be deemed to be a Civil Court for the purpose of sections 480, 481, 482 and 483 of the Code of Criminal Procedure, 1898.
- (2) Every Certificate Officer may for the purpose of enquiry into any dispute relating to the issue of Certificate for money due shall have same powers as conferred on the Civil Court under the Code of Civil Procedure, 1908 in respect of
- (a) enforcing attendance of any person and examining him on oath;
 - (b) compelling and production of documents and material objects; and
 - (c) issuing commissions for purpose of examination of witness and every inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860.
4. (1) When the Certificate Officer is satisfied on an application made to him or otherwise that any public demand is due, he may sign a certificate in such form as may be prescribed, stating that the demand is due, and shall cause the certificate to be filed in his office.
- (2) Before signing the Certificate, a notice shall be issued to the person or persons from whom any money is due and if necessary hold an enquiry as it deems necessary.

- (3) The certificate issued under this section shall be final and binding on the parties.
- (4) All proceedings under this section shall be completed within three months from the date of issue of notice to the opposite party.
5. When a certificate has been filed in the office of a Certificate Officer under section 4, he shall cause to be served upon the certificate-debtor, a notice in the prescribed form and a copy of the certificate stating that the demand is due and shall be paid forthwith.
6. On and from the date of service of notice under section 5 upon a certificate debtor
- (a) any private transfer or delivery of any of his immoveable property by the certificate-debtor within the State of Sikkim shall be void against any claim enforceable in execution of the certificate, and
- (b) the amount due from time to time in respect of the certificate shall be a charge upon the immoveable property of the certificate-debtor, in preference to all other charges or liabilities created on that property.
7. A certificate filed under section 4 may be executed by:
- (a) the Certificate Officer in whose office the original certificate is filed, or
- (b) the Certificate Officer to whom a copy of the certificate is sent for execution under sub-section (1) of section 8.
8. (1) A Certificate Officer in whose office a certificate is filed may send a copy thereof, for execution, to any other Certificate Officer.
- (2) When a copy of a certificate is sent to any such Officer, he shall cause it to be filed in his office, and thereupon the provision of section 6 with respect to certificate filed in the Office of a Certificate Officer shall apply as if such copy were an original certificate:

Provided that it shall not be necessary to serve a second notice and copy under Section 5.

9. If the Certificate Officer, in whose office a certificate is filed, is satisfied that the certificate-debtor is likely to conceal, remove or dispose of the whole or any part of such of his moveable property and that the realization of the amount of the certificate would, in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, attachment of the whole or any part of such moveable property:

Provided that if the Certificate-debtor whose moveable property has been so attached, furnishes security to the satisfaction of the Certificate Officer, such attachment shall be cancelled from the date on which such security is accepted by the Certificate Officer.

10. Subject to such conditions and limitations, as may be prescribed, a Certificate Officer may order execution of a Certificate

(a) by attachment and sale, if necessary, of any property or, in the case of immoveable property, by sale without previous attachment, or

(b) by attachment of any decree.

11. There shall be recoverable in the proceedings in execution of every certificate filed under this Act

(a) interest upon the public demand to which the certificate relates, at the rate of twelve and a half per centum per annum from the date of signing of the certificate upto the date of realization,

(b) such costs as are directed to be paid by the Certificate Officer in his discretion as having been incurred for the service of notice under section 5, and of warrants and other processes and all other proceedings taken for realizing the demand.

12. (1) All property both moveable and immovable, belonging to certificate-debtor is liable to attachment and sale in execution of the Certificate.

(2) The Certificate Officer may attach the property by passing an order and serving upon the certificate

debtor or any adult member of his family or by affixing the order on the front door of his house or place of residence.

(3) The moveable property indicated in the order shall be taken into the custody of the Officer-in-Charge of the nearest police station or police outpost under the orders of the Certificate Officer.

(4) (i) In the case of immoveable property, the Certificate Officer shall publish the date and time of sale with the upset price fixed in the Official Gazette and on the date so fixed shall sell the immoveable property by public auction.

(ii) In the case of moveable property, no such publication is required.

The moveable property may be sold by public auction.

13. (1) The attachment of a decree of a Civil Court or the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the Civil Court to stay the execution of the decree unless and until

(i) the Certificate Officer cancels the notice, or

(ii) the certificate holder or the certificate debtor applies to the Court receiving such notice to execute the decree.

(2) When a Civil Court receives an application under (ii) of subsection (1), it shall on an application of the certificate-holder or the certificate-debtor, and subject to the provisions relating to execution of decree under the law relating to Civil Procedure, proceed to execute the attached decree and apply the net proceeds in satisfaction of the Certificate.

(3) The Certificate-holder shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

14. (1) Where property is sold in execution of a certificate, it shall vest in the purchaser with all the rights. title

and interest of the certificate debtor at the time of sale.

- (2) Where immovable property is sold in execution of a certificate and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have been vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.
- (3) Where a sale of immovable property has become absolute, the Certificate Officer shall grant a certificate specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear date of the day on which the sale becomes absolute.
- (4) On the grant of certificate under sub-section (3), and on the application of the purchaser, the Certificate Officer shall order delivery to be made by putting such purchaser or any person whom the purchaser may appoint to receive delivery on his behalf, in possession of the property and, if needed by removing any person who refuses to vacate the same.

15. When immovable property has been sold in execution of a certificate, the certificate-debtor or any person whose interest are affected by the sale may, within thirty days from the date of the sale, apply to the Certificate Officer to set aside the sale on his depositing

- (a) for payment to the certificate-holder the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of twelve and a half per centum per annum calculated from the date of the proclamation of sale to the date when the deposit is made;
- (b) for payment to the purchaser, as penalty, a sum equal to five per centum of the purchase money, but not less than one rupee.

16. When the Certificate Officer is satisfied that the certificate debtor is a minor or of unsound mind, he shall, in any proceeding under this Act permit him to be represented by any suitable person.

17. When a certificate-debtor dies before the certificate has been fully satisfied, the Certificate Officer may, after serving a notice upon the legal representatives of the deceased, proceed to execute the Certificate against such legal representatives and the provisions of this Act shall apply as if such legal representatives were the certificate-debtor and as if such notice was a notice under section 4. The legal representative shall be liable only to the extent of the property of the deceased which has come to his hands. *Procedure on death of certificate-debtor.*
18. No suit or other legal proceeding shall lie against a Certificate Officer for any act done or purported to have been done by him under the provisions of this Act. *Protection to officer.*
19. The State Government may make rules for the purpose of carrying out and giving effect to all or any of the provisions of this Act. *Power to make rules.*
20. All proceedings pending under the existing law for recovery of public demand shall be deemed to have been the proceedings under this Act and the Certificate Officer shall continue the proceedings as though they were initiated under this Act. *Pending proceedings.*

THE SIKKIM FORESTS, WATER COURSES AND ROAD RESERVE (PRESERVATION AND PROTECTION) ACT, 1988.

(ACT NO.6 OF 1988)

AN ACT

[29. 8. 1988]

to consolidate the law relating to forests, forest produce, water courses and road reserve and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Thirty-ninth Year of the Republic of India as follows:

CHAPTER.I
.PRELIMINARY

1. (1) This Act may be called the Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988. *Short title, extent and commencement.*
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force at once.
2. In this Act, unless the context otherwise requires, *Definitions.*
- (a) "cattle" includes asses, buffaloes, cows, colts, ewes, fillies, geldings, goats, horses, kids, lambs, mules, ponies, pigs, rams, sheep, yak and zoe, elephant and such other kinds of animals as the Government, by notification, specifies;
- (b) "forest" means an extensive tract of land covered with trees and undergrowth, sometime intermingled with pastures, alpine scrubs;
- (c) "forest land" means the land shown as forest land in the records of right including areas under perpetual snow, alpine scrubs or alpine pasture or the land as declared as forest land by the Government, by notification;
- (d) "forest officers" includes the Principal Chief Conservator of Forests, Chief Conservator of Forests, Additional Chief Conservator of Forests, Conservator of Forests, Deputy Conservator of Forests, Assistant Conservator of Forests, Range Officers, Deputy Range Officers, Foresters, Head Forest Guard, Forest Guard or any other officers appointed by the Government to perform any function of a forest officer under this Act;
- (e) "forest offence" means an offence punishable under this Act or under any rule made thereunder;
- (f) "forest produce" includes
- (i) (a) the following whether found in, or brought from a forest or not, that is to say:

bark, charcoal, firewood, myrabolance, natural varnish, resin, shellac, timber, wood, and

- (b) the following when found in, or brought from, a forest, that is to say:
trees and leaves, flowers, and fruits and all other parts or produce of trees not hereinbefore mentioned;
- (ii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals,
- (iii) plants not being trees including agave, creeper, dioscores, daphne, edgeworthis, ferns, grass, lycopodium, lichens, mushroom, moss and reeds, bamboos, nettle, polygonum, thysanolacna, and all categories of medicinal herbs and shrubs, any agricultural crops, bulbs, rhizomes, tubers, and all parts or produce of such plants,
- (iv) peat, dolomite, graphite, rock, surface soil, sand stones, slates, and other minerals including laterite, mineral oils and all other products of mines and quarries, and
- (v) such other produce as the Government may, by notification, declare to be forest produce.
- (g) "Government" means the State Government of Sikkim ;
- (h) "gorucharan forest" means any forest land settled and set aside by the State Government for the purpose of grazing of cattle of the adjoining villages;
- (i) "Khasmal forest" means any forest land settled and set aside by the Government for meeting the bonafide domestic need of timber, firewood and fodder of the resident of the adjoining villages;
- (j) "land" includes channel, creeks and other water channel, reservoir, rivers, lakes and streams, whether artificial or natural and also includes boulders and rocks;
- (k) "notification" means a notification published in the Official Gazette;

(l) "reserved forest" means any forest land settled and notified by the Government as reserved forest;

(m) "river" includes any stream, channel, jhora, creek or other channel, natural or artificial;

(n) "timber" includes trees when they have fallen or have been felled and all wood cut up or sawn or fashioned or hallowed out for any purpose whatsoever;

(o) "trees" includes bamboos, brushwood, cane, banana, kernels, stumps, trees and palms;

(p) "waste land" means an uncultivated land which is not the property of any individual person;

(q) "weapon" includes ammunition, bows, arrows, explosive, firearms, hooks, bills, khukuris, axe, saw, knives, nets, poison, snares, traps and any instrument or apparatus capable of destroying, damaging and injuring forest produce.

CHAPTER II

RESERVED FORESTS

3. The Government may declare any land as a reserved forest in the manner hereinafter provided.

4. Whenever it is proposed to declare any land as a reserved forest, the Government shall issue a notification specifying therein

(a) that it has been decided to declare such land as a reserved forest;

(b) as nearly as possible, the situation and limits of such land; and

(c) the appointment of an officer (hereinafter referred to as the Forest Settlement Officer) to enquire into the matter and determine the existence, nature and extent of any rights relating to collection of dry sticks and grazing alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest produce, and to deal with the same as provided in this Chapter.

5. After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification except by succession or under a grant or con. tract in writing made or entered into or by or on behalf of the Government or some person in whom such right was vested when the notification was issued.
6. When a notification has been issued under section 4, the Forest Settlement Officer shall publish in the language commonly spoken in every town and villages in the neighborhood of the land comprised therein, a proclamation
 - (a) specifying, as nearly as possible, the situation and limits of the proposed forest;
 - (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
 - (c) fixing a period of not less than one month from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5, within such period either to present to the Forest Settlement Officer a written statement specifying or to appear before him and state the nature of such right and the amount and particulars of the compensation, if any, claimed in respect thereof.
7. The Forest Settlement Officer shall record all statements made under section 6 and shall at some convenient place inquire into all claims preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of the Government and evidence of any persons likely to be acquainted with the same.
8. For the purpose of such enquiry, the Forest Settlement Officer may exercise the following powers, namely;
 - (a) the power to enter, by himself or any officer authorised by him for the purpose, upon land and to survey, demarcate and make a map of the same; and
 - (b) the powers of a Civil Court in the trial of suits.

9. Rights in respect of which no claim has been preferred under section 6 and of the existence of which no knowledge has been acquired by enquiry under section 7, be extinguished, unless, before the notification under section 17 is published, the person claiming those rights satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.
10. (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement Officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regularized, and submit the statement to the Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.
- (2) On receipt of the statement and opinion, the Government may make an order permitting or prohibiting the practice wholly or in part.
- (3) If such practice is permitted wholly or in part, the Forest Settlement Officer may arrange for its exercise
- (a) by altering the limits of the land under settlement so as to exclude land of sufficient extent of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or
- (b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation therein under such conditions as he may prescribe.
- (4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the Government.
- (5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Government.
11. (1) In the case of a claim to a right in or over any land other than a right of way or right of pasture or a right to forest produce or a water-course, Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Forest Settlement Officer shall either

(i) exclude such land from the limits of the proposed forest;

(ii) come to an agreement with the owner thereof for the surrender of his right and proceed to acquire such land in the manner provided in the Sikkim Land (Requisition and Acquisition) Act, 1977.

(3) For the purpose of acquiring such land

(a) the Forest Settlement Officer shall be deemed to be a Collector under the Sikkim Land (Requisition and Acquisition) Act, 1977;

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 5 of the Sikkim Land (Requisition and Acquisition) Act, 1977;

(c) the provisions of the preceding sections of the Sikkim Land (Requisition and Acquisition) Act, 1977 shall be deemed to have been complied with;

(d) the Forest Settlement Officer, with the consent of the claimant or with the consent of both parties, may award an amount for such acquisition.

12. In case of a claim to right of pasture or to forest produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

13. (1) The Forest Settlement Officer, when passing any order under section 12, shall record, so far as may be practicable

(a) the name, father's name, caste, residence and occupation of the person claiming the right; and

(b) the classification, position and area of all field or groups of fields, if any, and the classification and position of all buildings, if any, in respect of which the exercise of such right is claimed.

- (2) If the Forest Settlement Officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and the description of the cattle which the claimant is, from time to time, entitled to graze in the forest, the season during which such pasture is permitted.
14. Any person who has made a claim under this Act or any forest officer or other person generally or specially empowered by the Government in this behalf may, within one month from the date of the order passed under sections 11 and 12 prefer an appeal from such order to such Appellate Authority as the Government may, by notification, appoint.
15. (1) Every appeal under section 14 shall be made by petition in writing giving the grounds for appeal and may be delivered to the Forest Settlement Officer who shall forward it without delay to the Appellate Authority.
- (2) No appeal shall be disposed of unless the parties thereto have been given the opportunity of being heard.
- (3) The Appellate Authority appointed under section 14 may confirm, set aside or modify the order of the Forest Settlement Officer, as the case may be, and the order of the Appellate Authority shall be final.
16. The Government or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer, or the appellate Authority, in the proceedings under this Act.
17. (1) When the following events have occurred, namely:
- (a) the period fixed under section 6 for preferring claim has elapsed, and all claims, if any made under that section or section 9 have been disposed of by the Forest Settlement Officer;
- (b) if any such claims has been made, the period specified in section 14 for appeal from the order passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the Appellate Authority, and

(c) all lands, if any, to be included in the proposed forest, which the Forest Settlement Officer has, under section 11 acquired under the Sikkim Land (Requisition and Acquisition) Act, 1977 have become vested in the Government.

The Government shall publish a notification specifying therein the definite boundary marks erected or otherwise the limits of the forest which is to be reserved and declaring the same to be reserved forest from a date fixed in the said notification.

- (2) The notification issued under sub-section (1) shall be published in the villages and town in the neighborhood of the reserved forest in the language commonly understood in the area.
18. The Forest Officer -may, with the previous sanction of the Government or any officer duly authorised by it in this behalf, stop any public or private way or water course in a reserved forest, provided that a substitute for the way or water course so stopped, which the Government deems to be reasonably convenient, already exists, or has' been provided or constructed by the Forest Officer in lieu thereof.
19. (1) Any forest which has been declared or set aside as reserved forest on or before the commencement of this Act under any law or rule or notification in force in the State of Sikkim, shall be deemed to be reserved forest.
- (2) All question decided, orders made and records prepared in connection with the declaration of such forest as reserved forest shall be deemed to have been decided, made and prepared under the corresponding provisions of this Act.
20. Any person who,
- (a) makes any fresh clearing prohibited by section 5;
 - (b) converts a reserved forest or part thereof to any use other than forestry;
 - (c) uses reserved forest for growing commercial crops;

- (d) leases forest areas to private parties for raising captive plantations or food crops;
- (e) sets fire to a reserved forest;
- (f) in contravention of any rules made under this Act, kindles any fire or leaves any fire burning in such manner as to endanger such forest;
- (g) in contravention of the rules made under this Act
 - (i) kindles, keeps or carries any fire during such season other than the season specified by the forest officer;
 - (ii) trespasses or pastures cattle or permits cattle to trespass;
- (h) causes, by negligence, any damage, by felling any trees or cutting or dragging any timber;
- (i) fells, cuts, girdles, lops, taps or burns any tree or strips off the bark or leaves of any tree or otherwise damage the same;
- (j) quarries stone, burns lime or charcoal or collects or removes any forest produce;
- (k) damages, alters or removes any cairn, wall, ditch, embankment, fence, hedge or railing shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both and in addition to be liable to pay such compensation for the damage done to the forest as the convicting court may direct.

21. Whenever fire is caused wilfully or by gross negligence in a reserved forest by a person having rights in such forest or by person in his employment, the Government may, without prejudice to any other punishment that may be imposed under this Act, direct that in such forest or any specified portion thereof the exercise of all or any of the rights of pasture, grazing or collection of forest produce by any such person shall be suspended for such period as it thinks fit or be extinguished.

CHAPTER III**KHASMAL AND GORUCHARAN**

22. (1) The Government may, by notification, declare that the provisions of this Chapter shall apply to khasmal or to gorucharan forest.
- (2) Any forest which has been declared as khasmal forest and gorucharan forest before the commencement of this Act which has been specified in the records of rights of 1952 cadastral survey, shall be deemed to be khasmal forest and gorucharan forest.
- (3) Any waste land or banjo land which is not the property of any person shall be deemed to be a khasmal forest for the purpose of this Act.
23. No such notification referred to in sub-section (1) of section 22 shall be issued unless the nature and extent of the rights of the Government and of private persons in or over the khasmal and gorucharan forests is inquired into and recorded in a survey and settlement record, or in such other manner as the Government thinks sufficient. Every such record shall be presumed to be correct until proved otherwise.

Provided that in the case of any khasmal or gorucharan forests, if the Government thinks that such inquiry and record are necessary but that the completion thereof will occupy such length of time as may endanger the rights of Government, the Government may, pending such inquiry and record, declare such land to be khasmal or gorucharan forest, as the case may be, but so, however, the existing rights of individuals or communities are affected as little as possible.

24. (1) Any person who
- (a) makes any fresh clearing or converts khasmal forests or gorucharan forest or part thereof to any use other than forestry;
- (b) sets fire to a khasmal forest or gorucharan forest or part thereof;

(c) in contravention of any rules made under this Act kindles any fire or leaves any fire burning in such manner as to endanger such a forest;

(d) kindles, keeps or carries any fire except during season other than the season notified by the forest officer;

(e) causes, by negligence, any damage, by felling any tree or cutting or dragging any timber;

(f) cuts, pollards, girdles, lops, taps or burns any tree or strips off the bark or otherwise damages the same;

(g) quarries stone, burns lime or charcoal or collects any forest produce;

(h) damages, alters, removes any cairn, wall, ditch, embankment, fence, hedge or railing, boundary marks, shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both and in addition to be liable to any such compensation for the damage done to the forest as the convicting court may direct.

(.2) Notwithstanding anything contained in sub section (I), the following acts shall not render the person liable to punishment under that sub-section for

(a) any act done with the permission, in writing, of the forest officer not below the rank of a Range Officer;

(b) grazing of cattle and collection of such quantity of fodder from khasmal forest for bonafide use of the resident of the adjoining locality;

(c) grazing of cattle, collection of such quantity of dry fallen sticks and grass or fodder in a gorucharan forest.

25. The Government may, by notification,

(a) declare that any portion of khasmal or gorucharan forest shall be closed for such period not exceeding thirty years and that the rights of any private persons over such forest or portion thereof shall be suspended during that period; and

- (b) declare any tree or class of trees in khasmal or gorucharan forest to be reserved from the date fixed in that notification.
26. Whenever fire is caused wilfully or by gross negligence in khasmal or gorucharan forest, the Government may, notwithstanding any other penalty which has been imposed under this Act, direct that in such forest or any portion thereof the exercise of all rights provided in sub-section (2) of section 24 shall be suspended for such period as may be specified.
27. (1) The Government may, by notification, make rules to carry out the purposes of this Chapter.
- (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 cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce;
 - (b) the granting of permits to the inhabitants of neighbouring villages to take trees, timber or other forest produce for their bonafide use, and the production and return of such permits by such villagers;
 - (c) the payment, if any, to be made for the permission to cut trees or to collect and remove such timber or other forest produce;
 - (d) the examination of *forest* produce passing out of such forest;
 - (e) the cutting of grass and grazing of cattle in such forests and payment thereof. if any;
 - (f) the protection and management of any portion of forest closed under section 25; and
 - (g) the exercise of rights referred to in section 25.
28. Whoever contravenes the provisions of the rules made under section 27 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with a fine which may extend to five thousand rupees, or with both.

CHAPTER- IV

PROTECTION OF RIVER BANKS, SLIP RESERVE, ROAD RESERVE, ETC.

29. For the purpose of this Chapter river banks in relation to rivers enumerated in the Schedule means and includes an area of sixty metres on either side of such river or area within high flood level mark, whichever is less.

*River banks,
slip reserve,
road reserve,
etc.*

- (2) Slip reserve means and includes,
- (i) all lands which are denuded or are in the process of denudation declared as slip reserve before the commencement of this Act; and
 - (ii) all denuded areas which are denuded or are in the process of denudation and required to be conserved or preserved for stabilization that may be notified as slip reserve by the Government.
- (3) No notification referred to in clause (ii) of sub-section (2) shall be made unless the nature and extent of the right of the Government and of the private persons in or over such land is enquired into and recorded in the record of right and such record shall be presumed to be correct until proved otherwise;

Provided that in the case of any slip area, if the Government thinks that such enquiry and record are necessary but that the completion thereof will occupy such length of time as may endanger the life of the community due to occurrence of slips, the Government may, pending such enquiry and record, declare such area to be a slip reserve, but so, however, that the existing rights of individuals or communities are affected as little as possible.

- (4) Road Reserve in relation to a National Highway means such portion of land lying within such distance from centre on either side of such Highway as may be prescribed.
- (5) Road Reserve in relation to a Highway other than a National Highway means such portion of the land

lying within such distance from the centre on either side of such Highway as may be prescribed.

(6) The road reserve referred to in sub-sections (4) and (5) shall be under the administrative control of Forest Department as if it were a forest constituted under this Act.

(7) Any encroachment into the road reserve by any person shall be deemed to be an unauthorised occupation and such person shall be evicted in accordance with the provisions contained in the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980.

9 of 1980

(8) All old abandoned roads with their road reserve which has been abandoned as a result of construction of new roads shall be the property of the Government.

30. (1) Any person who

Penalty.

(a) is in unauthorised occupation of any land in a slip reserve or a road reserve or a river bank;

(b) removes any forest produce from a slip reserve or a road reserve or a river bank;

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to six thousand rupees or with both.

(2) Notwithstanding anything contained in sub-section (1), the person in unauthorised occupation shall be evicted in the manner as indicated in sub-section (7) of section 29.

31. The Government may, regulate the use of natural waters, ice and glaciers by industrial establishments within the territory of Sikkim and levy such taxes and duties as may be deemed appropriate in the manner prescribed.

Use of water resources/glaciers etc. by industrial establishment.

32. The Government may, by notification, declare that any slip reserve or road reserve or river bank shall be closed for such period as may be specified in that notification and that the rights of any person over such slip reserve, road reserve or river banks shall remain suspended during that period.

Power of Government to close slip reserve, road reserve or river banks.

CHAPTER-V

CONTROL AND MANAGEMENT OF PRIVATE FORESTS

33. For the purpose of this Chapter

- (a) "forest" includes any land containing trees and shrubs, pasture land and any land not being a reserve forest, a gorucharan or khasmal forest, slip reserve and road reserve, which the Government may, by notification, under this section declare to be a forest;
- (b) "owner" in relation to a forest or land includes a mortgagee, leasees or other person having rights to possession and enjoyment of forest land.

*Control over forests
or lands not being
the property
of Government,*

34. (1) No owner of any forest and no person claiming under him whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of this Act or any other person shall, without the previous permission of, the forest officer authorised in this behalf, cuts or girdles trees or do any act to denude the forest or diminishes its utility as a forest:

*Preservation of
private forest and
to reserve trees.*

Provided that nothing contained in this subsection shall apply to

- (a) the removal of fallen trees; and
- (b) the making of agricultural implements for bonafide use of the owner.
- (2) Notwithstanding anything contained in sub-section (1), the Government may, by notification, and for reasons to be specified in such notification, exempt any class of forest or class of trees of any forest produce found therein from all or any of the provisions of this section.
- (3) The Government may, by notification, declare any tree or species of trees to be reserved from the date fixed in such notification in such forest or land.

35. For the purpose of section 34, the Government may, make rules prescribing,-

*Power to make
rules.*

- (a) class or kinds or species of trees which may be permitted to be cut and girdled and girth of such trees;

- (b) the conditions subject to which permission for removal of trees may be granted;
- (c) the procedure to be followed by the forest officer before granting permission;
- (d) the procedure regarding granting of permission to fell trees specified under section 34.

36. (1) The Government may, by notification,

*Protection of forest or
land for special purposes.*

- (a) regulate or prohibit in any forest
 - (i) the breaking up or clearing of any land;
 - (ii) the pasturing of cattle;
 - (iii) the firing or clearing of vegetation;
 - (iv) the girdling, tapping or burning of any trees or stripping off bark or leaves of any trees;
 - (v) the lopping or pollarding of any trees;
 - (vi) cutting, sawing, conversion and removal of trees and timber;
 - (vii) the quarrying of stones or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing processes;
 - (b) regulate in any forest the regeneration of forest and their protection from fire;
 - (c) regulate the exercise of customary and prescriptive rights in such forests.
- (2) When protection of forest or land referred to in subsection (1) of section 34 appears to be necessary, the Government may, by notification, provide
- (a) for conservation of trees and forests;
 - (b) for the preservation, improvement of soil or the reclamation of saline or water logged land, the prevention of land slips or formation of ravines or torrents or the protection of land against erosion or the deposit therein of sand, stones, gravels or minerals;

- (c) for the improvement of grazing;
 - (d) for the maintenance of water supply and springs, rivers and tracks;
 - (e) for the protection against storms, winds, rolling stones, floods and avalanches;
 - (f) for the protection of roads, bridges, and other lines of communications.
- (3) No notification shall be made under sub-section (1) nor shall any work be commenced under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be issued or work commenced, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by any officer duly appointed on that behalf by the Government.

37. Whoever contravenes the provisions of sub-section (1) of section 34 or the rules made under section 35, or of the terms of a notification issued under section 36 shall, without prejudice to any other action that may be taken against him under this Act, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

38. (1) Any owner of any land or, if there be more than one owner thereof, the owners of all the shares therein may, with a view to the formation or preservation of forest thereon, apply in writing to the Government to take over the management of such land and the Government may, on such application, where it is of opinion that it is expedient in public interest to form or preserve the forest, by notification, assume the management of such land.

(2) When the management of any land is assumed under sub-section (1) save as otherwise agreed to between the Government and the applicants, the net profit, if any, arising from the management of the forest shall be paid to the owners.

- (3) The period of management shall be as such as may be agreed *to* between the Government and the applicants.
39. (1) Every occupant *or* holder of land shall be responsible for the due preservation *of* all trees growing thereon and shall in the event *of* any injury to any tree from whatever cause or its theft, at once report such fact to the nearest forest officer.
- (2) Any occupant *or* holder who fails to report any such case of injury or theft as aforesaid or to prove to the satisfaction *of* such officer *of* the rank: not below to that of a Range Officer that such injury or theft has not been caused either by his own act or by neglect or default on his part by any other person at his instigation or with his connivance shall, notwithstanding any other penalty *to* which he may be liable, be liable to pay such compensation on account *of* such injury or theft as the Range Officer may deem reasonable :

Provided that the Range Officer may, in cases in which he is satisfied that the person responsible for the act, neglect, default, instigation *or* connivance resulting in the injury or theft, tenant or the occupant or holder or any other person holding under or through a tenant *or* occupant or holder, direct that such tenant or occupant or holder *or* other persons shall be liable for compensation or, be proceeded against in the first instance for recovery thereof.

40. (1) Every person who whether as holder, occupant, tenant, sub-tenant or leasee or in any other capacity having right over trees growing or existing or found on any land, who is desirous *of* felling such *trees* for bonafide domestic use, shall apply to the forest officer not below the rank *of* Range Officer in the prescribed form and shall obtain permit.
- (2) No person shall remove any trees, wood, timber or other forest produce from his land without obtaining permit in this behalf in the manner provided in subsection (1):

Provided that no fees or duties shall be imposed on removal of such produce by any person from his land.

- (3) Every person who having right over trees growing or existing or found on any land, is desirous of felling such trees for commercial use shall apply to the forest officer not below the rank of Deputy Conservator of Forests and shall obtain a permit on payment, if any, as may be prescribed.

- 41. The provisions of Chapter III of this Act shall apply in respect of all forest produce and trees grown in any land under the control and management of a local authority and institution.

Application of provision of this Act relating to forest produce and trees grown in land under the control of the local authority and institution.

CHAPTER VI

TRANSIT OF FOREST PRODUCE

- 42. (1) The control of all rivers and their banks as regards floating of timber as well as the control of all timber and other forest produce in transit by land or water, is vested in the Government and it may make rules to regulate the transit of all timbers and other forest produce.

Power to make rules to regulate transit of Forest produce.

Explanation.- For the purpose of this Chapter, the forest produce shall be deemed to include semi-finished forest product for commercial purposes.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may,
 - (a) specify the routes by which timber or any other forest produce may be transported or moved into from or within the State and the fee thereof;
 - (b) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting a drift not such timber by any person not being the owner thereof or not acting on behalf of such owner or the Government;

- (c) provide for the stoppage, reporting, examination and marking of timber or other forest produce in transit, in respect of which there is reason to believe that any money is payable to the Government on account of the price thereof or any duty, fee, royalty or charge due thereon or to which it is desirable for the purpose of this Act to affix the mark;
- (d) provide for the establishment of check posts or the erection of barriers at such places as the Government may direct with a view to prevent or check commission of forest offences in respect of forest produce and for stoppage, reporting and examination of goods carried by any vehicle or vessel at such check posts or barriers;
- (e) provide for establishment and regulation of depots and stations to which such timber or other forest produce shall be taken by those in charge of it for examination, or for the payment of such money or in order that such marks may be affixed to it, and the conditions under which such timber or other forest produce shall be brought to, stored at and removed from such depots or stations and for regulating the appointment and duties of persons employed therein;
- (f) authorize the transport of such timber or other forest produce across any land and provide for payment of compensation for any damage done by the transport of such timber or other forest produce;
- (g) prohibit the closing up or obstructing of the bank of any river used for the transit of timber or other forest produce and throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;
- (h) provide for the prevention or removal of any obstruction of the channel or banks of any such river and for recovering the cost of such prevention or removal from the person whose act or negligence caused such obstruction;
- (i) prohibit absolutely or subject to conditions, within the whole of the State of Sikkim or specified local limits,

the establishment of saw pits, saw mills or any other sawing machines for converting, cutting, processing, distilling, storing, burying, canceling or marking of timber or other forest produce, the altering or defacing of any marks on the same or the possession or carrying of marking hammer or other implements used for marking timber

- (j) regulate the existing sawpits, saw mills or any other sawing contrivance:

Provided that no existing sawpits, saw mills or any other sawing contrivance shall be closed unless the owner thereof has been given an opportunity of being heard.

- (3) In making the rule under this section, the Government may provide that person guilty of contravention thereof shall, on conviction, be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both, and where the offence committed after sunset or before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted for a like offence, the Magistrate having jurisdiction shall inflict double the penalty prescribed for such offence.

43. The Government shall not be responsible for any loss for damage which may occur in respect of any timber or other forest produce while at a depot or station established under rules made under section 42 or detained elsewhere for the purpose of this Act and no such forest officer shall be responsible for any such loss or damage unless he causes loss or damage wilfully, negligently, maliciously or fraudulently.

44. In case of any accident or emergency involving danger to any property at any depot or station, every person employed at such depot or station shall render assistance to any forest officer or police officer demanding his aid in preventing the damage or loss to such property.

CHAPTER-VII

COLLECTION OF DRIFT AND STRANDED TIMBER

45. (1) All timber

*Certain kinds of timber
property of Government.*

- (a) found adrift, beached, stranded. or sunk;
 - (b) bearing marks which have not been registered in accordance with the rules made under section 42;
 - (c) which have been super marked or on which the marks have been obliterated, altered or defaced by fire or otherwise;
 - (d) which are not marked but found in such areas as the Government may specify;
- shall be deemed to be the property of the Government unless and until any person established his right and title thereto as provided in this Chapter.

- (2) The timber referred to in sub-section (1) may be collected by any forest officer or by any other person authorised to collect the same by virtue of any rule and may be brought to any forest depot.

46. Public notice shall, from time to time, be given by the forest officer regarding timber collected under section 45. Such notice shall contain a description of the timber and shall require any person claiming to same to present a written application for such claim to such officer within a period of not less than thirty days from the date of such notice.

*Notice to claimants
of drift timber.*

47. (1) When any application is presented under section 46, the forest officer may, after making such enquiry as he thinks fit, either reject the claim, after recording his reason there or accept the claim and deliver the timber to the claimant.

*Procedure for disposal
of application for
claim.*

- (2) If such timber is claimed by more than one person, the forest officer may either deliver the same to any such person whom he finds to be entitled thereto after recording the reasons therefor or may refer the claimants

to the Civil Court, and retain the timber pending the receipt of an order from such court for its disposal.

(3) Any person whose claim has been rejected under the section may, within thirty days from the date of intimation of the order of such rejection, institute a suit to recovery of the possession of the timber claimed by him but no such person shall be entitled to any compensation or costs against the Government or against any forest officer on account of such rejection or the detention or removal of any timber.

(4) Unless there are adequate arrangements for storage of timber detained or kept by the forest officer under this section the Court may order that the timber so detained or kept shall remain at the custody of the forest officer until the disposal of the suit.

48. If no application is presented under section 46, or on such claim having been preferred and rejected, fails to institute a suit for recovery of the possession of such timber within thirty days from the date of rejection of his claim, the ownership of such timber shall vest with the Government free from all encumbrances.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45 and no forest officer shall be responsible for any such loss or damage unless he causes such loss or damage wilfully, negligently, maliciously or fraudulently.

50. No persons shall be entitled to recover possession of any timber collected under section 45 or delivered under section 47 until he paid to the forest officer or other person entitled to receive such sum on account thereof as may be due under any rule made under section 51.

51. (1) The Government may, by notification, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to regulate the following matters, namely:

- (a) the salvaging, collection and disposal of all timber mentioned in this Chapter;
 - (b) the use and registration of boats or any other conveyance used in salvaging and collecting timber;
 - (c) the amount to be paid for salvaging, collecting, moving, storing or disposing of such timber;
 - (d) the use and registration of hammers and other instruments to be used for marking such timber.
- (3) In making the rules under this section, the Government may provide that a person guilty of contravention thereof shall, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

CHAPTER-VIII

CATTLE- TRESPASS

52. Any cattle trespassing in a reserved forest or in any portion of a khasmal forest or gorucharan forest or slip reserve or road reserve or river banks which has been closed by the Government for grazing shall be seized and impounded by any forest officer.
53. (1) The Government may, from time to time, by notification, direct that in all or any part of the areas which have been closed under section 25 or section 32, there shall be levied for each head of cattle or other animal impounded under section 52, such fine not exceeding fifty rupees as may be specified in such notification.
- (2) Any expenditure incurred by the Government during the period of impounding of such cattle for feeding shall be realized from the owner of the cattle at the time of release.
- (3) The officer impounding such cattle shall take all precaution for the safety of the cattle during the period such cattle or other animals remain impounded.

Explanation:- The burden of proof that the cattle or other animal has not been physically injured or diseased before the impounding lies with the owner of the cattle or other animals.

(4) The cattle or other animal which remains unclaimed for such period as may be prescribed shall be disposed of in such manner as may be prescribed.

54. The Government may, by notification, make rules to regulate the- following matters, namely:

- (a) establishment of cattle pound;
- (b) conditions of release of cattle and other animals from the pound;
- (c) maximum period of impounding; and
- (d) the manner of disposal of unclaimed cattle and other animal and disposal of sale proceeds.

CHAPTER-IX

PENALTIES AND PROCEDURE

55. (1) Where there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all implements, tools, vehicle used in committing any such offence may be seized by any forest officer.
- (2) Any forest officer may, if there is reason to believe that a vehicle has been or is being used for the transport of forest produce in respect of which there is a reason to believe a forest offence has been or is being committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationery as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in possession of such driver or other person in charge of the vehicle.
- (3) Every officer seizing any property under this section shall place on such property or the receptacle or vehicle, if any, in which it is contained a mark indicating

that the same has been seized and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try offence on account of which the seizure has been made:

Provided that where the forest produce in respect of which such offence is believed to have been committed is the property of the Government and if the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, report. of the circumstances of the seizure to his superior officer.

56. Any forest officer not below the rank of Range Officer who, or whose sub-ordinate has seized any cattle or other forest produce, animal, vehicle or any other thing referred to in section 55, may release the same on the execution by the owner thereof of a bond for the production of the property so released if and when so required before the Magistrate having jurisdiction to try the offence on account of which the seizure had been made.

57. (1) Any person who is in unauthorised occupation of forest land may without prejudice to any other action that may be taken against him under any other provisions of the Act or any other law for the time being in force, be summarily evicted, by a forest officer not below the rank of a Deputy Conservator of Forests having jurisdiction over the said forest land and any building or other construction erected thereon shall, if not removed by such person within such time as the Deputy Conservator of Forests may fix, be liable to forfeiture:

Provided that before evicting a person under this sub-section he shall be given a reasonable opportunity of being heard.

(2) Any property forfeited under sub-section (1) shall be disposed of in such manner as the Deputy Conservator of Forests may direct and the cost of removal of any crop, building or other work and all works necessary to restore the land to its original condition shall be recoverable from the persons evicted in the manner as if it were an arrear of land revenue.

- (3) Any person aggrieved by an order of the Deputy Conservator of Forests under sub-sections (1) and (2) may, within a period of one month and in such manner as may be prescribed, appeal against such order to the Conservator of Forests.
58. (1) The forest produce which is not the property of the Government and in respect of which a forest offence has been committed and all implements, vehicles, or other conveyance or any other vehicle used in committing such offence, shall be liable by order of the convicting court to be forfeited to the Government.
- (2) Such forfeiture may be in addition to any other punishment provided in this Act for such offence.
59. When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the property of the Government or has been forfeited, be taken possession of by the forest officer, and in any other case may be disposed of in such manner as - the court may, by order, direct.
60. When the offender is not known or cannot be found, the Magistrate may -if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be forfeited to the Government together with tools, vehicles or cattle and other articles used in committing the offence and taken charge of by the forest officer or to be made over to the person whom the Magistrate deems to be entitled to the same
- Provided that no such order shall be made until the expiration of thirty days from the date of seizing the property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.
61. Notwithstanding anything hereinbefore contained, the Deputy Conservator of Forests may direct sale of the property seized under section 55 which is subject to speedy and natural decay and -deposit the, sale proceeds with the Government.

62. Officer who made the seizure under section 55 or any officer superior or any person claiming to be interested in the property so seized may, within thirty days from the date of any order passed under section 58, section 59 or section 60, appeal to the Court having jurisdiction.
63. When an order for the forfeiture of any property has been passed under section 58 or section 60 thereof, as the case may be, and the period specified by section 62 for an appeal from such orders has lapsed, and no such appeal has been preferred, the court confirms such order in respect of the whole or a portion of such property or such portion thereof, as the case may be, shall vest in the Government free from all encumbrances.
64. Notwithstanding anything contained in the foregoing provisions of this Chapter, where a forest offence is believed to have been committed in respect of timber, firewood, charcoal and other forest produce which is the property of the Government, the officers seizing the property shall, without any unreasonable delay produce it, together with all implements ropes, chains, vehicles and cattle and other animal used in committing such offence before a superior forest officer authorised by the Government in this behalf, not being below the rank of the Deputy Conservator of Forests (hereinafter referred to as the authorised officer).
- (2) Where an authorised officer seizes any timber, charcoal, firewood and other forest produce which is the property of Government, or where such property is produced before an authorised officer under sub-section (1) and if he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of property so seized together with all ropes, chains, implements, vehicles, cattle and other animal used in committing such offence.
65. No order confiscating any property under section 55 shall be made except after serving a notice in writing to the person from whom it is seized and considering his objection if any

66. Any forest officer not below the rank of a Chief Conservator of Forests, before the expiry of thirty days from the date of the order of the Conservator of Forests under section 57, on his own motion call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such order as he deems fit:

Provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

67. Any person aggrieved by an order passed under section 64 or section 66 may, within thirty days from the date of issue of order to him appeal to the Magistrate having jurisdiction over the area of seizure of such property and the Magistrate after giving an opportunity to be heard shall pass an order either confirming or rejecting or modifying the order appealed against.

68. (1) Any forest officer exercising powers under this Act or any rule made thereunder who

(a) without reasonable ground of suspicion, searches or causes to be searched any place, premises, vehicle or vessel; or

(b) vexatiously detains or searches or arrests any person, shall, for every such offence, upon conviction by the court, be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(2) Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall, upon conviction by the court, be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or with both.

69. Whoever with intent to cause damage or injury to the public or to any person to cause wrongful gain as defined in the Indian Penal Code, 1860,

- (a) knowingly counterfeits upon any timber or standing tree a mark used by forest officer to indicate that such timber or such tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or
- (b) unlawfully affixes to any timber or standing tree a mark used by forest officers; or
- (c) alters, defaces or obliterates any such marks placed on any timber or standing tree by or under the authority of a forest officer; or
- (d) alters, moves, destroys or defaces any boundary marks of any forest to which the provisions of this Act are applicable;

shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to six thousand rupees or with both.

70. (1) A forest officer may, without an order from a Magistrate and without a warrant, arrest any person

- (a) who has been concerned in any forest offence punishable with imprisonment for not less than one month; or
- (b) who on demand of such forest officer, refuses, gives his name or residence or gives a name or residence which such officer has reason to believe to be false; or
- (c) if there is reason to believe that he will abscond.

(2) Any person arrested under sub-section (1), shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of Magistrate and no such person shall be detained in custody beyond the said period without the order of a Magistrate.

71. Any forest officer of the rank not below that of a Range Officer who, or whose subordinate, has arrested any person under the provisions of section 70 may, release such person on his executing a bond with or without surety to appear before the Magistrate if so required.

72. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), any Magistrate of the First Class especially empowered in this behalf by the State Government may try summarily any forest offence.
73. Every forest officer and police officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.
74. (1) The Government may, by notification, empower a forest officer not below the rank of a Range Officer
- (a) to accept from any person against whom reasonable suspicion exists that he has committed any forest offence, other than offence referred to in section 68 and section 69, a sum of money which shall be twice the value of the property involved by way of compensation for the offence which such person is suspected to have committed; and
 - (b) when any property has been seized is liable to confiscation to release the same on payment of the value thereof as estimated by such officer.
- (2) On the payment of such sum of money or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged with and the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.
75. When in any proceedings taken under the provisions of this Act or in consequence of anything done under this Act or under any other law for the time being in force, a question arises as to whether any forest produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved and in case of any prosecution the burden of proving the contrary shall lie on the accused.
76. (1) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees, or of injuring them by fire or otherwise in contravention of provisions of this Act or of any rule made thereunder, the convicting court may, in addition' to any other punishment

which it may impose, order that person to pay to the Government such compensation for each tree with respect to which the offence was committed, as it deems just.

- (2) Where the person convicted of commission of an offence is an agent or servant of another person, the court may, after holding such enquiry as it deems fit or giving him reasonable opportunity of being heard, order such person to pay the compensation if it is of the opinion that the offence was committed due to neglect or default of such other person.

77. When the holder of any lease, licence or contract whatsoever granted or continued by or on behalf of the Government for any of the purposes of this Act, or when any such offence is committed by any agent or servant of the holder of any such lease, licence or contract and the Government is satisfied with the commission of the offence was a consequence of the instigation of such holder or of any willful neglect or default on his part, the Government or a forest officer duly empowered by the Government in this behalf may, by order in writing, declare the lease, licence, or contract to be forfeited in whole or in part with effect on and from the date to be specified in the order.

78. This Act shall ,be, in addition to, and not in derogation of any other law for the time being in force.

CHAPTER-X

MISCELLANEOUS

79. (1) Without prejudice to the powers conferred upon a forest officer under this Act, Government may, by notification, invest any forest officer with all or any of the following powers, that is to say:
- (a) to enter upon any land and survey, demarcate and make a map of the same;
 - (b) to compel the attendance of witnesses, production of documents and the materials of objection;
 - (c) to hold investigation into forest offence, and in the course of such investigation to receive and record evidence;

- (d) to notify the seasons and manner in which fire may be kindled, kept or carried in a Reserved Forest or Forest;
 - (e) to grant permits referred to in the provisions of this Act;
 - (f) to give public notice of timber collected under section 45;
 - (g) to notify stations, depots for the receptions and sale of timber and forest produce;
 - (h) to take possession of property under this Act;
 - (i) to stop and check any vehicle suspected of being involved in a forest offence;
 - (j) to compound cases and charge compensation for damages caused by commission of forest offence.
- (2) Any evidence recorded under clause (c) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate:

Provided that it has been taken in the presence of the accused person and recorded in the manner as provided under sections 355, 356 or 357 of the Code of Criminal Procedure, 1898.

80. Every forest officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code 1860.
81. (1) No suit, prosecution or other legal proceedings shall lie against any forest officer for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.
- (2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.
82. No forest officer shall, either as principal or an agent or in any other capacity, trade in timber or other forest produce or become interested in any lease or mortgage of any forest within or outside the State of Sikkim.

83. (1) The Government may, by notification, make rules to carry out all or any of the purpose. 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) to confer or limit the power and duties of any forest officer under this Act;
- (b) to regulate the procedure of working by the forest officer under this Act;
- (c) *for* the preservation, reproduction and disposal of trees, timber and other forest produce belonging to Government or otherwise, grown on land belonging to or in the occupation of private persons;
- (d) to regulate the rewards to be paid to officers and informers;
- (e) to regulate the cuttings, felling, sale and disposal of trees in private holdings, or gorucharan or khasmal forest;
- (f) the fees to be levied in respect of licenses, permits, passes or permissions issued under this Act or rules made thereunder;
- (g) to prescribe the distance from the centre of the National Highway and other Highways as road reserve under sub-section (4) and sub-section (5) of section 29;
- (h) any other matter which is required to be or may be prescribed.

84. Any person who contravenes any provision of this Act or any rule made under this Act for contravention of which no separate penalty is provided, shall on conviction, be punishable with imprisonment for a term which may extend to one year or with a fine which *may* extend to six thousand rupees or with both.

85. Every person who

- (i) exercises any right in a reserve forest, khasmal forest or gorucharan forest or any other forest. land; or

- (ii) is permitted to take any forest produce from such forest or forest land; or
- (iii) cuts and removes timber; or
- (iv) pastures cattle in any forest; or.
- (v) is employed by any of the persons hereinbefore mentioned in a village contiguous to such a forest; or
- (vi) is employed by the Government; or
- vii) receives the emolument from the Government for services performed to the community;

shall be bound to furnish without unnecessary delay to nearest forest officer any information that he may possess regarding the occurrence of fire in or near such forest or commission of any forest offence and shall forthwith take steps,

- (a) to extinguish any forest fire in such forest or which he has knowledge or information;
- (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge of or information from spreading to such forest and shall assist any forest officer demanding his aid;
- (c) in preventing the commission of any forest offences; and
- (d) when there is reason to believe that any such offences has been committed, in such forest, in discovering and arresting the offender.

(2) Any person who is required to act in accordance with sub-section

(1) fails to- do so without lawful excuse

- (a) to furnish information to .the nearest forest officer;
- (b) to take steps to extinguish any forest fire;
- (c) to prevent spreading of fire;
- (d) to assist any forest officer demanding his aid in preventing the commission of forest offence;

shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with a fine which shall not be less than five thousand rupees or with both.

86. All monies payable to the Government under this Act or under any rule made thereunder on account of the price of any forest produce or of expenses incurred in the execution of this Act in respect of such produce may, if not paid when due, be recovered as if it were an arrear of land revenue.

87. (1) When any money referred to in section 86 is payable for in respect of any forest produce, the amount there of shall be deemed to be the first charge on such produce and such produce may be taken possession of by a forest officer duly empowered and may be retained by him until such amount has been paid.

(2) If such amount is not paid within the period of one month from the date of receipt of notice for such amount, the forest officer may sell such produce by public auction and the proceeds of sale shall be applied first in discharging such amount.

(3) The surplus of sale proceeds of such public auction, if any, if not claimed within sixty days from the date of sale by the person entitled thereto, shall be forfeited to the Government:

Provided that the Government may, for reasons to be recorded in writing, order the refund of such surplus sale proceeds to the person entitled thereto within the period of three years from the date of sale.

88. When any person in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servant and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of such breach of the conditions' thereof, may notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land' revenue.

89. If any difficulty arises in giving effect to the provisions of this Act. the Government may by order not inconsistent with the provisions of this Act. remove such difficulties:

Provided that no such order shall be made after the expiration of a period of three years from the date of commencement of this Act.

90.. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by any forest officer not below the rank of a Range Officer.

91. (1) The Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Ordinance, 1988 (Ordinance No.2 of 1988), is hereby repealed.

(2) Notwithstanding such repeal. anything done or any action taken in the exercise of the powers conferred by or under that Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or such action was taken.

(3) All existing orders, notifications, rules, regulations, byelaws, proclamations and other instrument having the force of law shall be deemed to have been made under this Act and they shall remain in force till the rules under the provisions of this Act are made.

SCHEDULE

(See section 29)

- | | |
|--------------------|------------------|
| 1. Teesta River | 54. Rabong Khola |
| 2. Rangeet River | 55. Kaliz Khola |
| 3. Takcham chu | 56. Rakel chu |
| 4. Ramphu chu | 57. Talung chu |
| 5. Aho Khola | 58. Ringi chu |
| 6. Andheri Khola | 59. Rahi chu |
| 7. Lachen chu | 60. Rongnek chu |
| 8. Lachung chu | 61. Rong chu |
| 9. Rathang chu | 62. Gangtok chu |
| 10. Dickling Khola | 63. Khedum chu |

11. Rongli Khola
12. Dichu
13. Pachey Khola
14. Rongni chu
15. Roro chu
16. Lungze chu
17. Biju chu
18. Rate chu
19. Bakcha chu
20. Reshi chu
21. Dick chu
22. Reshi chu
23. Chakung chu
24. Ongchu
25. Rum chu
26. Monmu chu
27. Rang Phap chu
28. Ramphu chu
29. Rangyong chu
30. Kayam chu
31. Relli chu
32. Rothak chu
33. Reshi chu
34. Kalej Khola
35. Rang Dung chu
36. Rimbi chu
37. Riyong Khola
38. Bhari Khola
39. Meyong chu
40. Prekchu
41. Raman Khola
42. Song Khola
43. Pabong Khola
44. Yalichu
45. Reshi chu
46. Kanaka
47. Hee Khola
48. Dentam Khola
49. Sangya Khola
50. Manpur Khola
51. Rolu Khola
52. Rabi Khola
53. Seti Khola
64. Byangya cbo
65. Bitchu chu
66. Cbyakum chu
67. Yomthang chu
68. Damang chu
69. Berung chu
70. Dongkhya chll
71. Sebu chu
72. Toklum chu
73. Sema chu
74. Sevo chu
75. Zema chu
76. Chholam chu
77. Lhonakchu
78. Nakuchu
79. Lhorachu
80. Lungurachu
81. Gomachu
82. Thomp
83. Pokecbu
84. Burungchu
85. Gyamthangcha
86. Kalep chu
87. Lasha. chu
88. Tholangchu
89. Ringphichu
90. Umram chu
- '91. Rubel chu
92. Phensangchu
- '93. Rateychu
94. Rangrang chu
95. Rangchang chu
96. Q Khola
- '97. Martam Khola
98. Neem Khola
- '99. Chokchurang chw
100. Yangsha chu
- t01. Chi! Kbola
102. Bareli Khola
- 103 Khani Khola (Melli'
104. Any -other river that may
be included by the Govern
ment, by notification, from time
to time

**THE SIKKIM COURT FEES (EXEMPTION AND MISCELLANEOUS
PROVISIONS) AMENDMENT ACT, 1988
(ACT NO.7 OF 1988)
AN ACT**

[29-8-1988]

further to amend the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Act, 1983.

BE it enacted by the Legislature of Sikkim in the Thirty ninth Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Amendment Act, 1988. *Short title and commencement*

(2) It shall be deemed to have come into force on the 3rd day of November, 1987.
2. In section 3A of the Sikkim Court Fees (Exemption and Miscellaneous Provisions) Act, 1983, in sub-section (1), for the words "twenty five thousand rupees", the words "ten thousand rupees" shall be substituted. *Amendment of section 3A.*
3. (1) The Sikkim Court Fees (Exemption and Miscellaneous Provisions) Amendment Ordinance, 1988 (Ordinance No.1 of 1988), is hereby repealed. *Repeal and Saving.*

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under that Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in.. force on the day on which such thing was done or such action was taken.

**THE SIKKIM CIVIL COURTS (AMENDMENT)ACT 1988
(ACT NO.8 OF 1988)
AN ACT**

[29-08-1988]

to amend the Sikkim Civil Courts Act, 1978.

Be it enacted by the Legislature of Sikkim in the Thirty ninth Year of the Republic of India as follows-

1. (1) This Act may be called the Sikkim Civil Courts (Amendment) Act, 1988. *Short title and commencement.*
- (2) It shall come into force at once.
2. In the Sikkim Civil Courts Act, 1978 (hereinafter referred to as the principal Act), in section 16, *Amendment of section 16.*
- (i) in sub-section (1) for the words "ten thousand rupees," the words "fifty thousand rupees" shall be substituted;
- (ii) in sub-section (2), for the words "not exceeding twenty thousand rupees as may be specified in the notification", the words "exceeding fifty thousand rupees but not exceeding one lakh rupees" shall be substituted;
3. In the principal Act, in section 18, in sub-section (1), in clause (a), for the words "five thousand rupees", the words "fifty thousand rupees", shall be and shall be deemed always to have been inserted with effect *from* the 1st day of July, 1978. *Amendment of section 18.*

THE SIKKIM MOTOR VEHICLES TAXATION (AMENDMENT)

ACT, 1988

(ACT No. 11 of 1988)

AN ACT

[29. 8. 1988]

further to amend the Sikkim Motor Vehicles Taxation Act, 1982.

Be it enacted by the Legislature of Sikkim in the Thirty-ninth Year *of* the Republic of India as follows:

1. (1) This Act may be called the Sikkim Motor Vehicles Taxation (Amendment) Act, 1988. *Short title and commencement*
- (2) It shall come into force on such date as the State Government may, by notification, appoint.
2. In the Schedule to the Sikkim Motor Vehicles Taxation Act, 1982 in paragraph B, in sub-paragraph II, for clauses (a) and (b) and the entries relating thereto. the following clauses and entries shall be substituted, namely: *Amendment of The Schedule.*

"(a) not more than 4

3 Wheelers.....Rupees 130.00

4 Wheelers..... Rupees 195.00

(b) More than 4.....Rupees 390.00 plus Rupees 39.00 for every additional seat beyond 5."

THE SIKKIM REGISTRATION OF COMPANIES AMENDMENT ACT, 1989

(ACT NO.3 OF 1989)

AN ACT

[6. 3. 1989]

to amend the Registration of Companies Act, Sikkim, 1961.

Whereas it has become necessary to comply with the provisions of the Constitution of India and limit the power of the State with regard to registration of companies in the State of Sikkim;

And whereas the provisions of the Registration of Companies Act, Sikkim, 1961 are to be confined to the entries in List II (State List) of the Seventh Schedule to the Constitution of India;

Be it enacted by the Legislature of Sikkim in the Fortieth. Year of the Republic of India as follows:

1. This Act may be called the Sikkim Registration of Companies (Amendment) Act, 1989.

Short title.

2. In section 2 of the Registration of Companies Act, Sikkim, 1961, in clause (ii), after sub-clause (c), the following sub-clause shall be and shall always be deemed to have been inserted, namely:

Amendment of section 2.

"(d) a Company which shall not be a Company set up to carry on business' in any other State except the State of Sikkim relating to acquisition and transfer of stock or shares, or investment of money or value of money or any form of trade in investments."

THE SIKKIM LEGISLATIVE ASSEMBLY MEMBERS (PAYMENT OF PENSION) AMENDMENT ACT, 1989.**(ACT NO.4 OF 1989)****AN ACT**

[6.3-1989]

to amend the Sikkim Legislative Assembly Members (Payment of Pension) Act, 1984.

Be it enacted by the Legislative Assembly of Sikkim in the Fortieth Year of the Republic of India as follows:

- | | |
|---|--|
| <p>1. (1) This Act may be called the Sikkim Legislative Assembly Members (Payment of Pension) Amendment Act, 1989.
(2) It shall come into force on and from the 1st day of April, 1989.</p> | <p><i>Short title and Commencement</i></p> |
| <p>2. In the Sikkim Legislative Assembly Members (Payment of Pension) Act, 1984 (Act 4 of 1984), in Section 2, for clause (a), following clause shall be substituted, namely:

(a) "Assembly" means the Sikkim Legislative Assembly duly constituted under the Constitution (Thirty-sixth Amendment) Act, 1975 and thereafter".</p> | <p><i>Amendment of Section 2.</i></p> |

THE SIKKIM MINISTERS, SPEAKER, DEPUTY SPEAKER AND MEMBERS OF THE**LEGISLATIVE ASSEMBLY****(SALARIES AND ALLOWANCES) AMENDMENT ACT, 1990.****(ACT NO.1 OF 1990)****AN ACT**

[30-3-1990]

further to amend the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Act, 1977.

Be it enacted by the Legislative Assembly- of Sikkim in the Forty-first Year of the Republic of India as follows:

- | | |
|---|--|
| <p>1. (1) This Act may be called the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Amendment Act, 1990.</p> | <p><i>Short title and commencement</i></p> |
|---|--|

(2) It shall be deemed to have come into force with effect from the 1st day of December, 1989.

2. In the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Act, 1977, in sub-section (2) of section 4, for the words "four hundred rupees" the words "three thousand rupees" shall be substituted.

Amendment of section 4. 4 of 1977.

**THE SIKKIM OFFICIAL LANGUAGES (AMENDMENT) ACT 1990
(ACT NO.5 OF 1990)**

AN ACT

[30-3-1990]

further to amend the Sikkim Official Languages Act, 1977. Be it enacted' by the Legislative Assembly of Sikkim in the Forty first Year of the Republic of India as follows:

1. (1) This Act may be called the Sikkim Official Languages (Amendment) Act, 1990.

Short title and Commencement

(2) It shall come into force with effect from the 26th day of April, 1990.

2. In the Sikkim Official Languages Act, 1977, (5 of 1977) after section 2, the following section shall be inserted, namely:

Insertion of new section 2A.

"2A. Notwithstanding anything contained in section 2, the English language shall continue to be used for transaction of business in the Legislative Assembly of Sikkim in addition to the official languages of the State."

Continuance of English for use in the Legislative Assembly.

**THE SIKKIM MOTOR VEHICLES TAXATION (AMENDMENT) ACT, 1990
(Act No.6 of 1990)**

AN ACT

[20-9-1990]

further to amend the Sikkim Motor Vehicles Taxation Act, 1982.

Be it enacted by the Legislative Assembly of Sikkim in the Forty-first Year of the Republic of India as follows:-This Act may

1. be called the Sikkim Motor Vehicles Taxation (Amendment) Act, 1990.
2. In Section 2 of the Sikkim Motor Vehicles Taxation Act, 1982 (hereinafter referred to. as the principal Act), in clause (g), *for* the words and figure "the Sikkim Motor Vehicles Act, 1957" the words and figure "the Motor Vehicles Act, 1988" shall be substituted.
3. In section 4 of the principal Act, in the second proviso to sub-section (2), *for* the words and figures "section 25 of the Motor Vehicles Act, 1939", the words and figures "section 43 of the Motor Vehicles Act, 1988", shall be substituted.
4. In section 5 of the principal Act, for the words and figure "the Sikkim Motor Vehicles Act, 1957", the words and figure "the Motor Vehicles Act, 1988", shall be substituted.
5. In section 14 of the principal Act, *for the words and* figure "the Sikkim Motor Vehicles Act, 1957" the words and figure "the Motor Vehicles Act, 1988" shall be substituted.
6. In the principal Act, after section 15, the following new section shall be inserted, namely:

(1)"15A. Compounding of Offences.- The Taxation Officer may, either before or after the institution of proceeding *for* any offence punishable under clause (a) of section 13, accept *from* any person charged with such offence by way of composition thereof such sum of money *for* such period of time the tax or additional tax has remained unpaid, as the State Government may, by notification, specify.

(2) On payment by such person of such sum together with the Amount of tax or additional tax, if any. due, such person, if in custody, shall be set at liberty and if any proceeding in any criminal court have been instituted against such person in respect of the offence, the composition shall be deemed to. amount to. an acquittal and no. further criminal proceedings shall, be taken against such person in respect of such offence."

7. In the Schedule to the principal Act, in paragraph C, for the word "private", the word "goods" shall be substituted.

*Amendment of the
Schedule.*

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 1991

(ACT NO.1 of 1991)

AN ACT

[30. 3. 1991]

further to amend the Sikkim Panchayat Act, 1982.

Be it enacted by the Legislature of Sikkim in the Forty-Second Year of the Republic of India as follows:

1. This Act may be called the Sikkim Panchayat (Amendment) Act, 1991.

Short title.

2. In section 2 of the Sikkim Panchayat Act, 1982 (hereinafter referred to as the "Principal Act"), for clause (d), the following clause shall be substituted, namely:

*Amendment of
section 2.*

"(d)" "District Development Officer-cum-Panchayat Officer" means the District Development Officer-cum-Panchayat Officer of the District appointed by the State Government".

3. Throughout the Principal Act, unless otherwise expressly provided, for the words "Deputy Development Officer-cum Planning Officer" wherever they occur, the words "District Development Officer-cum-Panchayat Officer" shall be substituted.

*Substitution of
reference to certain
expression by cer
tain other expe
ssion.*

4. In section 42 of the Principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:

*Amendment of
section 42.*

"(e) one senior Pipon each from Lachen and Lachung Dzumsas in case of Zilla Panchayat, North District.

5. In section 45 of the Principal Act, for proviso to sub. section

Amendment of

(1), the following proviso shall be substituted, namely:

,section 45.

"Provided that the members referred to in clauses (b),

(c) and (e) of sub-section (2) of section 42 shall not be eligible for such election nor shall they have any voting right thereof."

6. (1) The Sikkim Panchayat (Amendment) Ordinance, '1991 (Ordinance No.1 of 1991) and Sikkim Panchayat (Amendment) Ordinance, 1991 (Ordinance No 2 of 1991) are here-by repealed.

*Ordinance, No.1
and 2.*

(2) Notwithstanding such repeal, any thing done or any action taken under the Ordinances so repealed shall be deemed to have been taken under the corresponding provisions of this Act.

*Repeal and
Saving.*

**THE SIKKIM MINISTERS, SPEAKER, DEPUTY SPEAKER AND , MEMBERS OF THE
LEGISLATIVE ASSEMBLY (SALARIES ANDALLOWANCES) AMENDMENT, ACT, 1991.**

(ACT NO.5 OF 1991)

AN ACT

[17-3-1991]

further to amend the Sikkim Ministers, Speaker Deputy Speaker' and Members. of the Legislative- Assembly (Salaries and Allowances) Act, 1977.

Be it enacted by the Legislative, Assembly .of Sikkim in the Forty-second Year of the Republic of India as follows

1. (1) This Act may be called the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances)'Amendment ,Act, 1991.

Short title and commencement.

(2) It shall be deemed to have come. into force with effect from' the 1 st day of July, 1991.

2. In the Sikkim Ministers, Speaker, Deputy Speaker and Members of the Legislative Assembly (Salaries and Allowances) Act, 1977 (hereinafter referred to as the principal Act), in section 3, for sub-section (3) the following sub-section shall be substituted namely:

*Amendrnent .of
section 3.*

(3) There shall be paid to every member of the Assembly

(a) a salary at the rate of one thousand rupees per month;

(b) a consolidated allowance at, the rate of five hundred rupees per month for his travelling and other expenses necessary for attending the meetings of the Assembly; and

(c) a constituency allowance of one thousand rupees per month

3. In the principal Act, after section 7, the following new section shall be inserted namely:

Insertion of new section 7 A.

- 7 A. (1) Every Member shall be provided with a telephone at his residence if located within and around Gangtok for the term of his office and all expenses for initial deposit, installation, rental and official trunk call charges and local charges upto such limit as may be specified from time to time by the Government shall be borne by the Government.

"Telephone facilities.

(2) In the case of a Member already having a telephone at his residence, if located within and around Gangtok the rental and official trunk call charges and local charges upto such limit as may be specified from time to time by the Government shall be borne by the Government for the term of his office

**THE DENZONG AGRICULTURAL CO-OPERATIVE LIMITED
(ACQUISITION OF CERTAIN SHARES AND MISCELLANEOUS
PROVISIONS) ACT, 1991**

(ACT NO.6 OF 1991)

AN ACT

[17-9-1991]

to provide in the public interest for acquisition of shares held by individual members of the Denzong Agricultural Co-operative Limited for its better and smooth functioning and extension of better co-operative facilities in the State of Sikkim with a view to providing an apex (Federal) Co-operative character to the Denzong Agricultural Co-operative limited and for matters connected therewith or incidental thereto,

Be it enacted by the Legislative Assembly of Sikkim in the Forty-second Year of the Republic of India as follows:

CHAPTER-I

Preliminary

1. This Act may be called the Denzong Agricultural Co-operative Limited (Acquisition of Certain Shares and Miscellaneous Provisions) Act, 1991.

Short title and Commencement

(2) It shall be deemed to have come into force from 3rd day of July, 1991.

2. In this Act, unless the context otherwise requires,

Definitions.

(a) . "Denzong Cooperative" means the Denzong Agricultural Co-operative Limited;

(b) "Multi-Purpose Co-operative Society" means a Multipurpose Co-operative Society registered under the Sikkim Co-operative Societies Act, 1978;

12 of 1978.

(c) "person" does not include the State Government or a Co-operative Society registered under the Sikkim Co-operative Societies Act, 1978;

12 of 1978.

(d) "share holder" means and includes a person who holds shares of the Denzong Co-operative;

(e) "State Government" means the State Government of Sikkim;

(f) words and expressions used herein and not defined but defined in the Sikkim Co-operative Societies Act, 1978 shall have the meanings respectively assigned to them in that Act.

12 of 1978.

CHAPTER-II

ACQUISITION OF SHARES HELD BY INDIVIDUAL MEMBERS OF THE DENZONG AGRICULTURAL CO-OPERATIVE LIMITED AND VESTING THEREOF

3. (1) On and from the date of commencement of this Act, all the shares in the share Capital of the Denzong Co-operative (other than those held by the State Government or any other co-operative society) shall, by virtue of this Act, stand transferred to and shall vest in the State Government.

Vesting in the State Government of certain shares of Denzong Co-operative.

(2) All the shares which have vested in the State Government under sub-section (1) shall, by force of such vesting be freed and discharged of all trusts, liabilities, obligation, mortgages, charges, liens or other encumbrances affecting them and any attachment or injunction

or any decree or order of any court, tribunal or other authority restricting the use of such shares in any manner shall be deemed to have been withdrawn.

(3) ,Notwithstanding the transfer of the shares held by individual members of the Denzong Co-operative under sub-section (I), any person holding such shares, who immediately before the commencement of this Act is entitled to payment of dividend on such shares. shall 'be entitled to receive from the Denzong Cooperative

(a) all dividends accruing to his shares before the date of commencement of the Act and remaining unpaid;

(b) dividends calculated at a rate not exceeding nine per cent in respect of any period before the date of commencement of this Act for which the Denzong Co operative has not declared or paid any dividend.

4. Notwithstanding anything contained in section 3, the State Government may direct, by notification, that the shares of all the individual 'members of the Denzong Agricultural Co-operative Limited which have vested in the State Government under' section 3 shall, instead of continuing to vest in the State Government, vest in the different Multi-Purpose Co-operative Societies Limited on the date of the notification or on such later date as may be specified in the notification.

(2) Where the shares of the individual members of the Denzong Agricultural Co-operative Limited vest in the different Multi-Purpose Co-operative Societies under sub-section (I), such societies, on and from the date of such vesting, be deemed to have become the owner in relation to such shares and all the rights and liabilities of the State Government in relation to such shares shall, on and from the date of such vesting, be deemed to have become the rights and liabilities respectively of such Societies.

CHAPTER-III

PAYMENT OF AMOUNTS

5. For the transfer and vesting in the State Government of the shares held by individual members of the Denzong

Co-operative under section. 3, there shall be .paid -by. the State Government to the individual members the actual amount of shares held by such members with the Denzong Co-operative.

CHAPTER-IV

MISCELLANEOUS

6. Notwithstanding anything inconsistent therewith contained in any other law for the. time being in force, the Denzong Co-operative shall have only the following two classes of share-holders, namely:
 - (a) the State. Government, and
 - (b) co-operative societies registered under the Sikkim Co operative Societies Act, 1978.
7. (1) . Any share-holder whose share. or shares has of' have been vested in the State Government under the provisions of section 3 may, within two .months from the date of vesting, apply in writing to the Registrar for payment of the amount due to him under this Act:

I, Provided that if the Registrar is satisfied that any share holder was prevented by sufficient cause from making an ! application for payment of the amount due to him within the stipulated period of two months, he may condone the delay and entertain the application.

 - (2) All such applications shall be disposed of by the Registrar within one month from the date of receipt thereof.
8. Any money unclaimed shall be transferred by the Registrar to the general revenue account of the State Government.
9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any Court. tribunal or other authority.
10. The State Government may *by* notification published in the Official Gazette, make rules for carrying out the provisions of this Act.

11. No suit, prosecution or other legal proceeding shall lie against the State Government or the Denzong Co-operative or any officer of the State Government or the Denzong Co-operative for anything which is in good faith done or intended to be done under this Act.

12. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

13. (1) The Denzong Agricultural Co-operative Limited (Acquisition of Certain Shares and Miscellaneous Provisions) Ordinance 1991 (Ordinance No.3 of 1991), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under that Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or such action was taken.