

**THE MULTI-STATE  
CO-OPERATIVE  
SOCIETIES ACT – 2002:**

**IMPORTANT PROVISIONS**

**THE MULTI-STATE CO-OPERATIVE**  
**SOCIETIES ACT - 2002**

**PRESENTATION BY:**

**ADVOCATE**

**B. R. BORNAK**

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**Advocate – HIGH COURT**

## ➤ BACKGROUND:

- **1904 – Co-operative Credit Societies Act, 1904.**
- **1912 – Co-operative Societies Act, 1912.**
- **1919 - Montague Chelmsford Reforms Commission's recommendations – Co-operatives made State Subject.**
- **Every State was directed to frame its own Co-operative Societies Act.**
- **For Co-op. Societies having area of operation consisting more than one state- The Multi Unit Co-operative Societies Act, 1942.**
- **Thereafter The Multi State Co-operative Societies Act, 1984 was enacted by the Central Govt.**
- **Replacing 1984 Act, The Multi State Co-operative Societies Act, 2002 was enacted.**

# REGISTRATION OF A MULTI STATE CO-OPERATIVE SOCIETY:

## ➤ REGISTERING AUTHORITY: (Sec. 4)

CENTRAL REGISTRAR-appointed by Govt. of India - HQ at Krishi Bhavan, New Delhi.

## ➤ APPLICATION FOR REGISTRATION: (Sec. 6) :

### ➤ Application shall be signed by:

• If individuals as members – by minimum 50 persons from each State.

• If co-op. societies as members- by duly authorised representatives of minimum 5 societies not registered in the same state.

• If Multi-State Co-op. Society and other co-op Societies as members – by duly authorised representative of a Multi Sate Co-operative Society and not less than Two state level co-op. societies not registered in the same state.

• If individuals + co-op/multi state co-op societies=50 persons from each state + 1 co-op soc each from 2 or more states or one multi-state co-op. society.

• Application to the Central Registrar in form 'I' along with 4 copies of Bye Laws.

## ➤ REGISTRATION: (Sec. 7)

• Disposal of proposal within 4 months.

• If no decision within 4 months – Deemed Registration.

## ➤ REGISTRATION CERTIFICATE (Sec. 8)

➤ AMENDMENT OF BYE-LAWS: (Sec. 11)

- 15 clear days' Notice to all members.
- Decision in the GBM of members.
- Passed by 2/3<sup>rd</sup> majority.
- Proposal to Central Registrar within 90 days after GBM.
- Disposal by Central Registrar within 4 months.
- Decision to be communicated to the society within 1 month.
- If failed to dispose in 4 months - Deemed Registration.
- If Refusal - communication with reasons within 15 days.

➤ CHANGE OF NAME: (SEC. 13): By amendment in Bye Laws as above.

➤ LIABILITY (Sec. 16):

- Limited. No registration to Unlimited Liability MSCS after commencement of this Act.

➤ REORGANISATION (Sec. 17): Amalgamation/Division/Conversion/Transfer/Take-over Etc.

- Notice to all members/CREDITORS.
- GBM -2/3<sup>rd</sup> majority in GBM.
- Option to dissenting members/creditors to withdraw their funds within 1 month.
- Approval of Central Registrar.

➤ CENTRAL REGISTRAR TO PREPARE SCHEME OF AMALGAMATION OR REORGANISATION OF A CO-OPERATIVE BANK IN CERTAIN CASES (Sec. 18):

- Order of moratorium (suspension/cessation) of a Co-op. Bank by Central Govt. as per Sec. 45 of Banking Regulation Act, 1949.
- Previous approval RBI.

## ➤ Conversion of a cooperative society into a multi-state cooperative Society (Sec. 22):

- Promoter Society to arrange for membership of minimum 5 co-operative societies from two or more states to join the new MSCS.
- The state co-op. socs. to take a division or liquidation of existing society.
- Amendment in Bye Laws.
- Extension of jurisdiction.
- Intimation to State Co-op. Registrar. NOC from State Co-op Registrar.
- Completing the required documentation, procedures and formalities for registration.
- Application to Central Registrar.
- Central Registrar to consult State Registrar/s.
- Registration of Soc. and Amendment of Bye Laws by Central Registrar within 6 months.
- Registration Certificate to the society.

## ➤ MEMBERSHIP:

### ➤ PERSONS WHO MAY BECOME MEMBERS (Sec. 25):

- An Individual competent to contract u/s 11 of Indian Contract Act, 1872.
- Any Multi-State co-op. soc. or any Co-op. Soc.
- Central/State Govt.
- National Co-operative Development Corporation established under the NCDC Act, 1962.
- Any Govt. Corporation/Co.-AOP.
- Membership of National Co-op. Soc. or Federal co-op. is not given to any individual.
- Membership Application to be finalised in 4 months.
- Intimation in next 15 days.
- Otherwise Deemed Membership.

### ➤ NOMINAL or ASSOCIATE MEMBER (Sec. 26):

- Admission to any person as Nominal or Associate Member as per provisions in Bye Laws.
- No any right to Nominal and Associate member.

### ➤ Disqualification for membership (Sec. 29):

- (a) Carrying conflictive or competitive business. or
- (b) used for two consecutive years the services below the minimum level specified in the bye-laws; or
- (c) not attended three consecutive general meetings; or
- (d) made any default in payment.

### ➤ Expulsion of members (Sec. 30):

- for acts which are detrimental to the proper working of the society.
- GBM = opportunity of being heard = Resolution by 2/3<sup>rd</sup> majority.
- No readmission till 1 year.

- **GENERAL BODY: CONSTITUTION, POWERS AND FUNCTIONS (Sec. 38):**
  - **General Body consists of All the members of the Society.**
  - **Ultimate/Final Authority subject to provisions of Act, Rules and Bye Laws.**
- **ANNUAL GENERAL MEETING OF GENERAL BODY (Sec. 39):**
  - **To be held not later than 6 months after close of corresponding year.**
- **SPECIAL GENERAL MEETING OF GENERAL BODY (Sec. 40):**
  - **Chief Executive may call this meeting at any time on the directions of the Board. OR**
  - **Within 1 month on requisition from required number of members as per Bye Laws.**
- **BOARD OF DIRECTORS (Sec. 41):**
  - **Number of members as prescribed in Bye Laws subject to maximum shall not exceed 21.**
  - **Two additional Directors to be co-opted as Expert Directors.**
- **DISQUALIFICATION FOR BEING A MEMBER OF BOARD (Sec. 43):**
  - **Adjudged as Insolvent or Unsound mind person.**
  - **Involved in profits of any contract with the society.**
  - **Convicted for offence involving moral turpitude.**
  - **Holds any office of profit under the society.**
  - **Membership less than 12 months.**
  - **Has interest in any business as carried out by the society.**
  - **Defaulter member.**
  - **Has been convicted for any offence under this Act.**
  - **Have been disqualified to become member or expelled.**
  - **Absent for 3 consecutive Board meetings or 3 consecutive General Body meetings.**



➤ PROHIBITION TO HOLD OFFICE OF CHAIRPERSON or PRESIDENT or VICE-CHAIRPERSON or VICE-PRESIDENT IN CERTAIN CASES (Sec. 44):

- 1) State/Central Govt. Minister.
- 2) Not allowed for more than 2 terms - can be reelected after gap of 1 full term.

➤ ELECTION OF MEMBERS OF BOARD (Sec. 45):

- Responsibility of the existing Board.
- By Secret Ballot.
- In General Meeting.
- Term of the Board 5 years.
- If Board fails - Central Registrar shall hold elections within 90 days after when election became due.
- Expense to be born by the Society.

➤ NOT HOLDING OFFICE OF OFFICE BEARER IN MORE THAN 2 MSCS AT A TIME. (Sec. 46).

➤ REMOVAL OF ELECTED MEMBERS OF BOARD BY GENERAL BODY Sec. 47):

- On the basis of report of the Central Registrar or otherwise.
- Resolution by at least 2/3 majority.

➤ MEETINGS OF BOARD (Sec. 50): Quarterly at least one Board Meeting convened by Chief Executive.

➤ CHIEF EXECUTIVE (Sec. 51): Appointment by the Board and shall be a member of all Committees.

## ➤ DISPOSAL OF NET PROFITS – Sec. 63:

- Not less than 25% to the Reserve Fund.
- 1% to Co-op. Education Fund maintained by the National Co-op Union of India Ltd., New Delhi.
- Not less than 10% to a Reserve Fund for meeting unforeseen losses.
- Payment of dividend not exceeding the prescribed limit.
- Constitution of special funds as per bye laws.
- Donation not exceeding 5% to co-op. or charitable purpose.
- Ex - gratia to employees.

## ➤ AUDIT:

- Appointment and remuneration of Auditors (Sec. 70)
- Appointment in AGBM. Intimation of appointment within next 7 days.
- From the Panel approved by the Central Registrar.
- Within 30 days Auditor/s to intimate Central Registrar of acceptance of or refusal to appointment.
- If not appointed in AGBM, the Central Registrar may appoint the Auditor/s.
- Appointment of First Auditor/s within 1 month of Registration till 1<sup>st</sup> AGBM.
- Remuneration to be fixed by the appointing Authority.

## ➤ QUALIFICATION AND DISQUALIFICATION OF AUDITORS (Sec. 72):

### ✓ QUALIFICATION:

- Only Chartered Accountant within the meaning of the Chartered Accountants Act, 1949.

### ✓ WHO ARE NOT QUALIFIED:

- Body Corporate.
- Officer/Employee of MSCS.
- Member of MSCS or Employee of Officer of MSCS or employee of MSCS.
- Debtor or Guarantor or person who has given Security for third person for loan of MSCS exceeding Rs. 1000/-.
- A person disqualified to be appointed as Auditor of any other Body Corporate or MSCS or Co-operative Society.

## ➤ RIGHT OF AUDITOR TO ATTEND GENERAL MEETING (Sec. 76).

## ➤ SPECIAL AUDIT (Sec. 77):

- Power to Central Government : When Central Govt. is of the opinion.
- CA or the Auditor of MSCS can be appointed as a Special Auditor. Report to Central Government.

➤ INQUIRY(SEC. 78)/INSPECTION(SEC. 79) :

• Order by Central Registrar:

• ON REQUEST FROM:

• Federal society

• Creditors

• 1/3<sup>rd</sup> or more members of BOD

• 1/5<sup>th</sup> or more of members of MSCS

• Notice of at least 15 days.

➤ REFERENCES OF DISPUTES FOR ARBITRATION (Sec. 84):

- **Disputes to be referred to Arbitration.**
- **Decision of the arbitrator shall be final and shall not be called in question in any court.**
- **arbitrator to be appointed by the Central Registrar.**

## WINDING UP OF MSCS (Sec. 86):

### ➤ Order by the Central Registrar:

• on the basis of Report of Audit/Enquiry or

• On his own motion if-

(a) Soc. Not fulfilling norms,

(b) not started working within 6 months,

(c) if Bank – as per RBI requirements,

(d) membership fallen below 50.

• Resolution in GBM 3/4<sup>th</sup> majority to wind up.

➤ Liquidator under control of Central Registrar.

➤ APPEALS (Sec. 99):

- within 60 days –
- Against society's decision - to the Central Registrar.
- Against Central Registrar's order - to the Appellate Authority prescribed by Central Govt.

➤ REVIEW (Sec. 101):

- Appellate Authority can review its own order on application of any party.

➤ Reorganisation of States And Conversion Of Societies Into Multi State Co-op.

Soc. (Sec. 103):

➤ **ANNUAL ACCOUNTS AND BALANCE SHEET (Sec. 109):**

•The Board to lay before the AGBM:

- ✓ A Balance Sheet as at the end of every co-operative year; and
- ✓ A Profit and loss account for that year.

➤ **FILING OF RETURNS (Sec. 120):**

•**Within 6 months of close of respective year.**

•**Annual Reports.**

•**Audited Accounts Statements.**

•**Plans for Surplus disposal.**

•**List of Amendment of Bye Laws.**

•**Declaration of Election of Board.**

•**Any other information required by the Central Registrar.**



**FOR ANY FURTHER CLARIFICATIONS...**

**CONTACT:**

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