

# The U.P. Sahkari Gram Vikas Banks Act, 1964

UTTAR PRADESH

India

## The U.P. Sahkari Gram Vikas Banks Act, 1964

### Act 16 of 1964

- Published on 1 January 1964
- Commenced on 1 January 1964
- [This is the version of this document from 1 January 1964.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Sahkari Gram Vikas Banks Act, 1964(U.P. Act No. 16 of 1964)Substituted by U.P. Act 19 of 1994.As Amended by U.P. Act No. 27 of 1978, 3 of 1979, 16 of 1989 and 19 of 1994.An Act of facilitate the working of [Sahkari Gram Vikas Banks] [Substituted by U.P. Act 19 of 1994, for the words 'Sahkari Krishi Evam Gramya Vikas Banks'.] in the State of Uttar PradeshPreamble. - Whereas it is expedient further to facilitate the working of the [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994 for the words 'Uttar Pradesh Rajya Sahkari Krishi Evam Gramya Vikas Bank'.] and the formation and functioning of [Sahkari Gram Vikas Banks] [Substituted by U.P. Act No. 19 of 1994. (w.e.f. 9-6-1994)] in the State:-It is hereby enacted in the Fifteenth year of the Republic of India as follows:

### 1. Short title, extent and commencement.

(1)This Act may be called the Uttar Pradesh [Sahkari Gram Vikas Banks] [Substituted by U.P. Act No. 19 of 1994. (w.e.f. 9-6-1994)] Act, 1964.(2)It extends to the whole of the State of Uttar Pradesh.(3)It shall come into force from such date as the State Government may, by notification in the Gazette, appoint in this behalf.

### 2. Definitions.

- In this Act unless there is anything repugnant in the subject or context -(a)"Board" means the Board of Directors of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994 for the words 'Uttar Pradesh Rajya Sahkari Krishi Evam Gramya Vikas Bank'.];(b)"Bye-laws" means the bye-laws registered under the Co-operative Societies Act, for the time being in force in Uttar Pradesh and includes a registered amendment of the bye-laws;(c)"[Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994. (w.e.f. 9-6-1994)] or [Sahkari Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994. (w.e.f. 9-6-1994)]" means a co-operative society registered under the Co-operative Societies Act for the time being in force in Uttar Pradesh admitted as a member of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994 for the words 'Uttar Pradesh Rajya

Sahkari Krishi Evam Gramya Vikas Bank'.] and having as its main object the advancement of loans to its members on the mortgage of or charge on immovable property [or on hypothecation of movable property] [Inserted by U.P. Act 16 of 1989, vide Section 5.] or against unconditional guarantee of the State Government [generally for agricultural and rural development including construction of dwelling houses in rural areas] [Substituted by U.P. Act 16 of 1989, vide Section 5.];(d)"Managing Committee" means the governing body of a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994. (w.e.f. 9-6-1994)] to which the management of its affairs is entrusted;(e)"Officer" includes a chairman, secretary, treasurer, member of the Board or the managing committee or other person empowered under the rules or the bye-laws to give directions in regard to the business of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994. (w.e.f. 9-6-1994)] or a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994. (w.e.f. 9-6-1994)];(f)"Prescribed" means prescribed by rules made under this Act;(g)"Rules "means the rules made under this Act;(h)"Registrar" means the person appointed by the State Government to be Registrar of Co-operative Societies for the State of Uttar Pradesh under the provisions of the Co-operative Societies Act for the time being in force in Uttar Pradesh;(i)"Regulation" means the regulations framed by the Board under this Act;(j)[Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994 for the words 'Uttar Pradesh Rajya Sahkari Krishi Evam Gramya Vikas Bank'.] means a co-operative society registered under the Co-operative Societies Act for the time being in force in Uttar Pradesh with its area of operation covering the whole of Uttar Pradesh and carrying on the business as a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] and facilitating [the operation of its members] [Substituted by U.P. Act No. 27 of 1978.];(k)"State Government" means the Government of Uttar Pradesh;(l)"Trustee" means the Trustee referred to in Section 4 of this Act.

### **3. Number of [Gram Vikas Banks] [Substituted by U.P. Act No. 19 of 1994.].**

- There shall not be more than one [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] for the whole of Uttar Pradesh and there may be as many [Gram Vikas Banks] [Substituted by U.P. Act No. 19 of 1994.] as may be deemed necessary by the Registrar.

### **4. Appointment of Trustee and his powers and functions.**

(1)The Registrar shall be the Trustee for the purpose of securing the fulfilment of the obligations of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] to the holders of debenture issued by the Board.(2)The powers and functions of the Trustee shall be governed by the provisions of this Act and by the instrument of Trust executed between the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] and the Trustee as modified [or substituted] [Substituted by U.P. Act No. 27 of 1978.] from time to time by their mutual agreement and with the approval of the State Government.

### **5. Trustee to be a corporation sole.**

- The Trustee appointed under Section 4 shall be a corporation sole by the name of the Trustee and shall have perpetual succession and a common seal and in his corporate name may sue and be sued.

## **6. Issue of debentures by the board.**

- [(1) With the previous sanction of the State Government and the Trustee and subject to such terms and conditions as the State Government may impose, the Board may from time to time, issue debentures of one or more denominations, for such period or periods as it may deem expedient, against the unconditional guarantee by the State Government for repayment in full of the principal and payment of interest thereon or on the security of mortgages, charges or hypothecations partly held and partly to be acquired and the properties and other assets transferred or deemed to have been transferred under the provisions of Section 12 by the [Gram Vikas Banks] [Substituted by U.P. Act No. 27 of 1978.] to the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] and other properties of the [Uttar Pradesh Gram Vikas Bank;] [Substituted by U.P. Act No. 19 of 1994.].](2)[ Provided that no debenture shall be issued otherwise than in conformity with such directions or instructions as may be issued by the Reserve Bank of India, or the National Bank for Agriculture and Rural Development, from time to time.] [Inserted by U.P. Act 16 of 1989, vide Section 6 (a).](3)Such debentures may contain a term fixing a period not exceeding [twenty years] [Substituted by U.P. Act 16 of 1989, vide Section 6 (b), for 'ten years'.] from the date of issue during which they shall be irredeemable, or reserving to the Board the right to call in at any of the debentures in advance of the date fixed for redemption, after giving to the debenture holders concerned not less than three months' notice in writing.(4)[ The total amount due on debentures already issued by the Board under sub-section (1), together with the amount of any debentures proposed to be issued, shall not exceed the aggregate of-(a)the amounts due. on the mortgages or charges or hypothecations [or any loan advanced against the unconditional guarantee by the State Government] and the value of other assets transferred or deemed under Section 12 to have been transferred by the [Gram Vikas Banks] [Substituted by U.P. Act 19 of 1994.] to the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.];(b)the accumulations in the Debenture Redemption Fund;(c)the cash in hand and the balance with the banks and the book value or market value of securities under general funds, whichever is less; and(d)such percentage of the amounts mentioned in clauses (a), (b) and (c), as may be prescribed.]

## **7. [ Vesting of property in Trustee and Debenture-holders charge on the assets. [Substituted by U.P. Act No. 27 of 1978.]**

- Upon the issue of debentures under Section 6, the benefit under the State Government guarantee and the mortgaged properties and other assets referred to in sub-section (3) of the said section and held by the Board, shall vest in the Trustee and the holders of the debentures shall be entitled to the benefit of the guarantee of the State Government and shall also have a floating charge on all such mortgages and assets and amounts paid under such guarantee or mortgages and remaining in the hands of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No.27 of 1978.].

## **8. Guarantee by State Government of Principal and interest on debentures.**

(1)The principal of and interest on the debentures issued under Section 6 shall in respect of such maximum amount as may be fixed by the State Government by notification in the Gazette in this

behalf, and subject to such conditions as it may think fit to impose therein, carry the guarantee of the State Government.(2)The State Government may, subject to such conditions as may be prescribed, increase of the maximum amount of any guarantee given under sub-section (1).(3)The State Government may, after consulting the Boards and the Trustee -(a)by notification in the official Gazette, and(b)by notice in such of the principal newspapers in the State and of other States in India as the State Government may select in this behalf,discontinue any guarantee given by it or restrict the maximum amount thereof or modify the conditions, subject to which it is given, with effect from a specified date, not being earlier than six months from the date of publication of the notification in the official Gazette:Provided that the withdrawal, restriction or modification of any guarantee shall not in any way affect the guarantee carried by any debenture issued prior to the date on which such withdrawal, restriction or modification takes effect.(4)Every notification and notice referred to in sub-section (3) shall, where the maximum amount of the guarantee is to be restricted or the conditions subject to which the guarantee is given are to be modified, set forth precisely the scope and effect of the restriction or modification, as the case may be.

## **9. Guarantee fund.**

(1)The State Government may constitute a Guarantee Fund on such terms and conditions as it may deem fit, for the purpose of meeting losses that might arise on account of loans advanced by the [Gram Vikas Banks] [Substituted by U.P. Act No. 19 of 1994.] on the security of mortgages not being fully recovered due to such circumstances as may be prescribed.(2)The [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] and the [Gram Vikas Banks] [Substituted by U.P. Act No. 19 of 1994.] shall contribute to such fund at such rates as may be prescribed.[(2-A) The State Government may also contribute to the fund from time to time such amount as it may deem fit] [Inserted by U.P. Act No. 3 of 1979., vide Section 2, w.e.f. 5th October, 1978.](3)The fund shall be maintained and utilized in such manner and for such purposes as may be prescribed.

## **9A. [ Power to borrow money. [Inserted by U.P. Act 16 of 1989, vide Section 7.]**

- Notwithstanding anything contained in the Uttar Pradesh Co-operative Societies Act, 1965, the Board may borrow money from the State Government or the Reserve Bank of India, or the National Bank for Agriculture and Rural Development or such other financial institutions, as may be approved by the Trustee].

## **10. Priority of mortgage over certain claims.**

- A mortgage executed [or charge created] [Inserted by U.P. Act 3 of 1979.] in favour of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] or a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] after the commencement of this Act, shall have priority over any claim of the Government arising from a loan granted after the execution of such mortgage, [or creation of such charge] [Inserted by U.P. Act No. 3, 1979.] under the Land Improvement Loans Act, 1883.

**11. Right or [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] or of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] to purchase mortgaged property.**

- [(1) Notwithstanding anything contained in any law for the time being in force it shall be lawful for a [Gram Vikas Bank] [Inserted by U.P. Act No. 3, 1979.] or the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] to purchase any property sold under this Act and the property so purchased shall be disposed of by such Bank by sale within such period as may be fixed by the Trustee].(2)Nothing in Section 154 of the U.P. Zamindari Abolition and Land Reforms Act, 1950, or in any other law for the time being in force, fixing a maximum limit of agricultural holding [or other immovable property] [Inserted by U.P. Act No. 16 of 1989., vide Section 8.] shall apply to the acquisition of land [or other immovable property] [Inserted by U.P. Act No. 16 of 1989., vide Section 8.] by a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] or the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] under sub-section (1).[(2-A) If the bank has to lease out any land acquired by it under sub-section (1) pending sale thereof, the period of lease shall not exceed one year at a time and the lessee shall not acquire any other interest in that property notwithstanding any provisions to the contrary in any other law of the time being in force] [Inserted by U.P. Act No 27 of 1978.].

**12. Mortgages executed in favour of [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] to stand vested in [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.].**

- The mortgages executed in favour of, and all other assets transferred to a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] by the members thereof, before or after the commencement of this Act, shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] to the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] and shall vest in [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.].

**13. Power of [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] to receive moneys and grant discharges.**

- Notwithstanding that a mortgage executed in favour of a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] has been transferred, or is deemed under the provisions of Section 12 to have been transferred, to the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] -(a)all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or the Trustee and communicated to the mortgagor, be payable to the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] and such payment shall be as valid as if the mortgage had not been so transferred; and(b)the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] shall, in the absence of any specific direction to the contrary issued by the Board or the Trustee and communicated to the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.], be entitled to the sue on the mortgage or take any other proceeding for the recovery of the amount due under the

mortgage.

#### **14. Right of [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] to pay prior debts Of mortgagor.**

(1)Where a mortgage is executed in favour of a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] for payment of prior debts of the mortgagor, the bank may notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, by notice in writing, require any person to whom any such debt or part thereof is due, to receive from the bank at its registered office such amount without such period as may be specified in the notice.(2)Where any such person refuses to receive such notice or fails or refuses to receive payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:Provided that where there is a dispute as regards the amount of any such debt the person to whom such debt is due shall be bound to receive payment of the amount offered by the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

#### **15. Distraint when to be made.**

(1)If any instalment payable under a mortgage executed in favour of a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] or any part of such instalment remains unpaid for more than one month from the date on which it falls due, the managing committee may, in addition to any other remedy available to the said bank, apply to the Registrar for the recovery of such instalment or part thereof by distraint and sale of the produce of the mortgaged land including the standing crops thereon.(2)On receipt of such application, the registrar or any other person authorised by him in this behalf in writing may, notwithstanding anything contained in the Transfer of Property Act, 1882, take action in the manner prescribed for the purpose of distraining and selling such produce:Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.(3)The value of the property distrained shall, as nearly as possible be equal to the total of the amount due, the expenses of the distraint and the costs of the sale and also the amount due on a prior charge, if any, on the property distrained.

#### **16. Power of sale when to be exercised.**

(1)Notwithstanding anything contained in the Transfer of Property Act, 1882, where a power of sale without the intervention of court is expressly conferred on a [Gram Vikas Bank] [Substituted by U.P. Act. No. 19 of 1994.] [by a declaration of charge made or mortgage deed] [Substituted by U.P. Act No. 3 of 1979.] executed before or after the commencement of this Act, the managing committee of such bank or any person authorised by such committee in this behalf shall, in case of default in payment of the [money due under the mortgage or charged or any part thereof, have power, in addition to any other remedy available to the said bank, to bring the property subject to any mortgage or charge to sale] [Substituted by U.P. Act No. 3 of 1979.] without the intervention of the

court.(2)No such power shall be exercised unless-(a)a notice in writing requiring payment of such mortgage money or part has been served upon-(i)the mortgagor or each of the mortgagors;(ii)any person who has to the knowledge of the bank any interest in or charge upon the property mortgaged or right to redeem the same;(iii)any surety for the payment of the mortgage debt or any part thereof; and(iv)any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property;(b)default in payment of such mortgage money or part thereof continued beyond three months after such service; and(c)the Board has, after hearing the objections, if any, of the mortgagor or any other person mentioned in clause (a) authorised the exercise of such power.(3)A sale under this section shall be conducted in such manner, as may be prescribed.(4)[ Where any property sold under this Act in the occupancy of any person creating mortgage or charge, or of some person on his behalf, or of some person claiming title subsequent to the creation of such mortgage or charge in favour of a [Gram Vikas Bank] [Inserted by U.P. Act No. 3 of 1979.] or the [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.], the Collector shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person appointed by him in this behalf, in possession of the property].(5)[ A sale under this section of an agricultural holding or any other immovable property or of any interest therein shall be subject to the provisions of Sections 157-A and 157-B of Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950] [Inserted by U.P. Act 16 of 1989.].

## **17. Power of [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] where mortgaged property is destroyed or security becomes insufficient.**

- Where any property mortgaged to a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the managing committee of the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] of providing further security so as to render the security sufficient or of repaying such portion of the loan as may be determined by the committee, has failed to provide such security or to repay such portion of the loan the whole of the loan shall be deemed to fall due at once and the committee shall be entitled to take action against the mortgagor under this Act or any other law for the time being in force for the recovery thereof.Explanation. - A security shall be deemed insufficient within the meaning of this section if the value of the mortgaged property does not exceed the amount for the time being due on the mortgage by such proportion as may be specified in the rules, regulations or the bye-laws of the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.].

## **18. Power of Board or of Trustee to distrain and sell property, etc.**

(1)In the case of a direct mortgage with the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.], the Board or the Trustee shall have all the powers conferred on the managing committee of a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] under Sections 15,16 and 17, and in exercising the power under sub-section (1) of Section 16, clause (c) of sub-section (2) of that section shall be deemed to be non-existent.(2)The Board or the Trustee may direct the managing committee of a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] to take action against a defaulter under Section 15 or Section 16 or Section 17, and if the committee neglects or fails to do so, the Board or the Trustee may take such action subject to the provisions of sub-section

(1).(3)(a)Where such action as is mentioned in sub-section (1) or sub-section (2) is taken by the Board the provisions of this Act. and the rules or regulations made in this behalf shall apply in respect thereto as if all references to the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] and to its managing committee in the said provisions were references to the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] and the Board respectively.(b)Where such action as is mentioned in sub-section (1) or sub-section (2) is taken by the Trustee, the provisions of this Act and the rules or regulations made in this behalf shall apply in respect thereto as if all references to the [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] or to its managing committee in the said provisions were references to the Trustee.

## **19. Title of purchaser not to be questioned on the ground of irregularity, etc.**

- Where any property is sold in the exercise or purported exercise of a power of sale under Section 16, the title of the purchaser shall not be questioned on the ground that-(a)the circumstances required for authorising the sale had not arisen, or(b)due notice of the sale was not given, or(c)the power of sale was otherwise improperly or irregularly exercised, but any person who has suffered any damage by an unauthorised improper or irregular exercise of any such power shall have the right to claim damages against the [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994, for the words 'Land Development Bank'.]

## **20. Mortgage not to be questioned on insolvency of mortgagor.**

- Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994, for the words 'Land Development Bank'.] shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994, for the words 'Land Development Bank'.] a preference over other creditors of the mortgagor.

## **21. Appointment of receiver and his powers.**

(1)The Board may, on its own motion, or on the application of a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994, for the words 'Land Development Bank'.], under circumstances in which the power of sale without the intervention of court may be exercised under Section 16 by a managing committee or the Board, appoint in writing, a receiver of the mortgaged property or any part thereof and such receiver shall be entitled to take possession of the property, to collect its produce and income, to retain out of any money realized by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of Section 69-A of the Transfer of Property Act, 1882 so far as applicable.(2)The Board may, either on its own motion or on an application made by the mortgagor, remove a receiver appointed under sub-section (1).(3)A vacancy in the office of the receiver may be filled up by the Board.(4)Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a civil court.



**21A. [ Vesting of right of alienation on agriculturists not having such rights.  
[Inserted by U.P. Act No. 3 of 1979 vide Section 6, (w.e.f. 5th October 1978).]**

- The State Government may, by notification vest, subject to such restriction as may be specified in the notification, all Bhumidhars whether with transferable rights or not [,Asami] and the Government lessees, with rights of alienation in land held under this tenure or any interest in such land including the right to create a charge or mortgage on such land or interest in favour of a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994, for the words 'Land Development Bank'.] or the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] for the purpose of obtaining loan from such banks, and upon the issue of such notification, such bhumidhar [Asami] [Inserted by U.P. Act 16 of 1989, vide Section 10(b).] and Government lessees shall, notwithstanding anything contained in any law for the time being in force or any contract, grant or other instrument to the contrary or any custom or tradition have a right of alienation in accordance with the terms of notification]. Notifications Noti. No. 892-C(IFC) C-1-Bhu 8-89, dated August 21, 1989, published in U.P. Gazette (Extraordinary), Part 4, Section (kha), dated 21st Aug, 1989, page 2. In exercise of the powers under Section 21-A of the Uttar Pradesh [Sahkari Gram Vikas Banks] [Substituted by U.P. Act 19 of 1994.] Act, 1964 (U.P. Act No.16 of 1964) and in continuation of Government Notification No. 2146-C (IFC) /XII-C-I- Bhu-51-74, dated Lucknow, January 29, 1979 the Governor is pleased to vest with immediate effect, all Asamis holding patta of land for a period exceeding ten years with rights of alienation in land held under their tenure or any interest in such land including the right to create a charge or mortgage on such land or interest in favour of a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] or [Uttar Pradesh Gram Vikas Banks] [Substituted by U.P. Act No. 19 of 1994.] for the purposes of obtaining loan from the said Banks.

**21B. [ Creation of charge in favour of [Gram Vikas Bank] [Sections 21-B and 21-C, inserted by UP. Act No. 16 of 1989, vide Section 11.] or [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.].**

(1) A person desirous of securing financial assistance from a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] or the [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] by hypothecation of movable property owned by him may make a declaration in writing on a duly stamped paper that he thereby hypothecates such property in favour of such Bank. (2) When a person desirous of securing financial assistance from a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] or the [Sahkari Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] does not possess property of sufficient value to secure the loan, financial assistance may be provided to him by such bank on furnishing sureties to the satisfaction of the Bank subject to such conditions, if any, as may be prescribed.

**21C. Provisions of this Act to apply to hypothecation.**

- The provisions of this Act and rules made thereunder relating to charges and mortgages made under this Act shall mutatis mutandis apply to hypothecation of movable property made under this Act.]

## **22. [ Restriction on mortgagors power to lease or to create other rights in the mortgaged and charged property. [Substituted by U.P. Act No. 3 of 1979.]**

- Notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force no property in respect of which a charge, hypothecation or mortgage has been made in favour of a [Gram Vikas Bank] or the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] shall be sold or otherwise transferred by the person making the charge, hypothecation or mortgage until the entire amount of loan or advance taken by him from the [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] or the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] together with interest thereon is paid to the Bank and any transaction made in contravention of this section shall be void: Provided that, if a part of the amount borrowed by a member is paid, the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.], or as the case may be, the [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] with the approval of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] may, on application from the member release from the mortgage, charge or hypothecation created or made in favour of the bank, such part of the property or interest therein as it may deem proper with due regard to the security of the balance of the amount remaining outstanding from the member.](2) Any lease granted or rights created in contravention of the provisions of sub-section (1) shall be void.

## **23. [ Registration of documents executed in favour of [Gram Vikas Bank] [Substituted by U.P. Act No. 3 of 1979, vide Section 8.] or the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.].**

(1) Notwithstanding anything contained in the Registration Act, 1908, or any other law for the time being in force, a deed creating charge or mortgage in any land or interest therein or in other immovable property, executed by a borrower member in favour of a [Gram Vikas Bank] [Substituted by U.P. Act No 19 of 1994.] or the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No 19 of 1994.] for the purpose of securing repayment of loan, shall be deemed to have been duly registered in accordance with that Act with effect from the date of the execution provided the bank has sent to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged, or mortgaged is situate, within a period of the three months from the date of execution, by registered post or hand delivery under acknowledgement, a copy of the document creating such charge or mortgage duly certified to be a true copy by any employee of the bank authorised to sign on its behalf and the Sub-Registrar concerned shall file such copy or copies, as the case may be, in this Book No. 1 prescribed under Section 51 of the Registration Act, 1908.(2) Where the Sub-Registrar is of the opinion that the said document is not duly stamped or that it suffers from any defect arising out of accidental slip or omission, he shall send back the copy or copies, as the case may be, of the document to the bank requiring it to get the deficiency in stamp duty made good on the original or to get the defect removed within thirty days or within such extended time as the Sub-Registrar may allow in that behalf. The bank shall get the deficiency made good or the defect removed, notwithstanding anything contained in the Indian Stamp Act, 1899.(3) After the deficiency in stamp duty has been made good or as the case may be, the defect has been recovered, the bank

shall send the copy of the document again to the Sub-Registrar in the manner laid down in sub-section (1) and thereupon the Sub-Registrar shall file the copy in Book No. 1 in accordance with the provisions of sub-section (1).(4)Notwithstanding anything contained in the Registration Act, 1908, it shall not be necessary for the borrower member, the Trustee or for any officer of a [Gram Vikas Bank] [Substituted by U.P. Act No 19 of 1994.] or of the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act No 19 of 1994.] to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 58 of the said Act.

### **23A. Revenue register for noting charge or mortgage.**

- Where a copy of the document creating charge, or mortgage has been sent for registration under Section 23, the bank shall also send a copy of such document to the Tahsildar or such other official as may be designated in this behalf by the State Government. The Tahsildar or other official shall make a note of the particulars of such charge, or mortgage in a register maintained for this purpose. The register shall be in such form and inspection thereof shall be allowed and copies of extracts therefrom issued in such manner and on payment of such fee as may be prescribed.]

### **24. [ Delegation of certain powers by Board. [Substituted by U.P. Act No. 3 of 1979, vide Section 9.]**

- The Board may, if it thinks fit, delegate all or any of its powers under Sections 16, 18 and 21 of this Act to any one or more of the office of the Bank.]

### **25. Sections 102, 103 and 104 of the Transfer of Property Act, 1882 to apply to notices under this Act.**

- The provisions of Sections 102 and 103 of the Transfer of Property Act, 1882 and of any rules made by the High Court under Section 104 of the said Act for carrying out the purposes of the said Sections, shall apply, so far as may be, in respect of all notices to be served under this Act.

### **26. Mortgages executed by manager of Joint Hindu families.**

(1)Where a mortgage executed in favour of [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.], whether before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a Joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force, rest upon the party which calls such mortgage in question.(2)For the purpose of this section the following shall be regarded as purposes binding on members of a joint Hindu family -(a)the improvement of agricultural land or of the methods of cultivation or for financing any other means to raise the productivity of land;(b)the purchase of land; and(c)[ construction of rural dwelling houses for the family.] [Inserted by U.P. Act 16 of 1989, vide Section 12.]

**27. Modification subject to which Section 8 of the Hindu Minority and Guardianship Act, 1956 shall apply to the mortgages under this Act.**

- Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.] subject to the modification that reference to the court therein shall be construed as reference to the collector or his nominee and the appeal against the order of the collector or his nominee shall lie to the Commissioner.

**28. [ References to banks in other Acts how construed. [Substituted by U.P. Act No. 16 of 1989, vide Section 13.]**

(1)With effect from the commencement of the Uttar Pradesh Co-operative Land Development Banks (Amendment) Act, 1989, any reference in any law or statutory instrument-(a)to U.P. State Co-operative Land Mortgage Bank, or Uttar Pradesh State Co-operative Land Development Bank or Uttar Pradesh and State Land Development Bank, shall be construed as a reference to the [Uttar Pradesh Gram Vikas Banks];(b)to a land mortgage bank or a land development bank shall be construed as a reference to a [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.].(2)The name of the Uttar Pradesh State Co-operative Land Development Bank or a Land Development Bank existing on the date of commencement of the Uttar Pradesh Co-operative Land Development Banks (Amendment) Act, 1989 shall be changed as the [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.], or as the case may be, [Gram Vikas Bank] [Substituted by U.P. Act No. 19 of 1994.], by the Registrar by order in writing and the original certificate and bye-laws of such bank shall stand amended accordingly and such change of name, made under order of the Registrar, be deemed to be a change of name duly effected by the society under the Uttar Pradesh Co-operative Societies Act, 1965.(3)Where a mortgage is executed by a person directly in favour of the [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.], all references to [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] in Sections 14, 20, 22,23,26 and 27 shall be deemed to be references to the [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.]. ]

**28A. [ References to banks in other Acts now construed after the commencement of the Uttar Pradesh Sahkari Krishi Evam Gramya Vikas Banks (Amendment) Act, 1994. [Section 28-A Inserted by U.P. Act No. 19 of 1994, vide Section 5.]**

(1)With effect from the commencement of the Uttar Pradesh Sahkari Krishi Evam Gramya Vikas Banks (Amendment) Act, 1994, any reference in any law or statutory instrument-(a)to the Uttar Pradesh Rajya Sahkari Krishi Evam Gramya Vikas Bank shall be construed as a reference to the Uttar Pradesh Sahkari Gram Vikas Bank,(b)to the Rajya Krishi Evam Gramya Vikas Bank shall be construed as a reference to the Uttar Pradesh Gram Vikas Bank,(c)to a Krishi Evam Gramya Vikas Bank shall be construed as a reference to a Gram Vikas Bank,(d)to a Sahkari Krishi Evam Gramya Vikas Bank shall be construed as a reference to a Sahkari Gram Vikas Bank.(2)The names of the "Uttar Pradesh Rajya Sahkari Krishi Evam Gramya Vikas Bank" and "Krishi Evam Gramya Vikas

Bank" existing on the date of commencement of the Uttar Pradesh Sahkari Krishi Evam Gramya Vikas Banks (Amendment) Act, 1994 shall be changed respectively as the "Uttar Pradesh Sahkari Gram Vikas Bank", and "Gram Vikas Bank" by the Registrar by order in writing and the original certificate and bye-laws of such bank shall stand amended accordingly and such change of name, made under order of the Registrar, be deemed to be a change of name duly effected by the society under the Uttar Pradesh Co-operative Societies Act, 1965.(3)Where a mortgage is executed by a person directly in favour of the Uttar Pradesh Sahkari Gram Vikas Bank, all references to Gram Vikas Bank in Sections 14,20, 22, 23, 26 and 27 shall be deemed to be references to the Uttar Pradesh Sahkari Gram Vikas Bank].

## **29. Power of the Board to make regulations.**

- The Board may, subject to the approval of the Trustee, make regulations not inconsistent with the provision of this Act, the rules and the bye-laws of [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] providing for all or any of the following matters:-(a)fixing the period of debentures and the rate of interest payable thereon;(b)calling in debentures after giving notices to debenture-holders;(c)issue of new debentures in place of debentures damaged or destroyed;(d)converting one class of debentures into another bearing a different rate of interest;(e)inspection of the account books and proceedings of [Gram Vikas Banks] [Substituted by U.P. Act 19 of 1994.];(f)submission of return and reports by [Gram Vikas Banks] [Substituted by U.P. Act 19 of 1994.] in respect of their transactions;(g)periodical settlement of accounts between [Gram Vikas Banks] [Substituted by U.P. Act 19 of 1994.] and the [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] and for the payment of the amounts recovered by the [Gram Vikas Banks] [Substituted by U.P. Act 19 of 1994.] on mortgages transferred or deemed under Section 12 to have been transferred to the [Uttar Pradesh Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.];(h)specifying the form in which application to [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] or the [Uttar Pradesh Sahkari Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.] for loans should be made and the procedure to be followed in the advancement of such loans;(i)valuation of the properties offered as security for loans;(j)investment of moneys realised from mortgagors; and(k)generally for any other matter in respect of which the Board considers the provisions should be made for the purposes of this Act:Provided that the regulations framed under clause (i) shall be subject to the approval of the State Government.

## **30. Power of State Government to make rules.**

(1)The State Government may, after publication in the Gazette, make rules generally for carrying out the purposes of this Act, [including any rules prescribing fees in respect of any proceedings under this Act] [Deemed always to have been Inserted by U.P. Act No. 3 of 1979, vide Section 10 (w.e.f. 5th October 1978)].(2)In particular and without prejudice to the generality of the power under sub-section (1) the State Government may make rules providing for all or any of the following matters -(a)the procedure for the distraint and sale of produce of land mortgaged to a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.];(b)the procedure for sale of property mortgaged to a [Gram Vikas Bank] [Substituted by U.P. Act 19 of 1994.];(c)fixing the percentage under clause (c) of sub-section (3) of Section 6 for determining the limit of the debentures issued by the

Board;(d)laying conditions under which the maximum amount of guarantee given by State Government under sub-section (1) of Section 8 may be increased, withdrawn restricted or modified;(e)any other matter which has to be, or may be, prescribed.(3)All rules made under this section shall, as soon as may be, after they are made, be laid before each House of the State Legislature while it is in session, for a total period of not less than 14 days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the Gazette, subject to such modifications or annulments as the two Houses of the Legislature may agree to make, so however, that such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

### **31. Trustee and others to be public servant.**

- The Trustee, the Registrar, any person authorised by the Registrar to distrain and sell property under sub-section (2) of Section 15 or a Receiver appointed under Section 21 shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

### **32. Public servant not to bid at sale.**

- No public servant referred to in Section 31 shall purchase or bid for any movable or immovable property sold under the provisions of this Act.