

Seminar on Elections in Co-operatives

**Introduction to principles of Co-op.,
Types of Societies, co-operative
Governance, Law & Management
of Co-op. Societies**

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24/12/2016,

COOP COMMITTEE(MAHARASHTRA) OF WIRC OF ICAI.

Areas for Discussion

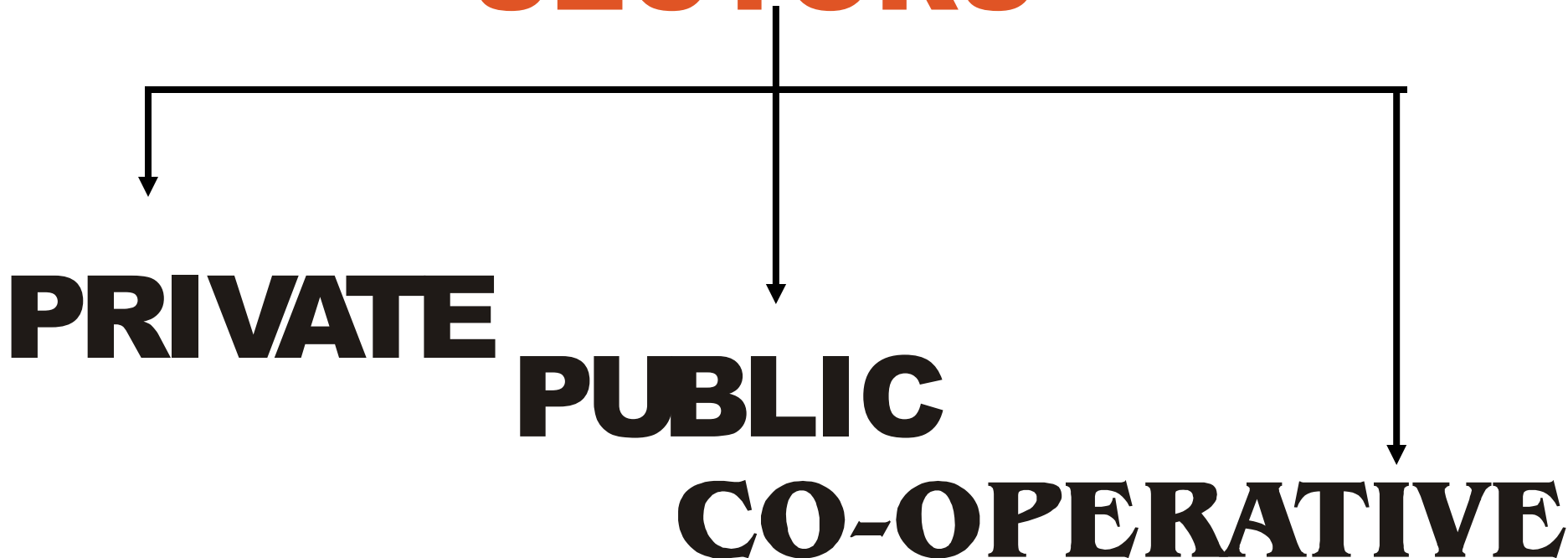
- *About and types of Cooperative Business Enterprise*
- *Professional Opportunities in brief in Cooperatives*
- *Principles of Cooperatives*
- *Development of Laws and Regulatory System.*
- *97th Constitutional Amendments*
- *Rights and duties of Members under MCS Act 1960*
- *Constitution of the Committee As per Act, Rules & Bye-laws*
- *Disqualification of Committee members*
- *No Confidence Against the Committee members*
- *Election to committee members Rules*
- *Functions of the committee and Society Management*
- *Appeal election process and Election Disputes*
- *Decision making process in Cooperatives*
- *Notifications issued by the State Cooperative Election Authority*

1. UNDERSTAND CO-OPERATIVE AS BUSINESS ENTERPRISE

ECONOMIC ACTIVITIES

THREE

SECTORS



CO-OPERATIVE ENTERPRISE- BUSINESS OPPORTUNITIES

Agriculture

Food

Retail

Wholesale

Housing

Child Care

Community Development

Financial Services

Community Economic Development

Media & Communications

Arts & Culture

Transportation

Energy

Environment

Travel

Education & Research

Recreation

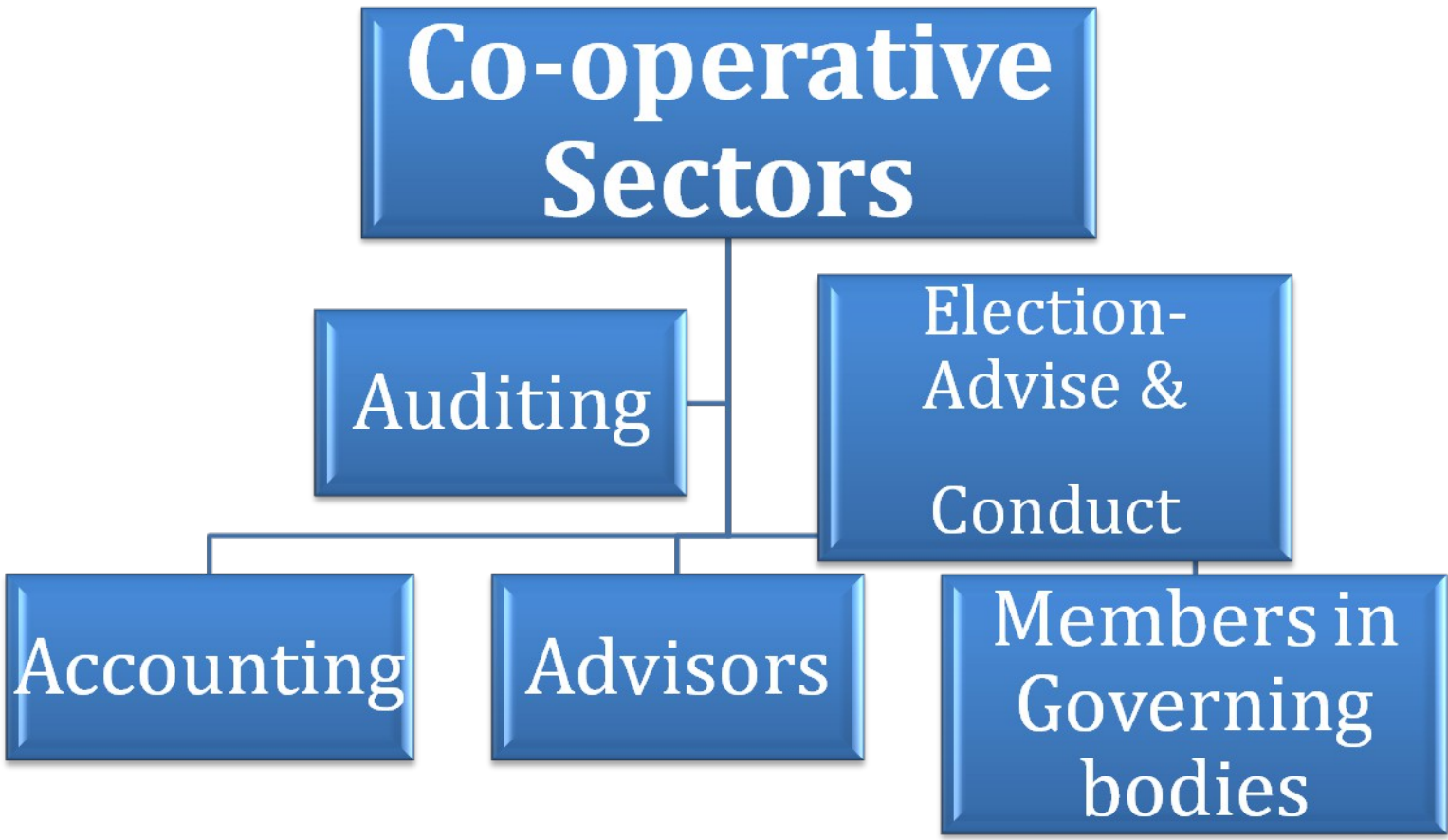
Health

Federations & Associations

Services



PROFESSIONAL OPPORTUNITIES IN CO-OPERATIVE SECTORS





Financial Management- An Overview



3. Adherence to Co-op. Principles

Co-operative Principles and Practices

Principles	Practices
Voluntary and open membership	Member recruitment policy, rules of admission, equal opportunities,
Democratic member control	Constitution, voting rights, role of the board, members and management
Member economic participation	Economic performance, rewards to members, capitalization and how surplus is used
Autonomy and independence	Relations with government, other organisations and institutions and market position,
Education, training and information	Member, board and management training and public relations
Co-operation among members	Federation, networks, joint enterprises, movement building
Concern for community	Policy on community development, environment and networking

PRIVILEGES OF CO-OPERATIVE SOCIETIES AND RESTRICTIONS ON CO-OPERATIVE SOCIETIES

- Co-operative Society-legal Entity.
- Exemption from registration of certain documents under Indian Registration Act 1908.
- Concessions in some taxes & fees.
- Concessions under Income Tax Act.
- Concession in Stamp duty.
- Restrictions on borrowings.
- Restrictions on business with non-members.
- Regulation on loan making policy.
- Prior Claim of Society for recovery of dues.

2. STUDY THE APPLICABLE LEGISLATION

ACT AND RULES APPLICABLE

- 1. CO-OP. SOCIETIES ACT UNDER WHICH REGD.**
- 2. RULES FRAMED UNDER THE ACT,**
- 3. BYE-LAWS APPROVED BY THE REGISTRAR**
- 4. NOTIFICATIONS AND ORDERS
ISSUED UNDER THE POWER OF ACT, RULES**

Development of Laws

- **Co-op. Credit Societies Act, 1904-** for credit
- **Co-op. Societies Act, 1912** – for non-credit

- **Co-op. Societies became a state subject in 1919**
- **Various State Laws** e.g. Maharashtra Co-op Soc. Act 1960, Kerala Co-op Societies Act, 1969

- **Multi-State Cooperative Societies Act (MSCS) 2002** – for multi-state cooperatives (replaced the earlier Act of 1984)
- Now **97th Constitutional Amendment for co-ops.**

4. Ensure Good Governance

1. Principles of democratic member control- through active members.
2. Autonomous functioning
3. Professional management
4. Avoid Political Interference & corruption.
5. Improve administration & Improve reporting system to govt and members.
6. Good ACCOUNTING & AUDITING practices
7. Accountability on Mgt & members

97th Constitutional Amendment for Co-op Reforms (Jan 2012) –

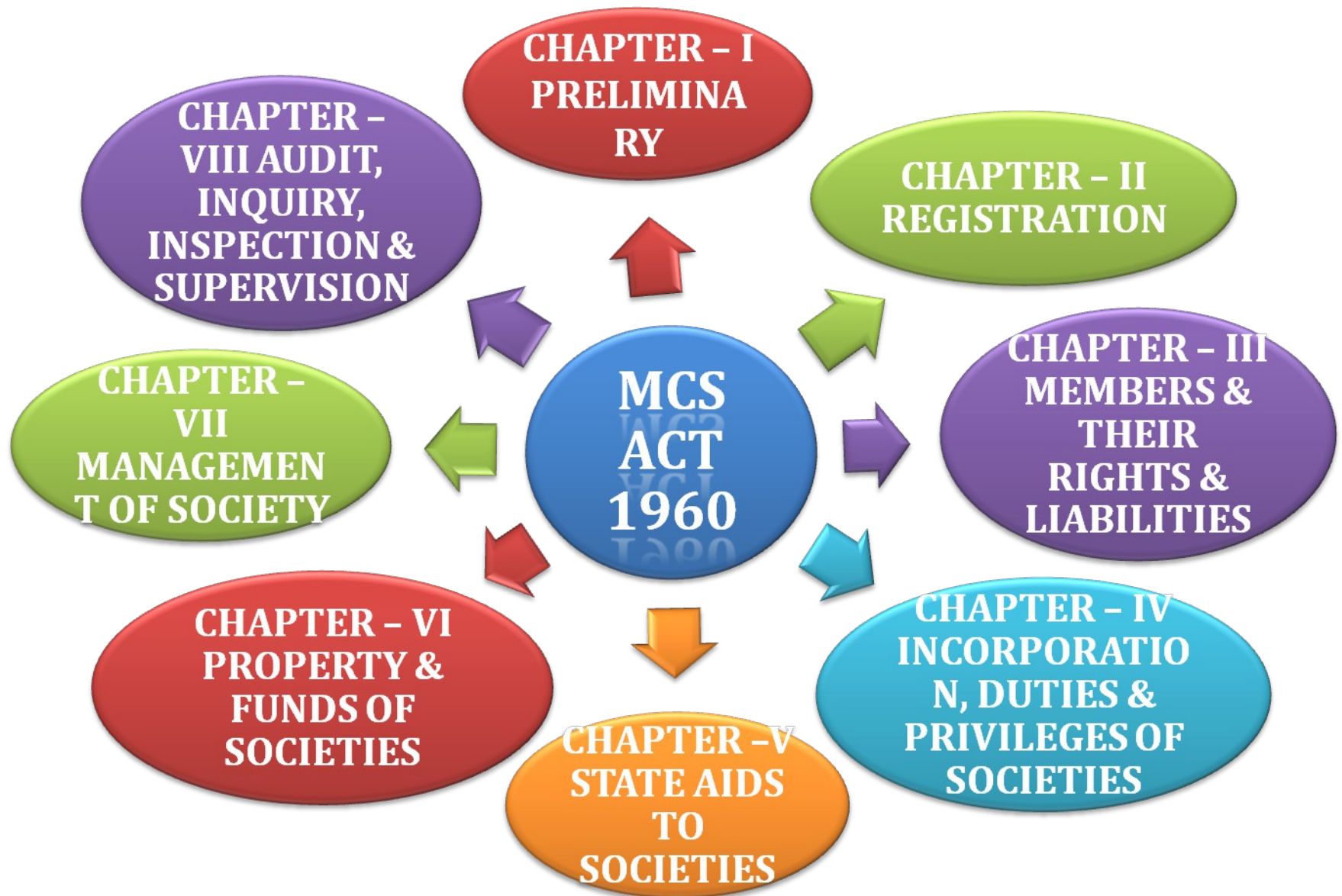


- Amendment of Article 19 makes Right to form Cooperative Societies a **Fundamental Right**.
- Insertion of Article 43B makes it a **Directive Principles of State** to ensure voluntary formation, autonomous functioning, democratic control and professional management of Cooperative Societies.
- **Election Commission-like authority mandated:** “The superintendence, direction and control of the preparation of electoral rolls for, and conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State...”

97th Constitutional Amendment – Highlights (Cont'd)

- Fixed term of **five years** to elected board.
- **Active members-** Economic Participation & attending meetings
- **Professional Mgt** by Expert & Functional Directors
- Equality by providing reservations for **women & SC/ST**
- Provides for **independent professional audit**
- Gives **Right to Information** to Members of Co-op Societies
- Empowers Govt to obtain periodic reports & A/cs.
- Provides for **offences** relating to Coop Societies & **penalties** for such offences

THE MAHARASHTRA CO-OP. SOCIETIES ACT - 1960





Chapter-III –Membership and Rights.

22. Person who may become member.

23. Open membership.

24. Nominal, associate and sympathizer member.

25-A. Removal of names of members from Membership registers.

25. Cessation of membership.

24A. Co-operative education and training to members, etc.

26. Rights and Duties of Members.

27. Voting powers of members.

28. Restrictions on holding of shares.

Chapter-III –Membership and Rights..

29. Restrictions on transfer or charge on share or interest.

30. Transfer of interest on death of member.

31. Share or interest not liable to attachment.

33. Liability of past member and estate of deceased member.

32-A. Certain societies to give pass books to members and entries in such book evidence of amount due.

32. Rights of members to see books, etc.

34. Insolvency of members.

35. Expulsion of members.

RIGHTS OF MEMBER

- **Section 32(1) r. w. rule 27 and 30**
- Every member of a society shall be entitled,
 - To inspect, Free of cost, At society's office, During office hours or at any time fixed by the society,
 - 1. A copy of the Act and rules,
 - 2. Bye-laws,
 - 3. Latest audited annual balance sheet and profit and loss account,
 - 4. List of members of committee,
 - 5. Register of members,
 - 6. Minutes of General Meeting,
 - 7. Minutes of Committee Meeting and
 - 8. Portions of the books and records in which his transactions with the society are recorded

CONCEPT OF ACTIVE MEMBER

- **Section 2(19) (a-1)**

'Active member' means one who

- (1) participates in the affairs of the co-operative society and
- (2) utilizes the minimum level of services or products of that society as may be prescribed in the bye-laws.

- **Section 26(1)**

A member shall be entitled to exercise such rights as provided in the Act, Rules and Bye-laws:

Provided that no member shall exercise the rights until:

He has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed and Specified under the Bye-laws of the Society.

CONCEPT OF ACTIVE MEMBER

- **Section 26(2)**

It shall be duty of every member of a society-

- (a) To attend 1 General Body(GB) meeting in 5 years.
(This clause not to apply ,if absence is condoned by GB)
- (b) To utilise minimum level of services at least once in 5 years as per bye-laws of the Society.

- **Provided:**

- Member who does not perform above duties shall be classified as “ NON Active Member”
- Society to inform classification within 30 days of the year.
- Non-Active Member for 10 years liable for Expulsion.
- Eligible to reclassify as active member on complying.
- Appeal lies before Registrar within 60 days of knowing.
- Election done immediately –all members have voting rights.

ACTIVE MEMBER-As per bye laws

Provision made in New Model Bye-laws-Housing:

Bye-law No. 3(xxiv) (a) defined an "Active member" means a person:

- 1)Who has purchased and/or owns the Flat / Unit in the Society.
- 2)Who attends at least one General Body Meeting of the Society in the previous Five consecutive Years. **.(This clause not to apply ,if absence is condoned by GB)**
- 3)He has at least paid the amount equivalent to one Year of society Maintenance and Service charges, within a consecutive period of Five years

ACTIVE MEMBER-As per bye laws

Provision made in New Model Bye-laws-Co-op Bank:

Bye-law No. (14) ACTIVE MEMBER :

“**Active Member**” means a person who has been admitted as an ‘Ordinary Member’ under the Bye-laws of the Bank and who complies following conditions:

- i) To attend at least one general body meeting in the previous five consecutive years, (**This clause not to apply ,if absence is condoned by GB**)
- ii) To utilize minimum level of services as provided in bye - law no. 15 as following

ACTIVE MEMBER-As per bye laws

Provision made in -Co-op Bank New Bye-laws No15 MODEL

LEVEL OF SERVICES FOR BECOMING ACTIVE MEMBER :

No	Deposit on Prv List Date	Share Capital(RS)	Deposit (Rs)	Or Loan (Rs)
1	Upto Rs.100Cr	500	3,000	50,000
2	Rs. 100-00 Cr. To Rs.500-00 Cr.	1,000	5,000	50,000
3	Rs.500-00 Cr. And above	1,500	7,000	1,00,000

Proviso - I: Aggregate deposits (in all types of accounts) as per above for the continuous period of not less than **one year** in the Bank.

Proviso - II : 'Borrower' means an ordinary member, who is enjoying any type of sanctioned and availed credit facility of the Bank for continuous **two years** during the last five years.

AUTHORISED PERSON-As per MCS Act,1960

- **Sec.2(2-A) of MCS Act**, 1960 “ Authorized person” Means **any person duly authorized by the Registrar** to take action under the provisions of this Act.
- In **section 79(1A)** of MCS Act, 1960-
Every society shall file returns within 6 months of the close of financial year to which accounts relate, to the registrar or to the person authorized by him.
- In **section 82 of MCS Act**, 1960 to submit Audit Rectification report:
Provided that, the Registrar or the person authorised by him shall scrutinise the Audit rectification report accordingly and inform the society about such report within 6 months from the date of receipt thereof.
- Thus registrar can discharge his function by appointing an authorized person on his behalf.

AUTHORISED PERSON-As per MCS Act,1960



Person Authorised under Act to discharge responsibilities/ obligations otherwise liable for penal actions

Any member of the society Any Committee member Entire Committee Auditor appointed by GB, Any other person as per MCS Act who is made accountable.

Person appointed by registrar to discharge his functions- under section 77A, 79, 82, 88 and any other sections.

Any Panel person Any Officer Any other person as per MCS Act, whom the Registrar has made Accountable.

MANAGING COMMITTEE - CONSTITUTION, ELECTIONS, FUNCTIONS.

CONSTITUTION:

- Management of Co-operative Society shall vest in a committee, constituted in accordance with the M.C.S. Act 1960 & bye-laws of the co-operative society.
- Committee will exercise the powers & perform the duties as per the Act, Rules & Byelaws. [Section 73(1).]
- Number of members in the Committee is given in the byelaws. It is generally an odd number to avoid equality of votes.

REPRESENTATION OF CERTAIN CLASSES ON MANAGING COMMITTEE.

(A) Representative Of Certain Classes On Managing Committee:

As per provisions in Section 73-B of M.C.S. Act reservation of 5 seats is necessary.

1 seat- for members belonging to scheduled caste.

1 seat- members belonging to OBC. &

1 seat- Denotified Tribes(Vimukta Jaties)./
(SP/BC/SBC)

The two women the members of the Committee.

No of Members of the Society	Strength of the Managing Committee For Cooperative Housing Societies.						Quorum for Meeting *
	General	Reserved				Total	
		Women	SC/S T	OBC	VJ/NT/S BC		
Upto100	6	2	1	1	1	11	6
101 to 200	8	2	1	1	1	13	7
201 to 300	10	2	1	1	1	15	8
301 to 500	12	2	1	1	1	17	9
501 and above	14	2	1	1	1	19	10

MANAGING COMMITTEE - CONSTITUTION, ELECTIONS, FUNCTIONS.

- Registrar has got a right to decide the strength of the committee members which he can do by issuing general or special order, & publishing the order in official Gazette.
- The first managing committee of every co-operative society is selected by members at the time of first general meeting & its tenure is for 1 year.
- In case of co-operative sugar factories & spinning mills, the first managing committee is nominated by the State Government for a period mentioned in the order.

ELECTIONS STATE CO-OPERATIVE ELECTION AUTHORITY THOUGH STATE

Provisions in election rules are guidelines for conducting the elections. The rules provide for:

i. Eligibility of the candidate for contesting the elections.

ii. Number of members in the committee & tenure of the committee.

iii. Election programme:

- Voters list- provisional list- calling for objections
Hearing the objections – final list of voters.

- Calling for nominations – date upto which the nominations should be given:

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ELECTIONS STATE CO-OPERATIVE ELECTION AUTHORITY THOUGH STATE

- prescribed form of nomination.
- proposers names and signatures.
- Scrutiny of nomination papers.- date.
- Date upto which nomination can be withdrawn.
- Preparation of final list of candidates.
- Date of poll.
- Counting of votes.
- Declaration of election results.
- Taking over charge by new committee

Classification of Societies For Election

Type “A” societies

State Level Apex or Federal Co-operative Societies;

Type “B” societies

Co-operative Bank and District Level Societies

Type “C” Societies

Housing Societies having 200 are & other taluka levels societies

Type “D” Societies

All Co-operative Housing societies having less than 200 members as on the 31st March of the preceding year.

MANNER OF VOTING AT ELECTIONS

At every election where poll is taken, votes shall be given by secret ballot or Electronic Voting Machine in the manner hereinafter provided and no votes shall be allowed by proxy.

SPECIAL PROVISIONS IN RESPECT OF ELECTION OF THE COMMITTEE TO THE TYPE 'C' SOCIETIES

Election of the Committee to the Type "C" Societies. (more than 200 members of Housing Societies)

- (1) The provisions of this part shall apply in respect of Type 'C' Societies, specified in rule 4 (III).
- (2) The Election of the Committee of this type of societies shall be conducted as mentioned below.

SPECIAL PROVISIONS IN RESPECT OF ELECTION OF THE COMMITTEE TO THE TYPE 'C' SOCIETIES

(a) These societies shall inform before one hundred eighty days about expiry of term of committee to the Taluka or Ward Co-operative Election Officer with four copies of list of active members.

(b) The Taluka or Ward Co-operative Election Officer shall appoint a Returning Officer from office of the Co-operation Department and the Returning Officer shall prepare a election

SPECIAL PROVISIONS IN RESPECT OF ELECTION OF THE COMMITTEE TO THE TYPE 'C' SOCIETIES

programme with the approval of Taluka or Ward Co-operative Election Officer, at the earliest.

(c) The Election programme shall be prepared according to the provisions mentioned below.

TYPE 'C' SOCIETIES

	Particulars	Period	Days
1.	Publication of the Election programme and provisional voter list.	Next date to the day on which Taluka /Ward Co-operative Election Officer has approved the election programme.	1
2.	Inviting claims and objections on provisional voter list.	Within a period of 5 days from the date of publication of provisional voter list.	5
3.	Decisions on claims and objections on provisional voter list.	Within 2 days from the last date of aking claims and objections on provisional voter list.	7

TYPE 'C' SOCIETIES

	Particulars	Period	Days
4.	Publication of the Final voter list.	Next date to the day fixed for decisions on claims and objections on provisional voter list.	8
5.	Last date for making nominations.	5 days from the date of publication of the final voter list.	13
7.	Publication of the list of nominations.	On the last date and after the expiry of the time for nomination.	13
8.	Date of scrutiny	Next date of the last date for making nomination.	14

TYPE 'C' SOCIETIES

	Particulars	Period	Days
9.	Date of publication of list of valid nominations.	Next day after the date of completion of scrutiny of nominations.	15
10.	Date by which candidature may be withdrawn.	After 15 days from the date of publication of valid nominations.	30
11.	Date of publication of Final List of contesting candidates and allotment of symbols	The date next succeeding the last date fixed for withdrawal of candidature (The place and time shall be fixed by the Returning Officer).	30

TYPE 'C' SOCIETIES

	Particulars	Period	Days
12.	Date and time during which and the place at which the poll shall be taken.	Minimum 5 days after the date of withdrawal of candidature.	35
13.	Date time and place for counting Votes.	Immediately after polling is over.	35
14.	Date of declaration of results	Immediately after counting of votes is over	

SPECIAL PROVISIONS IN RESPECT OF ELECTION OF THE COMMITTEE TO THE TYPE 'C' SOCIETIES

(3) The provision of rules 20 to 74 shall *mutatis mutandis* apply for conduct of election of such societies.

(4)(a) If the nomination is rejected by the Returning Officer, the candidate may prefer an appeal to Registrar within a period of three days from the date of rejection of nomination. Registrar shall dispose of such appeal within ten days of the date of receipt of such appeal.

SPECIAL PROVISIONS IN RESPECT OF ELECTION OF THE COMMITTEE TO THE TYPE 'C' SOCIETIES

(b) The Returning Officer shall submit the result to the Taluka or Ward Co-operative Election Officer within two days from the date fixed for declaration of the result.

(c) The Taluka or Ward Co-operative Election Officer shall publish a notification of elected candidate within a period of three days after receiving the result of election and give direction to Returning Officer to choose office bearer within the period of ten days.

SPECIAL PROVISIONS IN RESPECT OF ELECTION OF THE COMMITTEE TO THE TYPE 'C' SOCIETIES

(d) Election of these type of societies shall be conducted according to procedure laid down in these rules except the time and date prescribed in this rule.

ELECTION OF THE COMMITTEE TO THE TYPE “D” SOCIETIES

Election of the Committee to the type ‘D’ societies.— The provisions of this Part shall apply in respect of Type — D Societies, specified in rule 4 (IV),—

(1) The society shall prepare its list of voters and submit a copy thereof to the Taluka or Ward Co-operative Election Officer within seven days from the date of preparation.

ELECTION OF THE COMMITTEE TO THE TYPE “D” SOCIETIES

(2) Election of these societies shall be conducted in Special General Body meeting called for this purpose. Such meeting shall be presided over by the person appointed, by the SCEA for this purpose. The notice of the meeting shall be issued by the Presiding Officer or by such officer, as the case may be at least fifteen days before the date fixed for such meeting:

Provided that, the General Body of the society by resolution may submit requisition to the Taluka or

ELECTION OF THE COMMITTEE TO THE TYPE “D” SOCIETIES

Ward Co-operative Election Officer, to hold the election as prescribed in rule 75, the Taluka or Ward Co-operative Election Officer shall proceed for the election as per procedure laid down Rule 75 :

Provided further that, in case of failure of the Special General Body Meeting called for the purpose to choose member of the committee for any reason, the person appointed shall report to the SCEA or, District Co-operative Election Officer or, the Taluka or Ward Co-operative

ELECTION OF THE COMMITTEE TO THE TYPE “D” SOCIETIES

Election Officer, as the case may be, to conduct the election as prescribed in rule 75:

Provided also that, the person appointed for the election purpose shall have no right to cast a vote in any circumstances.

(3) The person appointed for election purpose shall attend the meeting and report the SCEA within two days of the meeting held for the purpose.

ELECTION OF OFFICE BEARERS

As soon as the members of the committee are elected, the election of office bearers of any such society shall be held within the period of fifteen days from the declaration of the result as provided in its bye-laws. The meeting of the committee for this purpose shall be presided over by officer authorized by the SCEA.

The following procedure need to be adopted by the committee when casual vacancy arises in the committee or the same need to be filled. :

According to the amendment done to MCS Act, 1960, the election to any office bearers also need to be done in the presence of "election Officer" appointed by the Election Authority (dy. Registrar of your ward. Practically, it is a very difficult situation as it involves following steps:

- (1) Apply to the Dy Registrar/Assistant registrar who is notified to be election officer for the respective ward societies.

(5) The SCEA shall approve the name of the election officer

(7) The election officer will be informed about appointing him by the deputy registrar with a copy to the society

(8) Election officer to contact the society and fix up the meeting of the committee to elect the member to fill the casual vacancy.

(9) If the society is C-type more than 200 members, the election to be done by adopting

35 days election program and if the same is D type society with less than 200 members, the election to be done in the Special general body meeting with 15 days notice. All the expenses of the election will have to be incurred including payment to the election officer, meeting expenses, ballot papers, conveyance etc.

(10) Submit the result to the General body by the election officer and within two days of election to report to the Registrar and state co-operative Election authority about the election and its result.

The same procedure has to be adopted for election of the office bearers also when any one of the officer bearers resigns or wants to change the portfolio. The election of office bearers will be done in the managing Committee meeting under the supervision of the election officer appointed by the election authority.

How practical the same is yet to be see and we expect some changes to be done by the new government in this regard..

(2) Registrar shall scrutinise the resignation, call for the information, and if required hold a hearing by sending a letter to the resigned secretary

(3) Registrar shall pass the order to appoint an election officer once satisfied that the resignation is properly given.

(4) The appointed officer name will be forwarded to District Deputy Registrar, who shall recommend the same to the State Cooperative Election Authority at Pune,

FUNCTIONS OF MANAGING COMMITTEE

- a) Admission to new members.
- b) Transfer of shares.
- c) Preparation of annual budget & annual statements of accounts with the help of secretary.
- d) To create funds for the working of society by accepting deposits, loans, donations, etc.
- e) To get the work done from secretary & staff & to execute the resolutions passed by the general body.
- f) Investment of funds of the society, as per the provisions in Section 70.

FUNCTIONS OF MANAGING COMMITTEE

- g) To supply work to the members as per objectives of the society & make payment (wages) to them.
- h) To acquire/ purchase/ rent out land for the society & arrange to construct building/ godown as per provisions in bye-laws.
- i) Appointment of sub-committees if necessary.
- j) To prepare draft amendment to byelaws.
- k) To supply information to Govt. co-operative department, financing institution etc.

DISQUALIFICATIONS OF COMMITTEE MEMBERS

(A) Disqualifications For A Candidate Contesting Elections:

Election Rules provide for the eligibility of a candidate for contesting elections:

- i. He should be a member of a co-operative society for whose managing committee he intends to contest for a certain period.
- ii. He should hold minimum number of shares.
- iii. He should not be a defaulter of any co-operative society.
- iv. He should bear a good moral character.

DISQUALIFICATIONS OF COMMITTEE MEMBERS

- v. Salaried employee of a co-operative society cannot contest the elections.
- vi. Person convicted under M.C.S Act, Indian Penal Code or any other Act is barred from contesting election.
- vii. Person who is sentenced for imprisonment as per court orders cannot contest elections unless 5 years period is lapsed since his release from jail.
- viii. Person proved to be guilty of corrupt practices by the divisional revenue commissioner is barred from contesting elections.
- ix. Person indulged in the business done by the society cannot contest the elections.

DISQUALIFICATIONS OF COMMITTEE MEMBERS

According to Section 73 CA Defaulter is defined as:

- i. Person defaulting repayment of a part of loan which has fallen due for repayment.
- ii. Person who has taken amount (advance) from the society, but not returned the same.
- iii. Person has taken goods/services from the society on credit, but not paid the dues.
- iv. Is held responsible by the registrar for the order issued by him for payment of fees apportioned in his name.

DISQUALIFICATIONS OF COMMITTEE MEMBERS

Defaulter is defined as:

- v. Has not paid his share of enquiry cost as per schedule given by enquiry officer.
- vi. Has incurred disqualifications under any sections of the M.C.S Act 1960 & Rules 1961.
- vii. Carries on the same business which the society is doing.
- viii. If he is surety to a person who has defaulted loans.

DISQUALIFICATIONS OF COMMITTEE MEMBERS

(B) Disqualifications For Continuing On The Committee (Rule 58):

Rule 57 of the M.C.S. Rules 1961 lays down the following restrictions:

- i. No Committee member shall have any interest in the contract made by the co-operative society or contract made with the society.
- ii. He should have no interest in the property sold by the society.
- iii. Should not have any interest in the property being purchased by the society.
- iv. He cannot directly or indirectly purchase any property of the member of the society when sold for or effecting recovery of his dues.

DISQUALIFICATIONS OF COMMITTEE MEMBERS

According to Section 73 CA of the M.C.S Act, 1960 committee member becomes disqualified if he commits the following defaults:

- i. If he has not paid crop loan taken from a primary agricultural credit co-operative society on due date.
- ii. If he has not paid the installment of term loan taken from a co-operative society/bank on due date.
- iii. If he has taken any advance from the society, but has not refunded it in scheduled time.

DISQUALIFICATIONS OF COMMITTEE MEMBERS

- iv. If he has taken goods or services from a co-operative society on credit, but not paid amount.
- v. If he has not paid the contributions or other amounts demanded by the co-operative hsg society in which he is a member.
- vi. If he has not paid the amounts payable by him as enquiry costs.
- vii. Has more than two children.

SUPER CESSION OF MANAGING COMMITTEE/ OR REMOVAL OF A MANAGING COMMITTEE MEMBER.

- a) If the managing committee or any member of the committee fails to perform the duties entrusted to him by the M.C.S. Act 1960, Rules 1961 or the byelaws of the society.
- b) Or if the Committee or committee member is persistently negligent in duties imposed on him.
- c) Or if the Committee or Committee member commits any act which is detrimental (prejudicial) to the interests of the society.
- d) Or if any Committee or its member intentionally disobeys the directions issued by the State

SUPER CESSION OF MANAGING COMMITTEE/ OR REMOVAL OF A MANAGING COMMITTEE MEMBER.

Govt./Register for proper implementation of the Govt. policy.

- e) Or in any way if committee or committee member is not discharging the functions properly & deligently.
- f) And as a result the business of the society is affected/ comes to a stand still.

CHAPTER – VII- MANAGEMENT OF SOCIETIES

- ✓ 72. FINAL AUTHORITY OF SOCIETY.
- ✓ 72A. FREEDOM OF AFFILIATION OR DISAFFILIATION WITH A FEDERAL STRUCTURE OF CHOICE – Resolution in GBM by 3/4th majority.
- ✓ 73. COMMITTEES. ITS POWERS AND FUNCTIONS.
- ✓ 73-ID. MOTION OF NO-CONFIDENCE AGAINST OFFICERS OF SOCIETIES

CHAPTER – VII- MANAGEMENT OF SOCIETIES

✓ 73-ID. MOTION OF NO-CONFIDENCE AGAINST OFFICERS OF SOCIETIES

- No motion within 6 months from the date of entering upon office.
- 1/3rd MC members – Request Registrar for Special MC meeting.
- Registrar to convene meeting within 7 days - meeting within 15 days.
- Registrar/Assistant Registrar to preside over
- Meeting not to be adjourned for any reason.
- Voting for and against are read and recorded.
- 2/3rd majority. If rejected -no fresh motion within a period of 1 year.

NO CONFIDENCE MOTION AGAINST A COMMITTEE MEMBER.

Requisition to call special meeting of the Committee to consider no-confidence resolution will be in Form M-18 accompanying the following papers:

- Grounds for no-confidence.
- Text of the resolution for no confidence.
- Names of the Committee members who shall move the no confidence motion.
- List of committee members who are entitled to attend the meeting & vote for the no confidence motion.
- Signatures of the members of the committee who have signed the resolution, should be on form M-18

CHAPTER – VII- MANAGEMENT OF SOCIETIES

- ✓ 73A.DISQUALIFICATION FOR BEING DESIGNATED OFFICER SIMULTANEOUSLY OF CERTAIN CATEGORIES OF SOCIETIES.
- ✓ 73AAA. CONSTITUTION OF COMMITTEE.
 - Maximum MC Members 21 - Co-option-Expert Directors-maximum 2.
 - Functional Directors : MC members up to 17=1; above 17= maximum 2.
 - Term of elected committee members and office bearers = 5 years.

CHAPTER – VII- MANAGEMENT OF SOCIETIES

- ✓ 73B. RESERVATION OF CERTAIN SEATS ON COMMITTEES OF SOCIETIES AND ELECTION THERETO:
 - 3 seats: SC/ST = 1 seat; OBC = 1 seat; DT/NT/SBC= 1 seat.
- ✓ 73C. RESERVATION FOR WOMAN = 2 seats.
- ✓ 73CA.DISQUALIFICATION OF COMMITTEE AND ITS MEMBERS.
 - Dealer/carrying similar business;
 - Defaulter ;
 - Breach of co-operative discipline;

CHAPTER – VII- MANAGEMENT OF SOCIETIES

- **Non-active member;**
 - **Held responsible u/s 79 or 88 or 85;**
 - **Is a salaried employee of any society.**
 - **Has more than 2 children (3rd child born singly on or after 07-09-2002)**
 - **Held guilty of any offence u/s 146 and convicted u/s 147;**
 - **Imprisonment of not less than 1 year.**
- ✓ **73CB. STATE CO-OPERATIVE ELECTION AUTHORITY**

CHAPTER – VII- MANAGEMENT OF SOCIETIES

- ✓ 73F. ELECTION TO MORE THAN ONE SEAT ON THE COMMITTEE OF SOCIETY:

- ✓ 73(I), RESPONSIBILITY OF COMMITTEE OR ADMINISTRATOR OR AUTHORISED OFFICER TO INTIMATE AND ASSIST TO ARRANGE FOR ELECTION, BEFORE EXPIRY OF TERM:

- ✓ 74. QUALIFICATION AND APPOINTMENT OF MANAGER, SECRETARY AND OTHER OFFICERS OF SOCIETIES AND OF CHIEF EXECUTIVE OFFICER AND FINANCIAL OFFICER FOR CERTAIN SOCIETIES.

CHAPTER – VII- MANAGEMENT OF SOCIETIES

✓ Sec. 75. ANNUAL GENERAL BODY MEETING:

(1) Audit within 4 months and AGBM within 6 months.

(2) MC to submit before the AGM:

a. Statement of loans to MC members/family members, society/firm/company in which MC members/their family members are members.

b. Annual Report of its activities;

c. Plan for disposal of surplus;

d. List of Bye-Laws amendment;

e. Declaration of date and conduct of MC election;

f. Audit Report of preceding financial year;

g. Rectification Report of earlier audit;

h. Annual Budget for next year;

CHAPTER – VII- MANAGEMENT OF SOCIETIES

- a. Any other informed as required by the Registrar;
 - b. Such other business as per Bye-Laws and due notice has been given.
-
- ✓ **75(2A). APPOINTMENT OF AUDITOR IN AGBM & FILING RETURN IN 30 DAYS.**
 - ✓ **75(3). With every Balance Sheet – Report of the Committee.**
 - ✓ **75(4). Audited Balance Sheet, Profit & Loss A/c, Audit Report of preceding financial year, Rectification Report of earlier audit and Committee's Report.**
 - ✓ **75(5). Default by Officers/MC members – Disqualification for 5 years.**

CHAPTER – VII- MANAGEMENT OF SOCIETIES

✓ **Default made by servant/employee – Penalty up to Rs. 5,000/-.**

✓ **76. SPECIAL GENERAL BODY MEETING.**

(1) Who Can call SGBM.

(2) Default by Officers/MC members – Disqualification for 5 years.

Default made by servant/employee – Penalty upto Rs. 5,000/-.

(3) If not called in accordance with the requisition, the Registrar/authorized person can call such meeting.

(4) Expenditure from the funds of the society or by person/s responsible.

CHAPTER – VII- MANAGEMENT OF SOCIETIES

✓ 77. ACTS OF SOCIETIES ETC. NOT TO BE INVALIDATED BY CERTAIN DEFECTS. - Done in good faith.

✓ 77A. APPOINTMENT OF MEMBER OF COMMITTEE, NEW COMMITTEE, AUTHORISED OFFICER, WHERE THERE IS FAILURE TO ELECT MEMBER, TO CONSTITUTE COMMITTEE OR WHERE COMMITTEE DOES NOT ENTER UPON OFFICE, ETC.

✓ 78. POWER OF SUSPENSION OF COMMITTEE.

✓ 78A. POWER OF SUPERSESSION OF COMMITTEE OR REMOVAL OF MEMBER THEREOF.

CHAPTER – VII- MANAGEMENT OF SOCIETIES

✓ 79. SOCIETY'S OBLIGATION TO FILE RETURNS AND STATEMENTS AND REGISTRAR'S POWER TO ENFORCE PERFORMANCE OF SUCH OBLIGATIONS:

(1) Keeping books of accounts including electronic/any other form,

(1A) Filing Returns within 6 months of the close of every financial year:

- *annual report of its activities;*
- *audited statement of accounts;*
- *plans for disposal of surplus funds as approved by GBM;*
- *list of amendments to the bye-laws of the society, if any;*

CHAPTER – VII- MANAGEMENT OF SOCIETIES

- *declaration regarding date of GBM and conduct of election when due;*
- *any other information required by Registrar.*

(1B) Name of Auditor/Firm from panel approved by State Govt.- appointed in GBM;

- **His written consent-**
- **within a period of one month from the date of AGBM.**

✓ **79A.GOVERNMENT'S POWER TO GIVE DIRECTIONS IN THE PUBLIC INTEREST, ETC.**

CHAPTER – VII- MANAGEMENT OF SOCIETIES

✓ 79AA. REGISTRAR'S POWERS TO GIVE DIRECTIONS TO FRAME REGULATIONS:

✓ 80. REGISTRAR'S POWER TO SEIZE RECORDS, ETC.

Provision made in The New Model Bye-laws

Bye law No. 116(a) provides that

“Election of all the members of the Committee shall be held once in 5 years, before expiry of its term, in accordance with the provisions of **Sec 73- CB** of the Act and the Rules / procedure framed there under.

Committee to intimate to the State Election Authority for holding of its election before expiry of its term. On failure, the committee members shall cease to hold office after expiry of its term and attract action by the **Registrar under section 77 A.** “

Provision made in The New Model Bye-laws

Bye Law No. 123 provides

“The first meeting of the newly elected and outgoing Committee shall be held within 15 days from the date of constitution of the new committee as per bye-law No. 119 and the provisions of Section 73AAA.” And all other relevant changes are done in the Model Bye-laws.

MCS Act, 1960-On Professional Mgt

- **Section 2 (11-A)** "expert director" means and includes a person having experience in the field of banking , management, **Co-operation** and includes a person having specialization in any other field relating to the objects and activities undertaken by the concerned society.
- **Section 2(14-A) "functional director"** means and includes a Managing Director or a Chief Executive Officer by whatever designation called , or any of the Head of the Department of the concerned society, nominated by the committee
- **Section 73-AAA(2)** of the Act provides discussed hereinabove provides for co-option of two expert directors and also one (upto 17 members) or two function directors(above 17 members) to bring professionalism in the working of co-operative Societies.

Hsg Society Bye-laws : On Professional Mgt

Housing Society Bye-laws No 116 (b) provides as under:

- 1) The Committee of the society may co-opt Two "expert directors" relating to the objects and activities of the soc.
- 2) The number of such co-opted members shall not exceed two in addition to the strength of the committee.
- 3) Such co-opted members shall not have the right to vote in any election of the society & can not to be elected as office bearers of the committee.
- 4) 116(c) The Committee of the society may co-opt Two "functional directors", such members shall be excluded for the total com. members & shall have no right to vote.

ELECTION TO BE CONDUCTED BY STATE CO-OP ELECTION AUTHORITY

Changes made in MCS Act. 1960:

Section 73CB has been introduced in the MCS Act, 1960 which provides as under regarding the election:

1.The superintendence, direction and control of the preparation of the electoral rolls

2.The State Co-operative Election Authority shall consist of a State Co-operative Election Commissioner (Provided that a person appointed as the State Co-operative Election Commissioner shall retire from the office on completion of the age of 65 years.)

152-A. APPEAL AGAINST REJECTION OF NOMINATION PAPER AT ELECTION

(1) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under a person aggrieved by the rejection of nomination of a candidate at the election of a committee of any society, may file an appeal to the Registrar within three days of the date of rejection of the nomination. The Registrar shall dispose of such appeal within ten days of the date of receipt of such appeal and the decision of the Registrar in appeal shall be final and no further appeal or revision shall lie against the decision of the Registrar in such appeal. "In the case of a society, an appeal shall lie to the officer as may be specified by the State Co-operative Election

152-A. APPEAL AGAINST REJECTION OF NOMINATION PAPER AT ELECTION

Authority, who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of the such officer, shall be final."

(2) Notwithstanding anything contained in this Act or the rules or the bye-laws made there under, the list of validly nominated candidates shall be subject to the decision of any appeal filed under sub-section (1), and the period between the date of scrutiny of nomination papers and the last date of the withdrawal of candidatures shall not be less than fifteen days.

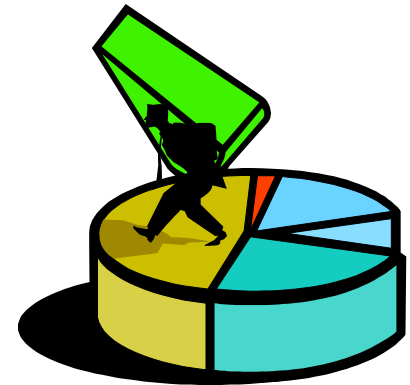
DISPUTE – SECTION 91

- Any dispute touching the business of the society **including the election** shall be referred by any of the parties to the dispute to the Co- operative Court if both the parties thereto are one or the other of the following
 - 1. society**
 - 2. a member of society**
 - 3. a surety of the member**
- Provided that, any proceeding for the recovery of the amount as arrears of land revenue on a certificate granted under section 101(1) of the Act or the recovery proceeding by the Registrar or by any such authorized
- officer who is empowered under section 156(1) of the Act shall not be a dispute under section 91

DECISION MAKING PROCESS IN CO-OPS

ANY DECISION MAKING DEPENDS ON:

- *Who* owns the enterprise?
- *Who* controls *the enterprise*?
- *Who* uses *the enterprise*?
- *Who* gets *the profits*?



Individually Owned Business



One Person

- Owns
- Controls
- Operates
- Benefits/Profits

Private Company

- Investors as owners
- Profits shared among investors
- Voting weighted according to the number of share investment



What is a Cooperative?

A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

Democratic member control



The people who own and control and finance the co-operative are those who use it.



Participation Roles

Co-operatives operate through the roles of principal parties by passing Resolutions/ taking decisions in their respective meetings.

- Members- In General Meetings
- Directors/Committee members
- Functional Director/CEO/MD
- Employees/ staff- As per above decisions.



Disclaimer

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Co-op Enterprises & Co-op Stakeholders



Let us be Partner in Nation Building

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What is all this empowering us to do? Innovate, Get involved & Solve social problems for financial inclusion and better India through Co-ops!

**Thank you for Getting
involved in the discussion!**

CA RAMESH PRABHU ,