THE MAHARASHTRA NON-TRADING CORPORATIONS ACT

[*Text as on 3rd June 2024*]

CONTENTS

PREAMBLE.

SECTIONS.

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.
3. Registrar and other officers.
4. Act to override memorandum, articles, etc.

CHAPTER II

INCORPORATION OF CORPORATIONS AND MATTERS INCIDENTAL THERETO

5. Mode of forming corporations.
6. Requirements with respect to memorandum.
7. Alteration of memorandum.
8. Articles prescribing regulations for corporations.
9. Alteration of articles.
10. Alteration of memorandum and articles to be registered.
11. Corporations not to be registered with undesirable names.
12. Change of name by corporations.
13. Rectification of name of corporations.
14. Registration of change of name and effect thereof.
15. Registration of memorandum and articles.
16. Effect of registration.
17. Conclusiveness of certificate of incorporation.
18. Effect of registration of memorandum and articles.
19. Effect of alteration in memorandum or articles.
20. Amalgamation or division of corporations.

CHAPTER III

MANAGEMENT AND ADMINISTRATION

21. Register of members.
22. Power of Registrar to rectify register of members.
23. Directors.
24. General powers of Board.
25. Restrictions on powers of Board.

26. Annual general meeting.

27. Power of State Government to call annual general meeting.

28. Registration of certain resolutions.

29. Minutes of proceedings of general meetings and of Board and other meetings.

30. Minutes to be evidence.

31. Presumptions to be drawn where minutes duly drawn and signed.

32. Inspection of minutes books of general meetings.

33. Books of accounts to be kept by corporations.

34. Annual accounts and balance sheet.

35. Right of members to copies of balance sheet and auditors‟ report.

36. Three copies of balance sheet, etc. to be filed with Registrar.

37. Appointment of auditors.

38. Powers and duties of auditors.

39. Form of contracts.

40. Investment of corporation to be held in its own name.

CHAPTER IV

ARBITRATION AND WINDING UP

Arbitration.

41. Power for corporations to refer matters to arbitration.

Winding up.

42. Modes of winding up.

Voluntary Winding up.

43. Circumstances in which corporation may be wound up voluntarily.

44. Effect of voluntary winding up on status of corporation.

45. Declaration of solvency in case of proposal to wind up voluntarily.

46. Corporation to appoint and fix remuneration of liquidators.

47. Board‟s powers to cease on appointment of liquidator.

48. Powers and duties of liquidator.

49. Final meeting and dissolution.

Winding up by Registrar.

50. Winding up by Registrar.

51. Cancellation of registration.

52. Power of Registrar to assess damage against delinquent promoters, etc.

53. Bar of suit in winding up and dissolution matters.

GENERAL

54. Disposal of surplus assets.

55. Power to enforce attendance, etc.

56. Appeals.

57. Money how recovered.

58. Liability as contributories of present and past members.

59. Obligations of directors whose liability is unlimited.

60. Contributory and nature of his liability.

CHAPTER V

CONTROL

61. Power of Registrar to call for information.

62. Special audit by Registrar.

63. Investigation of affairs of corporation.

64. Production of documents and evidence.

65. Prosecution.

66. Inspection, production, and evidence of documents kept by Registrar.

CHAPTER VI

OFFENCES

67. Meaning of officer who is in default.

68. Penalty for contravention of section 13.

69. Penalty for contravention of section 26 or 27.

70. Penalty for contravention of section 28.

71. Penalty for contravention of section 29.

72. Penalty for contravention of section 32.

73. Penalty for contravention of section 33.

74. Penalty for contravention of section 34.

75. Penalty for contravention of section 35.

76. Penalty for contravention of section 36.

77. Penalty for contravention of section 38.

78. Penalty for contravention of section 40.

79. Penalty for contravention of section 45.

80. Penalty for contravention of section 49.

81. Penalty for contravention of section 61.

82. Penalty for false statement.

83. Penalty for wrongful withholding of property.

84. Members guilty of offences punishable as strangers.

85. Penalty for contravention not provided for.

86. Offences against Act to be cognizable only on complaint by Registrar, member or State Government.

87. Jurisdiction to try offences.

88. Offences to be non-cognizable.

CHAPTER VII

MISCELLANEOUS

89. Prohibition for borrowing money, etc.

90. Application of assets in furtherance of objects.

91. Copies to be furnished to members.

91A. Fee for filing or registering certain documents under the Act with Registrar.

92. Recovery of sums due to State Government.

93. Rules.

94. Indian Companies Act, 1913 to cease to apply to corporations.

95. Saving.

SCHEDULES

SCHEDULE I

SCHEDULE II

SCHEDULE III

LIST OF AMENDMENT ACTS

1. Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
2. Amended by Mah. 33 of 1961 (9-9-1961)
3. Amended by Mah. 24 of 2012 (22-8-2012)

Note.- The date mentioned in the bracket indicates the date of commencement of the Act.

BOMBAY ACT No. XXVI OF 1959[1]

[THEMAHARASHTRANON-TRADINGCORPORATIONSACT.]

[This Act received the assent of the President on the 24th April 1959: assent was first published in the *Bombay Government Gazette*, Part IV, Extraordinary on the 30th April 1959.]

An Act to provide for the incorporation, regulation and winding up of non-trading corporations whose objects are confined to the State of Bombay.

WHEREAS it is expedient to provide for the incorporation, regulation and winding up of non-trading corporations whose objects are confined to the State of Bombay and for matters incidental thereto; It is hereby enacted in the Tenth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.— (*1*) This Act may be called [2][the Maharashtra Non-trading Corporations Act].

(*2*) It extends to the whole of the [3][State of Maharashtra.]

(*3*) It shall come into force on such date[4] as the State Government may, by notification in the *Official Gazette*, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*1*) "articles" means the articles of association of a corporation as originally framed or as altered from time to time in accordance with this Act;

(*2*) ,,,,Board of directors" or "Board", in relation to a corporation, means the Board of directors of the corporation;

(*3*) "corporation" means a non-trading corporation, formed and registered under this Act, or deemed to have been registered thereunder;

(*4*) "director" includes any person occupying the position of a director by whatever name called;

(*5*) "financial year" means, in relation to a corporation, the period in respect of which the income and expenditure of the corporation laid before it in annual general meeting is made up whether that period is a year or not;

(*6*) "memorandum" means the memorandum of association of a corporation;

(*7*) "officer" includes a chairman, secretary, manager, treasurer, director or any other person empowered to give directions in regard to the affairs of a corporation;

(*8*) "ordinary resolution"— a resolution shall be an ordinary resolution when at a general meeting of which the notice required under the articles of a corporation has been duly given, the votes cast (whether on a show of hands, or on a poll, as the case may be) in favour of the resolution (including the casting vote, if any, rs who, being entitled so to do, vote in

person, or where proxies are allowed, by proxy, exceed the votes, if any, cast against the resolution by members so entitled and voting;

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

1 For Statement of Objects and Reasons of the L. A. Bill No. XII of 1959, *see Bombay Government Gazette*, 1959, Extraordinary, Part V, dated 6th February 1959, pages 100-103.

2 The short title of the Act was amended for the "the Bombay Non-trading Corporations Act, 1959" by Mah. 24 of 2012, ss. 2 and 3, Schedule, entry 75, *w. e. f.* 1st May 1960.

3 These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

4 1st December 1959 *vide* G. N., F. D., No. BCA-1059/202649-G-2, dt. 5-11-1959.

(*10*) "Registrar" means a person appointed by the State Government under section 3 to perform the duties of the Registrar;

(*11*) "Schedule" means a schedule appended to this Act;

(*12*) "Scheduled Bank" has the same meaning as in the Reserve Bank of India Act, 1934 (II of 1934).

(*13*) "special resolution"— a resolution shall be a special resolution when—

(*a*) the intention to propose the resolution as a special resolution has been duly specified in the notice calling the general meeting or other intimation given to the members of the resolution;

(*b*) the notice required under the articles has been duly given of the general meeting; and

(*c*) the votes cast in favour of the resolution (whether on a show of hands, or on a poll, as the case may be,) by members who, being entitled so to do, vote in person, or where proxies are allowed, by proxy, are not less than three times the number of votes, if any, cast against the resolution by members so entitled and voting.

3. Registrar and other officers.— For the purpose of registration of corporations under this Act, the State Government may appoint a Registrar and such Additional, Joint, Deputy, Assistant or District Registrars as it thinks necessary to assist the Registrar and may by general or special order confer on those assisting the Registrar all or any of the powers of a Registrar under this Act.

4. Act to override memorandum, articles, etc.— Save as otherwise expressly provided in the Act—

(*a*) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles or in any agreement executed by a corporation, or in any resolution passed by it in general meeting or by its Board of directors; and

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

CHAPTER II

INCORPORATION OF CORPORATIONS AND MATTERS INCIDENTAL THERETO

5. Mode of forming corporations.— (*1*) Any seven or more persons associated for the purpose of promoting or encouraging commerce, industry, literature, art, science, diffusion of useful knowledge, foundation and maintenance of libraries, museums or such other purpose may, by subscribing their names to a memorandum or otherwise complying with the requirements of this Act in respect of registration, form a corporation, provided that—

(*a*) the objects for which the corporation is formed are confined to the 1[State of Maharashtra.]

(*b*) the corporation intends to apply the profits, if any, or other income in promoting its objects, and

(*c*) the corporation intends to prohibit the payment of any dividend to its members.

(*2*) Such a corporation may be either—

(*a*) a corporation having the liability of its members limited by the memorandum to the amount, if any, unpaid on shares respectively held by them; or

1 These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

(*b*) a corporation 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 corporation in the event of its being wound up.

(*3*) It shall not be necessary to use the word "limited" as the last word in the name of a corporation registered under this Act.

6. Requirements with respect to memorandum.— (*1*) The memorandum of a corporation shall be in the form specified in Schedule I or in a form as near thereto as circumstances admit.

(*2*) The memorandum shall—

(*a*) state the name of the corporation ;

(*b*) state the place and address where the registered office of the corporation is to be situate ;

(*c*) state the objects of the corporation ;

(*d*) state the amount of share capital with which the corporation is to be registered and the division thereof into shares of a fixed amount ;

(*e*) in the case of a corporation limited by guarantee, state that each member undertakes to contribute to the assets of the corporation in the event of its being wound up while he is a member or within one year after he ceases to be member, for payment of the debts and liabilities of the corporation, or of such debts and liabilities of the corporation 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 ;

(*f*) be printed and divided into paragraphs numbered consecutively; and

(*g*) be signed by each subscriber (who shall add his address, description and occupation, if any, and the number of shares he takes) in the presence of at least one witness who shall attest the signature (and shall likewise add his address, description and occupation, if any).

7. Alteration of memorandum.— (*1*) A corporation shall not alter the conditions contained in its memorandum except with the previous permission of the Registrar.

(*2*) Only those provisions contained in the memorandum which are required by section 6 or by any other specific provision contained in this Act to be stated in the memorandum of a corporation, shall be deemed to be conditions contained in its memorandum.

(*3*) Other provisions contained in the memorandum including those relating to the appointment of manager, secretary or treasurer may be altered in the same manner as the articles of the corporation.

(*4*) All references to the articles of a corporation in this Act shall be construed as including references to the other provisions aforesaid contained in its memorandum.

(*5*) In granting previous permission under sub-section (*1*), the Registrar shall have regard to the fact that the objects of the corporation do not on such alteration make the corporation a trading corporation, and do not otherwise make such corporation ineligible for registration under this Act.

(*6*) An appeal shall lie to the State Government against an order of the Registrar refusing to grant such permission.

8. Articles prescribing regulations for corporations.— (*1*) There shall be registered with the memorandum, articles of association signed by the subscribers to the memorandum prescribing regulations for the corporation.

(*2*) Such articles may provide for all or any of the matters provided in Schedule II.

(*3*) Articles shall—

(*a*) be printed and be divided into paragraphs numbered consecutively; and

(*b*) be signed by each subscriber of the memorandum (who shall add his address, description and occupation, if any), in the presence of at least one witness who shall attest the signature (and likewise add his address, description and occupation, if any).

9. Alteration of articles.— (*1*) Subject to the provisions of this Act and to the conditions contained in its memorandum, a corporation may, by special resolution, alter its articles.

(*2*) Any alteration so made shall, subject to the provisions of this Act, be as valid as if originally contained in the articles and be subject in like manner to alteration by special resolution.

10. Alteration of memorandum and articles to be registered.— (*1*) Every alteration of the memorandum or articles shall as soon as possible after such alteration is made be filed by a corporation with the Registrar and the Registrar shall register the same and shall certify the registration under his hand.

(*2*) The certificate shall be conclusive evidence that all the requirements of the Act with respect to the alteration have been complied with and thenceforth the memorandum or articles so altered shall be the memorandum or articles of the corporation.

(*3*) No such alteration shall have any effect until it has been duly registered under sub-section (*1*).

11. Corporations not to be registered with undesirable names.— (*1*) No corporation shall be registered by a name which, in the opinion of the State Government, is undesirable.

(*2*) Without prejudice to the generality of the foregoing power, a name which is identical with, or too nearly resembles, the name by which a corporation in existence has been previously registered, may be deemed to be undesirable by the State Government within the meaning of sub-section (*1*).

12. Change of name by corporations.— A corporation may, by a special resolution and with the approval of the State Government signified in writing, change its name.

13. Rectification of name of corporations.— If, through inadvertance or otherwise, a corporation on its first registration or on its registration by a new name, is registered by a name which, in the opinion of the State Government, is identical with, or too nearly resembles, the name by which a corporation in existence has been previously registered, the first mentioned corporation—

(*a*) may, by ordinary resolution and with the previous approval of the State Government signified in writing, changes its name or new name; and

(*b*) shall, if the State Government so directs within twelve months of its first registration or registration by its new name, as the case may be, by ordinary resolution and with the previous approval of the State Government signified in writing, change its name or new name within a period of three months from the date of the direction or such longer period as the State Government may think fit to allow.

14. Registration of change of name and effect thereof.— (*1*) Where a corporation changes its name in pursuance of section 12 or 13 the Registrar shall enter the new name on the register in the place of the former name, and shall issue a fresh certificate of incorporation with the necessary alterations embodied therein; and the change of name shall be complete and effective only on the issue of such a certificate.

(*2*) The Registrar shall also make the necessary alteration in the memorandum of the corporation.

(*3*) The change of name shall not affect any rights or obligations of the corporation, or render defective any legal proceedings by or against it; and any legal proceedings which might have been

continued or commenced by or against the corporation by its former name may be continued by or against the corporation by its new name.

15. Registration of memorandum and articles.— (*1*) The memorandum and articles shall be presented for registration to the Registrar or such other officer as the State Government may authorise in this behalf.

(*2*) If the Registrar or the officer authorized is satisfied that all the requirements of this Act and the rules thereunder have been complied with by the corporation in respect of registration and matters precedent and incidental thereto, and that it is authorized to be registered under this Act, he shall retain

and register the memorandum and articles. In other cases the Registrar or such other officer may refuse to register the memorandum or the articles.

(*3*) The fee payable for the registration of a corporation under this Act shall be rupees fifty.

(*4*) An appeal shall lie to the State Government against an order of the Registrar or such other officer refusing to register the memorandum and articles. Such appeal shall be made within sixty days from the date of the order appealed against and shall be accompanied by a fee of rupees twenty-five. The decision of the State Government in appeal shall be final.

16. Effect of registration.— (*1*) On the Registration of the memorandum of a corporation the Registrar or the officer referred to in sub-section (*1*) of section 15 shall issue a certificate under his hand in the

form in Schedule III that the corporation is incorporated.

(*2*) From the date of incorporation mentioned in the certificate of incorporation, such of the subscribers of the memorandum and other persons, as may from time to time be members of the corporation, shall be a body corporate by the name contained in the memorandum capable forthwith of exercising all the functions of an incorporated corporation, and having perpetual succession and a common seal, but with such liability on the part of its members to contribute to the assets of the corporation in the event of its being wound up as is mentioned in this Act.

17. Conclusiveness of certificate of incorporation.— A certificate of incorporation given by the Registrar or the officer referred to in sub-section (*1*) of section 15 in respect of 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 and that the association is a corporation authorized to be registered and duly registered under this Act.

18. Effect of registration of memorandum and articles.— (*1*) Subject to the provisions of this Act, the memorandum and articles shall, when registered, bind the corporation and the members thereof to the same extent as if they respectively had been signed by the corporation and by each member, and contained covenants on its or his part to observe all the provisions of the memorandum and of the articles.

(*2*) All money payable by any member to the corporation under the memorandum or articles shall be a debt due from him to the corporation.

19. Effect of alteration in memorandum or articles.— Notwithstanding anything in the memorandum or articles of a corporation, no member thereof shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date, to contribute to the share capital of, or otherwise to pay money to the corporation :

Provided that this section shall not apply in any case where the member agrees in writing either before or after a particular alteration is made, to be bound by the alteration.

20. Amalgamation or division of corporations.— (*1*) Any corporation may, with the approval of the Registrar by a special resolution resolve to divide itself into two or more corporations or to amalgamate with any other corporation as a single body provided that each member has fifteen clear days‟ written notice of the proposals contained in the resolution.

(*2*) The resolution referred to in sub-section (*1*) shall contain proposals for the amalgamation or as the case may be, of division of assets and liabilities of the corporation and specify the members who will constitute the amalgamated corporation or as the case may be, the new corporation.

(*3*) Any corporation may by a special resolution passed in accordance with sub-section (*1*) transfer its assets and liabilities to any other corporation which is prepared to accept them :

Provided that where any such amalgamation, division or transfer of assets or liabilities involves the transfer of its liabilities by any corporation to any other corporation, three months‟ notice to the creditors of both or all such corporations shall be given before such resolution is passed :

Provided further that if any creditor of any of the corporations concerned objects to the amalgamation, division or transfer of assets and liabilities one month before the date fixed for the amalgamation, division or transfer, the amalgamation, division, or transfer shall not be made until the dues of such creditor have been satisfied.

(*4*) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882), or the Indian Registration Act, 1908 (XVI of 1908), the registration of the memorandum or articles of an amalgamated corporation or new corporations in pursuance of the special resolution passed under sub-section (*3*) shall be a sufficient conveyance to vest the assets and liabilities of the amalgamating corporations or the original corporation in the amalgamated corporation or the new corporations respectively.

CHAPTER III

MANAGEMENT AND ADMINISTRATION

21. Register of members.— (*1*) The subscribers of the memorandum of a corporation shall be deemed to have agreed to become members of the corporation, and on its registration, shall be entered as members in its register of members.

(*2*) Every other person who agree to become a member of a corporation and whose name is entered in its register of members, shall be a member of the corporation.

(*3*) In the register of members there shall be entered the following particulars,—

(*a*) the name and address, and the occupation, if any, of each member;

(*b*) the shares held by each member distinguishing each share by its number and the amount paid or agreed to be considered as paid on those shares;

(*c*) the date on which each member was entered in the register as a member; and

(*d*) the date on which any member ceased to be a member.

(*4*) The register of members shall be *prima facie* evidence of any matters directed to be inserted or authorised to be inserted therein by this Act.

22. Power of Registrar to rectify register of members.— (*1*) If—

(*a*) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a corporation; or

(*b*) default is made, or unnecessary delay takes place, in entering on the register the fact of any person having become, or ceased to be, a member, the person aggrieved, or any member of the corporation or the corporation may apply to the Registrar for rectification of the register.

(*2*) The Registrar may either reject the application or order rectification of the register; and in the latter case, may direct the corporation to pay the damages, if any, sustained by any party aggrieved :

Provided that where in the disposal of such application any complicated question of law arises the Registrar may direct the parties to a Civil Court.

23. Directors.— (*1*) Every corporation shall have at least two directors. The directors of a corporation collectively are referred to in this Act as the "Board of directors" or "Board".

(*2*) No body corporate, association or firm shall be appointed director of a corporation, and only an individual shall be so appointed.

(*3*) In default of, and subject to, any regulations in, the articles of a corporation, subscribers to the memorandum who are individuals, shall be deemed to be the directors of the corporation until the directors are duly appointed.

(*4*) Every corporation shall keep at its registered office a register of its directors, containing the name and usual residential address in full, and business or occupation, if any, with respect to each of them.

24. General powers of Board.— (*1*) Subject to the provisions of this Act, the Board of Directors of a corporation shall be entitled to exercise all such powers, and to do all such acts and things, as the corporation is authorised to exercise and do :

Provided that the Board shall not exercise any power or do any act or thing which is directed or required, whether by this or any other Act or by the memorandum or articles of the corporation or otherwise, to be exercised or done by the corporation in general meeting :

Provided further that in exercising any such power or doing any such act or thing, the Board shall be subject to the provisions contained in that behalf in this or any other Act, or in the memorandum or articles of the corporation, or in any regulations not inconsistent therewith and duly made thereunder, including regulations made by the corporation in general meeting.

(*2*) No regulation made by the corporation in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

25. Restrictions on powers of Board.— The Board of directors of a corporation shall not, except with the consent of the corporation in general meeting,—

(*a*) sell, lease or otherwise dispose of the whole, or substantially the whole, of the undertaking of the corporation or where the corporation owns more than one undertaking, the whole or substantially the whole, of any such undertaking;

(*b*) remit, or give time for the repayment of, any debt due by a director;

(*c*) invest, otherwise than in trust securities, the sale proceeds resulting from the disposal, after the commencement of this Act, without the consent of the corporation, of any such undertaking as is referred to in clause (*a*), or of any premises or properties used for any such undertaking and without which it cannot be carried on or can be carried on only with difficulty or only after a considerable time;

(*d*) borrow monies after the commencement of this Act where the monies to be borrowed, together with the monies already borrowed, will exceed ten thousand rupees;

(*e*) contribute, after the commencement of this Act, to charitable and other funds not directly relating to the objects of the corporation or the welfare of its employees, any amounts the aggregate of which will, in any financial year, exceed rupees five thousand.

26. Annual general meeting.— (*1*) (*a*) Every corporation shall, in addition to any other meetings, hold a general meeting which shall be styled its annual general meeting at the intervals and in accordance with the provisions, specified below.

(*b*) The first annual general meeting shall be held by a corporation within twelve months of its incorporation.

(*c*) The next annual general meeting of the corporation shall be held by it within nine months after the expiry of the financial year in which the first annual general meeting was held; and thereafter an annual general meeting shall be held by the corporation within nine months after the expiry of such financial year :

Provided that the Registrar may, for any special reason, extend the time within which any annual general meeting (not being the first annual general meeting) shall be held, by a further period not exceeding six months.

(*d*) Except in the case referred to in the foregoing proviso, not more than fifteen months shall elapse between the date of one annual general meeting and that of the next.

(*2*) Every annual general meeting shall be called for a time during business hours, on a day that is not a public holiday, and shall be held either at the registered office of the corporation or at some other place within the city, town or village in which the registered office of the corporation is situate; and the notices calling the meeting shall specify it as the annual general meeting.

27. Power of State Government to call annual general meeting.— (*1*) If default is made in holding an annual general meeting in accordance with section 26, the State Government may, notwithstanding anything in this Act or in the articles of the corporation, on the application of any member of the corporation, call, or direct the calling of, a general meeting of the corporation and give such ancillary or consequential directions as the State Government thinks expedient in relation to the calling, holding and conducting of the meeting.

Explanation.— The directions that may be given under this sub-section may include a direction that one member of the corporation present in person or by proxy shall be deemed to constitute a meeting.

(*2*) A general meeting held in pursuance of sub-section (*1*) shall, subject to any directions of the State Government, be deemed to be an annual general meeting of the corporation.

28. Registration of certain resolutions.— (*1*) A copy of every resolution to which this section applies shall, within fifteen days after the passing thereof, be printed or type-written and duly certified under the signature of an officer of the corporation and filed with the Registrar who shall record the same.

(*2*) A copy of every such resolution for the time being in force shall be embodied in, or annexed to, every copy of the articles issued after the passing of the resolution.

(*3*) This section shall apply to—

(*a*) special resolutions;

(*b*) resolutions which have been agreed to by all the members of a corporation, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions;

(*c*) resolutions requiring a corporation to be wound up voluntarily passed in pursuance of section 43.

29. Minutes of proceedings of general meetings and of Board and other meetings.— (*1*) Every corporation shall cause minutes of all proceedings of general meetings, and of all proceedings at meetings of its Board of directors or of committees of the Board, to be entered in books kept for that purpose.

(*2*) The minutes of each meeting shall contain a fair and correct summary of the proceedings thereat.

(*3*) All appointments of officers made at any of the meetings aforesaid shall be included in the minutes of the meeting.

(*4*) In case of a meeting of the Board of directors or of a committee of the Board, the minutes shall also contain—

(*a*) the names of the directors present at the meeting; and

(*b*) in the case of each resolution passed at the meeting, the names of the directors, if any, dissenting from, or not concurring in, the resolution.

(*5*) Nothing contained in sub-sections (*1*) to (*4*) shall be deemed to require the inclusion in any such minutes of any matter which, in the opinion of the chairman of the meeting—

(*a*) is, or could reasonably be regarded as, defamatory of any person;

(*b*) is irrelevant or immaterial to the proceedings; or

(*c*) is detrimental to the interests of the corporation.

Explanation.— The chairman shall exercise an absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the grounds specified in this sub-section.

30. Minutes to be evidence.— Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings took place or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

31. Presumptions to be drawn where minutes duly drawn and signed.— Where minutes of the proceedings of any general meeting of the corporation or of any meeting of its Board of directors or of a committee of the Board have been made and signed in accordance with the provisions of sections 29 and 30, then, until the contrary is proved, the meeting shall be deemed to have been duly called and held, and all proceedings thereat to have duly taken place, and in particular, all appointments of directors or liquidators made at the meeting shall be deemed to be valid.

32. Inspection of minutes books of general meetings.— (*1*) The books containing the minutes of the proceedings of any general meeting of a corporation held after the commencement of this Act, shall—

(*a*) be kept at the registered office of the corporation, and

(*b*) be open, during business hours, to the inspection of any member without charge, subject to such reasonable restrictions as the corporation may, by its articles or in general meeting impose, so however that not less than two hours in each day are allowed for inspection.

(*2*) Any member shall be entitled to be furnished, within seven days after he has made a request in that behalf to the corporation, with a copy of any minutes referred to in sub-section (*1*), on payment of six *annas* for every one hundred words or fractional part thereof required to be copied.

33. Books of accounts to be kept by corporations.— (*1*) Every corporation shall keep at its registered office proper books of accounts with respect to—

(*a*) all sums of money received and expended by the corporation and the matters in respect of which the receipt and expenditure take place; and

(*b*) the assets and liabilities of the corporation.

(*2*) The books of accounts shall be open to inspection by any director during business hours.

(*3*) For the purpose of sub-section (*1*) proper books of accounts shall not be deemed to be kept with respect to the matters specified therein, if there are not kept such books as are necessary to give a true and fair view of the state of affairs of the corporation and to explain its transactions.

34. Annual accounts and balance sheet.— (*1*) At every annual general meeting of a corporation held in pursuance of section 26, the Board of directors of the corporation shall lay before the corporation—

(*a*) a balance sheet as at the end of the period specified in sub-section (*2*); and

(*b*) the income and expenditure account for that period.

(*2*) The income and expenditure account shall relate—

(*a*) in the case of the first annual general meeting of the corporation, to the period beginning with the incorporation of the corporation and ending with a day which shall not precede the day of the meeting by more than nine months; and

(*b*) in the case of any subsequent annual general meeting of the corporation, to the period beginning with the day immediately after the period for which the account was last submitted and ending with a day which shall not precede the day of the meeting by more than nine months, or in cases where an extension of time has been granted for holding the meeting under section 26, by more than nine months and the extension so granted.

(*3*) Every such balance sheet and income and expenditure account shall give a true and fair view of the state of affairs of the corporation as at the end of the period specified in sub-section (*2*) and shall be approved by the Board of directors and signed by not less than two directors of the corporation.

(*4*) The income and expenditure account shall be annexed to the balance sheet and the auditors‟ report shall be attached thereto.

(*5*) There shall be attached to every balance sheet laid before the corporation a report of its Board of directors with respect to the state of affairs of the corporation giving the fullest information and explanation and signed by the directors referred to in sub-section (*3*).

35. Right of members to copies of balance sheet and auditors' report.— A copy of every balance sheet (including the income and expenditure account, the auditors‟ report and every other document required to be annexed or attached to the balance sheet) which is to be laid before the corporation in general meeting shall, not less than twenty one days before the date of the meeting, be sent to every member of the corporation.

36. Three copies of balance sheet, etc. to be filed with Registrar.— (*1*) After the balance sheet and the income and expenditure account have been laid before a corporation at an annual general meeting as aforesaid, there shall be filed with the Registrar within forty days from the day on which each of the annual general meetings referred to in s ies of the balance sheet certified to be

true copies by the auditors of the corporation, and the auditors‟ report in so far as it relates to the balance sheet.

(*2*) If the annual general meeting of a corporation before which a balance sheet is laid as aforesaid does not adopt the balance sheet, a statement of that fact and of the reasons therefor shall be annexed to the balance sheet and to the copies thereof required to be filed with the Registrar.

37. Appointment of auditors.— (*1*) Every corporation shall, at each annual general meeting, appoint an auditor or auditors qualified for appointment as such to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting :

Provided that the first auditor or auditors of a corporation shall be appointed by the Board of directors within one month of the date of registration of the corporation :

Provided further that a corporation may, at a general meeting, remove any such auditor or all or any of such auditors and appoint in his or their places any other person or persons.

(*2*) The remuneration of the auditors shall be such as may be fixed by the corporation in a general meeting or in such manner as the corporation in general meeting may determine.

(*3*) A person shall not be qualified for appointment as auditor—

(*a*) unless he is a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949) or is authorised by the State Government in this behalf;

(*b*) if he is an officer or employee of the corporation;

(*c*) if he is a partner or is in employment of, an officer or employee of the corporation.

38. Powers and duties of auditors.— (*1*) Every auditor of a corporation shall have a right of access at all times to the books and accounts and vouchers of the corporation, and shall be entitled to require from the officers of the corporation such information and explanations as the auditor may think necessary for the performance of his duties as auditor.

(*2*) The auditor shall make a report to the members of the corporation on the accounts examined by him, and on every balance sheet and income and expenditure account and on every other document annexed to the balance sheet or income and expenditure account which are required to be laid before the corporation in general meeting under section 34 during his tenure of office, and the report shall state whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by this Act in the manner so required and give a true and fair view,—

(*i*) in the case of the balance sheet, of the state of the affairs of the corporation as at the end of its financial year; and

(*ii*) in the case of the income and expenditure account of the income and expenditure for its financial year.

(*3*) The auditor‟s report shall specify all cases of irregular, illegal or improper expenditure, or failure or omission to recover money or other property belonging to the corporation or of loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste

was caused in consequence of a breach of trust or mis-application or any other misconduct on the part of any of the directors, officers, or servants of the corporation.

(*4*) The auditor‟s report shall be signed by the auditor and shall be read before the corporation in general meeting and shall be open to inspection by any member of the corporation.

(*5*) The auditor shall forward a copy of his report to the Registrar.

39. Form of contracts.— (*1*) Contracts on behalf of a corporation may be made as follows :—

(*a*) a contract which, if made between private persons, would by law be required to be in writing signed by the parties to be charged therewith, may be made on behalf of the corporation in

writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

(*b*) a contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the corporation by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(*2*) A contract made according to this section shall bind the corporation.

40. Investment of corporation to be held in its own name.— (*1*) Save as otherwise provided in sub-section (*2*) and subject to the provisions of sub-sections (*3*) to (*5*),—

(*a*) all investments made by a corporation on its own behalf shall be made and held by it in its own name; and

(*b*) where any such investments are not so held at the commencement of this Act the corporation shall, within a period of one year from such commencement, either cause them to be transferred to, and hold them in, its own name, or dispose of them.

(*2*) Nothing in sub-section (*1*) shall be deemed to prevent a corporation from depositing with a bank, being the bankers of the corporation, any shares or securities for the collection of any dividend or interest payable thereon.

(*3*) The certificate or letter of allotment relating to the shares or securities in which investments have been made by a corporation shall, except in the cases referred to in sub-section (*2*), be in the custody of such corporation or with a Scheduled Bank, being the bankers of the corporation.

(*4*) Where, in pursuance of sub-section (*2*) any shares or securities in which investments have been made by a corporation are not held by it in its own name, the corporation shall forthwith enter in a register maintained by it for the purpose—

(*a*) the nature, value, and such other particulars as may be necessary fully to identify the shares or securities in question; and

(*b*) the bank or person in whose name or custody the shares or securities are held.

(*5*) The register kept under sub-section (*4*) shall be open to the inspection of any member of the corporation without charge, during business hours, subject to such reasonable restrictions as the corporation may, by its articles or in general meeting, impose, so however that not less than two hours in each day are allowed for inspection.

CHAPTER IV

ARBITRATION AND WINDING UP

Arbitration.

41. Power for corporations to refer matters to arbitration.— (*1*) A corporation may by written agreement refer to arbitration, in accordance with the Arbitration Act, 1940[1] (X of 1940), an existing or future difference between itself and any other corporation or person.

1 Now *see* the Arbitration and Conciliation Act, 1996 (26 of 1996).

(*2*) A corporation which is a party to an arbitration may delegate to the arbitrator power to settle any terms or to determine any matter, capable of being lawfully settled or determined by the corporation itself, or by its Board of directors.

(*3*) The provisions of the Arbitration Act, 1940[1] (X of 1940), shall apply to all arbitrations in pursuance of this Act to which a corporation is a party.

Winding up.

42. Modes of winding up.— The winding up of a corporation may be either voluntary or by the Registrar.

Voluntary Winding up.

43. Circumstances in which corporation may be wound up voluntarily.— (*1*) A corporation may be wound up voluntarily—

(*a*) when the period, if any, fixed for the duration of the corporation by the articles has expired, or the event, if any, has occurred, on the occurrence of which the articles provide that the corporation is to be dissolved, and the corporation in general meeting passes a resolution requiring the corporation to be wound up voluntarily;

(*b*) if the corporation passes a special resolution that the corporation be wound up voluntarily.

(*2*) A voluntary winding up shall be deemed to commence at the time when the resolution for voluntary winding up is passed under clause (*a*) or (*b*) of sub-section (*1*).

44. Effect of voluntary winding up on status of corporation.— In the case of a voluntary winding up, the corporation shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up of such business :

Provided that the corporate state and corporate powers of the corporation shall continue until it is dissolved.

45. Declaration of solvency in case of proposal to wind up voluntarily.— (*1*) Where it is proposed to wind up a corporation voluntarily, its directors, or in case the corporation has more than two directors, the majority of the directors may, at a meeting of the Board, make a declaration verified by an affidavit, to the effect that they have made a full inquiry into the affairs of the corporation and that, having done so, they have formed the opinion that the corporation has no debts, or that it will be able to pay its debts in full within such period not exceeding three years from the commencement of the winding up as may be specified in the declaration.

(*2*) A declaration made as aforesaid shall have no effect for the purposes of this Act, unless—

(*a*) it is made within five weeks immediately preceding the date of the passing of the resolution for winding up the corporation and is delivered to the Registrar for registration before that date; and

(*b*) it embodies a statement of the assets and liabilities of the corporation as at the latest practicable date before the making of the declaration.

46. Corporation to appoint and fix remuneration of liquidators.— (*1*) The corporation in general meeting shall—

(*a*) appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the corporation; and

(*b*) fix the remuneration, if any, to be paid to the liquidator or liquidators.

(*2*) Before the remuneration of the liquidator or liquidators is fixed as aforesaid, the liquidator, or any of the liquidators, as the case may be, shall not take charge of the office.

1 Now *see* the Arbitration and Conciliation Act, 1996 (26 of 1996).

(*3*) The corporation shall give notice to the Registrar of the appointment of a liquidator or liquidators within ten days from the date of the appointment.

47. Board's powers to cease on appointment of liquidator.— On the appointment of a liquidator, all the powers of the Board of directors and secretaries and treasurers and manager if there be any of these, shall cease, except for the purpose of giving notice of such appointment to the Registrar in pursuance of section 40 or in so far as the corporation in general meeting or the liquidator may sanction the continuance thereof.

48. Powers and duties of liquidator.— A liquidator appointed under section 46 shall have power, with the sanction of the Registrar, to do all or any of the following things, that is to say—

(*a*) pay any class or classes of creditors in full;

(*b*) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the corporation may be rendered liable;

(*c*) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the corporation and a contributory or alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the assets or the winding up the corporation on such terms as may be agreed and take any security for the discharge of any such call, liability, debt, or claim and give a complete discharge in respect thereof;

(*d*) from time to time to determine the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers to the assets of the corporation, such contribution including debts due from such members or persons;

(*e*) to institute and defend suits and other legal proceedings on behalf of the corporation in the name of his office;

(*f*) to issue requisition under section 57 upon the collector for the recovery as arrears of land revenue of any sum ordered by him to be recovered as dues from members or as a contribution to the assets of the corporation or to the cost of liquidation;

(*g*) to get disputes referred to arbitration;

(*h*) to investigate all claims against the corporation and subject to the provisions of this Act to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest from the date of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate;

(*i*) to determine by what persons and in what proportion the cost of the liquidation shall be borne;

(*j*) to give such directions in regard to the collection and distribution of the assets of the corporation as may appear to him to be necessary for winding up the affairs of the corporation;

(*k*) to fix the time or times within which creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved;

(*l*) to carry on the business of the corporation so far as may be necessary for the beneficial winding up of the same :

Provided that no liquidator shall determine the contribution, debt or dues to be recovered from member or a past member or the representative of a deceased member unless opportunity has been given to such member or past member or to such representative to answer the claim.

49. Final meeting and dissolution.— (*1*) As soon as the affairs of a corporation are fully wound up, the liquidator shall—

(*a*) make up an account of the winding up, showing how the winding up has been conducted and the property of the corporation has been disposed of, and

(*b*) call a general meeting of the corporation and a meeting of the creditors for the purpose of laying the account before the meetings and giving an explanation thereof.

(*2*) Within one week after the date of the meetings, or if the meetings are not held on the same date, after the date of the latter meeting, the liquidator shall send to the Registrar a copy of the account, and shall make a return to him of the holding of the meetings and of the date or dates on which they were held.

(*3*) On receiving the account and the return the Registrar shall forthwith register them, and on the expiration of three months from their registration the corporation shall be deemed to be dissolved.

(*4*) The manner in which the meeting may be called by the liquidator and the procedure at such meetings shall be such as may be prescribed.

Winding up by Registrar.

50. Winding up by Registrar.— (*1*) If the Registrar, after the affairs of a corporation are investigated under section 63 or on receipt of a special resolution of a corporation resolving that the corporation be wound up by the Registrar, is of opinion that a corporation be wound up he may issue an order directing it to be wound up and when necessary, may appoint a liquidator for the purpose and fix his remuneration.

(*2*) The liquidator appointed under sub-section (*1*) shall have power, with the sanction of the Registrar, to do all or any of the things specified in section 48.

51. Cancellation of registration.— When the affairs of a corporation for which a liquidator has been appointed under section 50 have been wound up, or, where no liquidator has been appointed after two months from the date of an order under section 50 or, after confirmation of such order in appeal, the Registrar shall make an order cancelling the registration of the corporation, and the corporation shall be deemed to be dissolved from the date of such order.

52. Power of Registrar to assess damage against delinquent promoters, etc.— (*1*) Where, in the course of an investigation under section 63 of the winding up of a corporation it appears that any person who has taken part in the organization or management of the corporation or any past or present director, member or officer of the corporation has misapplied or retained or become liable or accountable for any money or property of the corporation or has been guilty of misfeasance or breach of trust in relation to the corporation, the Registrar may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and after giving reasonable opportunity to the person concerned to submit his explanation, make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the corporation by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

(*2*) The Registrar, instead of himself examining into the conduct of any such person under sub-section (*1*), may by an order in writing authorize any person to examine into the conduct of such person under sub-section (*1*). The person so authorized shall, after giving such person reasonable opportunity to submit his explanation, report to the Registrar the result of the examination with his recommendations as to what action, if any, the Registrar should take. The Registrar, after considering the report, may make any order which he considers just in the circumstances, and which he could have made under sub-section (*1*) if he had made the examination himself.

(*3*) For the purpose of sub-section (*2*) the person authorized shall, subject to the general or special order of the State Government, be a person who is or has held office not lower in rank than that of a Deputy Registrar, a Deputy Collector or a Civil Judge (Senior Division).

(*4*) The Registrar, in making any order under this section, may provide therein for the payment of the costs, or any part thereof, of such examination by such person or persons as he thinks just; and he may direct that such costs, or any part thereof, shall be paid in the first instance from the funds of the corporation, or from the interest on surplus assets of the corporation dissolved under section 51, as the case may be, and then recovered and repaid to the corporation or credited to the said surplus assets.

(*5*) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

53. Bar of suit in winding up and dissolution matters.— 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 corporation under section 50 or 51 and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the corporation except by leave of the Registrar and subject to such terms as he may impose.

54. Disposal of surplus assets.— After all the liabilities including the paid-up share capital of a corporation which is dissolved have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the articles of the corporation and when no object is so described to any object of public utility as the Registrar may direct.

55. Power to enforce attendance, etc.— The Registrar or the liquidator appointed under section 46 or 50 shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908 (V of 1908).

56. Appeals.— (*1*) An appeal against an order under section 48, 50 or 52 shall lie—

(*a*) if the order is made by the Registrar to the State Government;

(*b*) if the order is made by any other person to the Registrar, and against such order of the Registrar to the State Government.

(*2*) An appeal under sub-section (*1*) shall be filed within two months of the date of the communication of the order :

Provided that the appellate authority may admit an appeal after the expiry of such period, if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

57. Money how recovered.— Every order passed by a liquidator under section 48 or 50 or by the Registrar under section 52 or by the Registrar or arbitrators on disputes referred to him or them under clause (*g*) of section 48 and every order passed in appeals under section 56 shall, if not carried out—

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

(*b*) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the collector and shall be accompanied by a certificate signed by the Registrar. Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

58. Liability as contributories of present and past members.— (*1*) In the event of a corporation being wound up, every present and past member shall be liable to contribute to the assets of the corporation to an amount sufficient for payment of its debts and liabilities and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves subject to the provisions of section 59 and subject also to the following qualifications, namely :—

(*a*) a past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;

(*b*) a past member shall not be liable to contribute in respect of any debt or liability of the corporation contracted after he ceased to be a member;

(*c*) no past member shall be liable to contribute unless it appears to the liquidator that the present members are unable to satisfy the contributions required to be made by them in pursuance of this Act;

(*d*) no contribution shall be required from any past or present member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as such member;

(*e*) in the case of a corporation limited by guarantee, no contribution shall, subject to the provisions of sub-section (*2*), be required from any past or present member exceeding the amount undertaken to be contributed by him to the assets of the corporation in the event of its being wound up.

(*2*) In the winding up of a corporation limited by guarantee every member of the corporation shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the corporation in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him as if the corporation were a corporation limited by shares.

59. Obligations of directors whose liability is unlimited.— In the winding up of a corporation, any director, whether past or present, whose liability is under the provisions of this Act, unlimited, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were, at the commencement of the winding up, a member of an unlimited corporation :

Provided that—

(*a*) a past director shall not be liable to make such further contribution, if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(*b*) a past director shall not be liable to make such further contribution in respect of any debts or liability of the corporation contracted after he ceased to hold office;

(*c*) subject to the articles of the corporation, a director shall not be liable to make such further contribution, unless the liquidator deems it necessary to require the contribution in order to satisfy the debts and liabilities of the corporation and the costs, charges and expenses of the winding up.

60. Contributory and nature of his liability.— (*1*) The term "contributory" means every person liable to contribute to the assets of a corporation in the event of its being wound up and includes the holder of any shares which are fully paid up; and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

(*2*) The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times specified in calls made on him for enforcing the liability.

CHAPTER V

CONTROL

61. Power of Registrar to call for information.— (*1*) Where on perusing any document which a corporation is required to submit to him under this Act, the Registrar is of opinion that any information or explanation is necessary in order that such document may afford full particulars of the matter to which it purports to relate, he may, by written order, call on the corporation submitting the document to furnish in writing such information or explanation, within such time as he may specify in the order.

(*2*) On receipt by the corporation of an order under sub-section (*1*), it shall be the duty of the corporation and of all persons who are officers of the corporation, to furnish such information or explanation to the best of their power.

62. Special audit by Registrar.— (*1*) Notwithstanding anything hereinbefore contained, when the Registrar considers it necessary he may by himself or by some person authorised by him in writing by general or special order in this behalf audit the accounts of any corporation.

(*2*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, the verification of cash balances and securities, and a valuation of the assets and liabilities of the corporation.

(*3*) The Registrar or the other person auditing the accounts of any corporation shall have free access to the books, accounts and vouchers of such corporation and shall be allowed to verify its cash balances and securities.

(*4*) It shall be the duty of the directors, managers and other officers and servants of such corporation to furnish to the Registrar or person appointed to audit the accounts, all such information as to its transactions and working as the Registrar or such person may require.

(*5*) The Registrar and the other person appointed to audit the accounts shall have power, when necessary—

(*a*) to summon at the time of his audit any officer, agent, servant or member of the corporation who he has reason to believe can give valuable information in regard to any transaction of the corporation or the management of its affairs; or

(*b*) to require the production of any book or document relating to the affairs of any cash or securities belonging to the corporation, by the officer, agent, servant or member in possession of such book, document, cash or securities.

63. Investigation of affairs of corporation.— Where on the application of any member of a corporation or otherwise the State Government is of the opinion that there are circumstances suggesting—

(*i*) that the business of any corporation is being conducted with intent to defraud its creditors, members or any other persons, or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive of any of its members, or that the corporation was formed for any fraudulent or unlawful purpose;

(*ii*) that the person concerned in the formation of the corporation or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the corporation or towards any of its members; or

(*iii*) that the members of the corporation have not been given all the information with respect to its affairs which they might reasonably expect,

the State Government may appoint or direct the Registrar to appoint a competent person to investigate the affairs of the corporation and to report thereon in such manner as the State Government may direct.

64. Production of documents and evidence.— (*1*) It shall be the duty of all officers and agents of the corporation—

(*a*) to produce to the person appointed under section 63 all books and papers of, or relating to, the corporation which are in their custody or power; and

(*b*) otherwise to give to the said person all assistance in connection with the investigation which they are reasonably able to give.

(*2*) The person appointed under section 63 may examine on oath any of the persons referred to in sub-section (*1*) in relation to the affairs of the corporation.

(*3*) Notes of any examination under sub-section (*2*) shall be taken down in writing and shall be read over to or by, and signed by the person examined, and may thereafter be used in evidence against him.

Explanation.— For the purposes of this section and section 65—

(*a*) the expression "agent" in relation to any corporation means any one acting or purporting to act for or on behalf of such corporation and includes the bankers and legal advisers of, and persons employed as auditors by, such corporation; and

(*b*) any reference to officers or agents shall be construed as a reference to past as well as present officers, or agents, as the case may be.

(*4*) On the conclusion of the investigation the person appointed under section 63 shall make a report to the State Government and the State Government shall forward a copy of such report to the corporation at its registered office.

65. Prosecution.— (*1*) If, from any report made under section 64 it appears to the State Government that any person has, in relation to the corporation whose affairs have been investigated as aforesaid been guilty of any offence for which he is criminally liable, the State Government may, after taking such legal advice as it thinks fit, prosecute such person for the offence; and it shall be the duty of all officers and agents of the corporation other than the accused in the proceedings, to give the State Government all assistance in connection with the prosecution which they are reasonably able to give.

(*2*) A copy of the report of the person appointed under section 63 authenticated in such manner, if any, as may be prescribed, shall be admissible in any legal proceeding as evidence of the opinion of such person in relation to any matter contained in the report.

66. Inspection, production, and evidence of documents kept by Registrar.— (*1*) Any person may inspect any documents kept by the Registrar, being documents filed or registered by him in pursuance of this Act, or making a record of any fact required or authorised to be recorded or registered in pursuance of this Act, on payment for each inspection, of a fee of two rupees.

(*2*) The Registrar shall on application furnish to any person, a copy of the certificate of incorporation of any corporation or a copy or extract of any other document or any part of any other document filed with him under this Act certified under his hand on payment of a fee of six annas for every one hundred words, or fractional part thereof required to be copied in the case of a certified copy of extract.

(*3*) No process for compelling the production of any document kept by the Registrar shall issue from any Court except with the leave of that Court; and any such process, if issued, shall bear thereon a statement that it is issued with the leave of the Court.

(*4*) A copy of, or extract from, any document kept and registered with the Registrar under this Act, certified to be a true copy under the hand of the Registrar (whose official position it shall not be necessary to prove), shall, in all legal proceedings, be admissible in evidence as of equal validity with the original document.

CHAPTER VI

OFFENCES

67. Meaning of officer who is in default.— For the purpose of any provision in this Act which enacts that an officer of the corporation who is in default shall be liable to any punishment or penalty, whether by way of imprisonment, fine or otherwise, the expression "officer who is in default" means any officer of the corporation who is knowingly guilty of default, non-compliance, failure, refusal or contravention mentioned in that provision, or who knowingly and wilfully authorizes or permits such default, non-compliance, failure, refusal or contravention.

68. Penalty for contravention of section 13.— If a corporation makes a default in complying with any direction given under clause (*b*) of section 13, the corporation, and every officer who is in default, shall, on conviction, be punished with fine which may extend to ten rupees for every day during which the default continues.

69. Penalty for contravention of section 26 or 27.— If any default is made in holding a meeting of the corporation in accordance with section 26, or in complying with any directions of the State Government under sub-section (*1*) of section 27, the corporation and every officer thereof who is in default, shall, on conviction, be punished with fine which may extend to five hundred rupees.

70. Penalty for contravention of section 28.— If any default is made in complying with sub-section (*1*) or (*2*) of section 28, the corporation, and every officer thereof who is in default, shall, on conviction, be punished with fine which may extend to five rupees for every day during which the default continues.

71. Penalty for contravention of section 29.— If default is made in complying with the provisions of section 29 in respect of any meeting, the corporation and every officer thereof who is in default, shall, on conviction, be punished with fine which may extend to twenty-five rupees.

72. Penalty for contravention of section 32.— If any inspection required under sub-section (*1*) of section 32 is refused, or if any copy required under sub-section (*2*) of that section is not furnished within the time specified therein, the corporation and every officer thereof who is in default, shall, on conviction, be punished with fine which may extend to ten rupees in respect of each offence.

73. Penalty for contravention of section 33.— Any director of a corporation who fails to take reasonable steps to secure compliance by the corporation with the requirements of section 33, or who by his own wilful act has been the cause of any default by the corporation thereunder, shall, on conviction, in respect of each such offence be punishe d to fifty rupees.

74. Penalty for contravention of section 34.— If any director of a corporation fails to take all reasonable steps to comply with the provisions of section 34, he shall, on conviction, be punished with fine which may extend to fifty rupees.

75. Penalty for contravention of section 35.— If default is made in complying with the provisions of section 35, the corporation and every officer thereof who is in default, shall, on conviction, be punished with fine which may extend to fifty rupees.

76. Penalty for contravention of section 36.— If default is made in complying with the requirements of sub-section (*1*) or (*2*) of section 36, the corporation, and every officer thereof who is in default, shall, on conviction, be punished with fine which may extend to fifty rupees.

77. Penalty for contravention of section 38.— If any auditor of a corporation makes a report otherwise than in conformity with the requirements of section 38, he shall, if the default is wilful, on conviction, be punished with fine which may extend to two hundred rupees.

78. Penalty for contravention of section 40.— If default is made in complying with any of the requirements of section 40, the corporation, and every officer thereof who is in default, shall, on conviction, be punished with fine which may extend to five hundred rupees.

79. Penalty for contravention of section 45.— Any director of a corporation who makes a declaration under section 45 without having reasonable grounds for the opinion that the corporation will be able to pay its debts, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or with both.

Explanation.— If the corporation is wound up in pursuance of a resolution passed within a period of five weeks after the making of the declaration, but its debts are not paid or provided for in full within the period specified in the declaration, it shall be presumed, until the contrary is proved, that the director did not have reasonable grounds for his opinion.

80. Penalty for contravention of section 49.— If any liquidator fails—

(*a*) to call a general meeting of the corporation or a meeting of the creditors under clause (*b*) of sub-section (*1*) of section 49, or

(*b*) to send a copy of the account to the Registrar or to make a return to him of the holding of the meetings under sub-section (*2*) of that section,

he shall, on conviction, be punished with fine which may extend to one hundred rupees in respect of each such failure.

81. Penalty for contravention of section 61.— If any corporation or any person as is referred to in sub-section (*2*) of section 61 refuses or neglects to furnish the information or explanation required under that sub-section, the corporation and each such person shall, on conviction, be punished with fine which may extend to twenty rupees in respect of each such offence.

82. Penalty for false statement.— If in any return, report, balance sheet, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement—

(*a*) which is false in any material particular, knowing it to be false;

(*b*) which omits any material fact knowing it to be material;

he shall, save as otherwise expressly provided in this Act, on conviction, be punished with imprisonment for a term which may extend to two years and shall also be liable to fine which may extend to five hundred rupees.

83. Penalty for wrongful withholding of property.— (*1*) If any officer or employee of a corporation—

(*a*) wrongfully obtains possession of any property of a corporation; or

(*b*) having any such property in his possession, wrongfully withholds it or knowingly applies it to purposes other than those expres s and authorised by this Act,

he shall, on the complaint of the corporation or any creditor or contributory thereof, on conviction, be punished with fine which may extend to five hundred rupees.

(*2*) The Court trying the offence may also order such officer or employee to deliver up or refund, within a time to be fixed by the Court, any such property wrongfully obtained or wrongfully withheld or knowingly misapplied, or in default, to suffer imprisonment for a term which may extend to two years.

84. Members guilty of offences punishable as strangers.— Any member of a corporation who shall steal, purloin or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such corporation, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the corporation may be exposed to loss, shall be subject to the like 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.

85. Penalty for contravention not provided for.— If any corporation, director or any officer or servant thereof contravenes any of the provisions of this Act for which no penalty is expressly provided herein he shall, on conviction, be liable to a fine which may extend to fifty rupees in respect of each such contravention.

86. Offences against Act to be cognizable only on complaint by Registrar, member or State Government.— No Court shall take cognizance of any offence against this Act, which is alleged to have been committed by any corporation or any officer thereof, except on the complaint in writing of the Registrar, or of a member of the corporation, or of a person authorised by the State Government in that behalf :

Provided that nothing in this section shall apply to a prosecution by a corporation of any of its officers.

Explanation.— A liquidator of a corporation shall not be deemed to be an officer of the corporation within the meaning of this section.

87. Jurisdiction to try offences.— No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against this Act.

88. Offences to be non-cognizable.— Notwithstanding anything in the Code of Criminal Procedure, 1898[1] (V of 1898), every offence against this Act shall be deemed to be non-cognizable within the meaning of the said Code.

CHAPTER VII

MISCELLANEOUS

89. Prohibition for borrowing money, etc.— It shall not be lawful for a corporation to borrow money, to grant loans or to raise loans, by acceptance of deposits, or the issue of debentures, chit funds or the like; provided that a corporation may borrow on the security of its immovable property from such bankers as may be approved by the State Government.

1 Now *see* the Code of Criminal Procedure, 1973 (2 of 1974).

90. Application of assets in furtherance of objects.— A corporation shall not apply its assets, income or profits, if any, to any purpose other than for the furtherance of its objects.

91. Copies to be furnished to members.— A corporation shall furnish free of charge on demand to any member thereof a copy or extract of any register or document which it is required by or under this Act to maintain.

[1][**91A. Fee for filing or registering certain documents under the Act with Registrar.—** The fee for filing or registering any document required to be filed or registered with the Registrar in pursuance of this Act (such fee not being elsewhere in this Act provided) shall be such as may be prescribed.]

92. Recovery of sums due to State Government.— All sums due from a corporation, or a director or officer or member of a corporation as such to the State Government may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

93. Rules.— (*1*) The State Government may, by notification in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

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

(*a*) the manner in which meetings shall be called by the liquidator under section 49 and the procedure to be followed at such meetings;

(*b*) the manner of authenticating copies of reports under sub-section (*2*) of section 65;

(*c*) any other matter which has to be, or may be prescribed.

(*3*) The power to make rules under this section shall be subject to the condition of previous publication in the *Official Gazette*.

(*4*) All rules made under this section shall be laid before each House of the Legislature as soon as may be after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

94. Indian Companies Act, 1913 to cease to apply to corporations.— On the coming into force of this Act the Indian Companies Act, 1913 (VII of 1913) (hereinafter called "the Companies Act") in its application to any society or association which is not a trading corporation and whose objects are confined to the [2][State of Maharashtra] shall stand repealed; and thereupon—

(*a*) any such society or association registered as a company under section 26 of the Companies Act shall be deemed to be a corporation registered under this Act;

(*b*) memorandum and articles of association of such society or association shall, so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded;

(*c*) the registers maintained by such society or association shall be deemed to be registers maintained under this Act;

(*d*) all documents and records filed and maintained in the office of the Registrar for the purposes of the Companies Act in respect of any such society or association shall be transferred to the Registrar appointed under this Act;

(*e*) certified copies of extracts from the registers maintained in the office of the Registrar under the Companies Act in respect of any such society or association shall constitute registers for the purposes of this Act; and

1 Section 91A was inserted by Mah. 33 of 1961, s. 2.

2 These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

(*f*) any reference to any of the provisions of the Companies Act in any document relating to such society or association shall be construed as a reference to the corresponding provision of this Act.

95. Saving.— Nothing contained in section 94 shall affect,—

(*a*) any right, privilege, obligation or liability acquired, accrued or incurred under the Companies Act;

(*b*) any penalty or punishment incurred in respect of any offence committed under the Companies Act;

(*c*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty or punishment as aforesaid; or

(*d*) any winding up proceedings commenced before the coming into force of this Act;

and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced and any such penalty or punishment may be imposed and any such winding up proceedings may be continued as if this Act had not been passed :

Provided that anything done or any action taken (including any appointment made, notification, order or direction issued, rules or regulations made) under the Companies Act shall, in so far as it is not inconsistent with this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or any action taken under this Act.

SCHEDULE I

(*See* section 6).

MEMORANDUM OF ASSOCIATION.

1. The name of the Corporation is "....."

2. The registered office of the corporation will be situated at .....in the [1][State of Maharashtra].

3. The objects for which the corporation is established are :—

.....

.....

.....

the doing of all such other lawful things as are incidental or conducive to the attainment of the above objects :

Provided that the corporation shall not support with its funds, or endeavour to impose on, or procure to be observed by, its members or others, any regulation or restriction which, if an object of the corporation, would make it a Trade Union.

4. The objects of the corporation are confined to the [2][State of Maharashtra] only.

5. (*1*) The income and property of the corporation, whenever derived shall be applied solely for the promotion of its objects as set forth in this memorandum.

(*2*) No portion of income or property aforesaid shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to persons who at any time are, or have been members of the corporation or to any one or more of them or to any persons claiming through any one or more of them; provided that—

(*a*) no remuneration or other benefit in money or money"s worth shall be given by the corporation to any of its members, whether officers or servants of the corporation or not, except payment of out of-pocket expenses, reasonable and proper interest on money lent, or reasonable and proper rent on premises let to the corporation ;

(*b*) no member shall be appointed to any office under the corporation which is remunerated by salary, fees or in any other manner not excepted by clause (*a*) ;

(*c*) nothing in this clause shall prevent the payment by the corporation in good faith of reasonable remuneration to any of its officers or servants (not being members) or to any other person (not being a member) in return for any service actually rendered to the corporation.

6. No alteration shall be made in the memorandum of association or in the articles of association of the corporation which are for the time being in force, except in accordance with the provisions of the [3]Bombay Non-trading Corporations Act, 1959.

7. The liability of the members is limited.

[4]8. Each member undertakes to contribute to the assets of the corporation in the event of its being wound up while he is a member or within one year after he ceases to be a member for payment of the

1 These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3 The short title of Act was amended as "the Maharashtra Non-Trading Corporation Act" by Mah. 24 of 2012.

4 For Corporations limited by guarantee only.

debts or liabilities of the corporation contracted before he ceases to be member 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 sum of Rs.....

9. The share capital of the corporation will consist of Rs..... divided into..... shares of.....rupees each.

10. True account shall be kept of all sums of money received and expended by the corporation and the matters in respect of which such receipts and expenditure take place, and of the property, credits and liabilities of the corporation and subject to the reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of the corporation for the time being in force, the accounts shall be open to the inspection of the members. Once at least in every year the accounts of the corporations shall be examined and the correctness of the balance sheet and the income and expenditure account ascertained by one or more properly qualified auditor or auditors.

11. If upon a winding up or dissolution, there remains, after the satisfaction of all the debts and liabilities, any property whatsoever the same shall not be distributed amongst the members of the corporation but shall be given or transferred to such other corporation having objects similar to the objects of this corporation to be determined by the Registrar appointed under the [1]Bombay Non-trading Corporations Act, 1959.

12. We, the several persons whose names, addresses, descriptions and occupations are hereunto subscribed are desirous of being formed into an association not for profit, in pursuance of this memorandum of association.

Names, addresses, descriptions, occupations of the subscribers

1. ..... of .....*
2. ..... of.....*
3. ..... of.....*
4. ..... of.....*
5. ..... of.....*
6. ..... of.....*
7. ..... of.....*

Dated the day of

Witness to the above signatures.

([2]Here enter the "number of shares" taken by each subscriber.)

1 The short title of the Act was amended as "the Maharashtra Non-Trading Corporation Act" by Mah. 24 of 2012.

2 For Corporations limited by guarantee only.

SCHEDULE II

[*See* section 8 (*2*).]

ARTICLES OF ASSOCIATION.

The articles of association of a corporation may provide for all or any of the following matters, namely :—

(*a*) the number of directors, their qualifications and disqualifications, removal from office and vacation of office by them, filling up of casual vacancies, their retiring age,

(*b*) share capital and voting and other rights attached to the shares, call on and transfer of shares,

(*c*) general, or extraordinary meetings of the corporation and of the board of directors, the length of notice for calling the meetings, the contents and the manner of service of such notice and the procedure to be followed at such meetings.

SCHEDULE III

(*See* section 16.)

CERTIFICATE OF INCORPORATION.

I hereby certify that*.....*.....is this day incorporated under the [1]Bombay Non-trading Corporations Act, 1959 (Bom. XXVI of 1959) and that the corporation is limited by shares/guarantees.

Given under my hand at .....this day….....of…….....one thousand nine hundred and .....

Registrar.

* Here enter the name of the Corporation

1 The short title of the Act was amended as “the Maharashtra Non-Trading Corporation Act” by Mah. 24 of 2012.