

รายการอ้างอิง

ภาษาไทย

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ภาคผนวก

ภาคผนวก ก

INDIAN BARE ACTS
THE CHIT FUNDS ACT, 1982

CHAPTER I

PRELIMINARY

1.Short title, extent and commencement.-

- (1) This Act may be called the Chit Funds Act, 1982.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.

2.Definition.- In this Act, unless the context otherwise require, -

(a) "approved bank" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955), or a subsidiary bank constituted under section 3 of the State Bank of India (Subsidiary Banks) Act, 1959 (33 of 1959), or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (5 of 1970), or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976) , or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or a banking company as defined under clause (e) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) , or a banking institution notified by the Central Government under section 51 of that Act or such other banking institution as the State Government may, in consultation with the Reserve Bank, approve for the purposes of this Act;

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

tender or in such other manner as may be specified in the chit agreement, be entitled to the prize amount.

Explanation.- A transaction is not a chit within the meaning of this clause, if in such transaction, -

(i) some alone, but not all, of the subscribers get the prize amount without any liability to pay future subscriptions; or

(ii) all the subscribers get the chit amount by turns with a liability to pay future subscriptions;

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

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

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

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

(g) "discount" means the sum of money or the quantity of grain which a prized subscriber is, under the terms of the chit agreement, required to forego and which is set apart under the said agreement to meet the expenses of running the chit or for distribution among the subscribers or for both;

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

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

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

includes any person discharging the functions of the foreman under section 39;

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

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

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

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

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

(p) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);

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

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

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

3. Act to override other laws, memorandum, articles, etc.- Save as otherwise expressly provided in this Act,-

(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in the memorandum or articles of association or bye-laws or in any agreement or resolution whether the same be

registered, executed or passed, as the case may be, before or after the commencement of this Act; and

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

CHAPTER II

REGISTRATION OF CHITS, COMMENCEMENT AND CONDUCT OF CHIT BUSINESS

4. Prohibition of chits not sanctioned or registered under the Act.- (1) Not chit shall be commenced or conducted without obtaining the previous sanction of the State Government within whose jurisdiction the chit is to be commenced or conducted or of such officer as may be empowered by that Government in this behalf, and unless the chit is registered in that state in accordance with the provisions of this Act:

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

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

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

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

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

(c) had been convicted of any offence involving moral turpitude and sentenced to imprisonment for any such offence unless a period of five years has elapsed since his release :

Provided that before refusing any such sanction, the foreman shall be given a reasonable opportunity of being heard.

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

sanction under this section shall be final.

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

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

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

- (a) full name and residential address of every subscriber;
- (b) the number of tickets including the fraction of a ticket held by each subscriber;
- (c) the number of installments, the amount payable for each ticket at every installment and the interest or penalty, if any, payable on any default in the payment of such installments;
- (d) the probable date of commencement and the duration of the chit;
- (e) the manner of ascertaining the prizing subscriber at each installment;
- (f) the maximum amount of discount which the prized subscriber has to forego at any installment;
- (g) the mode and proportion in which the discount is distributable by way of dividend, foreman's commission or remuneration or expenses for running the chit, as the case may be;
- (h) the date, time and place at which the chit is to be drawn;
- (i) the installment at which the foreman is to get the chit amount;
- (j) the name of the approved bank in which chit moneys shall be deposited by the foreman under the provisions of this Act;
- (k) where the foreman is an individual, the manner in which a chit shall be continued

when such individual dies or becomes unsound mind or is otherwise incapacitated;

(l) the consequences to which a non-prized or prized subscriber or the foreman shall be liable in case of violation of any of the provisions of the chit agreement;

(m) the conditions under which a subscriber shall be treated as a defaulting subscriber;

(n) the nature and particulars of the security of to be offered by the foreman;

(o) the dates on which and time during which the foreman shall, subject to the provisions contained in section 44, allow inspection of chit records to non-prized and unpaid prized subscribers;

(p) the names of the nominees of each subscriber, that is to say, the names of the persons to whom the benefits accruing to the subscriber under the chit may be paid in the case of the death of the subscriber or when he is otherwise incapable of making an agreement;

(q) any other particulars that may, from time to time, be prescribed.

Explanation: - For the purposes of this sub-section, it shall be sufficient if the signature of each subscriber is obtained in separate copies of the agreement.

(2) The duration of a chit shall not extend beyond a period of five years from the date of its commencement;

Provided that the State Government may permit the duration of a chit up to a period of ten years if it is satisfied that it is necessary so to do, having regard to,-

(a) the financial condition of the foreman;

(b) his methods of operation;

(c) the interests of prospective subscribers;

(d) the requirements as to security; and

(e) such other factors as the circumstances of the case may require.

(3) The amount of discount referred to in clause (f) of sub-section (1) shall not exceed their per cent, of the chit amount.

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

7. Filing of chit agreement

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

(2) The Registrar shall retain one copy of the chit agreement and return the duplicate to the foreman with an endorsement that the chit agreement has been registered:

Provided that the Registrar may refuse to register the chit agreement on any one or more of the following grounds, namely:-

- (a) that the security offered by the foreman under section 20 is insufficient;
- (b) that the foreman had been convicted of any offence under this Act or under any other Act regulating chit business and sentenced to imprisonment for any such offence;
- (c) that the foreman had defaulted in the payment of fees or the filing of any statement or record required to be paid or filed under this Act or had violated any of the provisions of this Act or the rules made thereunder;
- (d) that the foreman had been convicted of any offence involving moral turpitude and sentenced to imprisonment for any such offence unless a period of five years has elapsed since his release:

Provided further that before refusing to register a chit under the first proviso, the foreman shall be given a reasonable opportunity of being heard.

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

8. Minimum capital requirements for the commencement, etc., of a chit, and chit, and creation of a reserve fund by a company.- (1) Notwithstanding anything contained in the Companies Act, 1956, but subject to the provisions of this Act, a company shall not commence or carry on chit business unless it has a paid-up capital of not less than rupees one lakh.

(2) Every company having a paid-up capital of less than rupees one lakh and carrying on chit business on the commencement of this Act, shall, before the expiry of a period of three years from such commencement, increase its paid-up capital to not less than rupees one lakh.

Provided that the State Government may, if it considers it necessary in the public interest or for avoiding any hardship, extend the said period of three years in respect of any company by such further period at periods not exceeding two years in the aggregate:

Provided further that no such company shall commence any new chit the duration of

which would extend beyond the said period of three years or such extended period or periods under the first proviso unless it increases its paid-up capital to not less than rupees one lakh.

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

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

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

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

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

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

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

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

his name any such word.

(2) Where at the commencement of this Act,-

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

(b) any person not carrying on chit business is using any such word as part of his name,

he shall, within a period of one year from such commencement, add as part of his name any such word or, as the case may be, delete such word from his name:

Provided that the State Government may, if it considers it necessary in the public interest or for avoiding any hardship, extend the said period of one year by such further period or periods not exceeding one year in the aggregate.

12. Prohibition of transacting business other than chit business by a company.- (1)

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

(2) Where at the commencement of this Act, any company is carrying on any business in addition to chit business, it shall wind up such other business before the expiry of a period of three years from such commencement:

Provided that the State Government may, if it considers it necessary in the public interest or for avoiding any hardship, extend the said period of three years by such further period or periods not exceeding two years in the aggregate.

13. Aggregate amount of chits.- (1) No foreman, other than a firm or other association

of individuals of a company or co-operative society, shall commence or conduct chits, the aggregate chit amount of which at any time exceeds twenty-five thousand rupees.

(2) Where the foreman is a firm or other association of individuals, the aggregate chit amount of the chit conducted by the firm or other association shall not at any time exceed,-

(a) where the number of partners of the firm or the individuals constituting the association is not less than four, a sum of rupees one lakh;

(b) in any other case, a sum calculated on the basis of twenty-five thousand rupees with respect to each partner or individual.

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

of the company or the co-operative society, as the case may be.

Explanation.- For the purposes of this sub-section, "net owned funds" shall mean the aggregate of the paid-up capital and free reserves as disclosed in the last audited balance sheet of the company or co-operative society, as reduced by the amount of accumulated balance of loss, deferred revenue, expenditure and other intangible assets, if any, as disclosed in the said balance sheet.

14. Utilisation of funds.- (1) No person carrying on chit business shall utilise the moneys collected in respect of such business (other than commission or remuneration payable to such person or interest or penalty, if any, received from a defaulting subscriber), except for-

- (a) carrying on chit business; or
- (b) giving loans and advances to non-prized subscribers on the security of subscriptions paid by them; or
- (c) investing in trustee securities within the meaning of section 20 of the Indian Trusts Act, 1882; or
- (d) making deposits with approved banks mentioned in the chit agreement.

(2) Where any person carrying on chit business has utilised the moneys collected in respect of such business before the commencement of this Act, otherwise than for the purposes specified in sub-section (1), he shall secure that so much of such moneys as have not been realised before such commencement are realised before the expiry of a period of three years from such commencement:

Provided that the State Government may, if it considers it necessary in the public interest of for avoiding any hardship, extend the said period of three years by such further period or periods not exceeding one year in the aggregate.

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

16. Date, time and place of conducting chits.- (1) Every draw in a chit shall be held on the date, at the time and place mentioned in the chit agreement and a notice therefore in such form and in such manner as may be prescribed shall be issued by the

foreman to all the subscribers.

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

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

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

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

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

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

(c) the names of the subscribers present;

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

(e) the amount of discount;

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

(g) any other particulars that may be prescribed.

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

19. Restriction on opening of new place and business.- (1) No person carrying on chit business shall open a new place of business without obtaining the prior approval of

the Registrar within whose territorial jurisdiction his registered office of, as the case may be, the place or the principal place of business is situated.

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

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

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

CHAPTER III

RIGHTS AND DUTIES OF FOREMAN

20. Security to be given by foreman.- (1) For the proper conduct of the chit, every foreman shall, before applying for a previous sanction under section 4,-

(a) deposit in an approved bank an amount equal to the chit amount in the name of the Registrar; or

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

(c) transfer in favour of the Registrar such other securities, being securities in which a trustee may invest money under section 20 of the Indian Trusts Act, 1882 (2 of 1882), of such value, as may be prescribed by the State Government from time to time.

Provided that the value of the securities referred to in clause (c) shall not, in any case, be less than one and a half times the value of the chit amount.

(2) Where a foreman conducts more than one chit, he shall furnish security in

accordance with the provisions of sub-section (1) in respect of each chit.

(3) The Registrar may, at any time during the currency of the chit, permit the substitution of the security:

Provided that the face value or market value (whichever is less) of the substituted security shall not be less than the value of the security given by the foreman under sub-section (1).

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

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

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

21. Rights of foreman.- (1) The foreman shall be entitled,-

(a) in the absence of any provision in the chit agreement to the contrary to obtain the chit amount at the first installment without deduction of the discount specified in the chit agreement, subject to the condition that he shall subscribe to a ticket in the chit:

Provided that in a case where the foreman has subscribed to more than one ticket, he shall not be eligible to obtain more than one chit amount in a chit without discount;

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

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

(d) to receive and realise all subscriptions from the subscribers and to distribute the

prize amounts to the prized subscribers;

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

Explanation.- A security shall be deemed to be sufficient for the purposes of this clause if its value exceeds by one-third, or if it consists of immovable properties, the value of exceeds by one-half, of the amount due from the prized subscriber;

(f) to substitute subscribers in place of defaulting subscribers; and

(g) to do all other acts that may be necessary for the due and proper conduct of the chit.

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

22. Duties of foreman.- (1) The foreman shall, on the prized subscriber furnish sufficient security for the due payment of future subscriptions, be bound to pay him the prize amount:

Provided that the prize subscriber shall be entitled to the payment of the prize amount without any security whatsoever if he agrees to the deduction therefrom of the amount of all future subscriptions and in such a case, the foreman shall pay the prize amount to the prized subscriber within seven days after the date of the draw or before the date of the next succeeding installment, whichever is earlier:

Provided further that where the prize amount has been paid to the prized subscriber under the first proviso, the amount deducted shall be deposited by the foreman in an approved bank mentioned in the chit agreement and he shall not withdraw the amount so deposited except for the payment of future subscriptions.

(2) If, owing to the default of the prized subscriber, the prize amount due in respect of any draw remains unpaid until the date of the next succeeding installment, the foreman shall deposit the prize amount forthwith in a separate account in an approved bank mentioned in the chit agreement and intimate in writing the fact of such deposit and the reasons therefore to the prized subscriber and the Registrar:

Provided that where any prized subscriber does not collect the prize amount in respect of any installment of a chit within a period of two months from the date of the draw, it shall be open to the foreman to hold another draw in respect of such installment.

(3) Every payment of the prize amount or the amount of future subscriptions under sub-

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

(4) The foreman shall not appropriate to himself any amount in excess of what he is entitled to under clause (b) or clause (c) of sub-section (1) of section 21:

Provided that where the foreman is himself a prized subscriber, he shall be entitled to appropriate to himself the prize amount subject to his complying with the provisions of section 31:

Provided further that the foreman may appropriate to himself the interest accruing on the amount deposited under the second proviso to sub-section (1)

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

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

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

(a) a register containing-

- (i) the names and full particulars of the subscribers in each chit together with the number of tickets held by each subscriber;
- (ii) the dates on which the subscribers signed the chit agreement; and
- (iii) in the case of an assignment of a ticket by a subscriber, the name and full address of the assignee with the date of assignment and the date on which the assignment had been recognised by the foreman;

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

(c) a ledger containing-

- (i) the amounts paid by the subscribers in each chit and the dates of such payments;
- (ii) the amounts paid to the prized subscribers and the dates of such payments; and
- (iii) in the case of any deposit in an approved bank mentioned in the chit agreement the

date and the amount of such deposit;

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

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

24. Balance sheet.- Without prejudice to the provisions of the Companies act, 1956 (1 of 1956.), every foreman shall prepare and file with the Registrar within such time as may be prescribed, a balance sheet as on the last date of each calendar year, or as the case may be the financial year of the foreman, and a profit and loss account relating to the year of account, in the forms set out in Parts I and II of the Schedule or as near thereto as circumstances admit, in respect of the chit business and audited by auditors qualified to act as auditors under the Companies act, 1956, or by chit under appointed under section 61:

Provided that where a balance sheet is audited by an auditor qualified to act as auditor under the Companies Act, 1956 (1 of 1956.), a chit auditor appointed under section 61 shall have the right to audit the balance sheet at any time if so authorised by the Registrar in this behalf.

25. Liability of foreman to subscribers.- (1) Every foreman shall be liable to account to the subscribers for the amounts due to them.

(2) Where there are more than one foreman in a chit, each one of them jointly and severally and if the foreman is a firm or other association of individuals each one of the partners or individuals thereof jointly and severally and if the foreman is a company, the company as such, shall be liable to the subscribers in respect of the obligations arising out of the chit.

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

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

CHAPTER IV

RIGHTS AND DUTIES AND NON-PRIZED SUBSCRIBERS

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

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

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

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

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

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

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

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

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

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

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

CHAPTER V

RIGHTS AND DUTIES OF PRIZED SUBSCRIBERS

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

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

33. Foreman to demand future subscriptions by written notice.- (1) A foreman shall not be entitled to claim a consolidated payment from a defaulting prized subscriber under section 32 unless he makes a demand to that effect in writing.

(2) Where a dispute is raised under this Act by a foreman for a consolidated payment of future subscriptions from a defaulting prized subscriber and if the subscriber pays to the foreman on or before the date to which the dispute is posted for hearing the arrears of subscription till that date together with the interest thereon at the rate provided for in the chit agreement and the cost of adjudication of the dispute, the Registrar or his nominee, hearing the dispute, shall notwithstanding any contract to the contrary, make an order directing the subscriber to pay to the foreman the future subscription on or before the dates on which they fall due, and that, in case of any default of such payments by the subscriber, the foreman, shall be at liberty to realise, in execution of that order, all future subscriptions and interest together with the costs, if any less the amount, if any already paid by the subscriber in respect thereof:

Provided that if any such dispute is on a promissory note, no order shall be passed under this sub-section unless such promissory note expressly states that the amount due under the promissory note is towards the payment of subscriptions to the chit.

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

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

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

CHAPTER VI

TRANSFERS

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

(2) Any transfer of the rights of a foreman to receive subscriptions from the prized

subscribers shall, if it is likely to defeat or delay the interests of a non-prized or unpaid prized subscriber, be avoidable at the instance of such subscriber.

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

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

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

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

CHAPTER VII

MEETINGS OF GENERAL BODY OF SUBSCRIBERS

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

(2) The foreman shall convene such a meeting on the requisition in writing of not less

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

(3) The Registrar shall, within twenty-one days of the receipt of the notice under subsection 92) convene or direct the convening of a special meeting of the general body of the subscribers and on receipt of such a direction it shall be the duty of the foreman to comply with such direction.

(4) Notice of not less than fourteen days shall be given to all the subscribers of a meeting under this section specifying the object date, hour and place of meeting and a copy of the special resolution shall also be sent along with the notice of the meeting. Explanation- For the purposes of this section and section 39, "special resolution" means a resolution which is passed at a meeting of the general body of the subscribers specially convened for the purpose, by a majority of not less than two-thirds of the subscribers to the chit present at the meeting in person or by proxy and representing not less than three-fourths of the amount, or as the case, may be the value of the grain subscribed by all the non-prized and unpaid prized subscribers if any.

CHAPTER VIII

TERMINATION OF CHITS

39. Provision for continuation of chits in certain cases.- (1) Where a foreman dies or becomes of unsound mind or is otherwise incapacitated, the chit may continue in accordance with the provisions of the chit agreement.

(2) Where a foreman is adjudicated as insolvent, or withdraws from the chit under section 26, or fails to conduct the chit at any installment or on any other date before the next succeeding installment as may have been agreed upon by a special resolution, any one or more of such subscribers authorised by such resolution may, in the absence of any provision in the chit agreement for the future conduct of the chit, take the place of the foreman and continue the chit or make other arrangements for the further conduct of the chit.

40. Termination of chits.- A chit shall be deemed to have terminated,-

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

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

(c) where a foreman dies or becomes of unsound mind or is otherwise incapacitated and the chit is not continued in accordance with the provisions of the chit agreement.

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

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

42. Refund of non-prized subscribers subscriptions.- Except in the cases referred to in clauses (a) and (b) of section 40,-

(a) every non-prized subscriber, shall, unless otherwise provided for in this Act or in the chit agreement, be entitled to get back his subscriptions at the termination of the chit without any

deduction for dividend if any earned by him:

Provided that, any person to whom the rights of a non-prized subscriber are transferred in accordance with the provisions of section 35, shall, in addition to his subscriptions, be entitled to get back the subscriptions paid by such non-prized subscriber, subject, to the conditions specified in this section;

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

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

CHAPTER IX

INSPECTION OF DOCUMENTS

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

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

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

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

(3) If on an inspection made under sub-section (1) or sub-section (2) any defects are

found, the Registrar may bring such defects to the notice of the foreman and may also make an order directing the foreman to take such action as may be specified in the order to remedy the defects within the time specified therein.

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

47. Power Reserve Bank to inspect chit books and records.- (1) Nothing in section 46 shall be deemed to affect the power of the Reserve Bank to inspect the books and records of any foreman under the provisions of section 45N of the Reserve Bank of India Act, 1934 (2 of 1934).

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

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

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

CHAPTER X

WINDING UP OF CHITS

48. Circumstances under which chits may be wound up.- A chit may be wound up by the Registrar within whose territorial jurisdiction the chit has been registered wither on his own motion or on an application made by any non-prized or unpaid prized subscriber,-

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

(b) if the foreman commits any such act in respect of the security specified in section 20 as is calculated to impair materially the nature of the security or the value thereof; or

(c) if he fails to deposit any amount required to be deposited under any of the

provisions of this act; or

(d) if it is proved to the satisfaction of the Registrar that the foreman is unable to pay the amounts due to the subscribers; or

(e) if the execution or other process issued on an order passed by the Registrar in favour of any subscriber in respect of amounts due to him from the foreman in relation to the chit business is returned unsatisfied in whole or in part; or

(f) if it is proved that there has been a fraud or collusion on the part of the foreman in the matter of taking securities from any prized subscriber; or

(g) if the foreman has appropriated the prize amount in his capacity as a subscriber without furnishing sufficient security for future subscriptions; or

(h) if the Registrar is satisfied that the affairs of the chit are being conducted in a manner prejudicial to the interests of the subscribers; or

(i) if it is just and equitable that the chit should be wound up.

Explanation- For the purposes of clause(d) in determining whether the foreman is unable to pay the amounts due to the subscribers, the Registrar shall take into account his contingent and future liabilities in respect of the chit.

49. Application for winding up.- An application for the winding up of a chit shall be made by a petition presented by any non-prized or unpaid prized subscriber to the Registrar signed and verified in the manner laid down by the Code of Civil Procedure, 1908 (5 of 1998), and shall contain such particulars as may be prescribed.

Provided that no application for the winding up of a chit under clause (d) or clause (i) of section 48 shall lie unless such application is presented,-

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

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

Explanation- For the purposes of clause (a) of the proviso, a subscriber of a fraction of a ticket shall be deemed to be a subscriber only to the extent of such fraction.

50. Bar to winding up proceedings.- Notwithstanding anything contained in sections 48 and 49, no petition for the winding up of a chit shall be entertained by the Registrar,-

- (a) if proceedings relating to insolvency are pending against the foreman or
- (b) where the foreman is a firm, if proceedings relating to insolvency are pending against all the partners or all the partners except one thereof, or proceedings for the dissolution of the firm are pending; or
- (c) where the foreman is a company or co-operative society, of proceedings for the winding up of such company or co-operative society are pending.

51. Commencement and effect of winding up order.- An order for the winding up of a chit shall operate in favour of all the subscribers to whom amounts are due from the foreman and it shall be deemed to have commenced from the date of the presentation of the application for the winding up.

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

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

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

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

56. Notification of winding up order.- On the making of a winding up order, the Registrar shall make an entry in his book relating to the chit and shall notify in the Official Gazette, that the order has been made.

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

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

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

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

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

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

the application to the date of the order refusing to wind up a chit shall be excluded.

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

CHAPTER XI

APPOINTMENT OF OFFICERS AND LEVY OF FEES

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

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

(3) All inspectors of chits and chit auditors shall discharge the duties imposed upon them by or under this Act under the general superintendence and control of the Registrar.

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

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

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

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

62. Inspection of documents in Registrars office.- The foreman of a chit or any subscriber in a chit or the heirs or legal representatives of any foreman or subscriber may, on payment of such fees as may be prescribed,-

- (a) inspect the documents of the concerned chit kept by the Registrar; or
- (b) obtain a certified copy or an extract of any such document or record.

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

- (a) the issue of previous sanction under section 4;
 - (b) the filing of the chit agreement with the Registrar and the registration of the chit under section 7.
 - (c) the filing of a declaration with the Registrar and the grant of a certificate of commencement under section 9;
 - (d) the filing of copies of documents under any of the provisions of this Act;
 - (e) the audit of the accounts of the foreman under section 61;
 - (f) the inspection of documents under section 62;
 - (g) the obtaining of certified copies or extracts of documents and records under section 62; and
 - (h) such other matters as may appear necessary to the State Government.
- (2) A table of fees prescribed under sub-section (1) shall be exhibited on a notice board in the office of the Registrar

ภาคผนวก ข

CHIT FUNDS ACT

(CHAPTER 39)

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Chit Funds Act.

Interpretation.

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

"agreement" means the document which contains the terms and conditions agreed to and adopted by the subscribers and the chit fund company;

"Authority" means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act*;

*References formerly in this Act to the Commissioner of Chit Funds are here, in accordance with section 21 (4) of the Monetary Authority of Singapore Act (Cap. 186), replaced by references to the Authority. See also G.N. No. S 247/73.

Cap. 186.

"chit fund" means a scheme or arrangement based wholly on the terms and conditions set out in section 24 or the regulations made thereunder or any scheme or arrangement that is deemed to be a chit fund under section 19 but does not include any scheme or arrangement which only partakes of the nature of a chit fund within the meaning of section 20;

"chit fund amount" means the pool or the aggregate of the contributions payable on any specified day or in respect of any specified interval;

"chit fund business" means the business of carrying on chit funds;

"chit fund company" means a company which carries on chit fund business and holds a valid licence granted under section 7. All branches and offices in Singapore of the company shall be deemed to be one chit fund company for the purposes of this Act;

"contribution" means the sum of money payable periodically by each subscriber under the agreement;

"essential terms and conditions" means the terms and conditions specified in section 24;

"interest" means that amount of money which the subscriber agrees to forego in order to purchase the chit fund amount;

"prize" or "prize amount" means the difference between the chit fund amount and the interest;

"public company" means a company limited by shares incorporated in Singapore other than a private company;

"rebate" means the share of the interest payable to each subscriber;

"subscriber" includes any person who has agreed to participate in a chit fund or has signed the agreement in token thereof.

PART II

MONETARY AUTHORITY OF SINGAPORE TO ADMINISTER ACT

Administration of this Act.

3. —(1) The Monetary Authority of Singapore shall be charged with the general administration of this Act and the exercise of the functions imposed upon it by this Act.

(2) The Authority may authorise or appoint any person to assist the Authority in the exercise of its functions and duties under this Act, either generally or in any particular way.

(3) Any person authorised or appointed by the Authority pursuant to subsection (3) shall be deemed to be a public servant within the meaning of the Penal Code.

Cap. 224.

PART III

LICENSING OF CHIT FUND COMPANIES

Licensing of chit funds.

4. —(1) No chit fund business shall be transacted in Singapore except by a public company which is in possession of a valid licence granted under this Act by the Authority with the approval of the Minister authorising it to conduct chit fund business in accordance with the provisions of this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both and in the case of a continuing offence to a further fine of \$1,000 for every day during which the offence continues after conviction.

Use of words "chit" and "chit fund".

5. —(1) No person or body of persons, whether incorporated or not, other than a chit fund company licensed under this Act shall, without the written consent of the Authority, use the word "chit" or the words "chit fund" or any of its or their derivatives in any language, or any other word indicating it transacts chit fund business, in the name, description or title under which that person or body of persons is transacting business in Singapore or make or continue to make any representation to that effect in any bill head, letter paper, notice, advertisement or in any other manner whatsoever.

(2) For the purposes of subsection (1), the words "HWEI", "KUTU" and "TONTINE" or any other word in any other language having the same meaning or being to the like intent shall be deemed to be derivatives of the word "chit".

(3) Nothing in this section shall prohibit an association of chit fund companies formed for the protection of common interests from using the word "chit" or the words "chit fund" or any of its or their derivatives in any language as a part of its name or description of its activities.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one year or to both and in the case of a continuing offence to a further fine not exceeding \$100 for every day during which the offence continues after conviction.

Examination of persons suspected of transacting chit fund business.

6. Whenever the Authority has reason to believe that a person is transacting chit fund business without a licence, it shall have the power to examine the books, accounts and records of the person in order to ascertain whether or not the person has violated or is violating any provisions of this Act, and any refusal to submit those books, accounts and records shall be prima facie evidence of the fact of operation without a licence.

Application for licence.

7. —(1) A public company which desires authority to carry on chit fund business in Singapore shall apply in writing to the Authority for a licence under this section and shall supply —

- (a) a copy of the memorandum of association and articles of association or other instrument under which the company is incorporated, duly verified by a statutory declaration made by a senior officer of the company;
- (b) a copy of the latest balance-sheet of the company; and
- (c) such other information as may be called for by the Authority.

(2) In considering any application by a public company for a licence, the Authority may require to be satisfied as to —

- (a) the financial character of the company;
- (b) the character of the management of the company;
- (c) the adequacy of the capital structure of the company and earning prospects of the company;
- (d) the objects of the company as disclosed in its memorandum of association;
- (e) the convenience and needs of the community to be served;
- (f) whether the public interest will be served by granting of a licence.

(3) The Authority, with the approval of the Minister, may grant a licence, with or without conditions, or refuse to grant a licence.

(4) The Authority may at any time vary or revoke any existing conditions of a licence or impose conditions or additional conditions thereto.

(5) Where a licence is subject to conditions, the chit fund company shall comply with those conditions.

(6) Any chit fund company which fails to comply with any of the conditions of its licence shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and in the case of a continuing offence to a further fine of \$1,000 for every day during which the offence continues after conviction.

Licence fees.

8. —(1) Every chit fund company in Singapore shall pay such annual licence fee as the Authority may by notification in the *Gazette* prescribe.

(2) The Authority may prescribe different licence fees in respect of different classes or categories of chit fund companies and those fees shall apply uniformly to those classes or categories.

(3) The manner of payment of the licence fee shall be as specified by the Authority.

Minimum capital requirements.

9. —(1) Subject to the provisions of this Act, no chit fund company shall be granted or shall hold a licence unless its capital, issued and paid up in cash, and unimpaired by losses or otherwise, is not less than \$200,000.

(2) The Authority may require such percentage of the issued and paid-up capital as may be prescribed in regulations made under this Act to be deposited in such manner as may be prescribed.

(3) No chit fund company incorporated in Singapore shall reduce its paid-up capital during the currency of its licence without the approval of the Authority.

Restriction of opening of branches of chit fund companies.

10. —(1) No chit fund company shall open a new place of business or change the location of an existing place of business in Singapore without submitting a written application in respect thereof to the Authority.

(2) Upon receipt of an application under subsection (1), the Authority may —

(a) give its approval; or

(b) without assigning any reason, refuse to give its approval,
and its decision shall be final.

(3) No chit fund company incorporated in Singapore shall open a new branch, agency or office in any place outside Singapore.

(4) Any chit fund company which contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500 and in the case of a continuing offence to a further fine of \$100 for every day during which the offence continues after conviction.

Fees to be paid in respect of branches of chit fund companies.

11. —(1) The Authority may from time to time by notification in the *Gazette* specify the annual licence fees which chit fund companies in Singapore shall pay for each of their branches.

(2) The manner of payment shall be as specified by the Authority.

Limitation on mergers, etc., of a chit fund company.

12. —(1) No chit fund company incorporated in Singapore shall be merged or consolidated with or be taken over by another company or companies or their subsidiaries or related companies as described in section 6 of the Companies Act (whether that company is or those companies are incorporated in Singapore or outside Singapore) nor shall any such company or companies acquire an interest exceeding 20% of the voting share capital of a chit fund company without application to, and approval by, the Authority.

Cap. 50.

(2) In considering such an application, the Authority shall have power to call for such information as it may require.

(3) The Authority may —

(a) approve the application; or

(b) refuse the application.

(4) Any chit fund company whose application has been refused by the Authority may within one month of being notified of the refusal by the Authority appeal against its refusal to the Minister whose decision shall be final.

Amendment of constitution of a chit fund company.

13. —(1) Every chit fund company in Singapore shall, prior to the making of any amendment or alteration in its memorandum of association or articles of association, or other instrument under which it is incorporated, furnish to the Authority for its approval particulars in writing (verified by a statutory declaration made by a senior officer of the chit fund company) of the proposed amendment or alteration.

(2) The Authority may thereupon —

(a) approve the proposed alteration without modification;

(b) approve the proposed alteration with modification; or

(c) refuse to approve the proposed alteration.

(3) If the Authority approves the proposed alteration with modification, the chit fund company shall adopt the proposed alteration as so modified or not proceed with the proposed alteration and if the Authority refuses to approve the proposed alteration it

may request the chit fund company to withdraw the proposed alteration and the chit fund company shall comply with the Authority's request.

(4) Any chit fund company which fails to comply with the requirements of subsection (1) or with any request by the Authority made under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$300 for every day during which the default continues after conviction.

Revocation of licence.

14. —(1) The Authority may by order revoke a licence issued under this Act —

(a) if it is satisfied that the chit fund company holding that licence —

(i) has ceased to transact chit fund business in Singapore or is carrying on any other business other than chit fund business;

(ii) proposes to make, or has made, any composition or arrangement with its creditors or has gone into liquidation or has been wound up, whether voluntary or involuntary, or otherwise dissolved;

(iii) is carrying on its business in a manner likely to be detrimental to the interests of the subscribers of its chit funds or has insufficient assets to cover its liabilities to its subscribers or the public;

(iv) is contravening the provisions of this Act or the regulations made thereunder; or

(v) has been convicted of any offence under this Act or the regulations made thereunder or if any of its officers holding a managerial or executive position has been convicted of any offence under this Act or the regulations made thereunder; or

(b) if it considers it in the public interest to do so.

(2) The Authority shall, before revoking any licence under subsection (1), give the chit fund company concerned notice in writing of its intention to do so, specifying a date, not less than 21 days after the date of the notice, upon which the revocation shall take effect and calling upon the chit fund company to show cause to the Authority why the licence should not be revoked.

(3) When the Authority has revoked a licence under subsection (1), it shall forthwith inform the chit fund company by notice in writing of the revocation.

(4) The chit fund company may, within 14 days of the receipt of the notice referred to in subsection (3), or such extended period of time as the Minister may allow, appeal in writing against the revocation to the Minister whose decision shall be final.

Effect of revocation of licence.

15. —(1) Where an order of revocation becomes effective under section 14 —

(a) notice of the revocation shall be published in the *Gazette*; and

(b) the chit fund company shall, as from the date of the notice, cease to transact any chit fund business in Singapore except as may be approved by the Authority for the purpose of winding up its chit fund business.

(2) Subsection (1) (b) shall not prejudice the enforcement by any person of any right or claim against the chit fund company or by the chit fund company of any right or claim against any person.

Exhibition of licence.

16. The licence issued under section 7 (3), or a certified copy thereof, shall, so long as it remains valid, be exhibited in a conspicuous position at the principal place of business of the chit fund company and in the event of revocation under section 14, the licence and all certified copies thereof shall be surrendered forthwith to the Authority.

Publication of list of companies.

17. The Authority shall cause to be published in the *Gazette* in the month of April in each year a list of all chit fund companies to which licences have been issued under this Act.

PART IV**CHIT FUNDS — GENERAL PROVISIONS****Prohibition of chit funds conducted in contravention of this Act.**

18. Any person who promotes or conducts, or aids, assists, or takes any part in the promotion or conduct of any chit fund otherwise than in accordance with the provisions of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

When scheme or arrangement deemed to be a chit fund.

19. Any scheme or arrangement which is based wholly on the essential terms and conditions set out in section 24 or has all the attributes and incidents of a chit fund

within the scope and intent of that section shall, notwithstanding that it is called by any other name, be deemed to be a chit fund for the purposes of this Act.

A scheme or arrangement which is deemed only to partake of the nature of a chit fund prohibited.

20. —(1) Every scheme or arrangement by whatever name called which is not based wholly on the essential terms and conditions set out in section 24 or which is based on terms and conditions inconsistent wholly or in part with those essential terms and conditions shall, for the purposes of this Act, be deemed only to partake of the nature of a chit fund.

(2) Regulations made under this Act may describe or define what schemes or arrangements shall be deemed only to partake of the nature of a chit fund for the purposes of this section.

(3) Any person who promotes or conducts, or aids, assists, or takes any part in the promotion or conduct of any scheme or arrangement which only partakes of the nature of a chit fund within the meaning of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

(4) No right or claim under any scheme or arrangement which only partakes of the nature of a chit fund within the meaning of this Act or the regulations made thereunder shall, without prejudice to subsection (1), be enforceable by action in any court.

Security.

21. The licensing of any company under this Act shall not be regarded as authorising the promotion or formation of any chit fund or the acceptance by that company of any instalment or interest from any subscriber until such security as is provided in the regulations made under this Act in respect of that chit fund has been deposited by the chit fund company in accordance with those regulations.

Receipt of contributions.

22. A chit fund company may receive contributions due from intending subscribers at the time of the signing of the agreement pursuant to section 24 (3) but if within 14 days after the expiration of one month of the signing of the agreement the chit fund does not commence, the contributions received shall be returned to the subscribers.

Formation and essential terms and conditions**Formation of chit funds.**

23. Every chit fund shall be formed by the execution of a written agreement between the chit fund company on the one part and the intending subscribers severally on the other part.

Essential terms and conditions of a chit fund.

24. —(1) Every agreement made under section 23 shall contain all the following terms and conditions with the actual amounts, dates and other particulars necessary in each case:

- (a) that the chit fund shall be for a specific amount and for a specified number of subscribers only;
- (b) that the subscribers shall contribute equal portions of the amount;
- (c) that the contribution of each subscriber shall be paid to the chit fund company in money in equal amounts of a specified value during a specified period;
- (d) that each contribution shall be payable on a date specified therefor or within such number of days of grace after that date as may be specified;
- (e) that on or after each date on which the contributions are payable, the chit fund amount shall be put up for sale by the chit fund company among the subscribers either by auction or by way of sealed tenders;
- (f) that each of the subscribers shall be entitled to purchase the chit fund amount once and not oftener during the period of that chit fund, and that no subscriber who has been declared the purchaser at any such sale is to be entitled or permitted to bid or tender at any subsequent sale;
- (g) that every bid or tender of a subscriber at a sale shall indicate the sum which he is willing to forego as interest for the privilege of obtaining the prize on that occasion;
- (h) that of the subscribers entitled to bid at any sale, the subscriber who offers the highest interest shall be declared the purchaser;
- (i) that the purchaser shall be entitled to receive the prize consisting of the chit fund amount less the interest offered by him, on producing guarantors to stand surety for the due payment of his future contributions in respect of that chit fund;

(j) that the chit fund company shall deduct for commission and working expenses a specified sum or a sum bearing a specified proportion to the prize amount or to the chit fund amount;

(k) that the interest shall be distributed in equal proportion among all the subscribers;

(l) that a subscriber, who has not yet purchased a chit fund amount and who defaults in either the payment of a contribution or the production of guarantors shall be entitled to a refund of actual contributions already paid by him in accordance with section 31 (2) or 32 (1), as the case may be.

(2) The agreement mentioned in subsection (1) shall also contain —

(a) the full name and address of the chit fund company and of each of the subscribers;

(b) the business address of the chit fund company or the exact location of the place where the records of the chit fund are to be kept and where its business is to be transacted;

(c) the number of the subscriber's identify card issued by the Government or in the case of a subscriber who has not been issued with a Singapore identity card such other record of identification as may be prescribed; and

(d) such other terms and conditions not inconsistent with this Act, or with the essential terms and conditions referred to in subsection (1), as are considered necessary for the better management and control of the chit fund.

(3) In respect of every chit fund, the agreement shall be signed in original and duplicate by the chit fund company and each intending subscriber, either in person or by a duly authorised agent, and each signature shall be attested by a witness present at the time of signing.

Duty of chit fund company to acknowledge subscriber's rights.

25. As soon as possible after the agreement has been signed by each intending subscriber, the chit fund company shall give the subscriber a written acknowledgment that he is entitled to participate in the chit fund.

Conduct of a chit fund

Meetings of subscribers.

26. —(1) Where the provisions of this Act or the regulations made thereunder or the terms and conditions of the agreement require any matter to be decided by a meeting of the subscribers, the chit fund company shall convene a meeting for the purpose

within 7 days of its becoming aware of the event requiring a meeting and shall serve written notice on each of the subscribers not less than 5 days before the date selected by the chit fund company for the meeting.

(2) Every such notice shall state the time, date and place at which the meeting is to be held, and the business to be transacted at the meeting.

(3) The notice may either be served personally on each subscriber or sent to him by registered or certified post; and any notice sent to a subscriber by registered post shall be deemed to have been duly served if it was addressed to the registered address of that subscriber or to any other address notified by him in writing to the chit fund company.

Minutes of meeting.

27. The chit fund company shall enter in a book to be kept for that purpose the minutes of the proceedings of every meeting of the subscribers. The minutes shall in every case contain the following particulars:

- (a) the place, date, time and duration of the meeting;
- (b) the names of the subscribers who were present; and
- (c) the items of business transacted at the meeting,

and in the case of a meeting at which a chit fund amount is auctioned, the following additional particulars:

- (i) the serial number of the auction;
- (ii) the name of each bidder and the amount of each bid;
- (iii) the name of the purchaser; and
- (iv) the amount of the interest.

Alteration of the agreement.

28. Subject to the provisions of this Act and the regulations made thereunder and subject also to any terms or conditions contained in the agreement as to the matters or the mode in which alterations of the agreement may be made, any alteration of the figures, amounts, dates or other particulars which are not likely to affect the intention or the legal effect of the essential terms and conditions, or any alteration of the additional terms and conditions contained in any agreement, shall be made only at any meeting of the subscribers, duly convened for the purpose, by the votes of a majority, the

aggregate of whose contributions is not less than three-quarters of the chit fund amount.

Receipts for contributions paid and entry of payments in pass-book.

29. —(1) Every subscriber shall receive a receipt issued by or on behalf of the chit fund company for each contribution paid by him.

(2) Every subscriber shall be issued with a pass-book into which each payment made by him shall be entered by the chit fund company.

Production of guarantors by purchaser of chit fund amount.

30. Every subscriber who is declared the purchaser of a chit fund amount shall, as a condition precedent to the payment of the prize amount to him by the chit fund company, produce at least two guarantors to stand surety for the payment of the contributions due from him for the remainder of the chit fund period.

Effect of failing to produce guarantors.

31. —(1) If a subscriber purchasing the chit fund amount fails to produce the guarantors required under section 30 within two weeks of the auction, the chit fund company shall either —

- (a) within 7 days of the expiration of those two weeks declare the next highest bidder, who has not purchased the chit fund amount, to be purchaser of the chit fund amount according to his bid on his producing the guarantors as required under section 30; or
- (b) within two weeks after the expiration of those two weeks conduct a fresh sale of that chit fund amount and give not less than 7 days' notice of the date to each of the subscribers then entitled to bid at the sale.

(2) Where a subscriber is unable to produce the guarantors as required under section 30, the subscriber shall have the right to a refund of the actual amount of the earlier contributions paid by him to the chit fund company, without any deduction whatsoever. The refund shall be paid by the chit fund company within 3 weeks from the date of the auction.

(3) In the event of a refund to a subscriber under subsection (2) by a chit fund company, the chit fund company shall be entitled to remove the name of that subscriber from the register of subscribers kept under section 37 and to substitute therefor the name of the new subscriber.

Substitution of new subscriber for defaulting subscriber who has not purchased any chit fund amount.

32. —(1) Where default in the payment of any contribution is made by any subscriber who has not purchased a chit fund amount, the chit fund amount shall be entitled to remove the name of the defaulting subscriber from the register of subscribers kept under section 37 and to substitute therein the name of a new subscriber except that the removal of his name from the register shall not be deemed to prejudice the right of the defaulting subscriber to a refund of the actual amount of any earlier contributions paid to him, at such time and with such deductions by way of penalty as may be prescribed by regulations made under this Act.

(2) All the rights and liabilities that would under the agreement have accrued to or been incurred by the defaulting subscriber after the date of such substitution if he had not made default, shall be deemed to be transferred to the new subscriber.

(3) No collateral undertaking, as to mutual rights and obligations entered into by the chit fund company and the new subscriber for the purposes of the substitution of the new subscriber, shall be deemed to affect in any respect the duties and liabilities of the new subscriber under the terms and conditions of the agreement.

Voluntary reduction of membership in lieu of substitution of new subscriber.

33. —(1) In any case referred to in section 32, the chit fund company may, before substituting a new subscriber in place of the defaulting subscriber whose name is removed from the register under that section, convene a meeting of the remaining subscribers for the purpose of obtaining their consent to a reduction of the number of subscribers and of the chit fund amount by refraining from substituting a new subscriber in place of the defaulting subscriber.

(2) If at the meeting so convened the subscribers by a majority representing not less than two-thirds of the chit fund amount consent to such reduction and to the necessary alteration of the agreement, the chit fund company shall record that fact in the minute book kept under section 27.

(3) Upon the recording of the alteration made for the purposes of a voluntary reduction under this section, every subscriber who was the purchaser of a chit fund amount sold at any auction prior to the date of the reduction, shall be liable to continue the payment of the contributions specified in the agreement until the aggregate amount so

contributed by him becomes equal to the chit fund amount at the time of the sale at which he was declared the purchaser.

Liability of defaulting subscriber who has already purchased chit fund amount.

34. —(1) Where default in the payment of any contribution is made by a subscriber who has already purchased a chit fund amount, that subscriber and his guarantors shall be liable to make immediate payment to the chit fund company of the aggregate of all the contributions payable by him to the end of the chit fund period.

(2) Upon receiving the contributions pursuant to subsection (1), the chit fund company shall immediately deposit those contributions in any bank that is approved by the Authority.

(3) Any money received under subsection (1) exceeding the amount required to cover the contribution of the defaulting subscriber shall be returned forthwith by the chit fund company to the defaulting subscriber or his guarantors, as the case may be.

(4) A chit fund company may charge interest on any money due under subsection (1) at the rate and by the method prescribed in the regulations made under this Act.

Transfer of subscriber's rights.

35. —(1) Any subscriber who has not purchased a chit fund amount may make over his rights in the chit fund by a transfer in writing to any person approved by the chit fund company.

(2) Notice of every transfer made under subsection (1) shall be given forthwith to the chit fund company, in writing signed by the transferor and the transferee.

(3) On receipt of the notice of any transfer made under subsection (1), the chit fund company shall make the appropriate entries in the register of subscribers kept under section 37.

(4) Where the transfer of the rights of any subscriber under subsection (1) is proved to have been made to any person who was insolvent at the time of the transfer or to have been made with the intention of defeating the provisions of any written law in force in Singapore, the transfer shall not be deemed to operate as a discharge to that subscriber from his duties and liabilities under the terms and conditions of the agreement.

(5) Notwithstanding anything in any other written law to the contrary, the stamp duty payable on any transfer under this section shall be in accordance with the provisions of the Stamp Duties Act.

Cap. 312.

Transfer of right of chit fund company to recover contributions to be voidable.

36. Any transfer made by the chit fund company of its right to recover the contributions payable by subscribers, who have purchased chit fund amounts, shall not defeat or delay the rights of any subscriber who has not purchased a chit fund amount and shall be voidable at the instance of the subscriber if the transfer is likely to defeat or delay the rights of that subscriber under the terms and conditions of the agreement.

Books to be kept by chit fund company.

37. The chit fund company shall keep and from day to day regularly post up the following books:

(a) a register of subscribers containing —

(i) the names and addresses of all subscribers with the respective dates on which the subscribers signed the agreement, and the date on which any subscriber ceased to be a subscriber by reason of a transfer of rights or of a substitution in case of default;

(ii) in the case of any transfer of rights by a subscriber, the name and address of the person to whom the rights are transferred with the date of the transfer and the date on which notice thereof is given to the chit fund company; and

(iii) the name and address of any person substituted in place of a defaulting subscriber, with the date on which he is so substituted;

(b) the minute book required under section 27;

(c) an account book containing separate accounts of the following:

(i) the contributions paid by each subscriber and the respective dates of those payments;

(ii) the prize amounts paid to purchasers of the chit fund amount and the respective dates of those payments;

(iii) the amount of the commission or remuneration received by the chit fund company and the registration fees paid by it; and

(iv) the amount of the rebate paid to each subscriber on each occasion and the date of the payment.

Liability of chit fund company to subscribers.

38. —(1) The chit fund company shall be liable to each subscriber for any amount due to that subscriber in respect of the chit fund.

(2) The chit fund company shall not be entitled to withdraw from the management of the chit fund without the written consent of all the subscribers.

(3) Where the chit fund company is in liquidation or is being wound up, whether voluntarily or otherwise, any debt owing by the company to any subscriber under the terms and conditions of the agreement relating to the chit fund shall, notwithstanding anything in any other written law to the contrary, be a first charge upon any property acquired or held by it for the purposes of that chit fund, including property held by the Authority as security pursuant to the regulations made under this Act.

Prohibition of bid or tender by chit fund company.

39. —(1) No chit fund company licensed under section 7 shall be entitled to bid or submit a tender or shall bid or submit a tender either directly or indirectly at any sale of a chit fund amount held by auction or by tenders in connection with any chit fund formed or conducted by that company.

(2) Any chit fund company licensed under section 7 may, in lieu of substituting a new subscriber in the place of each defaulting subscriber, take up the share of one or more defaulting subscribers, and in every such case the chit fund company shall be entitled to take, without an auction or other sale and without any interest, the successive chit fund amounts available after the last of the continuing eligible subscribers has purchased his prize amount.

Termination of a chit fund.

40. —(1) A chit fund shall be deemed to terminate upon the occurrence of any of the following events:

(a) on the expiry of the chit fund period as specified in the agreement or where it is curtailed by reason of any voluntary reduction of membership duly effected under section 33;

(b) on the failure of the chit fund company to conduct the chit fund in accordance with the provisions of this Act, the regulations made thereunder or the terms and conditions of the agreement;

(c) on the chit fund company going into liquidation or being wound up, whether voluntarily or involuntarily or otherwise being dissolved;

(d) on steps being taken for the winding up of the company either voluntarily or by order of the Authority or the Minister;

(e) on the licence being revoked by the Authority under section 14.

(2) Upon the termination of a chit fund otherwise than by the expiry of the chit fund period as specified in the agreement or by a voluntary reduction of a chit fund under section 33 every subscriber who has not purchased a chit fund amount shall be entitled —

(a) to recover from the chit fund company the aggregate of the actual amounts contributed by each subscriber as contributions under the agreement prior to the termination of the chit fund; or

(b) to apply to a court of competent jurisdiction for an order —

(i) directing each subscriber who has drawn a prize amount in that chit fund to deposit in court upon the due dates the several contributions, which, if the chit fund had not terminated, would have been payable by the subscriber to the chit fund company, until the aggregate of the amounts paid to the chit fund company by that subscriber before the termination of the chit fund and of the amounts so deposited in court become equal to the chit fund amount at the time of the sale at which that subscriber was declared the purchaser; and

(ii) declaring that all amounts so deposited in court shall be divided rateably among the subscribers who have not drawn a prize amount in that chit fund, and setting out for that purpose any scheme of distribution that may be necessary.

(3) Where any action is instituted by a subscriber for the enforcement of a claim under subsection (2) (a), the chit fund company may apply for an order of court under subsection (2) (b) in like manner as a subscriber and any sum of money that may be received under such an order by the subscriber instituting the action, shall be set off against the amount claimed in the action.

Sale by sealed tender as alternative to auction.

41. The sale of the chit fund amounts may, if the terms and conditions of the agreement provided therefor, be effected by way of sealed tenders as an alternative to an auction if, at a duly convened meeting of the subscribers held before the sale of the first chit fund amount, the subscribers by a majority representing three-quarters of the chit fund

amount resolve to adopt the method of sealed tenders; and the method adopted for the sale of the first chit fund amount shall be followed at each subsequent sale in connection with that chit fund:

Provided that in every case where the tenders of two or more subscribers are of the same value, the chit fund amount shall be put up for sale by auction among those subscribers, and the initial bid at every such auction shall be the amount set out in the tenders of those subscribers.

Financial limits to be observed by chit funds.

42. —(1) The total value of the chit fund to be conducted at any one time by a chit fund company shall be as prescribed by regulations made under this Act.

(2) For the purposes of this section, the “total value of the chit funds” means the aggregate of the chit fund amounts that are to be collected and put up for sale during the period of that chit fund.

Limits on lending powers of chit fund company.

43. —(1) No chit fund company shall lend to any person other than to a subscriber who has not purchased the chit fund amount.

(2) A chit fund company may lend to a subscriber who has not purchased the chit fund amount but the amount so lent shall not exceed 75% of the aggregate contributions already paid by that subscriber or such other percentage as may be specified in regulations made under this Act.

(3) A chit fund company that lends to a subscriber under subsection (2) shall not be deemed to be a moneylender under the Moneylenders Act and that Act shall not accordingly apply to any transaction under this section.

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PART V

**RESERVE FUND, DIVIDENDS, BALANCE-SHEET, INFORMATION AND
REGULATION OF BUSINESS**

Maintenance of reserve funds.

44. —(1) Every chit fund company shall maintain a reserve fund.

(2) At the end of each financial year, the net profit of each chit fund company shall be determined after allowing for taxation, and after making provision for bad or doubtful debts.

(3) Such part of the net profits as is specified in this subsection shall be transferred to the reserve fund at the end of each financial year, as follows:

(a) where the reserve fund is 200% or more of the paid-up capital, a sum of not less than 5% of the net profits;

(b) where the reserve fund is not less than 100% but less than 200% of the paid-up capital, a sum of not less than 15% of the net profits;

(c) where the reserve fund is less than 100% of the paid-up capital, a sum of not less than 30% of the net profits.

Bad and doubtful debts.

45. Every chit fund company shall, before the profit and loss account and balance-sheet are made out, take steps to ensure that all bad debts have been written off and make adequate provision for doubtful debts.

Restriction on payment of dividends by chit fund companies.

46. No chit fund company shall pay any dividend on shares, until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling, commission, brokerage, amount of losses incurred and any item of expenditure not represented by tangible assets) has been completely written off.

Exhibition of audited balance-sheet.

47. Every chit fund company shall exhibit throughout the year in a conspicuous position in every office and branch of that chit fund company, a copy of its last audited balance-sheet and profit and loss account together with the full and correct names of all persons who are directors of the chit fund company, as soon as the balance-sheet is audited.

Information and statistics to be furnished by chit fund companies.

48. —(1) Every chit fund company shall furnish to the Authority, at such time and in such manner as the Authority may prescribe, all such information and data as the Authority may reasonably require for the proper discharge of its functions under the provisions of this Act.

(2) Every chit fund company that fails or neglects to furnish any information required by the Authority under subsection (1), and within the time specified by the Authority, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 for every day during which the default continues after conviction.

PART VI

INSPECTION OF CHIT FUND COMPANIES

Inspection and investigation of chit fund companies and production of books, etc.

49. —(1) The Authority may, from time to time, inspect or cause to be inspected, under conditions of secrecy, the books, accounts and transactions of any chit fund company.

(2) The Minister may at any time direct the Authority to make an investigation, under conditions of secrecy, of the books, accounts and transactions of a chit fund company, if he has reason to believe that the chit fund company is carrying on its business in a manner detrimental to the interests of its subscribers and other creditors or has insufficient assets to cover its liabilities to the public, or is contravening the provisions of this Act or the regulations made thereunder.

(3) The Authority may appoint any auditor, other than the auditor appointed by the chit fund company under section 205 of the Companies Act, to exercise the powers of the Authority under subsections (1) and (2).

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(4) For the purpose of an inspection or investigation under this section, a chit fund company shall afford the Authority access to its books, accounts and documents and shall give such information and facilities as may be required to conduct the investigation:

Provided that those books, accounts and documents shall not be required to be produced at such times and at such places as shall interfere with the proper conduct of the normal daily business of that chit fund company.

(5) If any book, account or document or information is not supplied in accordance with subsection (4), the chit fund company concerned shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and to a further fine of \$250 for every day during which the default continues after conviction.

Powers of Authority to issue orders after an inspection.

50. —(1) If the Authority finds upon an inspection under section 49 that the affairs of a chit fund company are being conducted in a manner likely to be detrimental to the interests of the subscribers or prejudicial to the interests of the chit fund company, the Authority may by order require the chit fund company to take such corrective action as the Authority considers to be necessary or require the chit fund company to discontinue such practices or procedures.

(2) No order shall be issued under subsection (1) unless the chit fund company has been given a reasonable opportunity to present its views to the Authority.

(3) The Authority may, upon representation being made to it, or on its own motion, modify or cancel any order issued under subsection (1) and, in so modifying or cancelling any order, may impose such conditions as it thinks fit.

PART VII

MISCELLANEOUS PROVISIONS

Recovery of fees, expenses, etc.

51. There shall be recoverable as a civil debt due to the Government from the chit fund company concerned the amount of any fees payable under this Act or any regulations made thereunder.

Exemption.

52. Notwithstanding any of provisions of this Act, the Authority may, with the approval of the Minister, exempt any chit fund company from all or any of the provisions of this Act.

Winding up provisions.

53. —(1) Without prejudice to the provisions of the Companies Act —

(a) a chit fund company (whether or not it is being wound up voluntarily) may be wound up under an order of the court on the application of the Minister; and

(b) the court may order the winding up of a chit fund company if that company—

(i) has held a licence under this Act and that licence has expired or has been revoked;

(ii) has been declared insolvent;

(iii) has carried on chit fund business in Singapore in contravention of the provisions of this Act.

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(2) In the winding up of a chit fund company that has been carrying on chit fund business, every subscriber who has not purchased a chit fund amount shall be entitled to recover his contribution in the manner set out in section 40 (2).

Redemption of securities held by chit fund company.

54. —(1) As soon as practicable after the making of an order for the winding up of a chit fund company, the liquidator of the company shall publish in the *Gazette* a notice requiring every debtor of the chit fund company to redeem any property he has deposited with the company as security for any loan that he has obtained from the chit fund company, and shall also send by registered post the notice to every debtor whose security is held by the chit fund company and whose name is mentioned in the statement of affairs made out under section 270 of the Companies Act.

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(2) The notice shall specify the latest date up to which any security may be redeemed, which date shall not be less than 3 months from the date of the notice.

(3) After the latest date for redeeming any security held by the chit fund company specified in the notice, the liquidator may proceed to realise any security held by the chit fund company forthwith, notwithstanding any agreement setting out any other period of redemption previously entered into between the chit fund company and the debtor.

Operation of this Act not to affect certain Acts.

55. —(1) Nothing in this Act shall affect the operation of the Companies Act, and any company that is liable to be incorporated under that Act shall continue to be so liable as if this Act had not been passed but in case of conflict between that Act and this Act the provisions of this Act shall prevail, unless otherwise provided in this Act.

(2) Nothing in this Act shall, unless it is expressly provided to the contrary, affect the operation of any written law relating to moneylending, finance companies, banking or insurance or the liability of any chit fund company under any such law.

General penalty.

56. Any chit fund company which, or any person who being a director, officer, employee or agent of a chit fund company, contravenes or fails to comply with any of the

provisions of this Act for which no penalty is expressly provided shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Offences triable in District Court.

57. Notwithstanding the provisions of any other written law, offences under this Act or any regulations made thereunder may be tried in a District Court which shall have the power to impose the maximum penalty prescribed for any offence under this Act.

Consent of Attorney-General.

58. No prosecution in respect of any offence under this Act or the regulations made thereunder shall be instituted except with the consent of the Attorney-General.

Offences by directors, managing directors or managers.

59. —(1) Any person who, being a director, managing director or manager of a chit fund company —

(a) fails to comply or take all reasonable steps to secure compliance by the chit fund company with the provisions of this Act or any other written law relating to chit fund companies in Singapore; or

(b) fails to ensure or to take all reasonable steps to ensure the accuracy and correctness of any statement or information submitted under this Act or of any other written law relating to chit fund companies in force in Singapore,
shall be guilty of an offence and shall in respect of each offence be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

(2) In proceedings against a person under subsection (1), it shall be a defence to prove that he had reasonable grounds to believe and did in fact believe that a competent and reliable persons was charged with the duty of securing compliance with the provisions of those laws or with the duty of ensuring that those statements were accurate and that that person was in a position to discharge that duty.

(3) A person shall not be sentenced to imprisonment for any offence under subsection (1) unless, in the opinion of the court, he committed the offence wilfully.

Holding out as chit fund company.

60. Where any public or private company or firm holds itself out to be a licensed chit fund company when it is not licensed under this Act, the company or firm shall be guilty of an offence, and every director, manager or every officer of the company or the proprietor, partner or officer of the firm shall, unless he proves that such holding out by the company or firm was made without his knowledge or consent, be guilty of an offence and shall be liable on conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 2 years or to both.

Regulations.

61. —(1) The Authority may, with the approval of the Minister, from time to time make all such regulations for, or in respect of, every purpose which it considers necessary for carrying out the provisions of this Act and for the prescribing of any matter which is authorised or required under this Act to be so prescribed.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Authority may, with the approval of the Minister, by such regulations

(a) prescribe fees to be charged under this Act;

(b) prescribe the procedure to be adopted in registering the agreement or any other document or filing any document;

(c) prescribe the accounts or books to be kept and the forms to be used by the chit fund company in any case where express provision is not made by this Act; and for providing for the periodical inspection of those accounts or books by the Authority or by an officer authorised by the Authority;

(d) prescribe the periods during which the several documents registered or filed in the office of the Authority shall be preserved, and the method of disposal of such documents at the end of those periods;

(e) prescribe in the agreement the duration of a chit fund, the highest rebate to be offered, the latest date on which contributions are to be paid and the nature of the security to be given to the chit fund company by the purchaser of the prize and the amount of the commission that may be charged by a chit fund company;

(f) prescribe the security to be given by the chit fund company for the discharge of its liabilities under the agreement and the place where the security shall be lodged;

(g) prescribe the total value of chit funds to be conducted at any one time by a chit fund company in relation to the paid-up capital of that company;

(h) prescribe additional essential terms and conditions or modify or amend existing terms and conditions under section 24;

(i) regulate advertisements of chit fund companies;

(j) vary the security to be furnished by the chit fund company or the subscriber, as the case may be;

(k) prescribe the rights, obligations, duties and liabilities of subscribers and the chit fund company.

(3) Every chit fund company which contravenes the regulations made pursuant to subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

ประวัติผู้เขียนวิทยานิพนธ์

นายวิทยา เบ็ญจาทิกุล เกิดเมื่อวันที่ 11 กรกฎาคม 2502 จบการศึกษาระดับประถมศึกษา จากโรงเรียนวัดกก กรุงเทพมหานคร มัธยมศึกษาจากโรงเรียนสิงหราชพิทยาคม กรุงเทพมหานคร ในระดับอุดมศึกษา ได้รับปริญญาตรีนิติศาสตรบัณฑิต จากมหาวิทยาลัยรามคำแหง ปีการศึกษา 2524 และเนติบัณฑิตไทยสมัยที่ 53 จากสำนักอบรมกฎหมายแห่งเนติบัณฑิตยสภา เริ่มประกอบอาชีพทนายความตั้งแต่ พ.ศ. 2527 จนถึงปัจจุบัน และปัจจุบันดำรงตำแหน่งเป็นรองอธิการบดี ฝ่ายบริหาร วิทยาลัยกรุงเทพธนบุรี และอาจารย์ประจำคณะนิติศาสตร์ วิทยาลัยกรุงเทพธนบุรี