Chapter X - Winding up of Chits

- Winding up of Chits (48 to 60)

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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 assets pertaining to such chit shall be vetted 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 the Official Gazette, that the order has been made.

57. Cessation of winding up proceedings on in solvency of foreman, etc., or the winding up of the company and transfer of such proceedings.- Where during the pendency of the proceedings for the winding up of a chit the foreman is adjudicated an insolvent or where the foreman is a firm, all the partners or all the partners except one thereof are adjudicated 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 subjects, to the provisions of sections 43 and 52, be made by the insolvency court or the court winding up the company, as the
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.