

L. C. BILL No. II OF 2013.

A BILL

further to amend the Maharashtra Co-operative Societies Act, 1960.

**(As passed by the Legislative Council on the 15th
April 2013 with Amendments.)**

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WHEREAS both Houses of the State Legislature were not in session;

Mah. XXIV of 1961. 10 Mah. Ord. II of 2013. AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing ; and, therefore promulgated the Maharashtra Co-operative Societies (Amendment) Ordinance, 2013, on the 14th February 2013 ;

15 AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-fourth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 2013. Short title and commencement.

Amendment
of section 2 of
Mah. XXIV of
1961.

(2) It shall be deemed to have come into force on the 14th February 2013.

2. In section 2 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the principal Act"),— Mah. XXIV of 1961.

(a) after clause (2), the following clause shall be inserted, namely:—

"(2-A) "authorised person" means the person referred to in article 5 243ZQ and includes any person duly authorised by the Registrar to take action under the provisions of this Act;"

(b) in clause (7), for the words "or other directing body, by whatever name called, to which the management of the affairs of a society is vested" the following shall be substituted, namely:— 10

" or the governing body or other directing body of a co-operative society, by whatever name called, in which the management of the affairs of a society is entrusted";

(c) clause (10-B) shall be deleted;

(d) after clause (11), the following clause shall be inserted, namely:— 15

"(11A) "expert director" means a person having experience in the field of banking, management, finance and includes a person having specialisation in any other field relating to the objects and activities undertaken by the concerned society;"

(e) after clause (14), the following clause shall be inserted, namely:— 20

"(14 A) "functional director" means a Managing Director or a Chief Executive Officer by whatever designation called, and includes any Head of the Department or representative of the recognised union of the concerned society, nominated by the Committee;"

(f) in clause (19),— 25

(i) in clause (a), for the words ", associate or sympathiser" the words " or associate" shall be substituted;

(ii) after sub-clause (a), the following sub-clause shall be inserted, namely:—

"(a-1) "active member" means a member who participates 30 in the affairs of the society and utilises the minimum level of services or products of that society as may be specified in the by-laws;"

(iii) sub-clause (d) shall be deleted;

(g) in clause (20), for the words "a chairman, vice-chairman, 35 president, vice-president, managing director, manager, secretary, treasurer, member of the committee and any other person," the following shall be substituted, namely: —

"any office bearer such as a chairperson, vice-chairperson, president, vice-president, managing director, manager, secretary, 40 treasurer, member of the committee and any other person, by whatever name called,"

(h) in clause (27), after the words "under this Act" the following shall be inserted, namely:—

",which is an autonomous association of persons, united 45 voluntarily to meet their common needs and aspirations through a jointly owned and democratically controlled enterprise and adhering to the co-operative principles and values";

(i) after clause (29), the following clause shall be inserted, namely:-

"(29A) "State Co-operative Election Authority" means an authority constituted by the State Government under section 73CB;"

- 5 **3.** In section 3A of the principal Act, in clause (a), after the words "in the case of the Registrar, the" the word "Special, " shall be inserted. Amendment of section 3A of Mah. XXIV of 1961.
- 4.** In section 6 of the principal Act, in sub-section (1), after the second proviso, the following proviso shall be added, namely:- Amendment of section 6 of Mah. XXIV of 1961.
- 10 "Provided also that, the Registrar may specify the norms and conditions for registration of societies or class of societies."
- 5.** In section 13 of the principal Act, the proviso to sub-section (1) shall be deleted. Amendment of section 13 of Mah. XXIV of 1961.
- 6.** In section 14 of the principal Act,— Amendment of section 14 of Mah. XXIV of 1961.
- 15 (a) in sub-section (1), after the words "of such society," the following shall be inserted, namely :—
- "or any by-laws of the society are inconsistent with the provisions of this Act or rules and that amendment is necessary in such by-laws,";
- (b) in sub-section (2), the following provisos shall be added, namely:—
- 20 "Provided that, such notified State federal society shall communicate its opinion to the Registrar within a period of thirty days from the date of receipt of communication, failing which it shall be presumed that such State federal society has no objection to the amendment and the Registrar shall be at liberty to proceed
- 25 further to take action accordingly:
- Provided further that, the Registrar may specify the Model by-laws, for such type of societies or class of societies, as he may deem fit."
- 30 **7.** In section 17 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be added, namely:- Amendment of section 17 of Mah. XXIV of 1961.
- "Provided further that, in case of societies doing the business of banking, no such amalgamation, transfer, division or conversion shall be initiated without the prior approval of the Reserve Bank of India."
- 35 **8.** In section 18 of the principal Act,— Amendment of section 18 of Mah. XXIV of 1961.
- (a) in sub-section (1),—
- (i) after the words "in the public interest" the following shall be inserted, namely:-
- " or in the interest of members of such societies";
- (ii) the following proviso shall be added, namely:-
- 40 "Provided that, such notified federal society shall communicate its opinion to the Registrar within a period of thirty days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to the amalgamation, division or reorganisation and
- 45 the Registrar shall be at liberty to proceed further to take action accordingly.";

(b) for the marginal note, the following marginal note shall be substituted, namely:—

“Power to direct amalgamation, division and reorganisation in the public interest or in the interest of members, etc.”.

Amendment
of section 18A
of Mah. XXIV
of 1961.

9. In section 18A of the principal Act,—

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(a) to sub-section (1), the following proviso shall be added, namely:—

“Provided that, such notified federal society or other authority shall communicate its opinion to the Registrar within a period of thirty days from the date of receipt of communication, failing which it shall be presumed that such notified federal society or other authority has no objection to the scheme of amalgamation and the Registrar shall be at liberty to proceed further to take action accordingly.”;

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(b) in sub-section (2), after clause (b), the following clause shall be added, namely:—

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“(c) the Registrar has obtained the prior approval of the Reserve Bank of India.”.

Amendment
of section 18B
of Mah. XXIV
of 1961.

10. In section 18B of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

“Provided that, such notified federal society or the other authority shall communicate its opinion to the Registrar within a period of thirty days from the date of receipt of communication, failing which it shall be presumed that such notified federal society or other authority has no objection to the scheme of amalgamation and the Registrar shall be at liberty to proceed further to take action accordingly.”.

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Amendment
of section 18C
of Mah. XXIV
of 1961.

11. In section 18C of the principal Act, in sub-section (2),—

(a) in clause (e), for the words “appointment of an administrator or an interim committee of management” the following shall be substituted, namely :—

“appointment of an authorised officer or an interim committee of management from amongst the active members of that society”;

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(b) both the provisos shall be deleted.

Amendment
of section 23
of Mah. XXIV
of 1961.

12. In section 23 of the principal Act, in sub-section (2), after the words “may appeal to the Registrar” the following shall be inserted, namely:—

“,within a period of sixty days from the date of the decision of the society”.

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Amendment
of section 24
of Mah. XXIV
of 1961.

13. In section 24 of the principal Act,—

(a) in sub-section (1), for the words “nominal, associate or sympathiser member” the words “nominal or associate member” shall be substituted;

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(b) in sub-section (2), the words “or sympathiser member” and “or sympathiser” shall be deleted;

(c) for the marginal note, the following marginal note shall be substituted, namely:—

“Nominal and associate member.”.

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14. After section 24 of the principal Act, the following section shall be inserted, namely:—

Insertion of section 24A in Mah. XXIV of 1961.

5 **"24A.** (1) Every society shall organise co-operative education and training, for its members, officers and employees through such State federal societies or the State Apex Training Institutes, as the State Government may, by notification in the *Official Gazette*, specify. Such education and training shall,—

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

- (i) ensure the effective and active participation of the members in the management of the society;
- 10 (ii) groom talented employees for leadership position;
- (iii) develop professional skills through co-operative education and training.

(2) Every member of the committee, whether elected or co-opted, shall undergo such co-operative education and training for such period and at such intervals as may be prescribed.

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(3) Every society shall contribute annually towards the education and training fund of the State federal societies or State Apex Training Institutes, notified under sub-section (1), at such rates as may be prescribed, and different rates may be prescribed for different societies or classes of societies."

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15. For section 26 of the principal Act, the following section shall be substituted, namely :-

Substitution of section 26 of Mah. XXIV of 1961.

25 **"26.** (1) A member shall be entitled to exercise such rights as provided in the Act, rules and by-laws:

Rights and duties of members.

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 by-laws of the society, from time to time :

30 Provided further that, in case of increase in minimum contribution of member in share capital to exercise right of membership, the society shall give a due notice of demand to the members and give reasonable period to comply with.

(2) It shall be the duty of every member of a society,-

(a) to attend at least one general body meeting within a consecutive period of five years,

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(b) to utilise minimum level of services at least once in a period of five consecutive years as specified in the by-laws of the society:

40 Provided that, a member who does not attend at least one meeting of the general body as above and does not utilise minimum level of services at least once in a period of five consecutive years, as specified in the by-laws of such society shall be classified as non-active member :

Provided further that, when a society classifies a member as a non-active member, the society shall, in the prescribed manner

communicate such classification, to the concerned member within thirty days from the date of close of the financial year:

Provided also that, a non-active member who does not attend at least one meeting of the general body and does not utilise minimum level of services as specified in the by-laws, in next five years from the date of classification as a non-active member, shall be liable for expulsion under section 35: 5

Provided also that, a member classified as non-active member shall, on fulfillment of the eligibility criteria as provided in this sub-section be entitled to be re-classified as an active member: 10

Provided also that, if a question of a member being active or non-active member arises, an appeal shall lie to the Registrar within a period of sixty days from the date of communication of classification:

Provided also that, in any election conducted immediately after the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2013, all the existing members of the society shall be eligible for voting, unless otherwise ineligible to vote." 15 Mah. of 2013.

Amendment
of section 27
of Mah. XXIV
of 1961.

16. In section 27 of the principal Act,- 20

(a) in sub-section (1), after the first proviso, the following *Explanation* shall be inserted, namely :—

"*Explanation.*—For the purposes of this sub-section, "votes to more than one candidate from the panel" shall be treated as one vote."; 25

(b) after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) Notwithstanding anything contained in sub-section (1), an active member who subsequently fails to participate in the affairs of the society and to use the services upto the minimum level as specified, from time to time, in the by-laws, shall cease to be an active member and shall not be entitled to vote."; 30

(c) in sub-section (3), after the words "appoint one of its" the word "active" shall be inserted;

(d) in sub-section (8), the words "or sympathiser" shall be deleted; 35

(e) in sub-section (10), for the portion beginning with the words "In the case of " and ending with the words "of the society" the following portion shall be substituted, namely:-

"If a member has taken a loan from the society, such member shall, whenever he is a defaulter, as provided in the *Explanation* to clause (i) of sub-section (1) of section 73CA has no right to vote in the affairs of the society."; 40

(f) sub-section (12) shall be deleted.

Amendment
of section 43
of Mah. XXIV
of 1961.

17. In section 43 of the principal Act,-

(a) in sub-section (1), in the proviso, for the words "the Reserve Bank of India guidelines" the words "guidelines of the Reserve Bank of India or the National Bank" shall be substituted; 45

(b) in sub-section (2),—

(i) in the first proviso, after the words " share capital, loan" the word " , subsidy " shall be inserted; 50

(*ii*) in the second proviso, for the words "the Reserve Bank of India guidelines" the words "guidelines of the Reserve Bank of India or the National Bank" shall be substituted.

18. In section 44 of the principal Act, in sub-section (3), in the second
5 proviso, for the words "the Reserve Bank of India guidelines" the words
"guidelines of the Reserve Bank of India or National Bank" shall be substituted.

Amendment of section 44 of Mah. XXIV of 1961.

19. In section 44A of the principal Act, -

Amendment of section 44A of Mah. XXIV of 1961.

(a) for the words "rupees three thousand" the words "rupees ten thousand" shall be substituted;

10 (b) the words "or commercial" shall be deleted.

20. Section 68 of the principal Act shall be deleted.

Deletion of section 68 of Mah. XXIV of 1961.

21. In section 69 of the principal Act, for the words and figures "the educational fund as provided in section 68" the words, figures and letter
15 "funds towards co-operative education and training as provided in section 24A" shall be substituted.

Amendment of section 69 of Mah. XXIV of 1961.

22. Section 69A of the principal Act shall be deleted.

Deletion of section 69A of Mah. XXIV of 1961.

23. In section 70 of the principal Act, -

Amendment of section 70 of Mah. XXIV of 1961.

(a) for the words "Every society other than the co-operative credit structure entity" the words "A society" shall be substituted;

20 (b) for clause (a), the following clause shall be substituted, namely:-

"(a) in a District Central Co-operative Bank or the State Co-operative Bank, having awarded at least " A " Audit Class in last three consecutive years;"

25 (c) after clause (c), before the first proviso, the following clause shall be inserted, namely :-

"(d) in any other mode permitted by the rules, or by general or special order in that behalf by the State Government :".

24. In section 71A of the principal Act, in sub-section (1), for the words,
30 figures and letter " under sections 78, 96 or 144-T" the words, figures and letter "under section 78, 78A or 96" shall be substituted.

Amendment of section 71A of Mah. XXIV of 1961.

25. In section 73 of the principal Act, -

Amendment of section 73 of Mah. XXIV of 1961.

(a) in sub-section (1A), -

(i) the portion beginning with the words "Every such member" and ending with the words " of the committee" shall be deleted;

35 (ii) in the second proviso, for the words " seven days" the words " fifteen days" shall be substituted;

(b) sub-sections (2) and (3) shall be deleted.

Deletion of sections 73-IA, 73-IB and 73-IC of Mah. XXIV of 1961.

26. Sections 73-IA, 73-IB and 73-IC of the principal Act shall be deleted.

Amendment of section 73-ID of Mah. XXIV of 1961.

27. In section 73-ID of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :-

"(1) An officer who holds office by virtue of his election to that office shall cease to be such officer, if a motion of no-confidence is passed at a meeting of the committee by two-third majority of the total number of committee members who are entitled to vote at the election of such officer and his office shall, thereupon be deemed to be vacant.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the committee who are entitled to elect the officer of the committee and shall be delivered to the Registrar. The requisition shall be made in such form and in such manner as may be prescribed :

Provided that, no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (1) has entered upon his office."

Amendment of section 73A of Mah. XXIV of 1961.

28. In section 73A of the principal Act,-

(a) in sub-section (1), the words, figures and letters "and sections 73C, 73D and 73E" shall be deleted;

(b) in sub-section (4), -

(i) for the words "elected or appointed" the words "elected, co-opted or nominated" shall be substituted;

(ii) for the words "elections or appointments" the words "elections, co-options or nominations" shall be substituted;

(iii) for the words "re-elected or re-appointed" the words "re-elected, re-co-opted or re-nominated" shall be substituted;

(c) sub-section (6) shall be deleted;

(d) after sub-section (6), the following sub-sections shall be inserted, namely :-

"(7) Where a person is elected, co-opted or nominated as a member of committee of any society by virtue of his holding office under the Central Government or the State Government or in any local authority or in any body corporate or in any organisation, he shall cease to be such member on the date on which he ceases to hold such office.

(8) No member of a society, who is nominated to represent it on any other society, shall be eligible for being elected, co-opted or nominated as a designated officer of the other society, unless the other society is its federal society.

(9) In the case of such class or classes of societies as may be specified by the State Government, by notification in the *Official Gazette*, no member shall be eligible for being elected, co-opted or nominated as a designated officer, if he is not an active member and does not fulfill the minimum qualification relating to his monetary transactions with the society as may be laid down, in such notification."

29. After section 73A of the principal Act, the following section shall be inserted, namely :—

Insertion of section 73AAA in Mah. XXIV of 1961.

Constitution of committee.

"73AAA. (1) The Committee shall consist of such number of members as may be provided in the by-laws:

5 Provided that, the maximum number of members of the committee shall not exceed twenty-one :

10 of Provided further that, the provisions of the Banking Regulation
1949. Act, 1949, shall apply to all the societies carrying the business of banking.

10 (2) The Committee may co-opt "expert directors" relating to the objects and activities undertaken by the society:

 Provided that, the number of expert directors shall not exceed two, which shall be in addition to the maximum number of members of the committee as specified in the first proviso of sub-section (1):

15 Provided further that, the committee may, in case of the committee having not more than seventeen members, nominate a person as a functional director; and in case of the committees having more than seventeen members and not more than twenty-one members may nominate such number of functional directors, not exceeding two:

20 Provided also that, in case the committee consists of two functional directors, one of such functional directors shall be an employee of the concerned society who is representative of the recognized union of the employees of such society :

25 Provided also that, the functional directors of a society shall also be the members of the committee and such members shall be excluded for the purposes of counting the total number of members of the committee specified in the first proviso to sub-section (1) :

 Provided also that, such expert directors shall not have the right to vote at any election of the society and shall not be eligible to be elected as office bearers of the committee.

30 (3) The term of the office of the elected members of the committee and its office bearers shall be five years from the date of election and the term of the office bearers shall be co-terminus with the term of the committee.

35 (4) Any casual vacancy in the committee may be filled in from amongst the members belonging to the same category of persons in respect of which a casual vacancy has arisen.

40 (5) (a) If, at any general election of members of the committee, the committee could not be constituted after declaration of results, then notwithstanding anything contained in this Act or the rules or the by-laws of the society, the returning officer or any other officer or authority conducting such election shall, within seven days of the declaration of two-thirds or more number of members, forward their names together with their permanent addresses to the Registrar, who shall, within fifteen days from the date of receipt thereof by him, publish or cause to be published such names and addresses by affixing a notice on the Notice Board or at any prominent place in his office; and upon such publication the committee of the society shall be deemed to be duly constituted. In determining two-thirds of the number of members, fraction shall be ignored:

Provided that, such publication shall not be deemed,—

(i) to preclude the completion of elections of the remaining members and the publication of their names and the permanent addresses of the elected members likewise as and when they are available; or

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(ii) to affect the term of the office of members of the committee under the Act;

(b) the names of the remaining members after they are elected (together with their permanent addresses), may also thereafter be likewise published by the Registrar.”.

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30. Sections 73AA and 73AB of the principal Act shall be deleted.

Deletion of
sections 73AA
and 73AB of
Mah. XXIV of
1961.

31. In section 73-B of the principal Act,—

(a) in sub-section (1),—

(i) for the words "four seats" the words "three seats" shall be substituted;

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(ii) in clause (a-i), the word "and" shall be added at the end;

(iii) in clause (a-ii), the word "and" appearing at the end shall be deleted;

(iv) clause (b) shall be deleted;

(b) sub-section (2) shall be deleted;

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(c) in sub-section (3), the words " or as the case may be, weaker section," shall be deleted;

(d) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Where no person is elected to any of the three reserved seats, then such seat or seats shall be filled in by nomination from amongst the persons entitled to contest the election under sub-section (3).";

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(e) in the *Explanation*, clause (c) shall be deleted;

(f) for the marginal note, the following marginal note shall be substituted, namely:—

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"Reservation of certain seats on committees of societies and election thereto.".

32. Sections 73-BB and 73-BBB of the principal Act shall be deleted.

Deletion of
sections 73-
BB and 73-
BBB of Mah.
XXIV of 1961.

33. For section 73C of the principal Act, the following section shall be substituted, namely:—

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Substitution
of section
73C of Mah.
XXIV of 1961.

"73C. (1) Notwithstanding anything contained in this Act, or in the rules made thereunder, or in the by-laws of any society, there shall be

Reservation
for women.

two seats reserved for women on the committee of each society consisting of individuals as members and having members from such class or category of persons, to represent the women members.

5 (2) Any individual woman member of the society, or any woman member of the committee of a member-society, whether elected, co-opted or nominated, shall be eligible to contest the election to the seat reserved under sub-section (1).

10 (3) Where no woman member or, as the case may be, women members are elected to such reserved seats, then such seat or seats shall be filled in by nomination from amongst the women members eligible to contest the election under sub-section (2).

(4) Nothing in this section shall apply to a committee of a society exclusively of women members.”.

34. Sections 73E and 73EA of the principal Act shall be deleted.

Deletion of sections 73E and 73EA of Mah. XXIV of 1961.

15 **35.** Section 73FF of the principal Act, shall be re-numbered as section 73CA and in section 73CA as so re-numbered, -

Amendment of section 73FF of Mah. XXIV of 1961.

(a) before sub-section (1), the following sub-section shall be inserted, namely :-

20 “(A1) (a) In the case of a society, which gives loans to members for purchasing machinery, implements, equipments, commodities or other goods, or which deals in such goods, no member, who or whose near relation is a dealer in such goods or is a director of a company or a partner in a firm carrying on business in such goods, in the area of operation of the society shall be eligible for being
25 elected or nominated as a member of the committee of such society;

(b) any member who desires to carry on the business of the kind carried on by the society outside the area of operation of the society may apply to the society for permission to carry on such business. The society may grant such permission subject to such
30 conditions as may be prescribed.”;

Explanation.— For the purposes of this sub-section, the expression “near relation” means wife, husband, father, mother, brother, sister, son, daughter, son-in-law or daughter-in-law and includes father-in-law and mother-in-law, married sister, brother-in-law (wife’s
35 brother), sister-in-law (wife’s sister), brother-in-law (sister’s husband) and married daughter.” ;

(b) in sub-section (1),—

(i) in the *Explanation*, after paragraph (e), the following paragraph shall be inserted, namely:-

40 “ (f) in the case of District Central Co-operative Bank or of the State Co-operative Bank, a member, if he, –

(i) is a person who represents a society other than a primary agricultural credit co-operative society on the board of a District Central Co-operative Bank or the State
45 Co-operative Bank, if the society to whom he represents has committed a default towards the payments of such Bank for a period exceeding ninety days;

(ii) is a person who is a defaulter of a primary agricultural credit co-operative society or is an office bearer of a defaulting primary agricultural co-operative
50 credit society;

(iii) is a person who represents a society whose Managing Committee is superseded.";

(i) after clause (i), the following clause shall be inserted, namely:-

"(ii-a) has been classified as non-active member under sub-section (2) of section 26; or";

(iii) in clause (v),-

(A) for the words, brackets, figures and letter "sub-section (2) of section 73F" the words, brackets, letters and figure "clause (b) of sub-section (A1)" shall be substituted;

(B) *Explanation* shall be deleted;

(iv) in clause (vi), for the words, letters and figures " or is selected or elected to any reserved seat on the committee of a society under section 73BB" the words, brackets, figures and letter " or is nominated as functional director on the committee of a society under sub-section (2) of section 73A" shall be substituted;

(v) after clause (vii), the following clauses shall be added, namely:-

"(viii) is held guilty for any offence under section 146 and convicted under section 147; or

(ix) is convicted with imprisonment of not less than one year for an offence under the provisions of any law for the time being in force. ";

(c) after sub-section (2), the following sub-sections shall be added, namely:-

"(3) A member of a committee who has ceased to be a member thereof, on account of having incurred disqualification under sub-section (A1) and clauses (i) to (ix) of sub-section (1) shall not be eligible to be re-elected, re-co-opted or re-nominated as a member of the committee till the expiry of the period of next term of five years of the committee from the date on which he has so ceased to be a member of the committee.

(4) A member of a committee who has ceased to be a member thereof, on account of having incurred any disqualification other than disqualifications, referred to in sub-section (3) shall, unless otherwise specifically provided in this Act, be eligible to be re-nominated, re-co-opted or re-elected as a member of the committee as soon as such disqualification ceases to exist.";

(d) for the marginal note, the following marginal note shall be substituted, namely:-

"Disqualification of committee and its members.".

Insertion of
section 73CB
in Mah. XXIV
of 1961.

State Co-
operative
Election
Authority.

36. After section 73CA of the principal Act, the following section shall be inserted, namely:—

"73CB. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to a society shall vest in the authority called as 'the State Co-operative Election Authority', as may be constituted by the State Government in that behalf. Every general election of the members of the committee and election of the office-bearers of a society including any casual vacancy, to the extent applicable, shall be held as per the procedure prescribed.

(2) The State Co-operative Election Authority shall consist of a State Co-operative Election Commissioner, who has held the post not below

the rank of Secretary to the State Government. The State Co-operative Election Commissioner shall be appointed by the Governor. The State Co-operative Election Commissioner shall hold the office for a period of three years and he may be re-appointed for a further period of two years. The office of the State Co-operative Election Authority shall be at such place as may be notified by the State Government:

Provided that, a person appointed as the State Co-operative Election Commissioner shall retire from the office on completion of the age of sixty-five years.

(3) The State Government shall appoint on deputation, any person holding a post not below the rank of Additional Registrar, as a Secretary to the State Co-operative Election Authority.

(4) Subject to the provisions of sub-section (2), other conditions of service, including the salary and allowances, of the State Co-operative Election Commissioner shall be such as may be prescribed. Subject to the provisions of sub-section (6), the State Co-operative Election Commissioner shall be removed from his office only by an order of the Governor on the ground of proved misbehaviour or incapacity after an inquiry ordered by the Governor and conducted by a retired Judge of the High Court, who has on inquiry, reported that the State Co-operative Election Commissioner ought to be removed on such ground.

(5) The Governor may suspend the State Co-operative Election Commissioner from his office, and if deemed necessary, also prohibit him from attending the office during inquiry, if an inquiry has been ordered under sub-section (4), until the Governor has passed the orders on receipt of the report of the retired High Court Judge.

(6) Notwithstanding anything contained in sub-section (5), the Governor may, by order, remove the State Co-operative Election Commissioner from his office, if he, -

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Governor involves moral turpitude; or

(c) has engaged during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Co-operative Election Commissioner.

(7) The State Government, after consultation with the State Co-operative Election Commissioner, shall provide the officers and employees for his office, to assist him in performing his functions under this Act.

(8) The State Government shall, when so requested by the State Co-operative Election Commissioner make available to the State Co-operative Election Authority such staff as may be necessary for discharge of the functions conferred on the State Co-operative Election Authority by sub-section (1).

(9) (a) If any person to whom sub-section (8) applies is, without reasonable cause, guilty of any act or omission in discharge of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(b) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

Explanation.-For the purposes of this sub-section, the expression "persons to whom sub-section (8) applies" are the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and 5 any other persons appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall be construed accordingly, but shall not include duties imposed otherwise than by or under this Act. 10

(10) Notwithstanding anything contained in any law for the time being in force, the election of the committee of each society shall be conducted by the State Co-operative Election Authority before the expiry of the term of the existing committee so as to ensure that the newly elected members of the committee assume office immediately on the 15 expiry of the office of the members of the outgoing committee.

(11) The State Co-operative Election Authority shall hold the elections of the society or class of societies as per the procedure, guidelines and the manner, including using the latest technology and expertise, as may be prescribed: 20

Provided that, the State Government may, considering the objects of the society, class of societies, area of operation and norms of business and for proper management and interest of members, may by general or special order, classify the societies in such manner as may be prescribed.

(12) The State Co-operative Election Authority shall conduct 25 elections to the committee and also to office of President or Chairperson, Vice-President or Vice-Chairperson and such other office bearers as are required to be elected as per the by-laws of the society, within fifteen days from the constitution of the committee after a general election.

(13) There shall be an Election Fund maintained at level of the State 30 Co-operative Election Authority. Every society shall deposit in advance, the estimated amount of expenditure on its election, as may be prescribed and required by the State Co-operative Election Authority towards the Election Fund. The State Co-operative Election Authority shall incur the necessary expenses, for the conduct of the elections of the societies, 35 including the election of the office bearers, from the said fund. The expenses of the holding of any election, including the payment of travelling allowances, daily allowances and remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be incurred from the said fund and the 40 expenditure shall be made in the manner prescribed. The Registrar, on requisition by the State Co-operative Election Authority, shall recover expenses of holding election from any such society or class of societies:

Provided that, if any society fails to pay the election expenses, the Registrar may issue the recovery certificate for recovery of the amount due and such amount shall be recovered as arrears of land revenue.

(14) The committee of every co-operative society shall, -

5 (a) inform the State Co-operative Election Authority about the expiry of its term of office at-least six months before the date of expiry of such term;

(b) inform any casual vacancy occurred in the committee or its office bearers, within fifteen days of the occurrence of such vacancy;

10 (c) furnish such books, records and information as the State Co-operative Election Authority may require as per the calendar specified by the State Co-operative Election Authority;

(d) provide all necessary help, assistance and co-operation for the smooth preparation of electoral rolls for the conduct of elections.

15 (15) Notwithstanding anything contained in this Act, the rules or the by-laws of any co-operative society, the election to the committee and consequent election of the office-bearers which is due on the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 2013, or may become due after such date, until 31st March 2013 shall be held before the 31st December 2013."

Mah.
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of 2013.
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37. For section 73F of the principal Act, the following section shall be substituted, namely:-

Substitution
of section 73F
of Mah. XXIV
of 1961.

25 **"73F.** If a person is elected to more than one seat on the committee then, unless within a period of fifteen days from the date of declaration of the result of the election he resigns all but one of the seats by writing under his hand addressed to the Election Officer, or as the case may be, the officer authorised by the State Co-operative Election Authority in this regard, all the seats shall become vacant. On receipt of such resignation or on the seats becoming so vacant, the Election Officer, or
30 as the case may be, the officer authorised by the State Co-operative Election Authority in this regard shall cause to hold the election for filling the vacancy."

Election to
more than one
seat on the
committee of
society.

38. Sections 73-FFF and 73-G of the principal Act shall be deleted.

Deletion of
sections 73-
FFF and 73-G
of Mah. XXIV
of 1961.

39. Section 73H of the principal Act shall be deleted.

Deletion of
section 73H of
Mah. XXIV of
1961.

Insertion of
section 73I in
Mah. XXIV of
1961.

Responsibility
of committee
or the
Administrators
or authorised
officer to
intimate and
assist to
arrange for
election,
before expiry
of term.

Amendment
of section 75
of Mah. XXIV
of 1961.

40. After section 73H of the principal Act, the following section shall be inserted, namely:—

"73I. (1) As provided under sub-section (14) of section 73CB, it shall be the duty of the committee to intimate to the State Co-operative Election Authority, for holding of its election, before expiry of its term. 5

(2) Where there is a wilful failure on the part of the committee to intimate to the State Co-operative Election Authority as required under sub-section (1) for holding of its election, and for any reason whatsoever, election of the members of the committee could not be held before the expiry of its term then the members thereof shall cease to hold their office and in such a situation the Registrar shall take action as contemplated under section 77A. 10

(3) On taking such action under sub-section (2), the authorised officer so appointed shall intimate to the State Co-operative Election Authority for holding of the election with immediate effect and assist to make necessary arrangement for holding such election within the period specified." 15

41. In section 75 of the principal Act,—

(a) in sub-section (1), —

(i) for the words "three months next after the date fixed for making up its accounts for the year under the rules for the time being in force, call a general meeting of its members", the following shall be substituted, namely:— 20

"six months after the close of financial year, to transact its business as may be provided in this Act, call the annual general body meeting of its members"; 25

(ii) the first proviso shall be deleted;

(iii) in the second proviso, for the portion beginning with the words "Provided further that" and ending with the words "duly called by the society," the following shall be substituted, namely:- 30

"Provided that, where such meeting is not called by the society, the Registrar or any officer authorised by him may call such meeting in the manner prescribed and that meeting shall be deemed to be a general body meeting duly called by the society,";

(b) for sub-section (2), the following sub-section shall be substituted, namely:— 35

"(2) At every annual general body meeting of a society, the committee shall lay before the society,—

(i) a statement showing the details of the loans, if any, given to any of the members of the committee or any member of the family of any committee member, including a society or firm or company of which such member or members of his family is a member, partner or director, as the case may be; the details of repayment of loan made during the preceding year and the amount outstanding and overdue at the end of that year; 40 45

(ii) annual report of its activities;

(iii) plan for disposal of surplus;

(iv) list of amendments of the by-laws of the society, if any;

(v) declaration regarding date and conduct of its election of its committee, when due; 50

(vi) audit report of the preceding financial year;

(vii) rectification report of earlier audit;

(viii) annual budget for next year;

5 (ix) any other information required by the Registrar in pursuance of any of the provisions of the Act and rules; and

(x) such other business will be transacted as may be laid down in the by-laws and of which due notice has been given.

10 *Explanation I.*— For the purposes of this sub-section, the expression "family" means a wife, husband, father, mother, brother, sister, son, daughter, son-in-law or daughter-in-law;

15 *Explanation II.*— In the case of a society not carrying on business for profit, an audited income and expenditure account shall be placed before the society at the annual general body meeting instead of audited profit and loss account, and all references to audited profit and loss account, and to "profit" or "loss" in this Act, shall be construed in relation to such society as references respectively to the "excess of income over expenditure", and "excess of expenditure over income.";

20 (c) after sub-section (2), the following sub-section shall be inserted, namely:—

25 "(2A) Every society shall, appoint an auditor or auditing firm from a panel approved by the State Government in this behalf in its annual general body meeting having such minimum qualifications and experience as laid down in section 81, for the current financial year and shall also file in the form of return to the Registrar, the name of the auditor appointed and his written consent for auditing the accounts of the society within a period of thirty days from the date of the annual general body meeting :

30 Provided that, the same auditor shall not be appointed for more than three consecutive years by the annual general body meeting of the same society. ";

(d) for sub-section (4), the following sub-section shall be substituted, namely:—

35 "(4) At every annual general body meeting the audited balance sheet, the audited profit and loss account, audit report of the preceding financial year submitted by the auditor appointed under section 81, rectification report of earlier audit and the committee's report shall be placed for adoption and such other business will be transacted as may be laid down in the by-laws, and of which due notice has been given.";

40 (e) in sub-section (5), —

(i) for the words "general meeting within the period or, as the case may be, extended period " the words "general body meeting within the period" shall be substituted ;

45 (ii) for the words, brackets and figure "sub-section (2)," at both the places where they occur, the words, brackets, figures and letter "with sub-section (2), (2A)," shall be substituted ;

(iii) for the words "not exceeding three years" the words "not exceeding five years" shall be substituted ;

50 (iv) for the words "one hundred rupees" the words "five thousand rupees" shall be substituted ;

(f) for the marginal note, the following marginal note shall be substituted, namely:—

"Annual general body meeting."

Amendment
of section 76
of Mah. XXIV
of 1961.

42. In section 76 of the principal Act,—

(a) in sub-section (1), for the words " special general meeting" the words "special general body meeting" shall be substituted ;

(b) in sub-section (2),—

(i) for the words "not exceeding three years" the words "not exceeding five years" shall be substituted;

(ii) for the words "one hundred rupees" the words "five thousand rupees" shall be substituted;

(c) in sub-section (3), for the words "special general meeting" the words "special general body meeting" shall be substituted; 10

(d) for the marginal note, the following marginal note shall be substituted, namely:-

"Special general body meeting."

Amendment
of section 77A
of Mah. XXIV
of 1961.

43. In section 77A of the principal Act,—

(a) in clause (b), the words "or extended term, as the case may be," shall be deleted; 15

(b) after clause (b), the following clause shall be inserted, namely:—

"(b-1) there is a stalemate in the constitution or committee has ceased to function and vacuum is created in the management;"

(c) in clause (f),— 20

(i) for the words "on the application of any officer of the society" the words "on the application of any officer or member of the society" shall be substituted;

(ii) in sub-clause (ii), for the words "one or more administrators" the words "one or more authorised officers" shall be substituted; 25

(d) after the second proviso, the following proviso shall be added, namely:—

"Provided also that, if no member or members of the society are willing to work on such committee, it shall be lawful for the Registrar, to appoint one or more authorised officers, not being a member of the society, as he may deem fit, to look after affairs of the society. "; 30

(e) in sub-section (2), for the word "Administrator" the words "authorised officer" shall be substituted;

(f) in sub-section (3),— 35

(i) for the word "Administrator" the words "authorised officer" shall be substituted;

(ii) the first and second proviso shall be deleted;

(iii) for the third proviso, the following proviso shall be substituted, namely:- 40

"Provided that, in no circumstances the term of office of the committee or authorised officer shall exceed six months from the date of their holding office.";

(g) in sub-section (4), for the word "administrators" the words "authorised officers" shall be substituted; 45

(h) in sub-section (5),—

(i) for the words, brackets, figures and letter "sub-section (2A) of section 78" the words, brackets, figures and letter "sub-section (2) of section 78A" shall be substituted ;

(i) for the words "the members or administrators" the words "authorised officers" shall be substituted;

(j) for the marginal note, the following marginal note shall be substituted, namely:—

5 "Appointment of member of committee, new committee, authorised officers, where there is failure to elect member, to constitute committee or where committee does not enter upon office, etc.".

10 **44.** For section 78 of the principal Act, the following section shall be substituted, namely:—

Substitution
of section 78
of Mah. XXIV
of 1961.

15 **"78. (1)** If, in the opinion of the Registrar, the committee makes a persistent default in performance of its duties or is negligent in the performance of its duties or is otherwise not discharging its functions properly and diligently, or there is a stalemate in the constitution or functioning of the committee, occasioned by resignation, disqualification of members of committee or otherwise, the Registrar, after giving the committee an opportunity of showing cause, in writing, if any, within fifteen days from the date of receipt of notice and after giving reasonable opportunity of being heard and after consultation with the federal society to which the society is affiliated, comes to a conclusion that the charges mentioned in the notice *prima facie* exist, but are capable of being remedied with, he may by order,—

Power of
suspension of
committee.

20 (i) keep the committee under suspension for such temporary period, not exceeding six months as may be specified in the order; and

25 (ii) appoint an administrator or committee of administrators consisting of three or more members of the society otherwise than the members of the committee so suspended in its place or appoint an administrator or committee of administrators who need not be the members of the society, to manage the affairs of society :

30 Provided that, nothing in this sub-section shall apply to a society, where there is no Government shareholding or loan or financial assistance in terms of any cash or kind or any guarantee by the Government :

35 Provided further that, in case of a society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply :

10 of
1949.

40 Provided also that, in case of society carrying on the business of banking, the provisions of this clause shall have effect as if for the words "six months" the words "one year" had been substituted :

45 Provided also that, the Registrar shall have the power to change the committee or any member thereof or Administrator appointed, at his discretion even before the expiry of the period specified in the order made under this section :

50 Provided also that, such federal society shall communicate its opinion to the Registrar within thirty days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to the order of suspension and the Registrar shall be at liberty to proceed further to take action accordingly.

(2) The administrator or committee of administrators, as the case may be, so appointed under clause (i) of sub-section (1), shall submit a report to the Registrar within such period as may be specified in the

order as to the remedial measures taken and after going through the report or any other material placed on record, if the Registrar is satisfied that the charges mentioned in the notice are made good or remedied, he shall by order revoke, the order of suspension and direct the administrator or the committee of administrators to handover the management to the suspended committee with immediate effect. 5

(3) When a notice is issued against any committee or a member under sub-section (1), if resignation from any office is tendered by the committee or a member, it shall not be valid or effective until two months have elapsed from the date of issue of the notice or until it is permitted to be accepted by the Registrar, whichever is earlier. 10

(4) The administrator or committee of administrators so appointed shall, subject to the control of the Registrar and such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such actions as may be required in the interest of the society and shall arrange for conduct of the election, through the State Co-operative Election Authority, within the period specified and handover the management to the newly elected Committee in accordance with the Act, rules and by-laws of the society. The administrator or committee of administrators so appointed as aforesaid, shall notwithstanding anything contained in the by-laws, have power to call a special general body meeting of the society to review or reconsider the decisions or the resolutions taken or passed at the general body meeting called by the previous committee or to endorse the action taken by it. 15 20 25

(5) The conditions of service of the administrator shall be fixed by the Registrar which shall include the remuneration payable to him and expenses of management. Such remuneration and expenses shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals, the Registrar may direct the person having custody of the funds of the society to pay to the administrator or committee of administrators such remuneration and expenses in priority to any other payments, except land revenue, any arrears of land revenue, or any sum recoverable from the society as arrears of land revenue, and he shall, so far as the funds to the credit of the society allow, comply with the orders of the Registrar. 30 35

(6) All acts done or purported to be done by the administrator or committee of administrators during the period the affairs of the society are carried on by the administrator or committee of administrators appointed under sub-section (1) shall be binding on the new committee.". 40

Insertion of section 78A in Mah. XXIV of 1961.

Power of supersession of committee or removal of member thereof.

45. After section 78 of the principal Act, the following section shall be inserted, namely:-

"78A. (1) If in the opinion of the Registrar, the committee or any member of such committee has committed any act, which is prejudicial to the interest of the society or its members or if the State Co-operative Election Authority has failed to conduct the elections in accordance with the provisions of this Act or where situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions and the business of the society has, or is 45 50

likely to, come to a stand-still, or if serious financial irregularities or frauds have been identified or if there are judicial directives to this effect or, if there is a perpetual lack of quorum or, where in the opinion of the Registrar the grounds mentioned in sub-section (1) of section 78 are not remedied or not complied with, or where any member of such committee stands disqualified by or under this Act for being a member of the committee, the Registrar may, after giving the committee or the member, as the case may be, an opportunity of stating its or his objections in writing as provided under sub-section (1) of section 78 and after giving a reasonable opportunity of being heard, comes to a conclusion that the charges mentioned in the notice are proved, and the administration of the society cannot be carried out in accordance with the provisions of this Act, rules and by-laws, he may by order stating reasons therefor,—

(a) (i) supersede the committee; and

(ii) appoint a committee consisting of three or more members of the society otherwise than the members of the committee so superseded, in its place, or appoint an administrator or committee of administrators who need not be the members of the society, to manage the affairs of society for a period not exceeding six months :

Provided that, the Registrar shall have the power to change the committee or any member thereof or administrator or administrators appointed at his discretion even before the expiry of the period specified in the order made under this sub-section :

Provided further that, in case of a society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply and the committee shall not be superseded for a period exceeding one year :

Provided also that, nothing in this sub-section shall apply to a society, where there is no Government shareholding or loan or financial assistance in terms of any cash or kind or any guarantee by the Government ;

(b) remove the member :

Provided that, the member who has been so removed and all the members of the committee which stands superseded, shall not be eligible to be re-elected, re-co-opted or re-nominated as a member of any committee of any society till the expiry of period of next one term of the committee from the date on which he has been so removed :

Provided further that, in case of a society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.

(2) The provisions of sub-sections (3), (4), (5) and (6) of section 78 shall apply *mutatis mutandis*, in relation to supersession or removal under this section."

46. In section 79 of the principal Act,—

(a) in sub-section (1), after the words " books of accounts" the words "in such form, including electronic or any other form, as may be prescribed" shall be inserted ;

Amendment
of section 79
of Mah. XXIV
of 1961.

(b) after sub-section (1), the following sub-sections shall be inserted, namely :—

“(1A) Every society shall file returns within six months of the close of every financial year to which such accounts relate, to the Registrar or to the person authorised by him. The returns shall 5 contain the following matters, namely :—

- (a) annual report of its activities;
- (b) its audited statement of accounts;
- (c) plans for disposal of surplus funds as approved by the general body of the society; 10
- (d) list of amendments to the by-laws of the society, if any;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due;
- (f) any other information required by the Registrar in pursuance of any of the provisions of this Act. 15

(1B) Every society shall also file a return regarding the name of the auditor or auditing firm from a panel approved by a State Government in this behalf, appointed in the general body meeting together with his written consent, within a period of one month from the date of annual general body meeting.”; 20

(c) in sub-section (2),—

(i) after the words “take any action” the words “including filing of returns” shall be inserted;

(ii) for the words “ foregoing sub-section” the words “foregoing sub-sections” shall be substituted; 25

(d) in sub-section (3), for the words “twenty-five rupees” the words “one hundred rupees” shall be substituted;

(e) after sub-section (3), the following sub-section shall be added, namely:—

“(4) The Registrar or the authorised person on his behalf shall 30 scrutinise the returns and information so received and take further necessary action, if required.”;

(f) for the marginal note, the following marginal note shall be substituted, namely:—

“Society’s obligation to file returns and statements and 35 Registrar’s power to enforce performance of such obligations.”.

47. In section 79A of the principal Act, in sub-section (3),—

(a) in clause (a), for the words “remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be 40 disqualified to be such member” the following shall be substituted, namely:—

“declare him to be disqualified to be or to continue to be a member of the committee of any society,”;

(b) in clause (b),— 45

(i) the words “remove the members, appoint other persons as members and” shall be deleted;

(i) after the first proviso, the following proviso shall be added, namely:—

“Provided further that, such notified State federal society shall communicate its opinion to the Registrar within a period of thirty days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to take action under this section and the Registrar shall be at liberty to proceed further to take action accordingly.”.

48. Section 79B of the principal Act shall be deleted.

Deletion of section 79B of Mah. XXIV of 1961.

49. In section 81 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

Amendment of section 81 of Mah. XXIV of 1961.

“(1) (a) The society shall cause to be audited its accounts at least once in each financial year and also cause it to be completed within a period of six months from the close of financial year to which such accounts relate and in any case before issuance of notice of the holding of annual general body meeting, by auditor or auditing firm from a panel prepared by the Registrar and approved by the State Government or an authority authorised by it in this behalf, possessing required qualifications and experience as may be prescribed, to be eligible for auditing accounts of societies, appointed by the general body of a society, as provided in sub-section (2A) of section 75 and shall lay such audit report before the annual general body meeting. In case of apex society, the audit report shall also be laid before both Houses of the State Legislature, in such manner, as may be prescribed :

Provided that, if the Registrar is satisfied that the society has failed to intimate and file the return as provided by sub-section (2A) of section 75 and sub-section (1B) of section 79, by order, for the reasons to be recorded in writing, he may cause its accounts to be audited, by an auditor from the panel of the auditors approved by the State Government or an authority authorised by it in this behalf :

Provided further that, no auditor shall accept audit of more than twenty societies for audit in a financial year excluding societies having paid up share capital of less than rupees one lakh :

Provided also that, the Registrar shall maintain a panel of auditors and auditing firms as approved by the State Government or an authority authorised by it in this behalf.

(b) The manner of preparation, declaration and maintenance of the panel of auditors and auditing firms by the Registrar shall be such as may be prescribed.

(c) The committee of every society shall ensure that the annual financial statements like the receipts and payments or income and expenditure, profit and loss and the balance-sheet alongwith such schedules and other statements are audited, within the prescribed period.

(d) The Registrar shall submit the audit report of every apex co-operative society to the State Government annually for being laid before both the Houses of the State Legislature in the manner prescribed.

(e) The auditor's report shall have,—

(i) all particulars of the defects or the irregularities observed in audit and in case of financial irregularities and misappropriation or embezzlement of funds or fraud, the auditor or the auditing firm shall investigate and report the *modus operandi*, the entrustment, amount involved, and fix the responsibility for such misappropriation or embezzlement of funds or fraud, on the members of the committee or the employees of the society or any other person, as the case may be, with all necessary evidence;

(ii) accounting irregularities and their implications on the financial statements to be indicated in detail in the report with the corresponding effects on the profit and loss;

(iii) the functioning of the committee and sub-committees of the societies be checked and if any irregularities or violations are observed or reported, duly fixing the responsibilities for such irregularities or violations.

(f) The remuneration of the auditor or auditing firm of a society shall be borne by the society and shall be at such rate as may be prescribed.

(g) The Registrar shall maintain the list of societies district-wise, the list of working societies, the list of societies whose accounts are audited, the list of societies whose accounts are not audited within the prescribed time and reasons therefor. The Registrar shall co-ordinate with the societies and the auditors or auditing firms and ensure the completion of audit of accounts of all the co-operative societies in time every year.

Explanation 1.—For the purposes of this section, the expression, “possessing required qualifications” for being included in the panel duly approved by the State Government or an authority authorised by the State Government in this behalf, from time to time, shall mean and include—

(a) a person who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, who has a fair knowledge of the functioning of the societies and an experience of at least three years in auditing of societies with a working knowledge of Marathi language;

(b) an auditing firm which is a firm of more than one Chartered Accountants within the meaning of the Chartered Accountants Act, 1949, who have a fair knowledge of the functioning of the societies and an experience of at least three years in auditing of societies with a working knowledge of Marathi language;

(c) a certified auditor who is a person holding a Degree from a recognised University and also has completed a Government Diploma in Co-operation and Accountancy and who has a fair knowledge of the functioning of the societies and an experience of at least five years in auditing of societies with a working knowledge of Marathi language;

(d) a Government Auditor who is an employee of the Co-operation Department of the State, possessing the Higher Diploma in Co-operative Management or the Diploma in Co-operative Audit or Government Diploma in Co-operation and Accountancy with a working knowledge of Marathi language and who has completed the period of probation successfully;

Explanation II.—The terms and conditions for inclusion and retention of name as an auditor or auditing firm in the panel of auditors shall be subject to the terms and conditions, as may be prescribed.”;

5 (b) in sub-section (2), after the words, brackets and figure “sub-section (1) shall” the following shall be inserted, namely:—

“be carried out as per Accounting Standards notified by the State Government from time to time and shall also”;

10 (c) in sub-section (2A), after the words “public interest” the words “ or in the interest of the society” shall be inserted;

(d) in sub-section (2B), for the words “Registrar shall cause such audit of such society or class of societies to be conducted” the words “Society shall cause its audit to be conducted” shall be substituted;

(e) in sub-section (3), —

15 (i) in clause (a), for the words “Registrar or person authorised” the words “The Auditor” shall be substituted;

(ii) in clause (b),—

(A) for the words “The Registrar shall”, the following shall be substituted, namely:—

20 “If the Registrar has reason to believe that there exists an element of a fraud, misapplication of funds, manipulation of the accounts and the accounts of the society are likely to be tampered with, thereby causing loss to the society, he shall”;

25 (B) for the words “deemed to be an audit report for the purpose of taking further action, if necessary” the words “treated as sufficient evidence for further action, if any” shall be substituted;

(iii) for clause (c), the following clause shall be substituted, namely:—

30 “(c) If it is brought to the notice of the Registrar that the audit report submitted by the auditor does not disclose the true and correct picture of the accounts, the Registrar or the authorised person may carry out or cause to be carried out a test audit of accounts of such society. The test audit shall include
35 the examination of such items as may be prescribed and specified by the Registrar in such order.”;

(f) in sub-section (5B),—

(i) for the words “an audit memorandum duly signed by him”, the following shall be substituted, namely:—

40 “his audit report within a period of one month from its completion and in any case before issuance of notice of the annual general body meeting,”;

(ii) the following provisos shall be added, namely:—

45 “Provided that, where the auditor has come to a conclusion in his audit report that any person is guilty of any offence relating to the accounts or any other offences, he shall file a specific report to the Registrar within a period of fifteen days from the date of submission of his audit report. The Auditor concerned shall, after obtaining written permission of the
50 Registrar, file a First Information Report of the offence. The auditor who fails to file First Information Report, shall be liable for disqualification and his name shall be liable to be removed from the panel of auditors and he shall also be liable to any other action as the Registrar may think fit:

Provided further that, when it is brought to the notice of the Registrar that, the Auditor has failed to initiate action as specified above, the Registrar shall cause a First Information Report to be filed by a person authorised by him in that behalf:

Provided also that, on conclusion of his audit, if the auditor finds that there are apparent instances of financial irregularities resulting into losses to the society caused by any member of the committee or officers of the society or by any other person, then he shall prepare a Special Report and submit the same to the Registrar alongwith his audit report. Failure to file such Special Report, would amount to negligence in the duties of the auditor and he shall be liable for disqualification for appointment as an auditor or any other action, as the Registrar may think fit.”.

Amendment
of section 82
of Mah. XXIV
of 1961.

50. In section 82 of the principal Act,—

(a) after the words “ and report to the Registrar the action taken by it thereon” the words “and place the same before the next general body meeting ”shall be inserted;

(b) for the words “ Where the society concerned is a member of a federal society, such order shall be made after consulting the federal society.”, the following shall be substituted, namely:-

“If, the committee of a society fails to submit the audit rectification report to the Registrar and to the annual general body meeting, all the members of the committee shall be deemed to have committed an offence under section 146 and accordingly shall be liable for penalty as provided in section 147. Where the society concerned is a member of a federal society, such order of imposition of penalty shall be made after consulting the State federal society concerned:

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 six months from the date of receipt thereof:

Provided further that, it shall be the responsibility of the auditor concerned to offer his remarks on the rectification report of the society, itemwise, till entire rectification is made by the society and submit his report to the Registrar:

Provided also that, such federal society shall communicate its opinion to the Registrar within a period of thirty days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to the proposed action and the Registrar shall be at liberty to proceed further to take action accordingly.”.

Amendment
of section 83
of Mah. XXIV
of 1961.

51. In section 83 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Registrar may *suo motu*, or, on the application of the one-fifth members of the society or on the basis of Special Report under the third proviso to sub-section (5B) of section 81, himself or by a person duly authorised by him in writing, in this behalf, shall hold an inquiry into the constitution, working and financial conditions of the society.”;

(b) in sub-section (3),—

(i) in clause (b), for the words " five hundred rupees" the words " five thousand rupees" shall be substituted;

5 (ii) after clause (b), the following clause shall be inserted, namely:—

"(c) The Registrar or the officer authorised by him shall complete the inquiry and submit his report as far as possible within a period of six months and in any case not later than nine months."

10 **52.** In section 85 of the principal Act, in sub-section (1), after the words "deceased members of the society" the words "and pass such order within a period of six months from the date of submission of inquiry report" shall be inserted. Amendment of section 85 of Mah. XXIV of 1961.

53. In section 88 of the principal Act, to sub-section (1) , the following provisos shall be added, namely:— Amendment of section 88 of Mah. XXIV of 1961.

15 "Provided that, proceedings under this sub-section, shall be completed by the authorised person within a period of two years from the date of issue of order by the Registrar:

20 Provided further that, the Registrar may, after recording the reasons therefor, extend the said period for a maximum period of six months."

54. In section 89A of the principal Act, in sub-section (1),—

(a) for clause (c), the following clause shall be substituted, namely:—

25 "(c) overall view is taken to ensure that the business of the society is being run on sound business principles and under professional and efficient management;"

(b) in clause (d), the proviso shall be deleted;

(c) after clause (d), the following clause shall be inserted, namely:—

"(e) the returns as provided by section 79 are submitted to the Registrar regularly and properly."

30 **55.** After section 89A of the principal Act, the following section shall be inserted, namely:— Amendment of section 89A of Mah. XXIV of 1961.

35 **"89AB.** (1) There shall be a Grievances Settlement and Redressal Committee in each society to deal with the grievances of the members and the society relating to its business and management to be constituted in the Annual General Body meeting of the society to hear and settle the grievances as far as may be practicable within a period of three months. The committee of a society shall make a report of the constitution of such Grievances Settlement and Redressal Committee to the Registrar. Insertion of section 89AB in Mah. XXIV of 1961.

40 (2) (a) The Grievances Settlement and Redressal Committee shall consist of three active members of the society, who shall not be the members of committee of the society.

45 (b) The Chairman of the committee under sub-section (1) shall be a knowledgeable and senior member of the society; and the two other members of the society shall preferably be expert or having experience of work in such class of societies, and to whom the general body considers as independent and impartial.

(3) If any member, or any legal representative of the deceased member of a society has any grievance against any member of the society and if the parties agree to resolve the grievances by settlement, the party aggrieved shall submit written application to the Grievances Settlement and Redressal Committee alongwith the documents which he relies upon. On receipt of the application, the Grievances Settlement and Redressal Committee shall fix up a date and call upon the other party to submit its say alongwith the documents on which it relies and fix a date of meeting for settlement of the grievance amicably by compromise.

(4) The Grievances Settlement and Redressal Committee shall assist the parties, in an independent and impartial manner, in their attempt to reach an amicable settlement of their grievances, within the frame work of this Act, rules and the by-laws. The Grievances Settlement and Redressal Committee may also give or make a proposal for settlement of the grievances between the parties.

(5) If the parties with the assistance of the Grievances Settlement and Redressal Committee reach a settlement agreement, they shall draw up a settlement agreement. After considering the settlement agreement, the Grievances Settlement and Redressal Committee shall draw a final settlement agreement resolving the grievances.

(6) When the final settlement agreement is drawn up, the parties shall sign the settlement agreement and the same shall be binding on the parties and the persons claiming under them. The Grievances Settlement and Redressal Committee shall authenticate the settlement agreement and furnish a copy thereof to each of the parties. The record of the entire proceedings shall be kept by the Grievances Settlement and Redressal Committee.

(7) The settlement agreement signed by the parties and the Grievances Settlement and Redressal Committee shall be a conclusive proof of settlement."

Amendment
of section 91
of Mah. XXIV
of 1961.

56. In section 91 of the principal Act, in sub-section (1),—

(a) the words "other than elections of committees of the specified societies including its officers," shall be deleted;

(b) in the proviso, the words "other than a notified society under section 73-IC or a society specified by or under section 73-G," shall be deleted.

Amendment
of section 92
of Mah. XXIV
of 1961.

57. In section 92 of the principal Act, in sub-section (1), in clause (c), for the words, figures and letters "or an administrator has been appointed under section 77A or 78, be six years from the date of the order issued under section 102, or section 77A or 78, as the case may be" the following shall be substituted, namely:—

"or an administrator or committee or authorised person has been appointed under sections 77A, 78 or 78A, be six years from the date of the order issued under section 77A, 78 or 78A or, under section 102, as the case may be".

Amendment
of section 93
of Mah. XXIV
of 1961.

58. In section 93 of the principal Act, after sub-section (2), the following sub-sections shall be added, namely:—

"(3) Notwithstanding anything contained in this Act, where it appears to the Co-operative Court that there exist elements of settlement which may be acceptable to the parties, the court may formulate the terms of the settlement and give the same to the parties for their

observation and after receiving the observations of the parties, the court shall reformulate the terms of possible settlement and refer the dispute for,—

(i) Arbitration;

5 (ii) Conciliation;

(iii) Judicial Settlement, including settlement through *Lok-Adalat*;

(iv) Mediation.

(4) Where a dispute has been referred—

10 (a) for arbitration or conciliation, the provisions of the
26 of 1996. Arbitration and Conciliation Act, 1996 shall apply, as if the proceedings for Arbitration and Conciliation were referred for settlement of the dispute under the provisions of the said Act;

39 of 1987. 15 (b) to *Lok-Adalat*, the Court may refer the same to the *Lok-Adalat* in accordance with the provisions of the Legal Services Authorities Act, 1987 and all other provisions of that Act shall apply in respect of the dispute so referred to the *Lok-Adalat*;

20 (c) for judicial settlement, the Court may refer the same to a
39 of 1987. suitable institution or a person working in that field and such institution or a person shall be deemed to be a *Lok-Adalat* and all the provisions of the Legal Services Authorities Act, 1987 shall apply as if the disputes were referred to *Lok-Adalat* under the provisions of the said Act;

25 (d) for mediation, the court may effect compromise between the parties and shall follow such procedure as may be prescribed.”.

59. In section 94 of the principal Act, for sub-section (3A), the following sub-sections shall be substituted, namely:—

Amendment of section 94 of Mah. XXIV of 1961.

30 “(3A) If the disputant is present and the opponent is absent, when the dispute is called out for hearing, the Co-operative Court may decide the dispute *ex-parte*, and pass an award. The Co-operative Court, may set aside the *ex-parte* award upon such terms as to the payment of costs, to the court or otherwise as it thinks fit, if the opponent makes an application within thirty days from the date of the award, and satisfies the court that there was sufficient cause for his failure to appear, when
35 the dispute was called out for hearing and appoint a day for hearing and deciding the dispute on merits.

40 (3B) If the opponent is present and the disputant is absent, when the matter is called out for hearing, the Co-operative Court may dismiss the dispute for default, and pass an award accordingly. The Co-operative Court may restore the dispute which is dismissed for default and restore the same, upon such terms as to the payment of costs, as it thinks fit, if the disputant makes an application within thirty days from the date of its dismissal, and appoint a day for hearing and deciding the dispute on merits.”.

45 **60.** In section 95 of the principal Act, in sub-section (1),—

(a) for the figures and word “ 93 or 105” the figures and word “ 91, 93 or 105” shall be substituted;

Amendment of section 95 of Mah. XXIV of 1961.

(b) for the words “ authorised person” wherever they occur, the words “ authorised officer” shall be substituted.

Amendment
of section 96
of Mah. XXIV
of 1961.

61. In section 96 of the principal Act, for the words "to arbitration, the Co-operative Court, may, after giving reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute" the following shall be substituted, namely:-

"to the Co-operative Court, it may, after giving a reasonable opportunity of being heard, to the parties to the dispute, make an award regarding the dispute".

Amendment
of section 97
of Mah. XXIV
of 1961.

62. In section 97 of the principal Act, for the words "authorised person" the words " authorised officer" shall be substituted.

Amendment
of section 98
of Mah. XXIV
of 1961.

63. In section 98 of the principal Act,— 10

(a) for the words "a person authorised" the words " an authorised officer" shall be substituted;

(b) for the words and figures " in revision under section 154 shall" the following shall be substituted, namely:-

"by the State Government or by the Registrar in revision under section 154 or every order passed by the Registrar for recovery under this Act shall"; 15

(c) in the proviso, after the words "signed by the Registrar" the words "or Co-operative Court" shall be inserted.

Amendment
of section 101
of Mah. XXIV
of 1961.

64. In section 101 of the principal Act,— 20

(a) in sub-section (1),—

(i) for the words " by a co-operative housing society for the recovery of arrears of its dues" the following shall be substituted, namely:—

" by a co-operative housing society, for the recovery of its maintenance and service charges"; 25

(ii) after the words "an urban co-operative bank for the recovery of the arrears of its dues", the following shall be inserted, namely:—

"or any sum advanced by the District Central Co-operative Bank to its individual members or by non-agricultural co-operative credit society for the recovery of the arrears of its dues"; 30

(iii) for the words " on the society concerned furnishing a statement of accounts" the words "on the society concerned furnishing a statement of accounts and any other documents as may be prescribed "shall be substituted; 35

(iv) the existing *Explanation* shall be re-numbered as "*Explanation I*" and after *Explanation I*, as so re-numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation II.*—For the purposes of this sub-section the expression "maintenance and service charges" means such charges as are specified in the by-laws of the concerned co-operative housing society."; 40

(b) in sub-section (3), for the words "for the recovery of land revenue", the following shall be substituted, namely:— 45

"as arrears of land revenue. A revision shall lie against such order or grant of certificate, in the manner laid down under section 154 and such certificate shall not be liable to be questioned in any Court .";

(c) for the marginal note, the following marginal note shall be substituted, namely:—

" Recovery of certain sums and arrears due to certain societies as arrears of land revenue."

5 **65.** In section 102 of the principal Act, in sub-section (1), in clause (a), after the words and figures "under section 84" the word, figures and letter " or 89A" shall be inserted. Amendment of section 102 of Mah. XXIV of 1961.

66. In section 109 of the principal Act, in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:— Amendment of section 109 of Mah. XXIV of 1961.

10 "Provided further that, if, due to termination of liquidation proceedings at the end of ten years, the Registrar comes to a conclusion that, the work of liquidation under section 105 could not be completed by the liquidator due to the reasons beyond his control, he shall call upon the liquidator to submit the report. After getting the report, if the
15 Registrar is satisfied that the realisation of assets, properties, sale of properties still remained to be realised, he shall direct the liquidator to complete the entire work and carry out the activities only for the purposes of winding up and submit his report within such period not exceeding one year reckoned from the date of receipt of report from the liquidator."

20 **67.** In section 110A of the principal Act,—

 (a) in sub-section (1),—

 (i) in clause (iii), for the portion beginning with the words "for the supersession (removal) of the committee" and ending with the words " the first meeting of the new committee", the following shall be substituted, namely:—

 "for suspension or supersession of the committee, as the case may be, and the appointment of an Administrator in its place for such period, not exceeding one year. In case of supersession, an Administrator so appointed shall, before the expiry of his term of
30 office, arrange for holding election to constitute the new managing committee and handover the management to the newly constituted committee. In case of suspension of the committee, the Registrar with prior permission of the Reserve Bank of India, shall revoke the order of suspension and direct the Administrator to handover
35 the management to the committee";

 (ii) in clause (iv), for the words "supersession (removal)" the words "suspension or supersession" shall be substituted;

 (b) in the marginal note, after the word " reconstruction," the words "suspension or" shall be inserted.

40 **68.** In section 112 of the principal Act, in sub-section (1), for the words "public interest" the words "interest of the society" shall be substituted. Amendment of section 112 of Mah. XXIV of 1961.

69. In section 112A of the principal Act,—

 (a) in sub-section (1),—

 (i) in clause (b),—

45 (A) the words "the following members, that is to say" shall be deleted;

 (B) for sub-clause (i), the following sub-clause shall be substituted, namely:—

50 "(i) not more than twenty-one delegates, to be elected from Talukas in a District including the delegates from reserved

Amendment of section 112A of Mah. XXIV of 1961.

categories, one from the persons belonging to the Schedule Castes or Schedule Tribes, one from the persons belonging to Other Backward Classes, one from the persons belonging to De-notified Tribes (*Vimukta Jatis*) or Nomadic Tribes or Special Backward Classes and two women, who shall be elected from the District;"; 5

(C) sub-clauses (i-a) and (ii) shall be deleted;

(ii) clause (c) shall be deleted;

(iii) in clause (d),—

(A) for the portion beginning with the words "be subject to" and ending with the words "under that Chapter" the following shall be substituted, namely:— 10

"shall be conducted by the State Co-operative Election Authority";

(B) in the proviso, the word "specified" shall be deleted;

(b) in sub-section (3), for the words "the Collector" the words "the State Co-operative Election Authority" shall be substituted; 15

(c) in sub-section (4), the words "other than *ex-officio* members" shall be deleted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:— 20

"(5) A casual vacancy in the committee of Co-operative Agriculture and Rural Multipurpose Development Bank, due to any reason whatsoever, may be filled in from the same class of active members in respect of which the casual vacancy has arisen.";

(e) in sub-section (7),— 25

(i) for the figures and letters "73-FF" the figures and letters "73CA " shall be substituted;

(ii) after the figures "78," the figures and letter "78A," shall be inserted.

Amendment
of section
112B of Mah.
XXIV of 1961.

70. In section 112B of the principal Act,— 30

(a) in sub-section (1),—

(i) in clause (a), for the words, brackets and letters "clauses (c) and (d)" the word, brackets and letter "clause (d)" shall be substituted;

(ii) in clause (b),— 35

(A) for sub-clause (i), the following sub-clause shall be substituted, namely:—

"(i) twenty one members to be elected from amongst the Chairmen of all Districts, including five reserved seats, one from the persons belonging to the Schedule Castes or Schedule Tribes, 40 one from the persons belonging to Other Backward Classes, one from the persons belonging to De-notified Tribes (*Vimukta Jatis*) or Nomadic Tribes or Special Backward Classes and two women;";

(B) in sub-clause (ii),—

(i) paragraphs (A) and (B) shall be deleted; 45

(ii) for the words "Collector or an officer authorised by him in that behalf but the Collector" the words "State Co-operative Election Commissioner or an officer authorised by State Co-operative Election Authority in that behalf but such officer" shall be substituted; 50

(III) the portion beginning with the words "and where there is failure" and ending with the words "entitled to be so co-opted" shall be deleted;

5 (IV) in the *Explanation*, for the words, brackets and letters "clauses (b) and (c) of, and any order issued under clause (c)" the words, brackets, letters and figure "clauses (b) and (b-1)" shall be substituted;

(C) sub-clauses (iii), (iv), (v), (vi) and (vii) shall be deleted;

(b) sub-section (2) shall be deleted ;

10 (c) for sub-section (3), the following sub-section shall be substituted, namely:—

15 "(3) The Committee shall have a Chairman and a Vice-Chairman. The State Co-operative Election Authority or an Officer authorised by the State Co-operative Election Authority in that behalf shall convene a meeting of the members of the Committee for election of a Chairman and Vice-Chairman who shall be from the members referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the State Co-operative Election Authority or by such authorised officer, but such presiding officer shall not have a right to vote at such meeting.";

20 (d) sub-sections (4), (5) and (6) shall be deleted.

71. Chapter XI-A including sections 144-A to 144-Y of the principal Act shall be deleted.

Deletion of Chapter XI-A and sections 144-A to 144-Y of Mah. XXIV of 1961.

72. In section 146 of the principal Act,—

25 (a) in clause (b), for the words "employer who" the words "employer who without any sufficient cause fails to pay a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made, and also any person who," shall be substituted;

Amendment of section 146 of Mah. XXIV of 1961.

30 (b) in clause (e-2), for the word, figures and letters "section 73- FF " the word, figures and letters "section 73CA" shall be substituted;

(c) in clause (f), after the words, brackets and figure "sub-section (2)," the brackets, figure and letter "(2A)," shall be inserted;

(d) in clause (g),—

35 (i) the following shall be inserted in the beginning, namely:—

"a co-operative society or an officer or member thereof wilfully makes a false return or fails to furnish a return under section 75 or 79 of the Act, or furnishes false information or wilfully fails to furnish any information required from him by a person holding an inquiry under section 83, person authorised under section 88 or as required under any provisions of this Act,";

40 (ii) for the figures and word " 78, 81, 83, 84, 94 or 103" the figures, letters and word " 77A, 78, 78 A, 81, 83, 84, 88, 89A, 94, 103 or 110A;" shall be substituted;

45 (e) for clause (h), the following clauses shall be substituted, namely:—

"(h) any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and any other property belonging to a co-operative society of which he is an officer or custodian, to an authorised person or, to a person

appointed under sections 77A, 78, 78A, 103 or 110A, or any other person appointed under this Act; or

(h-1) a committee of a society or an officer or member thereof involved in corrupt practices during the election; or";

(f) in clause (j), the following shall be inserted in the beginning, 5
namely:—

"any person, wilfully or without any reasonable excuse, disobeys any summons, requisition or lawful written order issued under sections 81, 83, 88, or any other provisions of the Act; or";

(g) after clause (l), the following clause shall be inserted, namely:— 10

"(l-1) the Committee fails to submit audit rectification report to the Registrar and the annual general body meeting as per section 82; or".

Amendment
of section 147
of Mah. XXIV
of 1961.

73. In section 147 of the principal Act,—

(a) in clause (a), for the words "five hundred rupees" the words 15
"five thousand rupees" shall be substituted;

(b) in clause (b), for the words "five thousand rupees" the words
"fifteen thousand rupees" shall be substituted;

(c) in clause (c), for the words "five hundred rupees" the words "five
thousand rupees" shall be substituted; 20

(d) in clause (d), for the words "five hundred rupees" the words
"five thousand rupees" shall be substituted;

(e) in clause (e), after the words "or with fine" the words "which may
extend to ten thousand rupees " shall be inserted;

(f) in clause (e-1), for the words "five thousand rupees" the words 25
"fifteen thousand rupees" shall be substituted;

(g) in clause (e-2), for the words "five thousand rupees" the words
"fifteen thousand rupees" shall be substituted;

(h) in clause (f), for the words "two hundred and fifty rupees" the
words "five thousand rupees" shall be substituted; 30

(i) in clause (g), for the words "five hundred rupees" the words "five
thousand rupees" shall be substituted;

(j) in clause (h), for the words "five hundred rupees" the words "five
thousand rupees" shall be substituted;

(k) after clause (h), the following clause shall be inserted, namely:— 35

"(h-1) if it is an offence under clause (h-1) under that section,
with fine which may extend to five thousand rupees;";

(l) in clause (i), for the words "five hundred rupees" the words "five
thousand rupees" shall be substituted;

(m) in clause (j), for the words "five hundred rupees" the words 40
"five thousand rupees" shall be substituted;

(n) in clause (k), for the words "two thousand rupees" the words
"ten thousand rupees" shall be substituted;

(o) in clause (l), for the words "one hundred rupees" the words "one
thousand rupees" shall be substituted; 45

(p) after clause (l), the following clause shall be inserted, namely :—

"(l-1) if it is an offence under clause (l-1) under that section,
with fine which may extend to five thousand rupees ;";

(*q*) in clause (*m*), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(*r*) in clause (*n*), for the words "one thousand rupees" the words "five thousand rupees" shall be substituted;

5 (*s*) in clause (*o*), after the words "or with fine" the words "which may extend to ten thousand rupees" shall be inserted;

(*t*) in clause (*p*), after the words "or with fine" the words "which may extend to fifteen thousand rupees" shall be inserted;

10 (*u*) in clause (*q*), for the words "two hundred and fifty rupees" the words "one thousand rupees" shall be substituted.

74. In section 152 of the principal Act,—

Amendment
of section 152
of Mah. XXIV
of 1961.

(*a*) in sub-section (1), the following proviso shall be inserted, namely:—

15 "Provided that, no order of stay shall be issued in respect of the recovery of the dues under the award issued by the Liquidator unless fifty per cent. of the amount stated in the award is deposited with the society by the Appellant.";

(*b*) after sub-section (3), the following sub-section shall be inserted, namely :—

20 "(3A) The Appellate Authority, in order to prevent the ends of justice being defeated, may pass such interim orders including order of stay against the impugned order, pending the decision and final hearing of the appeal:

25 Provided that, if any interim order has been passed by the Appellate Authority without hearing the other side, the Appellate Authority shall decide such application within a period of three months and pass the necessary orders on merits after giving an opportunity of being heard and for the reasons to be recorded in writing."

30 **75.** In section 152A of the principal Act, in sub-section (1),—

Amendment
of section
152A of Mah.
XXIV of 1961.

(*a*) the words, figures and letter "other than a society specified by or under section 73G," shall be deleted;

35 (*b*) for the portion beginning with the words "In the case of a society" and ending with the words "Divisional Commissioner in such appeal.", the following portion shall be substituted, namely:—

"In the case of a society, an appeal shall lie to the officer as may be specified by the State Co-operative 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."

40 **76.** In section 154 of the principal Act,—

Amendment
of section 154
of Mah. XXIV
of 1961.

(*a*) in sub-section (2A),—

(*i*) after the words and figures "Registrar under section 101" the words and figures "or certificate issued by the Liquidator under section 105" shall be inserted;

45 (*ii*) the following proviso shall be inserted, namely:—

"Provided that, in case of such revision where revisional authority has granted a stay to the recovery of dues, the authority shall, as far as may be practicable, dispose of such revision application as expeditiously as possible but not later than six months from the date of the first order.";

50

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) The revisional authority, in order to prevent the ends of justice being defeated, may pass such interim orders including order of stay against the impugned order, pending the decision and final hearing of the Revision Application: 5

Provided that, if any interim order has been passed by the revisional authority without hearing the other side, the revisional authority shall decide such application within a period of three months and pass the necessary order on merits after giving an opportunity of being heard and for the reasons to be recorded in writing." 10

Amendment
of section 157
of Mah. XXIV
of 1961.

77. In section 157 of the principal Act,—

(a) the words "other than co-operative credit structure entity" shall be deleted; 15

(b) after the first proviso, the following proviso shall be added, namely:—

"Provided further that, the State Government shall not exempt any society or class of societies from the provisions made under sections 26, 73A, 73AAA, 73B, 73C, 73CA, 73CB, 73E, 75, 76, 78, 78A, 81 or any other provisions of this Act which are consistent with the provisions of the Constitution (Ninety-seventh Amendment) Act, 2011." 20

Amendment
of section 158
of Mah. XXIV
of 1961.

78. In section 158 of the principal Act, for the words and figures "or to any officer of the *Zilla Parishad* constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and such authorities and officer of the *Zilla Parishad*" the words "and such officer or authorities" shall be substituted. 25

Mah. V
of 1962.

Amendment
of section 160
of Mah. XXIV
of 1961.

79. In section 160 of the principal Act, in sub-section (3), for the words "five hundred rupees" the words " five thousand rupees" shall be substituted. 30

Amendment
of section 161
of Mah. XXIV
of 1961.

80. In section 161 of the principal Act,—

(a) after the word, figures and letter "section 21A" the words, brackets, figures and letter "State Co-operative Election Commissioner and officers, employees and staff employed under sub-sections (7) and (8) of section 73CB" shall be inserted; 35

(b) after the words, figures and letter "section 77A or 78," the words, brackets, figures and letters " 78A or clause (iii) of sub-section (1) of section 110A" shall be inserted;

(c) after the words and figures "Appellate Court under section 149" the words and figures "or any officer empowered under section 156" shall be inserted. 40

Amendment
of section 165
of Mah. XXIV
of 1961.

81. In section 165 of the principal Act, in sub-section (2),—

(a) after clause (v-c), the following clause shall be inserted, namely:—

" (v-c1) prescribe the period of training and education and the intervals at which such training shall be given; and the different rates at which different societies shall contribute towards the training and education fund under section 24A of the Act; 45

(v-c2) prescribe the amount of payment to be made to the society by a member in respect of the membership; and the manner of communicating the classification of a member as a non-active member under section 26 of the Act;";

5 (b) clause (xxxii) shall be deleted;

(c) for clause (xxxv-a), the following clause shall be substituted, namely:—

10 "(xxxv-a) prescribe the procedure for the election to societies, provide for intimation and making arrangements for holding the elections of the committee to the election authority; to provide for preparation of electoral rolls, for conduct of elections of the society or class of societies, also for classification of societies for this purpose ;";

(d) clause (xxxv-b) shall be deleted;

15 (e) clause (xxxv-d) shall be deleted;

(f) in clause (xxxv-d-1), for the word, figures, letter and brackets "section 73F(2) " the word, figures, letters and brackets "section 73CA (A1)" shall be substituted;

20 (g) after clause (xxxv-d-1), the following clause shall be inserted, namely:—

25 "(xxxv-d-2) prescribe the procedure and manner of holding elections, including the latest technology to be used and the manner of classification of societies for the purposes of elections; and the conditions of service of the State Co-operative Election Commissioner under section 73CB (1), (4), (11) of the Act;";

(h) in clause (x/v), the following words shall be added at the end, namely:—

"prescribe the form, including electronic form, of accounts and books to be kept by a society or class of societies;";

30 (i) for clause (x/vii), the following clause shall be substituted, namely:—

35 "(x/vii) prescribe the procedure for appointment of auditors under sections 75 and 81 and fees to be paid to such auditors ; laying audit reports of Apex Societies before both Houses of the State Legislature; norms of qualifications, experience and disqualifications of an auditor; and form of audit report;";

(j) in clause (l/ii), the following shall be added at the end, namely:—

"prescribe procedure for transfer of disputes for mediation compromise under section 93(4);";

40 (k) in clause (lix-a), the following shall be added at the end, namely:-

"prescribe form of Statement of Accounts and other documents;".

82. In section 166 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment
of section 166
of Mah. XXIV
of 1961.

Mah. 45
.....
of 2013.

"(4) Notwithstanding anything contained in this Act, as amended by the Maharashtra Co-operative Societies (Amendment) Act, 2013, but subject to the provisions of sub-section (15) of section 73CB, the committees of which the elections become due after the 31st March 2013, shall continue till the elections to such societies are held under the

provisions of this Act as amended by the said Act or till the expiration of their term, whichever is earlier. All the orders of the Administrator, Liquidator or the Registrar shall continue for the period mentioned in such order as if such orders are passed under this Act as amended by the said Act. All proceedings pending before the Registrar, person 5 authorised by him, Liquidator or any other officer, or authority or court under the provisions of this Act shall stand transferred wherever necessary to the Registrar or any corresponding officer or, authority or court under the provisions of this Act as amended by the said Act and shall be continued or disposed of by such Registrar, officer, authority or 10 court, in accordance with the provisions of this Act as amended by the said Act :

Provided that, any such committee of the society shall continue till the newly elected committee assumes the office.”.

Insertion of
section 168 in
Mah. XXIV of
1961.

83. After section 167 of the principal Act, the following section shall be 15 inserted, namely:—

Power to
remove
difficulty.

“168. (1) If any difficulty arises in giving effect to the provisions of this Act, as amended by the Maharashtra Co-operative Societies (Amendment) Act, 2013, the State Government may, by an order published in the *Official Gazette*, make such provisions not inconsistent 20 with the provisions of this Act, as amended by the said Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty :

Mah.
..... of
2013.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of the Maharashtra 25 Co-operative Societies (Amendment) Act, 2013.

Mah.
.....
of 2013.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.”.

Repeal of
Mah. Ord. II
of 2013 and
Saving.

84. (1) The Maharashtra Co-operative Societies (Amendment) Ordinance 2013, is hereby repealed. 30

Mah.
Ord. II
of 2013.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or, as the case may be, issued under the corresponding provisions of principal Act, as amended by this Act. 35

STATEMENT OF OBJECTS AND REASONS

The Constitution of India has been amended by the Constitution (Ninety-seventh Amendment) Act, 2011, with a view to insert a new Part IX-B regarding "the Co-operative Societies" in the Constitution. By the said Ninety-seventh Amendment Act, article 19 of the Constitution has been amended to incorporate the right to form "co-operative societies" as a fundamental right. A new article which provides for the State to endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies has also been incorporated as article 43B in Part IV of the Constitution. Article 243ZT of the Constitution, as inserted by the said Ninety-seventh Amendment Act provides that any provision in the law relating to co-operative societies in the State immediately before the commencement of the said Ninety-seventh Amendment Act, which is inconsistent with the said newly inserted Part IX-B of the Constitution, shall continue to be in force until amended or repealed by the competent legislature or until the expiration of one year from the date of such commencement. The said Constitution (Ninety-seventh Amendment) Act, 2011, came into force on the 15th February 2012.

2. It was accordingly proposed to amend the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), to make it in consonance with the said Ninety-seventh Amendment Act.

3. The salient features of the then proposed amendments, were as under:—

(i) to provide that the maximum number of members of the committee of a co-operative society shall be twenty-one, out of which alongwith the other reserved seats two seats shall be reserved for women;

(ii) to provide that the term of the office of elected member of committee and its office bearers shall be five years from the date of their election;

(iii) to provide for establishment of the State Co-operative Election Authority, which shall be vested with the power to supervise, control and conduct elections to the societies;

(iv) to provide for filling of casual vacancy by nomination, if the term of office of the committee is less than half of its original term;

(v) to provide for co-option of expert directors and functional directors;

(vi) to provide for suspension or supersession of the committees of the co-operative societies, for the period not exceeding six months where the Government has held the shares of such society or granted any loan or provided financial assistance or any guarantee, and for period not exceeding one year in case of co-operative banks;

(vii) to provide for an audit of accounts of the societies at least once in each financial year through the auditor or auditing firms appointed by the general body of the co-operative society from a panel approved by the Government or any authority authorised by it;

(viii) to provide for convening general body meeting of every society within a period of six months of close of the financial year;

(ix) to provide for settlement of disputes by arbitration or conciliation and by mediation through *Lok- Adalat*, and for appointment of Grievances Settlement and Redressal Committees for settlement of grievances;

(x) to provide that, in respect of the co-operative societies doing banking business the provisions of the Banking Regulation Act, 1949 shall also apply.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that, circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), for the purposes aforesaid, the Maharashtra Co-operative Societies (Amendment) Ordinance, 2013 (Mah. Ord.II of 2013), was promulgated by the Governor of Maharashtra on the 14th February 2013.

5. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 14th March 2013.

HARSHVARDHAN PATIL
Minister for Co-operation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 14 and clause 81(a).—This clause seeks to insert a new section 24A in the Maharashtra Co-operative Societies Act, 1960 and insert new clauses (v-c1) and (v-c2) in sub-section (2) of section 165 , whereunder power is taken to the State Government,—

(i) under sub-section (1), to specify by notification in the *Official Gazette* the State Federal Societies or the State Apex Training Institutes ;

(ii) under sub-section (2), to prescribe the period of co-operative education and training; and

(iii) under sub-section (3), to prescribe the rates for annual contribution for different societies or classes of societies towards the education and training fund.

Clause 15.—This clause seeks to substitute a section 26 of the Maharashtra Co-operative Societies Act, 1960, whereunder power is taken to the State Government,—

(i) under sub-section (1), in the first proviso, to prescribe by rules, the fees to be paid in respect of membership as well as the rules for acquiring interest in the society ;

(ii) under sub-section (2), in the second proviso, to prescribe the manner of communication of classification of a member as a non-active member ;

Clause 23(d).—This clause, which seeks to insert a new clause (d) in section 70 of the Maharashtra Co-operative Societies Act, 1960, whereunder power is taken to the State Government, to prescribe the mode by general or special order for the purpose of investment of the funds of a society ;

Clause 27.—This clause, which seeks to substitute sub-sections (1) and (2) of section 73-ID in the Maharashtra Co-operative Societies Act, 1960, whereunder in sub-section (2), power is taken to the State Government, to prescribe the form and manner for the requisition of special meeting ;

Clause 28(d).—This clause, which seeks to insert sub-section (9), in section 73A in the Maharashtra Co-operative Societies Act, 1960, whereunder, power is taken to the State Government, to specify class or classes of societies by notification in the *Official Gazette* in respect of which a member is required to fulfill the qualifications relating to monetary limits of transactions ;

Clause 35(a).—This clause, which seeks to insert sub-section (A1), in section 73CA, in the Maharashtra Co-operative Societies Act, 1960, whereunder power is taken to the State Government, to prescribe the conditions for permission to allow the member to carry on business of the society outside the area of operation of a society ;

Clause 36 and 81(c).—These clauses, which seeks to insert new section 73CB in the Maharashtra Co-operative Societies Act, 1960, and amend section 165 of the Act by inserting clauses (xxxv-a) and (x/v) in sub-section (2) thereof, whereunder power is taken to the State Government,—

(i) under sub-section (1) and clause (XXXV-a), to prescribe the procedure to hold the election of the office-bearers of a society including any casual vacancy and to prescribe the procedure, guidelines and the manner including using the latest technology and expertise to hold the elections of the society or class of societies ;

(ii) under sub-section (2), to notify the place of the office of the State Co-operative Election Authority ;

(iii) under sub-section (4), to prescribe the conditions of service, including the salary and allowances, of the State Co-operative Election Commissioner ;

(iv) under sub-section (11), in the proviso, to prescribe the manner in which the societies may be classified by general or special order ;

(v) under sub-section (13),—

(a) to prescribe the estimated amount of expenditure for the election of the society which may be deposited by a society ;

(b) to prescribe the manner for the expenditure to be made from the election fund ;

Clause 41.—This clause seeks to amend section 75 of the Maharashtra Co-operative Societies Act, 1960, whereunder, under the proposed second proviso to sub-section (1), power is taken to prescribe by rules, the manner in which the Registrar or any officer authorised by him may call the meeting ;

Clause 46(a).—This clause, which seeks to amend sub-section (1) of section 79, of the Maharashtra Co-operative Societies Act, 1960, and amend clause (x/v) in sub-section (2) of section 165 of the Act, whereunder power is taken to the State Government, to prescribe the form of books of accounts ;

Clause 49(a), (b), (e) (iii).—This clause, which seeks to amend section 81, of the Maharashtra Co-operative Societies Act, 1960, whereunder power is taken to the State Government,—

(i) under sub-section (1),—

(a) under clause (a), prescribe the qualifications and experience for being eligible for auditing accounts of societies and to prescribe the manner in which the audit report of apex societies may be laid down before both the Houses of the State Legislature ;

(b) under clause (b), to prescribe the manner for preparation, declaration and maintenance of the panel of auditors and auditing firms by the Registrar ;

(c) under clause (c), to prescribe the period for audit of annual financial statements ;

(d) under clause (g), to prescribe the time to maintain the list of societies district-wise, the list of working societies, the list of societies whose accounts are audited, the list of societies whose accounts are not audited ;

(e) under *Explanation II*, prescribe the terms and conditions for inclusion and retention of name as an auditor or auditing firm ;

(2) under sub-section (2), to notify the Accounting Standards for maintenance of accounts of a society ;

(3) under sub-section (3), in clause (c), prescribe examination of items for test audit ;

Clause 58.—This clause, seeks to add new sub-section (4), in section 93, in the Maharashtra Co-operative Societies Act, 1960, whereunder clause (d), power is taken to the State Government, to prescribe the procedure for effecting the mediation ;

Clause 64(a)(iii).—This clause, seeks to amend section 101, of the Maharashtra Co-operative Societies Act, 1960, whereunder sub-section (1), power is taken to the State Government, to prescribe the statement of accounts and any other documents which may be furnished by a society for obtaining certificate of recovery ;

Clause 83.—This clause, which seeks to insert new section 168, whereunder power is taken to the State Government, to remove, by an order, published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of the Act as amended by this Act within a period of two years from the date of commencement of the Act;.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

FINANCIAL MEMORANDUM

Clause 36 of the Bill provides for insertion of section 73CB in the Maharashtra Co-operative Societies Act with a view to provide for the establishment of the State Co-operative Election Authority, which shall be vested with the power of the superintendence, direction and control of the preparation of the electoral rolls for election to the Co-operative societies. Such Authority shall consist of the State Election Commissioner. Sub-section (7) of the said section 73CB provides that the State Government shall after consultation with the State Co-operative Election Commissioner provide the officers and employees for his office to assist him in performing his functions. Sub-section (13) of the said section 73CB provides that there shall be an Election Fund maintained at the level of State Co-operative Election Authority and every society shall, in advance, deposit the estimated amount of the expenditure towards its election to the Election Fund.

It would be necessary to establish the office of the State Co-operative Election Commissioner and to appoint staff to such office. The recurring expenditure on this count is estimated at Rs. 389 lakhs per annum and the non-recurring expenditure on this count is estimated at Rs. 141 lakhs. The said expenditure will be required to be met from the Consolidated Fund of State.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207
OF THE CONSTITUTION OF INDIA

(Copy of Government of Maharashtra Order, Law and Judiciary
Department.)

In exercise of the powers conferred upon him by clause (3) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Council, the Consideration of the Maharashtra Co-operative Societies (Amendment) Bill, 2013.

(Mah. XXIV of 1961)

PRELIMINARY

2. In this Act, unless the context otherwise requires – Definitions.

(7) "Committee" means the committee of management or board of directors or other directing body, by whatever name called in which the management of the affairs of a society is vested under section 73 ;

(10 B) "depositor or financial service user " means a person who deposits certain amount in primary agricultural co-operative credit society for such period as may be prescribed ;

(19) (a) "member" means a person joining in an application for the registration of a co-operative society which is subsequently registered as a person duly admitted to membership of a society after registration includes a nominal, associate or sympathiser member and any depositor or financial service user of primary agricultural co-operative credit society ;

(d) "sympathiser member" means a person who sympathises with aims and objects of the society and who is admitted by the society as a member.

(20) "Officer" means a person elected or appointed by a society to an office of such society according to its by-laws; and includes a chairman, vice-chairman, president, vice-president, managing director, manager, secretary, treasurer, member of the committee, and any other person elected or appointed under this Act, the rules or the by-laws, to carry out the directions in regard to the business of such society:

(27) " Society" means a co-operative society registered, or deemed to be registered, under this Act.

CHAPTER II

REGISTRATION

3A. If the Registrar or a person appointed to assist such Registrar is disabled from performing his duties or for any reason vacates his office or leaves his jurisdiction or dies, then—

(a) in the case of the Registrar, the Additional or Joint Registrar, in the office of the Registrar, and.

	(b)	**	**	**	**
	4. and 5.	**	**	**	**
conditions of registration.	6.	(1) No society, other than a federal society, shall be registered under this Act, unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic liability of a society and development of the co-operative movement, determine from time to time for a class of societies (each of such persons being a member of a different family), who are qualified to be members under this Act, and who reside in the area of operation of the society :			
		Provided that a lift irrigation society consisting of less than ten but of five or more such persons may be registered under this Act:			
		Provided further that, the condition regarding residence of the members in the area of operation of the society shall not apply for registration of the society, being the co-operative credit structure entity"			
	(2) to (5)	**	**	**	**
	Explanation	**	**	**	**
	7. to 12.	**	**	**	**
Amendment of by laws of society.	13.	(1) No amendment of the by-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the by-laws, a copy of the amendment passed, in the manner prescribed at a general meeting of the society, shall be forwarded to the Registrar Every application for registration of an amendment of the by-laws shall be disposed of by the Registrar within a period of two months from the date of its receipt:			
		Provided that, the application for registration of the amendment of by-laws of the co-operative credit structure entity shall be disposed of, by the Registrar with in a period of one month from the date of its receipt.			
	(1A) to (3)	**	**	**	**
Power to direct amendment of by-laws.	14.	(1) If it appears to the Registrar that an amendment of the by-law of a society is necessary or desirable in the interest of such society he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify			
		(2) If the society fails to make the amendment within the time specified, the Registrar may. after giving the society an opportunity of being heard and after consulting such State federal society as may be notified by the State Government register such amendment, and issue to the society a copy of such amendment certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the by-laws shall be deemed to have been duly amended accordingly, and the by-laws as amended shall subject to appeal if any be binding on the society and its members.			
	15. and 16.	**	**	**	**
Amalgamation transfer, division or conversion of societies.	17.	(1) A Society may, with the previous approval of the Registrar by resolutions passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide—			
		(a) to amalgamate with another society;			
		(b) to transfer its assets and liabilities, in whole or in part, to any other society:			
		(c) to divide itself into two or more societies ; or			
		(d) to convert itself into another class of society:			

Provided that, when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that—

(i) the society, after passing such resolution has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected hereinafter, in this section referred to as "other interested persons", giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be,

(ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied.

(2) to (4)

* * * * *

18. (1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be recognised then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government by order notified in the *Official Gazette*, provide for the amalgamation, division or reorganisation of those societies into a single society or into societies with such constitution, property, rights, interests and authorities and such liabilities, duties and obligations, as may be specified in the order.

Power to direct amalgamation, division and reorganisation in public interest, etc..

(2) to (6)

* * * * *

18A. (1) Where the Registrar is satisfied that is essential in the public interest, or in order to secure the proper management of one or more co-operative banks that two or more such banks should be amalgamated, then notwithstanding anything contained in section 17, the Registrar may, after consulting such federal society or other authority as may be notified by the State Government in the *Official Gazette*, by order provide for the amalgamation of those banks into a single bank with such constitutions, property, rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order Such order may provide for the reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in or against any bank to be amalgamated to such extent as the Registrar considers necessary in the interest of such persons for the maintenance of the business of that bank, having due regard to the proportion of assets of such bank, to its liabilities. Such order may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation of the banks.

Amalgamation of Co-operative banks.

(2) No order shall be made under sub-section (1), unless—

(a) a copy of the proposed order has been sent in draft to each of the banks concerned:

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions or objections which may be received by him within such period (not being less than two months from the date on which the copy of the proposed order was received by the banks) as the Registrar may fix in that behalf either from the banks or any members, depositors, creditors, employees or other persons concerned.

(3) to (7)

* * * * *

Amalgamation
of primary
agricultural
credit
societies.

18B. (1) Where the Registrar is satisfied that it is essential –

(a) for ensuring economic viability of one or more primary agricultural credit societies :

(b) for avoiding overlapping or conflict of jurisdictions of such societies in any area;

(c) in order to secure the proper management of one or more such societies:

(d) in the interest of the credit structure or co-operative movement in the State as a whole;

(e) in the interest of the depositors; or

(f) for any other reason in the public interest

that two or more primary agricultural credit societies should be amalgamated, then, notwithstanding anything contained in section 17. the Registrar may, after consulting such federal society or other authority as may be notified by the State Government in this behalf, by order published in the *Official Gazette*, provide for the amalgamation of those societies into a single society. The constitution property, rights, interest and authorities and the liabilities, duties and obligations of the amalgamated society shall be such as may be specified in the order. Such order may provide for the reduction of the interest or rights which the members, depositors, creditors, employees and other persons may have in, or against, any society to be amalgamated to such extent as the Registrar considers necessary in the interest of such persons for the maintenance of the business of that society, having due regard to the proportion of the assets of such society, having due regard to the proportion of the assets of such society, to its liabilities. Such order may also contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation of the societies.

(2) and (3)

* * * * *

Reorganisation
of societies on
account of
alteration of
limits of local
areas in which
they operate.

18C. (1)

* * * * *

(2) An order made under sub section (1) may provide for all or any of the following matters, namely:—

(a) to (d)

* * * * *

(e) the removal of the committee of any existing society and the appointment of an administrator or an interim committee of management, to manage the affairs of the existing society or of the new society or societies, under the control and direction of the State

Government, for a period not exceeding two years, as may be specified in the order or until the successor committee of the concerned society is duly constituted, whichever is earlier.

Provided that the period of two years may be extended by the State Government from time to time. so however that the total period does not exceed three years in the aggregate.

Provided further that, it shall be competent for the State Government to alter and appoint, from time to time, during the said period or extended period and for any reason whatsoever, any other Administrator or an interim committee of management or any or all the members of such committee, as it deems fit, notwithstanding that the term or extended term of office of the Administrator or an interim committee of management or of any or all the members of such committee has not expired.

(f) to (k)	**	**	**	**
(3) to (5)	**	**	**	**
19. to 21A.	**	**	**	**

CHAPTER III

MEMBERS AND THEIR RIGHTS AND LIABILITIES

22.	**	**	**	**
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23. (1) and (1A)	**	**	**	**
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Open membership.

(2) Any person aggrieved by the decision of a society, refusing him admission to its membership, may appeal to the Registrar." Every such appeal, as far as possible, be disposed of by the Registrar within a period of three months from the date of its receipt;

Provided that, where such appeal is not so disposed of within the said period of three months, the Registrar shall record the reasons for the delay

(3) and (4)	**	**	**	**
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24. (1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal, associate or sympathiser member.

Nominal associate and sympathiser member.

(2) A nominal member or sympathiser member shall not be entitled to any share in any form whatsoever in the profits or assets of the society as such member. A nominal or sympathiser member shall ordinarily not have any of the privileges and rights of a member, but such a member or an associate member, may, subject to the provisions of sub-sections(8) of section 27, have such privileges and rights and be subject to such liabilities, of a member, as may be specified in the by-laws of the society.

25. and 25.A	**	**	**	**
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26. No person shall exercise the rights of a member of a society, until he has made such payment to the society in respect of membership, or acquired such interest in the society, as may be prescribed by the rules, or the by-laws of such society.

No rights of membership to be exercised till due payments are made.

27. (1) Save as otherwise provided in sub-sections (2) to (7), both inclusive, no member of any society shall have more than one vote in its affairs; and every right to vote shall be exercised personally, and not by proxy:

Voting powers of members.

Provided that, in the case of an equality of votes the Chairman shall have a casting vote.

(2) * * * * *

(3) A society, which has invested any part of its funds in the shares of any federal society, may appoint one of its members to vote on its behalf in the affairs of that federal society; and accordingly such member shall have the right to vote on behalf of the society:

Provided that, any new member society of a federal society shall be eligible to vote in the affairs of that federal society only after the completion of the period of three years from the date of its investing any part of its fund in the shares of such federal society:

Provided further that, where the election is to a reserved seat under section 73-B, no person shall have more than one vote.

(3A) to (7) * * * * *

(8) No nominal or sympathiser member shall have the right to vote and no such member shall be eligible to be a member of a committee or for appointment as a representative of the society on any other society.

(9) * * * * *

(10) In the case of an agricultural credit society. if a member has taken a loan from the society, such member shall, whenever he is a defaulter in paying two or more consecutive installments towards repayment of the loan on the due dates, have no right to vote in the affairs of the society :

Provided that, a member shall not be deemed to be a defaulter, if he has discharged his obligation to deliver his marketable produce to the marketing or processing society and the value of such produce is not less than the amount of his dues, even if the actual settlement of his dues, either in whole or in part, takes place at a later stage.

(11) * * * * *

(12) In the case of a primary agricultural credit co-operative society, the depositor or financial service user shall have right to vote:

Provided that, out of joint depositors, joint financial service users whose name stands first in the relevant documents shall have the right to vote and in his absence whose name stands second and in the absence of both the next shall have the right to vote :

Provided also that, unless two years by an individual depositors or financial service users are completed from the date of deposit or financial service use, no such person shall have right to vote; and the depositor or the financial service user, other than an individual, shall have right to vote in the affairs of a primary agricultural credit co-operative society, provided they complete three years from the date of deposit or financial service use.

28. to 35. * * * * *

CHAPTER IV

INCORPORATION DUTIES AND PRIVILEGES OF SOCIETIES

36. to 42 * * * * *

Restrictions
on borrowings

43. (1) A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed, or specified by the by-laws of the society:

Provided that, the co-operative credit structure entity shall adopt its own policies regarding interest rates on deposits and loans in conformity with the Reserve Bank of India guidelines.

(2) If in the opinion of the Registrar it is necessary so to do for ensuring safety of the funds obtained under sub-section (1) for proper utilisation of such funds in furtherance of the objects of the society or societies concerned and for keeping them within the borrowing limits as laid down in the rules and by laws, the Registrar may, by general or special order, impose additional conditions on any society or class of societies, subject to which and the extent upto which such society or such class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank:

Provided that, nothing in this sub-section shall apply to a society which has not taken any financial assistance from the Government in the form of share capital, loan or guarantee and such society may adopt its own borrowing policy having regard to its financial position. However, such society shall send to the Registrar, in writing, full details about its borrowing policy, and change, if any, introduced in such policy at any time:

Provided further that, nothing in this sub-section shall apply to the co-operative credit structure entity. However, such entity may adopt its own policy in conformity with the Reserve Bank of India Guidelines.

(3) * * * * * * * *

44. (1) and (2) * * * * * * * *

(3) If in the opinion of the State Government. it is necessary in the interest of the society or societies concerned to do so, the State Government may, by general or special order, prohibit, restrict or regulate the lending of money by any society or class of societies on the security of any property :

Regulation of
loan making
policy.

Provided that, the Registrar may, for ensuring safety of the funds of the society or societies concerned, for proper utilisation of such funds in furtherance of their objects and for keeping them within the loan making limits laid down in the rules and by-laws, with the approval of the Apex Bank, by general or special order, regulate further the extent, conditions and manner of making loans by any society or class of societies to its members or other societies:

Provided further that, nothing in this section shall apply to the loan making policy made by the co-operative credit structure entity. However, such entity shall adopt its own policy in conformity with the Reserve Bank of India guidelines.

44A. Notwithstanding anything contained in any agreement or any law for the time being in force, a society (including a co-operative bank and a co-operative agriculture and Rural Multipurpose Development Bank shall not for any loan (including rehabilitation loan but excluding long term loan for irrigation or agricultural development purposes or loan exceeding rupees three thousand for non-agricultural or commercial purposes) given by it to any member (including a member society) for a period not exceeding 15 years, whether the loan was given before or is given after the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985 recover, in any manner whatsoever, on account of interest, a sum greater than the amount of the principal of the loan:

Limit on interest in certain cases.

Provided that, nothing in this section shall apply to a loan exceeding one lakh rupees given by a co-operative Agriculture and Rural Multipurpose Development Bank to any member.

45. to 49. * * * * * * * *

CHAPTER V

STATE AID TO SOCIETIES

50. to 63.

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CHAPTER VI

PROPERTY AND FUNDS OF SOCIETIES

64. to 67.

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Contribution
to education
fund of the
State federal
society.

68. (1) Every society not being co-operative credit structure entity shall contribute annually towards the education fund of the State federal society which may be notified in this behalf by the State Government at such rate as may be prescribed, and different rates may be prescribed for different societies or classes of societies depending on their financial condition.

(2) Every society shall pay its contribution to the said fund within three months after the close of the co-operative year Any officer willfully failing to comply with the requirement of this section, shall be personally liable for making good the amount to the federal society notified as aforesaid.

(3) Where any society fails to pay the contribution within the period specified in sub-section (2), the amount of contribution due shall be recoverable as an arrear of land revenue and on the State federal society making a report of such failure to the Registrar, the Registrar shall, after making such inquiry as he deems fit, grant a certificate for recovery of the amount due as an arrear of land revenue.

Contribution
to public
purposes..

69. After providing for the revenue fund as provided in section 66, and for the educational fund as provided in section 68, a society may set aside a sum not exceeding twenty per cent. of its net profits, and utilise, with the approval of such federal society as may be notified by the State Government in this behalf from time to time, the whole or part of such sum in contributing to any co-operative purpose, or to any charitable purpose within the meaning of section 2 of the Charitable Endowments Act, 1890, or to any other public purpose.

Constitution
of Co-
operative
State Cadre
of Secretaries
of certain
societies and
establishment
of
Employment
Fund for such
Cadre.

69.A. (1) There shall be constituted a Co-operative State Cadre of Secretaries of primary agricultural credit societies, multipurpose co-operative societies and service co-operatives and such other classes of societies as may be prescribed in this behalf (hereinafter in this section referred to as "the Co-operative State Cadre." consisting of persons recruited for this purpose by the Central Societies notified in this behalf by the State Government. The number of persons to be recruited and their conditions of service shall be determined by the Central Societies in accordance with such general or special guidelines, if any as may be issued by the State Government, from time to time.

(2) A Central Society may, from time to time, depute any person appointed by it to that cadre to work under any society referred to in sub-section (1), as it may consider necessary, Where any such person is posted to work under any society, his services shall be taken over by the society on such post, for such period and on such other terms and conditions as the Central Society may determine, but the person so posted shall draw his salary and allowances from the Fund established under sub-section (3).

(2A) The immediate initial supervisory control on the person appointed to the cadre and deputed or posted to work as secretary under each of the societies referred to in sub-section (1) shall be with the Taluka Supervision Society consisting of the societies in each respective Taluka to which such

persons are deputed, as members thereof and registered for the purpose. The Taluka Supervision Society shall, exercise such powers and discharge such functions or perform such duties as may be conferred or imposed on it by the bye-laws of such society.

(3) An Apex society notified in this behalf by the State Government shall establish a Fund to be called "the Co-operative State Cadre Employment Fund." which when established shall be deemed to have been established with effect from the 1st day of July 1973. It shall be utilised for meeting the experiences on the salaries, allowances and other emoluments to be paid to the persons appointed to the Co-operative State Cadre and the other expenditure relating to the Cadre.

(4) (a) Every society or class or classes of societies, which in the opinion of the State Government, derive any benefit, directly or indirectly, from the service of any Secretary, belonging to the Co-operative State Cadre or Secretaries, and

(b) Every other body corporate carrying on any trade, business or industry or class or classes of such corporate bodies, which in the opinion of this State Government, derives such benefit as aforesaid, and which are notified by the State Government in this behalf, from time to time, by general or special order, shall, with effect from the first day of July 1977, contributed annually to the said Fund, at such rate and in such manner as may be prescribed, and different rates may be prescribed for different societies or other corporate bodies or class or classes of societies or class or classes of other corporate bodies. In determining the rate or rates of contribution, the State Government shall take in to consideration the expenditure referred to in sub-section (3) the services likely to be rendered and the financial condition of the societies or other bodies concerned.

Explanation.- Notwithstanding anything contain in any law for the time being in force, for the purpose of levy and collection of the contribution to the said Fund by any other corporate body to which this section applies, such corporate bodies shall be deemed to be a society governed by this Act.

(5) Where there is failure to comply with the requirements of the last preceding sub-section, the Registrar may serve a demand notice on the society concerned to pay the contribution within two months from the date of demands Such demand shall be charged on the income of the society. If the contribution is not paid within the period aforesaid, the Registrar may direct any Bank or person having custody of the Funds of the society to pay the amount of the contribution immediately, and such Bank or person shall comply with the order of the Registrar. Every payment made pursuant to such directions shall be sufficient discharge to such Bank or person from all liability to the society in respect of any sum so paid by it or him out of the moneys of the society in his custody.

(6) The State Government may make rules regulating all matters connected with or ancillary to the custody and maintenance of, the payment of money into, and the expenditure and withdrawal of money from, the said Fund.

(7) Notwithstanding anything contain in sub-sections (1) to (6), on and from the 1st day of January 2009, nothing in sub-sections (1) to (6) shall apply to a co-operative credit structure entity.

Investment of funds. **70.** Every society other than the co-operative credit structure entity shall invert or deposit its funds in one or more of the following :-

(a) in a Central Bank, or the State Co-operative Bank :

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882.

(c) in the shares, or security bonds, or debentures, issued by any other society with limited liability and having the same classification to which it belongs:

Provided, that, no society shall invest more than such proportion of it's paid up share capital as may be prescribed:

Provided further that, the co-operative credit structure entity shall invest its funds subject to guidelines as may be issued, from time to time, by the Reserve Bank of India."

Funds not to be utilised for certain proceedings filed or taken by or against officers in personal capacities. **71.** * * * * *

71A. (1) No expenditure from the funds of a society shall be incurred for the purpose of defraying the costs of any proceedings filed or taken by or against any officer of the society in his personal capacity under section 78,96 or 144 T. If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.

(2) and (3) * * * * *

CHAPTER VII

MANAGEMENT OF SOCIETIES

72. and 72.A * * * * *

Committee its powers and functions. **73.** (1) * * * * *

(1AB.) The members of the committee shall be jointly and severally responsible for all the decisions taken by the committee during its term relating to the business of the society. The members of the committee shall be jointly and severally responsible for all the acts and omissions detrimental to the interest of the society.

Every such member –

(i) in case of housing societies, within forty-five days of his assuming the office and;

(ii) in case of other societies, within fifteen days of his assuming the office;

shall execute a bond to that effect, in the form as specified by the State Government by general or special order."

The member who fails to execute such bond within the specified period shall be deemed to have vacated his office as a member of the committee:

Provided that, before fixing any responsibility mentioned above the Registrar shall inspect the records of the society and decide as to whether the losses incurred by the society are on account of acts or omissions on the part of the members of the committee or on account of any natural calamities accident or any circumstances beyond the control of such members:

Provided further, that any member of the committee, who does not agree with any of the resolutions or decision of the committee may express his dissenting opinion which shall be recorded in the proceedings of the meeting and such member shall not be held responsible for the decision embodied in the said resolution or such acts or omissions committed by the committee of that society as per the said resolution, Such dissenting member, if he so desires, may also communicate in writing his dissenting note to the Registrar within seven days from the date of the said resolution or decision. Any member, who is not present for the meeting in which the business of the society is transacted, and who has not subsequently confirmed the proceeding of that meeting, such member shall also not be held responsible for any of the business transacted in that meeting of the society.

(1A)

* * * * *

(2) Notwithstanding anything contained in any by-laws of a society or class of societies. the Registrar may, having regard to the area of operation, subscribed share capital or turnover of a society or class of societies by general or special order, published in the *Official Gazette*, prescribe the maximum number of members on the committee of such society or class of societies, as may be specified in such order

(3) (a) Notwithstanding anything contained in this Act or the rules made thereunder or in the bye-laws of any society or any other laws for the time being in force, in a general election of members of the committee of a society, on the election of two-thirds or more number of members, the returning officer or any other officer or authority conducting such election shall within seven days after the declaration of results of the election of such members, or where such election is held before the date of commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1986, and such number of members have been elected but the committee has, for whatever reason, not been so far constituted, forward their names together with their permanent addresses to the Registrar, who shall, within fifteen days from the date of receipt thereof by him, publish or cause to be published such names and addresses by affixing a notice on the Notice Board or at any prominent place in his office; and upon such publication, the committee of the society shall be deemed to be duly constituted. In determining two-thirds of the number of members, a fraction shall be ignored:

Provided that, such publication shall not be deemed:

(i) to preclude the completion of election of the remaining members and the publication of their names and permanent addresses of the elected members likewise as and when they are available; or

(ii) to affect the term of office of the members of the committee under the Act.

(b) The names of the remaining members, after they are elected (together with their permanent addresses), may also thereafter be likewise published by the Registrar.

73-1A If a person is elected to more than one seat on the committee of a society including a society belonging to any of the categories specified in section 73-G, then, unless within a period of fifteen days from the date of declaration of the result of the election he resigns all but one of the seats by writing under his hand addressed to the Election Officer, or as the case may be, the Collector, all the seats shall become vacant. On receipt of such resignation or on the seats becoming vacant as aforesaid, the Election Officer, or as the case may be, the Collector shall hold a meeting of the committee for filling the vacancy by way of co-option.

Election to more than one seat on Committee of society including specified society.

Powers of
State
Government
to postpone
election.

73-1B Where due to scarcity, drought, flood, fire, or any other natural calamity or rainy season or any election programme, of the State Legislative Assembly or Council or the House of the people or a local authority, coinciding with the election programme of any society or class of societies or such other reasons as, in the opinion of the State Government, are exceptional, it is not in the public interest to hold elections to any society or class of societies, the State Government, are exceptional, it is not in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act or in any rules, or bye-laws made thereunder, or any other law for the time being in force, for reasons to be recorded in writing by general or special order, postpone the election of any society or class of societies, for a period not exceeding six months at a time which period may further be extended so, however, that the total period shall not exceed one year in the aggregate.

Election to
notified
societies.

73.1C (1) Where the State Government is satisfied that, having regard to the objects of the society or class of societies (other than the societies specified by or under section 73 G), or composition of membership thereof, or proper management and the interest of the members, it is necessary in the public interest to hold elections to any society or class of societies, the State Government may, notwithstanding anything contained in this Act, or in any rules, or bye-laws made thereunder, or in any other law for the time being in force, by general or special order, notify in the *Official Gazette*, such society or class of societies and the election to such society or class of societies shall be held by the Registrar in the prescribed manner.

(2) The Registrar shall recover the expenses of holding election to any such society or class of societies as is referred to in sub-section (1), in the prescribed manner.

Motion of no-
confidence
against
officers of
societies.

73.1D (1) A President, Vice-President, Chairman, Vice-Chairman, Secretary, treasurer or any other officer by whatever designation called who holds office by virtue of his election to that office shall cease to be such President, Vice-President, Chairman, Vice-Chairman, secretary, treasurer or any other officer, as the case may be, if a motion of no-confidence is passed at a meeting of the committee by two-thirds majority of the total members committee members who are entitled to vote at the election of such President, Vice-President, Chairman, Vice-Chairman, secretary, treasurer or any other officer and the office of such President, Vice-President, Chairman, Vice-Chairman, secretary, treasurer or any other officer, as the case may be. shall thereupon be deemed to be vacant.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the committee who are entitled to elect the President Vice-President, Chairman, Vice-Chairman, secretary, treasurer or any other officer, as the case may be, of the committee and shall be delivered to the Registrar. The requisition shall be made in such form and in such manner as may be prescribed:

Provided that, no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (1) has entered upon his office.

(3) to (7)

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Disqualification
for being
designated
Officer
simultaneously
of certain
Categories of
societies.

73A. (1) In this section and in section 73C, 73D and 73E, a designated Officer' means the Chairman and the President, and includes any other Officer of the society as may be declared by the State Government, by notification in the *Official Gazette*, to be a designated Officer, but does not include any officer appointed or nominated by the State Government or by the Registrar.

(2) and (2A)

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(4) If any person becomes, at the same time a designated officer of societies in excess of the number prescribed under sub-section (2), unless he resigns his office in the society or societies in excess of the said number within a period of ten days from the date on which he is elected or appointed a designated officer of more than the permissible number of society or societies, or if the elections or appointments are held or made simultaneously, from the date on which the result of last of such elections or appointments is declared, he shall, at the expiration of the said period of ten days, cease to be a designated officer of all such societies, and thereupon, notwithstanding anything contained in any provision of this Act, a person so resigning or ceasing to be a designated officer of any or all such societies shall not be eligible for being re-elected or re-appointed as a designated officer of such society or societies during the remainder of the term of office for which he was so elected or appointed; and at no point of time such person shall be designated officer of societies in excess of the number prescribed under sub-section (2).

(6)

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73AA. Where, after the commencement of the Maharashtra Zilla Parishads and Panchayat Samitis (Fourth Amendment) Act, 1974, a designated officer of any society of any of the categories referred to in sub-section (2) of section 73A who is also an associate Councillor of any Zilla Parishad, ceases to be the associate Councillor of such Zilla Parishad by operation of the provisions of Section 82 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, he shall also cease to be a designated officer of the said society from the date on which he so ceases to be an associate Councillor of the Zilla Parishad.

Designated officer who is associate councillor to cease to be designation officer on ceasing to be such councillor..

73AB. Where a person is elected, co-opted, appointed or nominated as a member of a committee of any society by virtue of his holding office under the Central Government or the State Government or in any local authority or in any body corporate or in any organisation, he shall cease to be such member on the date on which he ceases to hold such office.

Cessation of membership of committee held by virtue of office under Government etc..

73B. (1) Notwithstanding anything contained in this Act or in the rules made thereunder or in any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, four seats shall be reserved,—

Reservation of seats on Committees of certain societies for Scheduled Castes, Scheduled Tribes other Backward Classes, De-notified Tribes, Vimukta Jatis, Nomadic Tribes, Special Backward Classes and for members of weaker section and election thereto

(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes ;

(a-1) one for the members belonging to the Other Backward Classes;

(a-2) one for the members belonging to the De-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes; and

(b)

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(2) The four reserved seats referred to in sub-section (1) shall unless where the bye-laws of the society already provide for the reserved seats be in addition to the strength of the members of the committee of such a society or class of societies.

(3) Any individual member of the society, or any elected member of the committee of a member-society, or any member of the committee of a member society, whether elected, co-opted or appointed under this section, belonging to the Scheduled Castes or Scheduled Tribes or other Backward Classes or

De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Special Backward Classes, or as the case may be, weaker section, shall be eligible to contest the election to a reserved seat and every person who is entitled to vote at the election to the committee shall be entitled to vote at the election to any such reserved seat.

(4) Where no person is elected to any of the four reserved seats, then—

(a) in the case of a society other than a society mentioned in clauses (b) and (c), the Chief Executive Officer such as the Chairman, Secretary or Manager or any other officer by whatever designation called ;

(b) in the case of a society notified under section 73-IC, the Registrar; and

(c) in the case of a society specified under section 73-G, the Collector;

shall call a meeting of the elected members of the committee to co-opt a member or, as the case may be, members on the committee from amongst the persons entitled to contest the election under sub-section (3), and such meeting shall be presided over by the Chairman, if it is a society referred to in clause (a), or by the Collector or any other officer authorised by him, if it is a specified society or by the Registrar or any other officer authorised by him, if it is a notified society, if no member is co-opted at such meeting, the Chairman or the Collector or, where the meeting is presided over by an officer authorised by the Registrar, such officer, as the case may be, shall within a period of seven days from the date of such meeting, report the fact to the Registrar, and thereupon the Registrar shall, within a period of seven days from the date of receipt of such report by him or where the Registrar himself has presided over such meeting, within a period of seven days from the date of such meeting appoint on the committee a person or persons as the case may be from amongst the persons entitled to contest the election to the reserved seats under sub-section (3),

Explanation.—For the purposes of this section—

(a) to (b-1) * * * * * * * *

(c) the expression “ members belonging to weaker section” means a member or such class of members as the State Government may, by general or special order from time to time, declare.

Reservation of
seats for
employees on
committees of
certain
societies.

73BB. (1) On the committee of such society or class of societies as the State Government may, by general or special order, direct where the number of permanent salaried employees of the society is 25 or more,—

(a) if the number of members of the committee thereof is 11 or less—one seat; and

(b) if the number of such members is 12 or more—one additional seat for every 10 members over and above the first 11 members, shall be reserved for such employees. The seats so reserved shall be filled by selection made by the union or unions recognised under the Bombay Industrial Relations Act, 1946 or the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, from amongst such employees. Where there is no such recognised union or unions and where there is no union at all or where there is a dispute in relation to such issues including whether a union is recognised or not, then the seats so reserved shall be filled by an election by such employees from amongst themselves in the prescribed manner. Any person selected or nominated as a member of the committee to any reserved seat shall not be entitle to be elected as an officer of such society, or to vote at any election of officers.

Explanation.—For the purposes of this section the members of the committee shall mean and include elected, appointed, nominated, co-opted as well as *ex-officio* members of the committee but it shall not include the representatives of the employees ;

(2) No employee who is under suspension shall be eligible for being selected or elected or for being continued as a member under sub-section (1) ;

(3) Subject to the provisions of sub-section (2), the term of a member representing the employees shall be co-terminus with the term of the committee as provided under the bye-laws of the society and after every fresh election of the members of the committee a fresh selection or election, as the case may be, of a member under sub-section(1) shall be necessary.

73BBB. (1) Notwithstanding anything contained in this Act, or in the rules made thereunder, or in the bye-laws of any society, there shall be reserved seats for women on the committee of each society to represent the women members in the following manner, namely :-

Reservation of seats on committees of societies for women members and election thereto.

(a) one seat on the committee consisting of not more than 9 committee members;

(b) two seats on the committee consisting of 10 or more, but not exceeding 19 committee members, and

(c) three seats on the committee consisting of 20 or more committee members.

Explanation.— For the purpose of determining of number of committee members under this sub-section, committee members who are elected, co-opted, nominated, appointed or otherwise occupying the position on the committee under section 73B, 73BB and under this sub-section shall not be included.

(2) The reserved seats referred to in sub-section (1) shall be in addition to the strength of the members of the committee of a society:

Provided that, where the bye-laws of a society already provide for reservation of seats for women on the committee thereof total number of seats to be so reserved for women shall be equal to the number of seats specified in sub-section (1).

(3) Any individual woman member of the society, or any woman member of the committee of a member society, whether elected, co-opted or appointed, shall be eligible to contest the election to a reserved seat on a committee of a society, and every person who is entitled to vote at the election of the committee shall be entitled to vote at the election to any such reserved seat.

(4) Where no woman member or, as the case may be, women members are elected to the reserved seats, then—

(a) in the case of a society other than a society mentioned in clauses (b) and (c), the Chief Executive Officer, such as the Chairman, Secretary or Manager or any other Officer, by whatever designation call hereinafter in this section collectively referred to as “the Chairman”;

(b) in the case of a society notified under section 73-IC, the Registrar; and

(c) in the case of a society specified under section 73G, the Collector; shall call a meeting of the elected members of the committee to co-opted a woman member or, as the case may be, women members of the Committee

from amongst the persons entitled to contest the election under sub-section (3), and such meeting shall be presided over by the Chairman, if it is a society referred to in clause (a), or by the Registrar or any other officer authorised by him, if it is a notified society or by the Collector or any other officer authorised by him, if it is a specified society. If no woman member is co-opted at such meeting, the Chairman or the Collector or, where the meeting is presided over by an officer authorised by the Registrar or the collector, such officer, as the case may be, shall, within a period of seven days from the date of such meeting, report the fact to the Registrar and thereupon the Registrar shall within period of seven days from the date of receipt of such report by him, or where the Registrar himself has presided over such meeting, within a period of seven days from the date of such meeting, appoint on the committee a woman member or women members, as the case may be from amongst the women members entitled to contest the election to the reserved seats under sub-section (3).

(5) Nothing in this section shall apply to a committee of any society which exclusively of men members, or as the case may be, of women members.

(6) Where election to the committee of any society has been held without holding election to such additional reserved seats or where election to such additional reserved seat could not be held on or before the 30th September, 1992 on account of any directions issued under section 157, then unless the process for election to the committee including such additional reserved seats for woman members has already commenced, or election to the committee is or will be due and will be held after the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1992, such additional reserved seats of the committee shall be filled in by co-option of women members by the committee of the society.

(7) Notwithstanding anything contained in sub-section (6) no election to such additional reserved seats shall be held where the term of the committee of a society is to expire within six months from the date of the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1991.

(8) The term of office of such women members elected, co-opted or as the case may be, appointed on a committee, shall be co-terminate with the term of the committee as provided under the by-laws of the society and at the time of every fresh election thereafter election shall be held to the additional reserved seats for women members in accordance with the provisions of this section.

Restrictions on representation of certain class of members on committees of certain societies and for being designated officers. **73C.** (1) In the case of a District Central Co-operative Bank or an Apex Co-operative Bank of the District Central Co-operative Bank, there shall not be more than one representative to be elected by individual members from amongst themselves on the committee of such Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.

(2) In the case of a District Co-operative Agriculture and Rural Multipurpose Development Bank of State Co-operative Agriculture and Rural Multipurpose Development Bank, there shall not be more than one representative on the committee of such Bank, of members, who have not taken any loans from the Bank, and such representative shall not be eligible for being elected or appointed as a designated officer.

(3) In the case of an Agricultural Credit Society which gives loans to individuals for the raising of crops, there shall not be more than one representative on the committee of such society, of members who have not

taken any loans from the society; and that representative shall be elected only from amongst members, who have not taken loans. Such representative shall not be eligible for being elected as a designated officer.

73D.

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73E. In the case of such class or classes of societies as may be specified by the State Government, by notification in the *Official Gazette*. No member shall be eligible for being elected or appointed as a designated officer, if he does not fulfill the minimum qualification relating to his transactions with the society of such monetary limits as may be laid down, from time to time, in such notification.

In specified societies members not having minimum number of transactions of certain monetary limits not entitled to be designated officers.

73EA. Without prejudice to the other provisions of this Act or the rules made thereunder, in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, co-opted or, for being a director of a District Central Co-operative Bank or of the State Co-operative Bank, if he,—

Disqualification for being director of District Central Co-operative Bank or State Co-operative Bank.

(i) is a person who represents a society other than a primary agricultural credit co-operative society on the board of a District Central Co-operative Bank or State Co-operative Bank, if the society to whom he represents has committed a default towards the payments of such Bank for a period exceeding ninety days ;

(ii) is a person who is defaulter of a primary agricultural credit co-operative society or is an office bearer of a defaulting primary agricultural co-operative credit society ;

(iii) is a person, who represents a society whose Managing Committee is superseded."

73F (1) In the case of a society which gives loans to members for purchasing machinery, implements, equipment, commodities or other goods, or which deals in such goods, no member who is a dealer in such goods or is a director of a company or a partner in a firm carrying on business in such goods, in the area of operation of the society, shall be eligible for being elected or appointed as a member of the committee of such society.

Member who is dealing in goods for purchase for purchase of which loans are given by society not eligible to be on its committee.

(2) any member who desires to carry on the business of the kind carried on by the society outside the area of operation of the society may apply to the society for permission to carry on such business. The society may grant such permission subject to such conditions as may be prescribed.

73-FF. (1) Without prejudice to the other provisions of this Act or the rules made thereunder in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, elected, co-opted or, for being a member of a committee, if he—

Disqualification for membership of committee.

(i) is a defaulter of any society :

Explanation.—For the purposes of this clause, the term "defaulter" includes—(a) in the case of a primary agricultural credit society, a member who defaults the repayment of the crop loan on the due date :

(b) in the case of term lending society, a member who defaults the payment of any installment of the loan granted to him :

(c) in the case of any society—

(i) a member who has taken anamat or advance ; or

(ii) a member who has purchased any goods or commodities on credit or availed himself of any services from the society for which charges are payable ; and fails to repay the full amount of such anamat or advance or pay the price of such goods or commodities or charges for such service, after receipt of notice of demand by him from the concerned society or within thirty days from the date of withdrawal of anamat or advance by him or from the date of delivery of goods to him or availing of service by him, whichever is earlier.

(d) in the case of non-agricultural credit societies, a member who defaults the payment of any installment of the loan granted ,

(e) in the case of housing societies, a member who defaults the payment of dues to the society within three months from the date of service of notice in writing served by post under certificate of posting demanding the payment of dues :

(i) has, in the opinion of the Registrar, deliberately committed breach of co-operative discipline with reference to linking up of credit with co-operative marketing or co-operative processing ; or

(ii) has been held responsible under section 79 or 88 or has been held responsible for payment of costs of inquiry under section 85 ; or

(iii) has incurred any disqualification under this Act or the rules made thereunder ; or

(iv) carries on business of the kind carried on by the society either in the area of operation of the society or in contravention of the provisions of sub-section (2) of section 73 F ; or

Explanation.—For the purposes of this clause, the expression “family” means a wife, husband, father, mother, brother, sister, son, daughter, son-in-law or daughter-in-law ; or

(v) is a salaried employee of any society (other than a society of employees themselves) or holds any office of profit under any society, except when he holds or is appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not to disqualify its holder or is entitled to be or is selected or elected to any reserved seat on the committee of a society under section 73BB.

(vi) has more than two children :

Provided that, a person having more than two children on the date of commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 2001 (hereinafter in this clause referred to as “the date of such commencement”), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase ;

Provided further, that, a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause.

Explanation.—For the purposes of this clauses –

(a) where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity ;

(b) "child" does not include an adopted child or children.

(2) A member who has incurred any disqualification under sub-section (1), shall cease to be a member of the committee and his seat shall thereupon be deemed to be vacant.

73-FFF. (1) A Member of a committee who has ceased to be a member thereof on account of having incurred disqualification under clause (i) of sub-section 73FF shall be eligible to be re-appointed, re-nominated, re-co-opted, or re-elected as a member of the committee after the expiry of the period of two years from the date on which he has so ceased to be a member of the committee.

Eligibility for reappointment or reelection as member of committee

(2) A Member of a committee who has ceased to be a member thereof on account of having incurred disqualification under clause (iii) of sub-section (i) of section 73FF shall be eligible to be re-appointed, re-nominated, re-co-opted, or re-elected as a member of the committee after the expiry of the period of five years from the date on which he has so ceased to be a member of the committee.

(3) A Member of a committee who has ceased to be a member thereof on account of having incurred disqualification other than disqualifications referred to in sub-sections (1) and (2), shall, unless otherwise specifically provided in this Act, be eligible to be re-nominated, re-co-opted, re-appointed or re-elected as a member of the committee as soon as such disqualification ceases to exist.

73G. (1) The election of the members of the committees and the officers by the committees, of the societies of the categories mentioned below shall be subject to the provisions of Chapter XI –A and shall be conducted in the manner laid down by or under that Chapter :—

Provision for conduct of elections to committees and of officers of certain societies and term of office of members of such committees.

(i) such Apex societies which the State Government may, by general or special order published in *Official Gazette*, from time to time, specify in this behalf, regard being had to the financial position and share capital of such societies.

(ii) all District Central Co-operative Banks ;

(iii) all District Co-operative Agriculture and Rural Multipurpose Development Banks ;

(iv) (a) all District Co-operative Sale and Purchase Organisations ;

(b) all Taluka Co-operative Sale and Purchase Organisations ;

(v) all Co-operative Sugar Factories ;

(vi) all Co-operative Spinning Mills ;

(vii) any other societies or class of societies, which the State Government may, by general or special order published in the *Official Gazette*, from time to time, specify in his behalf, regard being had to the financial position and share capital of such societies or class of societies.

(2) When the election of all the members of the committee of any such society is held at the same time, the members elected on the committee at such general election shall hold office for a period of five years from the date on which the first meeting is held, unless the period is extended by the State Government, for reasons to be recorded in writing for a period not exceeding one year so however that the total period does not exceed six years in the aggregate.

(2A) The term of office of the members who are appointed or nominated or co-opted or selected or elected on the committee or including to fill the vacancy shall be co-terminus with the term of office of the elected members under sub-section (1), notwithstanding the date of their such appointment, nomination, co-option, selection or election including to fill the vacancy.

(2B) Where, for any reason whatsoever, the election of the members of the committee was not held or could not be held before the expiry of the term or the extended term, as the case may be, of the existing committee, the members (including the officers of the committee) shall cease to hold office on the expiry of its term or extended term, as the case may be, and they shall be deemed to have vacated their offices :

Provided that where the collector fails to hold election to the committee of any such society, the term of office of the members of the committee of that society shall be deemed to have been extended till the date immediately preceding the date of the first meeting of the newly constituted committee.

(3) Notwithstanding anything in the bye-laws of any such society only the committee of management shall be elected by a general body of members of the society ; and all other committees authorised by or under the bye-laws may be constituted only by electing or appointing persons from among the persons who are members of the committee of management, and all such committees shall be sub-committees of the committee of management, and shall be subordinate to it.

(4) (a) There shall be two professionals on the board of directors of District Central Co-operative Bank and State Co-operative Bank having qualifications prescribed by the Reserve Bank of India or the National Bank.

(b) The Registrar shall direct the bank concerned to co-opt such professionals on the board of directors within the time limit specified in the direction by the Registrar. If the bank fails to comply with the aforesaid directions, the Registrar himself shall appoint such professional directors and such appointment shall be binding on the said bank. The professional director shall have all the rights inclusive of voting right.

Responsibility
of committee
to hold
election before
expiry of term.

73H. (1) It shall be the duty of the committee of every society to arrange for holding the election of its members before the expiry of its term.

(2) Where there is a wilful failure on the part of the committee to hold the election to the committee before the expiration of its term, the committee shall cease to function on the expiration of its term and the members thereof shall cease to hold office and the Registrar may himself take over the management of the society or appoint an Administrator (who shall not be from amongst the members of the committee the term of which has so expired) and the Registrar or Administrator shall hold election within a period of six months and the committee shall be constituted before the expiration of that period :

Provided that, in the case of co-operative credit structure entity, the Registrar or Administrator shall hold election within a period of two months from the date of taking over the management of the society.

74.

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Annual
general
meeting.

75. (1) Every society shall, within a period of three months next after the date fixed for making up its accounts for the year under the rules for the time being in force, call a general meeting of its members :

Provided that, the Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three

(i) on a requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the by-laws for the purpose, whichever is lower, or

(ii) at the instance of the Registrar, or

(iii) in the case of a society, which is a member of a federal society, at the instance of the committee of such federal society.

(2) where, any officer or a member of the committee, whose duty it was to call such meeting, without reasonable excuse, fails to call such meeting, the Registrar may by order declare such officer or member disqualified for being a member of the committee for such period not exceeding three years, as he may specify in such order ; and if the officer is a servant of the society, he may impose on him a penalty not exceeding one hundred rupees. Before making an order under this sub-section, the Registrar shall give, or cause to be given, a reasonable opportunity to the person concerned of showing cause against the action proposed to be taken in regard to him.

(3) If a special general meeting of a society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf, shall have power to call such meeting, and that meeting shall be deemed to be a meeting duly called by the committee.

(4) * * * * *

77. * * * * *

77A. (1) Where the Registrar is satisfied that,—

(1a) and (a) * * * * *

(b) the term or extended term, as the case may be, of the committee of any society or of any of its members has expired or for any other reason election is held and there is a failure to elect all or any of the members required to fill the vacancies ;

(c) and (d) * * * * *

(f) Where more than one group of persons in a society is claiming to be elected as the committee members and proceedings in respect thereof have been filed in the Co-operative Court ; the Registrar may, either *suo-motu* or on the application of any officer of the society, be order appoint—

(i) any member or members of the society to be the member or members of the committee to fill the vacancies ;

(ii) a committee, consisting of not more than three members of the society, or one or more administrators, who need not be members of the society, to manage the affairs of the society till a new committee enters upon office :

Provided that, before making such order, the Registrar shall publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period :

Provided further that, it shall not be necessary to publish such notice in any case where Registrar is satisfied that immediate action is required to be taken or that it is not reasonably practical to publish such notice.

(2) The Committee or Administrator so appointed shall, subject to the control of the Registrar and to such instructions as he may, from time to

Appointment
of member of
committee.
new
committee or
Administrator,
where there is
failure to elect
member, to
constitute
committee or
where
committee
does not enter
upon office.

time, give, have power to discharge all or any of the functions of the committee or of any officer of the society, and take all such action as may be required to be taken in the interests of the society.

(3) The Committee or Administrator so appointed shall hold office for a period of six months from the date of assuming the management of the society and shall make necessary arrangements for constituting a new committee within the said period and for enabling the new committee including any new committee referred to in clause (f) of sub-section (i) which is determined by the court to have been legally elected, to enter upon office :

Provided, that a committee or Administrator so appointed shall make necessary arrangements for constituting a new committee of the co-operative credit structure entity within two months from the date of assuming the management of the society :

Provided further, that, if a committee is not, or cannot be constituted at the expiry or determination of the term of office of the committee or the Administrator, as the case may be, shall be deemed to be extended until the new committee is duly constituted :

Provided also that, in no circumstances the term of office of the committee of, or the Administrator appointed on, the co-operative credit structure entity shall exceed six months from the date of expiry of the term of its committee.

(4) The Registrar shall have the power to change the committee or any or all members thereof or any or all the administrators appointed under sub-section (1) at his discretion even before the expiry of the period specified in the order made under sub-section (1).

(5) The provisions of sub-section (24) of section 78 shall apply mutatis mutandis for fixation of remuneration to be paid to the members or administrators appointed under sub-section (f).

78. (1) If, in the opinion of the Registrar, the committee of any society or any member of such committee makes default, or is negligent in the performance of the duties imposed on it or him by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interests of the society or its members, or wilfully disobeys directions issued by the State Government, or by the Registrar for the purposes of securing proper implementation of co-operative policy and development programme approved or undertaken by the State Government or is otherwise not discharging its or his functions properly and diligently or where a situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions and the business of the society has or is likely to come to a stand-still, or where any member of such committee stands disqualified by or under this Act for being a member, the Registrar may, after giving the committee or the member, as the case may be, an opportunity of stating its or his objections, if any, within 15 days from the date of receipt of notice and after consultation with the federal society to which the society is affiliated, by order—

Power of removal of committee or member thereof.

(a) (i) remove the committee, and—

(ii) appoint a committee consisting of three or more members (who shall not be the members of the committees so removed) of the society in its place, or appoint one or more Administrators who need not be members of the society, but who shall not be the members of the committee so removed to manage the affairs of the society for a period not exceeding six months, which period, at the discretion of the Registrar, be extended by a further period not exceeding three

months so, however, that the total period does not exceed nine months in the aggregate :

Provided that, the Registrar shall have the power to change the committee or any member thereof or the administrator or administrators appointed under paragraph (ii) at his discretion even before the expiry of the period specified in the order made under this sub-section ;

(b) remove the member and appoint any person as member of such committee in his place, or direct the society to elect or appoint a member in his place, for the remainder of the term of office of the member so removed:

Provided that, the member who has been so removed, shall not be eligible to be re-elected, re-appointed, re-nominated, or re-co-opted, as a member of the Committee till the expiry of the period of next one full term of the Committee from the date on which he has been so removed or till such lesser period as may be laid down under the provisions of section 73FFF or 144E, as the case may be :

Provided further that, the supersession or removal of the committee of the District Central Co-operative Bank or the State Co-operative credit society shall not be done without prior consultation with the Reserve Bank of India :

Provided also that, the committee of a primary agricultural co-operative credit society shall not be superseded by the Registrar, except under the following circumstances, namely :-

- (i) if a society incurs losses for three consecutive years; or
- (ii) if serious financial irregularities or frauds have been identified; or
- (iii) if there are judicial directives to this effect; or
- (iv) if there is perpetual lack of quorum:

Provided also that, the members of the Board of a Primary agricultural credit co-operative society which has been superseded shall not be eligible to be re-elected, re-appointed, re-nominated or re-co-opted, as a member of the committee for a period of three years from the date of supersession of the Board.

(1A) When a notice is issued against any committee or member under sub-section (1), if resignation from any office is tendered by the committee or member, it shall not be valid or effective until two months have elapsed from the date of issue of the notice or until it is permitted to be accepted by the Registrar, whichever is earlier.

(2) The committee or administrator so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society, and take all such action as may be required in the interests of the society. The committee or administrator appointed as aforesaid shall, notwithstanding anything contained in the bye-laws, have power to call a special general meeting of the society to review or to reconsider the decision or the resolution taken or passed at the general meetings called by the previous committee or to endorse action taken by it.

(2A) The Registrar may fix the remuneration payable to the administrators and any expenses of management which shall be payable out

of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at intervals the Registrar may direct the person having custody of the funds of the society to pay to the administrators such remuneration and expenses in priority to any other payments (except land revenue, any arrears of land revenue, or any sum recoverable from the society as arrears of land revenue) and he shall, so far as the funds to the credit of the society allow, comply with orders of the Registrar.

(3) If at any time during any period, or extended period referred to in subsection (1), it appears to the Registrar that it is no longer necessary to continue to carry on the affairs of the society as aforesaid, the Registrar, may, by an order direct that the management shall terminate; and on such order being made, the management of the society shall be handed over to a new committee duly constituted.

(4) The committee or administrator shall, at the expiry or termination of its or his term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society :

Provided that, the committee or Administrator shall make arrangements for constitution of a new committee of co-operative credit structure entity, within a period of two months from the date of order of supersession of board of co-operative credit structure entity :

Provided further that, if a new committee is not, or cannot be constituted at the expiry or termination of the term of office of the committee or administrator, for any reason beyond the control of the committee or administrator, the term of office of the committee or the administrator, as the case may be, shall be deemed to be extended, until the new committee is duly constituted :

Provided also that, in no circumstances the term of office of the committee or, or the Administrator appointed on, the co-operative credit structure entity shall exceed six months from the date of supersession of the committee.

(5) All acts done or purported to be done by the committee or administrator during the period the affairs of the society are carried on by the committee or administrator appointed under sub-section (1), shall be binding on the new committee.

79. (1) The Registrar may direct any society or class of societies, to keep proper books of accounts with respect to all sums of money received and expended by the society, and the matters in respect of which the receipt and expenditure take place, all sales and purchases of goods by the society, and the assets and liabilities of the society, and to furnish such statements and returns and to produce such records as he may require from time to time; and the officer or officers of the society shall be bound to comply with his order within the period specified therein.

Registrar's
Power to
enforce
performance
of obligations.

(2) Where any society is required to take any action under this Act, the rules or the bye-laws, or to comply with an order made under the foregoing sub-section and such action is not taken—

(a) within the time provided in this Act, the rules or the bye-laws, or the order, as the case may, or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by notice in writing.

the Registrar may himself, or through a person authorised by him, take such action, at the expense of the society; and such expense shall be recoverable from the society as if it were an arrear of land revenue.

(3) Where the Registrar takes action under sub-section (2), the Registrar may call upon the officer or officers of the society whom he considers to be responsible for not complying with the provisions of this Act, the rules or the bye-laws, or the order made under sub-section (1), and after giving such officer or officers an opportunity of being heard, may require him or them to pay to the society the expenses paid or payable by it to the State Government as a result of their failure to take action, and to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out.

Government's
power to give
directions in
the public
interest, etc.

79A. (1) and (2)

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(3) Where the Register is satisfied that any person was responsible for complying with directions or modified directions issued to a society under sub-sections (1) and (2) and he has failed, without any good reason or justification, to comply with the directions, the Register may by order.—

(a) if the person is a member of the committee of the society, remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order ;

(b) if the person is an employee of the society, direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this order remove the members, appoint other persons as members and declare them disqualified as provided in clause (a) above :

Provided that, before making any order under this sub-section, the Register shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated.

79AA.

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Registrar's
power to
remove
member for
failure to
supply his
agricultural
produce to
processing
society.

79B. (1) Where any producer-member of a processing society fails to supply his agricultural produce to the society in accordance with the provisions of the by-laws of the society, the Registrar may, on complaint made by the society or *suo motu*, issue a notice to the member to show cause, within a period specified in the notice, why for such failures he should not be removed from the membership of the society.

(2) After holding such inquiry as he thinks fit and giving a reasonable opportunity of being heard to the member, if the Registrar is satisfied that the member has failed, without any good reason or justification to supply his agricultural produce to the society in accordance with the provisions of the by-laws, the Registrar may by order remove the person concerned as a member of the society with effect from such date as may be specified in the order, and thereupon the person shall cease to be a member of the society on and from that date. Any order made by the Registrar under this section shall be final.

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CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SUPERVISION

81. (1) (a) The Registrar shall audit, or cause to be audited, at least once in each co-operative year, by a person authorised by him by general or special order in writing in this behalf, the accounts of every society which has been given financial assistance including guarantee by the State Government or Government undertakings, from time to time, and the accounts of the apex societies, State and District, Level Federal Societies, District Central Co-operative Banks, Co-Operative Sugar Factories, Urban Co-operative Banks, Co-operative Spinning Mills, District and Taluka Co-operative Sale and Purchase Organisations, and any such Society or class of Societies which the State Government may, from time to time, by notification in the *Official Gazette*, specify : Audit.

Provided that, the audit of the District Central Co-operative Bank and the State Co-operative Bank shall be conducted by a Chartered Accountant approved by the National Bank ;

(b) The societies other than the societies referred to in clause (a) shall arrange to get their accounts audited, at least once in each co-operative year, by an auditor from the panel of auditors maintained by the Registrar, or by a chartered accountant holding a certificate in co-operative audit issued by the Institute of Chartered Accountants of India :

Provided that, the Registrar may, for reasons to be recorded in writing, audit or cause to be audited accounts of any such societies of any year and at any time.

Provided further that, the primary agricultural credit co-operative society shall arrange to get their accounts audited at least once in each co-operative year by an auditor from the panel of auditors maintained by the Registrar; or by a Chartered Accountant holding a certificate in co-operative audit issued by the Institute of chartered Accountants of India. The District Central Co-operative Bank and the State Co-operative Bank shall arrange to get their accounts audited at least once in each co-operative year through a chartered Accountant from the panel of auditors approved by the National Bank.

(2) The audit under sub-section (1) shall include examination or verification of the following items, namely :—

(i) overdues of debts, if any;

(ii) cash balance and securities and a valuation of the assets and liabilities of the society ;

(iii) whether loan and advances and debts made by the society on the basis of security have been properly secured and the terms on which such loans and advances are made or debts are incurred are not prejudicial to the interest of the society and its members ;

(iv) whether transactions of the society which are represented merely by book entries are not prejudicial to the interest of the society;

(v) whether loans and advances made by the society have been shown as deposits ;

(vi) whether personal expenses have been charged to revenue account ;

(vii) whether the society has incurred any expenditure in furtherance of its objects ;

(viii) whether the society has properly utilised the financial assistance granted by Government or Government undertakings or financial institutions, for the purpose for which such assistance was granted;

(ix) where the society is properly carrying out its objects and obligations towards members.

(2A) Where, in the opinion of the State Government, it is necessary in the public interest to do so in relation to any society or class of societies for ensuring management thereof in accordance with sound business principles or prudent commercial practices, the State Government may, by order, direct that such society or class of societies shall prepare and maintain its accounts in the form determined by the State Government, from time to time and that cost audit or performance audit or both, of such society or class of societies, as may be specified in the order, shall be conducted.

(2B) where any order is issued under sub-section (2A), the Registrar shall cause such audit of such society or class of societies to be conducted by a cost accountant who is a member of the Institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountant Act, 1959.

(3) (a) The Registrar or the person authorised shall, for the purpose of audit, at all time have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society, and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the head-quarters of the society or any branch thereof.

(b) The Registrar shall be competent to depute Flying Squad to a society or societies for examination of books, records, accounts, and such other papers and for verification of cash balance. The report of the Flying Squad shall be deemed to be an audit report for the purpose of taking further action, if necessary.

(c) The Registrar or the person authorised by him in this behalf may carry out or cause to be carried out the test audit of the accounts of any society. The test audit shall include the examination of such items as may be prescribed.

(4) to (5A) * * * * * * * *

(5B) The auditor shall submit an audit memorandum duly signed by him to the society and to the Registrar in such form as may be specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period up to which the accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation, given to him by the society the said accounts give all information required by or under this Act and present the true and fair view of the financial transaction of the society.

(6) and (7) * * * * * * * *

Rectification
of defects in
accounts.

82. If the result of the audit held under the last preceding section discloses any defects in the working of a society, the society shall within three months from the date of the audit report, explain to the Registrar the defects on the irregularities pointed out by the auditor, and take steps to rectify the defects and remedy irregularities, and report to the Registrar

the action taken by it thereon. The Registrar may also make an order directing the society or its officers to take such action, as may be specified in the order to remedy the defects, within the time specified therein. Where the society concerned is a member of a federal, society, such order shall be made after consulting the federal society.

83. (1) The Registrar may of his own motion, and shall on the application of one-third of the members of a society, himself or by a person duly authorised by him in writing in this behalf, hold an enquiry into the constitution, working and financial condition of a society.

(2) * * * * * * * *

(3) (a) All officers, members and past members of the society in respect of which an inquiry is held, and any other person who, in the opinion of the officer holding the inquiry is in possession of information, books and papers relating to the society, shall furnish such information as is in their possession, and produce all books and papers relating to the society which are in their custody or power, and otherwise give to the officer holding an inquiry all assistance in connection with the inquiry which they can reasonably give.

(b) If any such person refuses to produce to the Registrar or any person authorised by him under sub-section (1), any book or papers which it is his duty under clause (a) to produce or to answer any question which is put to him by the Registrar or the person authorised by the Registrar in pursuance of sub-clause (a), the Registrar or the person authorised by the Registrar may certify the refusal and the Registrar, after hearing any statement which may be offered in defence, punish the defaulter with a penalty not exceeding five hundred rupees. Any sum imposed as penalty under this section shall, on the application by the Registrar or the person authorised by him, to a Magistrate having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by himself.

(4) and (5) * * * * * * * *

84. * * * * * * * *

85. (1) Where an inquiry is held under section 83 or an inspection is made under the last preceding section, the Registrar may apportion the costs, or such part of the costs, as he may think just, between the society, the members or creditors demanding the inquiry or inspection, the officers or former officers and the members or past members or the estates of the deceased members of the society :

Costs of Inquiry and inspection.

Provided that,—

(a) no order of apportionment of the costs shall be made under this section, unless the society or persons, or the legal representative of the deceased person liable to pay the costs thereunder, has or have been heard, or have had a reasonable opportunity of being heard ;

(b) the Registrar shall state in writing the grounds on which the costs are apportioned.

(2)

86. and 87. * * * * * * * *

88. (1) Where, in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 or the winding up of a society, the registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 83 or person authorised to inspect the books under section 84 or the Liquidator under section 105 or otherwise that any person who has taken

Power of Registrar to access damages against delinquent promoters etc..

any part in organisation or management of the society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of commencement of such audit or date of order for inquiry, inspection or winding up, misapplied or retained, or become liable or accountable for, any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorised by him in that behalf may frame charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or the property or any part thereof, with interest at such rate as the Registrar or the person authorised under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

(2) and (3) * * * * * * * *

88A. and 89. * * * * * * * *

Power to
inspect
working of
society.

89A. (1) It shall be competent for the Registrar to inspect or cause to be inspected the working of any society to ensure that—

(a) the provisions of the Act, rules and bye-laws of the society are being properly followed by the society ;

(b) the records and books of accounts are kept in proper forms ;

(c) the business of the society is being run on sound business principles ;

(d) the society is following the co-operative principles and the directives or directions given by the State Government in accordance with the provisions of this Act and the rules made thereunder :

Provided that, inspection of the societies specified under section 73 G shall be undertaken by the Registrar or by the officer not below the rank of Deputy Registrar of Co-operative Societies authorised by him in this behalf.

(2) to (5) * * * * * * * *

90. * * * * * * * *

CHAPTER IX

SETTLEMENT OF DISPUTES

Disputes.

91. (1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, election of the committee or its officers other than elections of committees of the specified societies including its officers, conduct of general meetings, management or business of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, to a Co-operative Court, if both the parties thereto are one or other of the following :—

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer deceased agent or deceased servant of the society, or the Liquidator of the society or the Official Assignee of a de-registered society ;

(b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society or person who claims to be a member of the society ;

(c) a person other than a member of the society, with whom the society has any transactions in respect of which any restrictions or regulations have been imposed, made or prescribed under section 43, 44 or 45, and any person claiming through such person ;

(d) a surety of a member, past member or deceased member, or surety of a person other than a member with whom the society has any transactions in respect of which restriction have been prescribed under section 45, whether such surety or person is or is not a member of the society ;

(e) any other society, or the Liquidator of such a society or de-registered society or the Official Assignee of such a de-registered society :

Provided that, an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947, or rejection of nomination paper at the election to a committee of any society other than a notified society under section 73-IC or a society specified by or under section 73-G, or refusal of admission to membership by a society to any person qualified therefor or any proceeding for the recovery of the amount as arrear of land revenue on a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or sub-section (1) of section 137 or the recovery proceeding of the Registrar or any officer subordinate to him or an officer of society notified by the State Government, who is empowered by the Registrar under sub-section (1) of section 156, or any orders, decisions, awards and actions of the Registrar against which an appeal under section 152 or 152A and revision under section 154 of the Act have been provided, shall not be deemed to be a dispute for the purposes of this section.

(3) * * * * * * * *

91A. * * * * * * * *

92. (1) Notwithstanding anything contained in the Limitation Act, 1963, but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Co-operative Court under the last preceding section shall –

(a) when the dispute relates to the recovery of any sum, including interest thereon, due a society by a member thereof be computed from the date on which such member dies or ceases to be a member of the society ;

(b) When the dispute is between a society or its committee, and any past committee, any past or present officer, or past or present agent or past or present servant or the nominee, heir or legal representative or a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 102, or in respect of which a nominated

committee or an administrator has been appointed under section 77A or 78, be six years from the date of the order issued under section 102, or section 77A or 78, as the case may be ;

(d) when the dispute is in respect of an election of a committee or officers of the society, be two months from the date of the declaration of the result of the election.

(2) and (3) * * * * *

93. * * * * *

Procedure for
settlement of
disputes and
power of co-
operative
Court.

94. (1) to (3) * * * * *

(3A) In any case in which a dispute is decided by the Co-operative Court ex-parte against any person, he may apply to the Court, within thirty days from the date of the decision, to set it aside. If he satisfies the Court that there was sufficient cause for his failure to appear when the dispute was called and heard, the Court shall make an order setting aside the decision as against him, upon such terms as to costs, payment into Court or, otherwise, as it thinks fit, and appoint a day for hearing and deciding the dispute so far as it relates to him.

(4) * * * * *

Attachment
before award
or order and
inter-locutory
orders.

95. (1) Where a dispute has been referred to the Co-operative Court under section 93 or 105 or whether the Registrar or the person authorised under section 88 (hereinafter in this section referred to as "the authorised person") hears a person against whom charges are framed under that section and the Co-operative Court or the Registrar or the authorised person, as the case may be, is satisfied on inquiry or otherwise that a party to such dispute or the person against whom proceedings are pending under section 88, with intent to defeat, delay or obstruct the execution of any award or the carrying out of any order that may be made.-

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from its or his jurisdiction.

the court or the Registrar or the authorised person, as the case may be, may, unless adequate security is furnished, direct conditional attachment of the said property, and such attachment shall have the same effect as if made by a competent Civil Court.

(2) to (4) * * * * *

Decision of
Co-operative
Court.

96. When a dispute is referred to arbitration, the Co-operative Court may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings, and fees and expenses payable to the Co-operative Court. In case of money claim preferred by society against a member, the amount of award representing the interest shall not be less than the amount of interest accrued thereon in accordance with the contractual rate of interest, but where such money claim relates to any loan referred to in section 44A, the provision of that section shall apply to such money claim as they apply to loan under section 44A.

Appeal
against
decision under
section 96 and
order under
section 95..

97. Any party aggrieved by any decision of the Co-operative Court under the last preceding section or order passed by the Co-operative Court or the Registrar or the authorised person under section 95 may within two months from the date of the decision or order, appeal to the Co-operative Appellate Court.

98. Every order passed by the Official Assignee of a de-registered society under sub-section (3) of section 21A or every order passed by the Registrar or a person authorised by him under section 88 or by the Registrar or the Co-operative Court under section 95 or by the Co-operative Court under section 96, every order passed in appeal under the last preceding section, every order passed by a Liquidator under section 105, every order passed by the State Government in appeal against orders passed under section 105 and every order passed in revision under section 154 shall, if not carried out,-

Money how recovered.

(a) on a certificate signed by the Official Assignee or the Registrar or the Co-operative Court or a Liquidator, be deemed to be a decree of a Civil Court, and shall be executed in the same manner as a decree of such Court, or

(b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue :

Provided that, any application for the recovery in such manner of any such sum shall be made by the Collector, and shall be accompanied by a certificate signed by the Registrar,

Such application shall be made within twelve years from the date fixed in the order and if no such date is fixed, from the date of the order.

99. and 100.

* * * * *

101. (1) Notwithstanding anything contained in section 91, 93 and 98, on an application made by a resource society undertaking the financing of crop and seasonal finance as defined under the Bombay Agricultural Debtors Relief Act, 1974 or advancing loans for other agricultural purposes repayable during a period of not less than eighteen months and not more than five years for the recovery of arrears of any sum advanced by it any of its member on account of the financing of crop or seasonal finance or for other agriculture purposes as aforesaid or by a crop-protection society for the recovery of the arrears of the initial cost or of any contribution for obtaining services required for crop-protection which may be due from its members or other owners of land included in the proposal (who may have refused to become members) or by a lift irrigation society for the recovery of arrears of any subscription due from its members for obtaining services required for providing water supply to them or by a Taluka or Block level village artisans multi-purpose society advancing loans and arranging for cash credit facilities for artisans for the recovery of arrears of its dues or by a Co-operative housing society for the recovery of arrears of its dues, or by a Co-operative dairy society advancing loans for the recovery of arrears of any sum advanced by it to any of its members or by an urban co-operative bank for the recovery of arrears of its dues, or by salary-earners co-operative society for the recovery of arrears of its dues or by a fisheries co-operative society for the recovery of arrears of its dues or by any such society, class of societies, as the State Government may, from time to time, notify in the *Official Gazettes*, for the recovery of any sum advance to, or any subscription or any other amount due from, the members of the society or class of societies so notified and on the society concerned furnishing us a statement of accounts in respect of the arrears, the Registrar may, after making the inquiry in such manner as may be prescribed, grant a certificate for the recovery of the amount stated therein to be due as arrears. The application for grant of such certificate shall be made in such form and by following such procedure, accompanied by such fees and document as may be prescribed.

Recovery of arrears due to certain societies as arrears of land revenue.

Explanation—For the purpose of this sub-section, the expression “other agricultural purposes included dairy, pisciculture and poultry.

(2) * * * * *

(3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, and the same shall be recoverable according to the law for the time being in force for the recovery of land revenue.

(4) * * * * *

CHAPTER X

LIQUIDATION

Class I

Winding up.

102. (1) If the Registrar,-

(a) after an inquiry has been held under section 83 or an inspection has been made under section 84 or on the report of the auditor auditon the accounts of the society, or

(b) on receipt of an application made upon a resolution carried by three-fourth of the members of the society present at a special general meeting called for the purpose, or

(c) of his own motion, in the case of a society which-

(i) has not commenced working, or

(ii) has ceased working, or

(iii) possesses shares or members deposits not exceeding five hundred rupees, or

(iv) has ceased to comply with any conditions as to registration and management in this Act or the rule or the by-laws,

is of the opinion that a society ought to be wound-up, he may issue an interim order directing it to be wound-up,

(2) * * * * *

103. to 108. * * * * *

Termination
of liquidation
proceedings.

109. (1) The winding up proceeding of a society shall be closed as soon as practicable within six years from the date the Liquidator takes over the custody or control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society, under sub-section (2) of section 103 unless the period is extended by the Registrar :

Provided that, the Registrar shall not grant extension for a period exceeding one year at a time and four years in the aggregate, and shall immediately after the expiry of ten years from the date aforesaid, deem that the liquidation proceeding have been terminated, and pass an order terminating the liquidation proceedings.

Explanation—In the case of a society which is under liquidation at the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985 the period of six years shall be deemed to have commenced from the date on which the Liquidator took over the custody or control as aforesaid.

(2) and (3) * * * * *

110. * * * * *

CHAPTER X-A

INSURED CO-OPERATIVE BANKS

110A. (1) Notwithstanding anything contained in this Act, in the case of an insured Co-operative Bank—

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement, or of amalgamation, or reconstruction (including division or re-organisation), of the Bank may be made only with the previous sanction in writing of the Reserve Bank of India;

(ii) an order for the winding up of the Bank shall be made (by the Registrar) if so required by the Reserve Bank of India in the circumstances referred to in section 13-D of the Deposit Insurance Corporation Act, 1961;

(iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the bank or order shall be made (by the Register) for the suppression (removal) of the committee and the appointment of an Administrator therefore for such period or periods, not exceeding five years in the aggregate, as may from time to time, be specified by the Reserve Bank of India, and the Administrator so appointed shall, after the expiry of his term of office, continue in office until the day immediately proceeding the date of the first meeting of the new committee.

(iv) an order for the winding up of the bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction (including division or re-organisation) or an order for the suppression (removal) of the committee and the appointment of an Administrator therefore made with the previous sanction in writing or on the requisition of the Reserve Bank of India shall not be liable to be called in question in any manner, and

(v) the Liquidator or the insured co-operative bank or the transferee bank, as the case may be, shall be under an obligation to repay the Deposit Insurance Corporation established under the Deposit Insurance Corporation Act, 1961, in the circumstances, to the extent and in the manner referred to in section 21 of that Act.

Explanation—In this section,—

(a) the expression “an insured co-operative bank” means a society which is an insured bank under the provisions of the Deposit Insurance Corporation Act, 1961;

(b) the expression “the transferee bank” has the same meaning as assigned to it that Act.

(2)

* * * * *

CHAPTER XI

AGRICULTURE AND RURAL DEVELOPMENT BANKS

111.

* * * * *

112. (1) There shall be a State Co-operative Agriculture and Rural Multipurpose Development Bank for the State of Maharashtra, if considered necessary by the State Government, in the public interest or in the Co-operative Agriculture and Rural Multipurpose Development Banks; but nothing in this sub-section shall be taken to require the establishment or continuance of any Primary Co-operative Agriculture and Rural Multipurpose Development Banks.

Order for winding up reconstruction, super-session of committee etc., of insured co-operative bank, not to be made without sanction or requisition of Reserve Bank of India.

State and other Co-operative Agriculture and Rural Multipurpose Development Banks

(2) and (3)

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District
Co-operative
Agriculture
and Rural
Multipurpose
Development
Bank, its
constitution
term of office
of delegates,
casual
vacancies
powers of such
Committee
etc.

112.A (1) Notwithstanding anything contained in this Act, or in the rules made thereunder, or in the bye-laws, of the State Co-operative Agriculture and Rural Multipurpose Development Banks

(a)

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(b) Every District Co-operative Agriculture and Rural Multipurpose Development Banks shall consist of the following members that is to say,—

(i) delegates, to be elected one each from every taluka in a district;

(i-a) two members, one from the persons belonging to the Scheduled Castes or Scheduled Tribes and one from the persons belonging to the weaker section, who shall be elected from the District:

Provided that, in a district, where there are more than seven talukas and before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993, the elections to elect seven delegates on the District Co-operative Agriculture and Rural Multipurpose Development Bank as provided by sub-clause (i), as it existed then, have already been held, the State Government shall nominate on such Committee, such additional number of delegates as may be necessary from the talukas from which no delegates are elected, so as to bring the total number of the delegates equal to the number of talukas in such district:

Provided further that, after having held the election as aforesaid, the two member to be nominated by the Registrar under sub-clause (i-a) as it existed then, have not yet been nominated by the Registrar, then the Registrar shall nominate such two members :

Provided also that, the term of office of all such nominated members shall be co-terminus with the term of office of the seven such delegates so elected :

Provided also that, at any election held after the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993, any member of the State Co-operative Agriculture and Rural Multipurpose Development Bank in the District belonging to the Scheduled Castes or Scheduled Tribes, or, as the case may be, weaker section, shall be eligible to contest such election ;

(i) the District Deputy Registrar of Co-Operative Societies of the concerned district, ex-officio:

(ii) the Divisional Officer of the State Co-Operative Agriculture and Rural Multipurpose Development Bank of the concerned division ex-officio;

(iv) the Manager of the District Co-operative Agriculture and Rural Multipurpose Development Bank, ex-officio.

Explanation.—For the purpose of sub-clause (i-a) the provisions of clause (b) and of any order issued under clause (c) of the Explanation to section 73B shall apply in relation to the members to be elected there under;

(c) The delegates or members to be elected under sub-clauses (i) and (i-a) of clause (b) shall be elected by direct election, by the members of the State Co-Operative Agriculture and Rural Multipurpose Development Bank.

(d) Save as otherwise provided in this section every election to elect delegates and member be subject to the provisions of Chapter XI-A and shall be conducted in the manner laid down by or under that Chapter :

Provided that, a reference to an election of a member or members of the committee of a specified society in that Chapter or the rules made thereunder shall be deemed to be a reference to an election of delegates or member referred to in a clause (b).

(2) * * * * *

(3) Within fifteen days from the date of election of the delegates and the members under sub-section (1) an officer authorised by the Collector in that behalf shall convene the first meeting of the delegates and members for election of a Chairman. The officer so authorised shall preside over such meeting, but shall not have the right to vote.

(4) The term of office of members other than ex-official members of a District Co-operative Agriculture and Ruler Multipurpose Development Bank shall be for a period of five years and shall be deemed to commence on the date of first meeting referred to in sub-section (3) and the term of office of the Chairman shall be co-terminus with the term of such members and on expiry of their term they shall be deemed to have vacated their offices.

(5) A casual vacancy of an elected delegate, members or chairman occurring in the District Co-operative Agriculture and Ruler Multipurpose Development Bank due to any reason whatsoever shall be filled by election as soon as may be practicable after the occurrence of the vacancy:

Provided that, if the vacancy occurs within four months preceding the date on which the term of such delegate, or as the case may be, member expires, the vacancy shall not, unless the Registrar otherwise directs, be filled:

Provided further that, the delegate, member or Chairman elected to fill vacancy shall held office so long only as the delegate, member or Chairman in whose place he is elected would have held office, if the vacancy had not occurred.

(6) * * * * *

(7) The provisions of sections 73-ID, 73A, 73-FF, 77A. 78, clauses (j) and (k) of section 146, Clauses (j) and (k) of section 147, sections 160A and 160B shall apply *mutandis* to the District Co-operative Agriculture and Rural Multipurpose Development Bank as they apply in relation to a committee of a society.

112.AA * * * * *

112B. (1) Notwithstanding anything contained in this Act, or in the rules made thereunder, or in the bye-laws of the State Co-operative Agriculture and Rural Multipurpose Development Bank,—

General Body and committee of State Co-operative Agriculture and Rural Multipurpose Development Bank.

(a) The delegates and member elected in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 112A and sub-section (1) of section 112AA shall, for the purposes of section 72, constitute the general body of members of the State Co-operative Agriculture and Rural Multipurpose Development Bank.

(b) The committee of the State Co-operative Agriculture and Rural Multipurpose Development Bank shall consist of the following members, namely :—

(i) the Chairman of all the District Co-operative Agriculture and Rural Multipurpose Development Bank.

(ii) (A) two members, one each belonging to the Scheduled Caste or Scheduled Tribes and the weaker section, and

(B) three women members.

from amongst the members of the State Co-operative Agriculture and Rural Multipurpose Development Bank who shall be co-opted by the committee in its first meeting to be convened by the Collector or an officer authorised by him in that behalf but the Collector or such officer shall not, while presiding over such meeting, have a right of vote; and where there is failure of the committee to so co-opt such member or members, the Collector or the Officer authored by him shall report such failure to the Registrar within a period of seven days from the date of such meeting and thereupon the Registrar shall, within a period of seven days from receipt of such report, appoint on the committee such member or members, as the case may be, from amongst persons entitled to be so co-opted;

Explanation—For the purposes of this sub-clause, the provisions of clauses (b) and (c) of, and any order issued under clause (c) of the *Explanation* to section 73B shall apply in relation to the members to be co-opted or appointed under this clause ;

(iii) the Chairman of the Maharashtra State Co-operative Bank (or his representative), ex-officio:

(iv) two representatives of the employees of the State Co-operative Agriculture and Rural Multipurpose Development Bank to be selected by the recognised union or unions of employees, from amongst such employees. Where there is no recognised union or unions or where there is no union at all, the employees shall elect representatives from amongst, themselves. The election shall be held by the Collector in the manner laid down in Chapter XI-A of this Act.

(v) The Commissioner for Co-operation and Registrar of Co-operative Societies, Maharashtra State (or his representative), ex-officio ;

(vi) an Officer from the Agriculture and Co-operation Department, who is holding the post of Officer on Special Duty or any other post not lower than that of a Deputy Secretary to Government to be nominated by State Government, ex-officio ;

(vii) the Managing Director of the State Co-operative Agriculture and Rural Multipurpose Development Bank ex-officio, who shall also act as the Secretary of the committee.

(2) The members referred to in sub-clause (i) of clause (b) of sub-section (1) shall cease to be members of the committee on the date of expiry of their term as Chairmen of the District Co-operative Agriculture and Rural Multipurpose Development Bank and they shall be deemed to have vacated their offices and the term of office of the members referred to in sub-clauses (ii) and (iv) of clause (b) of sub-section (1) shall be co-terminus with the term of office of the members referred to in sub-clause (i) of clause (b) of sub-section (1) and they shall likewise on expiry of their term of office ceased to be members of the committee and shall be deemed to have vacated their offices.

(3) (a) The Committee shall have a Chairman and a Vice-Chairman. Within 15 days after the two members referred to in sub-clause (i) of clause (b) of sub-section (1) are co-opted or appointed as the case may be, the Collector or an officer authorised by him in that behalf shall convene a meeting of the members of the Committee for election of a Chairman and a Vice-Chairman who shall be from the members referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the Collector or by such authorised officer, but such presiding officer and the members referred to in sub-clauses (iii), (iv), (v), (vi) and (vii) of clause (b) of sub-section (1) shall not have a right to vote at such meeting.

(b) Notwithstanding anything contained in clause (a), within 15 days from the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act 1988, the Collector or an officer authorised by him in that behalf shall convene a meeting of the members of the Committee for the election of a Vice-Chairman who shall be from the members referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the Collector or by such authorised officer, but such presiding officer and the members referred to in sub-clauses (iii) to (vi) of clause (b) of sub-section (1) shall not have a right to vote at such meeting. The Vice-Chairman so elected shall hold office as such Vice Chairman subject to the provisions of sub-section (4),

Explanation.—For the purposes of this sub-section, the expression "Collector" shall have the same meaning as in clause (a) of sub-section (2) of section 144A.

(4) Without prejudice to the provisions of sub-section (3), the Chairman and Vice-Chairman shall be elected every year in the first meeting of the Committee convened within one month after the close of the co-operative year by the Collector or an officer authorised by him in that behalf and where the Chairman or Vice-Chairman is to be elected to fill the vacancy occurred due to any reason whatsoever the Collector or an officer authorised by him in that behalf shall convene the meeting of the Committee within one month from the date of occurrence of the vacancy and the provisions of sub-section (3) shall *mutatis mutandis* apply to such meetings.

The Chairman and Vice-Chairman elected under sub-section (3) or sub-section (4) shall cease to be the Chairman and Vice-Chairman on the date preceding the date of meeting held for election of the Chairman and Vice-Chairman after the close of the co-operative year and shall vacate his office.

(5) A casual vacancy of a member referred to in sub-clauses (i) and (iv) of clause (b) of sub-section (1) due to any reason whatsoever shall be filled in by co-option by the committee or by selection by the recognised union or unions of the employees, as the case may be, within two months from the occurrence of such vacancy; and where there is failure on the part of the committee or such union or unions, as the case may be, to do so, then appointment by the Registrar :

Provided that, if the vacancy occurs within four months preceding the date on which the term of such member expires, the vacancy shall not, unless the Registrar otherwise directs, be filled :

Provided further that, the member so co-opted, selected or appointed to fill a vacancy shall hold office so long only as the member in whose place he is co-opted, selected or appointed would have held office, if the vacancy had not occurred.

(6) Where a person becomes a member by virtue of holding any office or being an employee, he shall cease to be a member of the committee, as soon as he ceases to be holder of that office or ceases to be such employee, as the case may be.

(7) and (8)	**	**	**	**
113. to 144-16A.	**	**	**	**

CHAPTER XI-A

ELECTIONS OF COMMITTEES AND OFFICERS OF CERTAIN SOCIETIES

Application of
this Chapter
and
definitions.

144.A (1) This Chapter shall apply only to elections to committees of societies belonging to the categories specified in section 73G

(2) In this Chapter, unless the context otherwise requires :—

(a) "Collector" means the collector having jurisdiction over the local areas in which the registered office of the society concerned is situated and includes the Additional Collector, and also any officer not below the rank of Deputy Collector, appointed by the State Government to exercise the powers and to perform the duties of the Collector under this Chapter.

(b) "election" means an election of a member or members of the committee or of officer or officers of a specified society;

(c) "specified Society" means a society belonging to any of the categories specified in section 73-G

When
elections to be
held.

144B.- Every election shall be held as far as possible sometime prior to the date on which the term of office of the retiring member or members is due to expire. If a vacancy occurs due to any other reason, it shall be filled as early as practicable.

Conduct of
elections.

144C. (1) Save as otherwise provided, every election shall be held on such date or dates as the Collector may fix, and shall be conducted under his control by such Returning Officer and other officers, as may be appointed by the Collector in this behalf.

(2) In all cases, where a society has to send a nominee as a member of the committee of any specified society, the election, of such nominee shall be conducted under the control of the Collector of the District in which the registered office of the society sending the nominee is situated.

(3) In all cases, where the by-laws of a specified society authorise the Government nominee or the nominee of a Financing Agency to be a member of the committee of the society, no election need be held for such purpose.

(4) The voting at every election shall be by secret ballot.

Cost of
conducting
elections.

144-D. (1) The expenses of the holding of any election, including the payment of travelling allowances, daily allowances and other remuneration, if any, to the persons appointed to exercise the powers and perform the duties in respect of the election, shall be borne by the specified society concerned.

(2) For this purpose, the Collector may call upon a specified society to deposit with him such amount as he considers necessary for the conduct of the election. Within eight days from the receipt of such direction from the collector, the society shall deposit the specified amount with the collector.

(3) The Collector shall maintain an account of the expenses incurred in connection with the election and within six months from the declaration of results of the election, render the same to the society concerned, and shall

refund to the society the balance, if any, remaining unspent. If the expenditure exceeds the amount of deposit, the collector shall call upon days from the receipt of the direction from him. And the society shall comply with such direction.

(4) On failure of a specified society to pay as aforesaid the deposit amount or to pay the excess amount, the Collector may recover the sums due, together with interest thereon at the rate of 12 per cent, per annum, from the society as arrears of land revenue.

144-E (1) A person shall be disqualified for being elected, as and for being a member, of the committee of any specified society—

Disqualifications
for
membership.

(a) if he is salaried employees of any society (other than a society of employees themselves) or holds any office of profit under any society, except, when he holds or appointed to the office of a Managing Director or any other office declared by the State Government by general or special order not be disqualify its holder or is entitled to be or is elected, appointed or co-opted to any reserved seat on the committee of a society under section 73-BB

(b) if he has been convicted of an offence punishable under section 153-A or section 171E or section 171F or sub-section (2) or sub section (3) of section 505 of the Indian Penal Code or under section 144Q or clause (a) of sub-section 144 R of this Act, unless a period of six years has elapsed since the date of his conviction

(c) if he has been convicted by a Court in India for any offence and sentenced to imprisonment for not less than two years, unless a period of five years has elapsed since his release :

(d) if he is found guilty of a corrupt practice by the Commissioner of the Division, unless a period of six years has elapsed since the date in which the decision of the Commissioner takes effect:

(d-1) if he has more than two children.

Provided that, a person having more than two children on the date of commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 2001 (hereinafter in this clause referred to as "the date of such commencement" shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further, that, a child or mote than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause.

Explanation—For the purpose of this clause—

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity :

(ii) "child" does not include an adopted child or children :

(e) if he is so disqualified by or under any other provision of this Act.

(2) For the purpose of clause (a) of sub-section (1) a person shall not be deemed to hold an office of profit under a society, if he does not receive any remuneration other than compensatory allowance, or honorarium payable under sub-section (2) of section 65 not exceeding rupees six thousand per year.

Explanation—In this sub-section, "Compensatory allowance" means the travelling allowance, the daily allowance or such other allowance which is paid to the holder of the office for the purpose of meeting the personal expenditure in performing the functions as holder of that office.

(3) Notwithstanding anything contained in clause (b) or (c) of sub-section (1); a disqualification under either clause shall not, in the case of a person who on the date of the conviction is a member of any specified society, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the Court.

Account of
election
expenses,
maximum
thereof and
lodging of
account.

144F. (1) Every candidate at an election shall keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him.

(2) The account shall contain such particulars as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be specified by the State Government, by general or special order, published in the *Official Gazette*

(4) Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates, lodge with the Collector an account of his election expenses which shall be a true copy of the account kept by him under sub-section (1).

(5) Every Returning Officer at an election shall keep a separate and accurate account of all expenditure in connection with the election incurred or authorised by him.

(6) The accounts shall contain all the particulars related to the expenses for conduct of the election.

(7) The total of the election expenditure shall not exceed such amount as may be specified by the State Government, by general or special order, published in the *Official Gazette*

(8) Every Returning Officer at an election shall, within forty-five days from the date of election of the returned candidate shall lodge with the Collector, Registrar or concerned society, as the case may be, the account of the election expenditure which shall be a true copy of the account kept by him under sub-section (5). The Collector or as the case may be, the Registrar shall convey such election expenditure to the concerned society within ten days from the date on which he receives the account of the election expenditure from the Returning Officer.

(9) If the Returning Officer fails to perform the duties as provided to sub-section (8), he shall not be entitled to claim the remuneration for the conduct of the election and he shall also be liable to pay back all the amount taken by him from the societies advance, for conducting the election, within a period of forty-five days from the date of declaration of the results:

Provided that before passing of such order against the Returning Officer denying him the remuneration for the conduct of the election and directing him to repaying the advance taken for conducting the elections, the concerned authority shall give him, a reasonable opportunity of being heard.

144-G. If the Collector is satisfied that a persons—

(a) has failed to lodge an account of election expenses within the time and in the manner required by the last preceding section, and

(b) has no good reason or justification for the failure.

Disqualification
for failure to
lodge account
of election
expenses

the Collector shall, by order published in the *Official Gazette*, declare him to be disqualified or being elected as, and for being, a member of the committee of any specified society, and any such person shall be disqualified for a period of three years from the date of the order.

144-H. The State Government may, for reasons to be recorded, remove any disqualification under this Chapter or reduce the period of any such disqualification.

Removal or
reduction of
period of
disqualification.
Corrupt
practices.

144-I The following shall be deemed to be corrupt practices for the purposes of this chapter—

(1) "Bribery" that is to say—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly, in inducing—

(a) a person so stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election, or

(b) an elector to vote or refrain from voting an election, or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature: or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as or for withdrawing or not withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

*Explanation:—*For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money an it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in section 144-F

(2) Undue influence, that is to say. any direct or indirect interference or attempts to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause, any such person as is refereed to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community. or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure.

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause :

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The hiring or procuring whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself the members of his family or his agent) to or from any polling station;

Provided that, the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any polling station shall not be deemed to be a corrupt practice under this clause.

Provided further that, the use of any public transport vehicle or vessel or railway carriage by any elector at his own cost for the purpose of going to or coming from any polling station shall not be deemed to be a corrupt practice.

Explanation – In this clause and in the next succeeding clause, the expression “vehicle” means any vehicle used or capable for being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used drawing other vehicles or otherwise.

(4) The use of vehicles belonging to a specified society for the purposes of any election.

(5) The incurring or authorizing of expenditure in contravention of section 144-F

(6) Making special advances of loans or otherwise favouring any elector or group of electors between the date of declaration of programme for an election and the date of declaration of the result thereof

Maintenance
of secrecy of
voting..

144-J. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine, or with both

144-K. (1) No person who is a Returning Officer or an Assistant Returning Officer or a presiding or Polling Officer at an election, or an officer or clerk appointed by the Returning officer or the Presiding Officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate. Officers etc., at elections not to act for candidates or to influence voting.

(2) No such person as aforesaid, and no member of a Police Force shall endeavor—

- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or
- (c) to influence the voting of any person at an election in any manner

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment which may extend to six months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

144-L. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred meters of the polling station, namely :— Prohibition of canvassing in or near polling station.

- (a) Canvassing for votes; or
- (b) Soliciting the votes of any elector; or
- (c) Persuading any elector not to vote for any particular candidate; or
- (d) Persuading any elector not to vote at the election; or
- (e) Exhibiting any notice or sign (other than an official notice) relating to the election

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under sub-section (2) shall be cognizable.

144-M. (1) No person shall, on the date or dates on which a poll is taken at any polling station, — Penalty for disorderly conduct in or near polling stations.

(a) Use or operate within or at the entrance of the polling station, or in any public or private place in the neighborhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker, or

(b) Shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public place or in any public or private place in the neighborhood thereof,

So as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other person on duty at the polling station.

(2) Any person who contravenes, or willfully aids or abets the contravention of, the provision of sub-section (1) shall, on conviction, be punished with imprisonment which may extend to three months, or with fine, or with both.

(3) If the Presiding Officers of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officers may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

Penalty for misconduct at the polling station.

144-N. (1) Any persons who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officers may be removed from the polling station by the Presiding Officers or by any Police Officers on duty or by any person authorised in this behalf by such Presiding Officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

Penalty for illegal hiring or procuring of conveyances at elections.

144-O. If any person is guilty of any such corrupt practice as is specified in clause (3) or (4) of section 144-I at or in connection with an election, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

Breaches of official duty in connection with election.

144-P. (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(4) The persons to whom this section applies are the Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other persons appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

Removal of ballot paper from polling station to be an offence.

144-Q. (1) Any person who at any election fraudulently takes, or attempts to take a ballot paper out of a polling station, or wilfully aids, or abets the doing of any such act, shall on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1) such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer;

Provided that, when it is necessary to cause a woman to be searched the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

144-R. (1) A person shall be guilty of an electoral offence, if at any election he—

Other offences and penalties therefor.

(a) Fraudulently defaces or fraudulently destroys any nomination paper; or

(b) Fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or

(c) Fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity on official envelope used in connection with voting by postal ballot ; or

(d) Without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper ; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in ; or

(f) Without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election ; or

(g) Fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall—

(a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both ;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under sub-section (2) shall be cognizable.

144-S. The provisions of section 148 shall apply to the offences under this Chapter subject to the modification that no prosecution for an offence punishable under this Chapter shall be lodged, except with the previous sanction of the collector.

Application of section 148 to offences under this Chapter subject to certain modifications.

144-T. (1) Notwithstanding anything contained in section 91 or any other provisions of this Act, any dispute relating to an election shall be referred to the Commissioner of the Division in which such election is held or to an officer not below the rank of Additional Commissioner of a Division authorised by the state Government in this behalf hereinafter in this section either of them as the context may require is referred to as the specified officer.

Disputes relating to elections to be submitted to the Commissioner or other specified officer.

(2) Such reference may be made by an aggrieved party by presenting an election petition to the specified officer within a period of two months from the date of declaration of the result of the election :

Provided that, the specified officer may admit any petition after the expiry of that period, if the petitioner satisfies the specified officer that he had sufficient cause for not preferring the petition within the said period.

(3) In exercising the functions conferred on him by or under this Chapter, the specified officer shall have the same powers as are vested in a court in respect of –

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person and examine him on oath;

(c) compelling discovery or the production of documents; and

(d) issuing commissions for the examination of witnesses.

In the case of any such affidavit, an officer appointed by the specified officer in this behalf may administer the oath to the deponent.

(4) Subject to any rules made by the State Government in this behalf, any such petition shall be heard and disposed of by the specified officer as expeditiously as possible. An order made by the specified officer on such petition shall be final and conclusive and shall not be called in question in any Court.

Deposit
towards costs
for hearing
and power to
award costs.

144-U. A petitioner presenting an election petition under the last preceding section shall pay a deposit not exceeding Rs.500 as the Commissioner may direct towards the costs for hearing the petition. Unless the petitioner deposits the same as aforesaid, the petition shall be summarily dismissed. Subject to such conditions as may be prescribed at the time of deciding the petition, the Commissioner shall assess the costs of the hearing of the petition and shall require the petitioner or the respondent, or both, as the case may be, to defray the whole or in such proportion as he thinks fit the costs of petitions including the deposit so made. The Commissioner shall credit to Government such sum as he assesses as the cost to Government of hearing the petition (but not exceeding Rs.500 in any case).

Contents of
petition.

144-V. (1) An election petition shall—

(a) contain a concise statement of the material facts on which the petitioner relies ;

(b) set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice ; and

(c) be signed by the petitioner and verified in the manner laid down in the Code of Civil procedure, 1908, for the verification of pleadings :

Provided that, where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

Relief that
may be
claimed by
the petitioner.

144-W. A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

144-X. Without prejudice to any other power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act generally to provide for and to regulate all or any of the other matters relating to the various stages of the elections (including preparation of list of voters).

Power to make rules for purposes of this Chapter.

144-Y. (1) This section shall apply only to election of officers by members of committees of societies belonging to the categories specified in section 73-G

Special provision for election of officers of specified societies.

(2) After the election of the members of the committee and, where necessary co-option or appointment, as the case may be, of members to the reserved seats under section 73-B, or whenever such election is due, the election of the office or officers of any such society shall be held as provided in its by-laws, but any meeting of the committee for this purpose shall be presided over by the collector or an officer nominated by him in this behalf.

CHAPTER XII

OFFENCES AND PENALTIES

145.

* * * * *

146. It shall be an offence under this Act, if,—

Offences.

(a)

* * * * *

(b) any employer and every director, manager, secretary or other officer or agent acting on behalf of such employer who, without sufficient cause, fails to comply with sub-section (2) of section 49; or

(c) to (e-1)

* * * * *

(e2) any person, knowingly gives a false certificate in whatever form showing that a person is or is not a "defaulter" within the meaning of that expression in the *Explanation* to clause (i) of sub-section (1) of Section 73-FF; or

(f) a committee of a society, or an officer or member thereof, fails to comply with the provisions of sub-section (2), (3) or (4) of section 75; or

(g) any officer or member of a society who is in possession of information books and records, fails to furnish such information or produce books and papers or give assistance to a person appointed or authorised by the State Government or the Registrar under Section 78, 81, 83, 84, 94 or 103 ; or

(h) any officer of a society fails to hand over the custody of books records, cash, security and other property belonging to the society of which he is an officer, to a person appointed under section 78 or 103 ; or

(i) a committee of a society with a working capital of fifty thousand rupees or more, or any officer or a member thereof, fails without any reasonable excuse to give any notice send any return or document, do or allow to be done anything, which the committee, officer or member is by this Act required to give, send, do or allow to be done or comply with orders made under section 79 ; or

(j) a committee of a society or an officer or member thereof willfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act by the Registrar, or other person duly authorised by him, in writing in this behalf ; or

(k) to (q)

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Explanation

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Punishments
for offences
under section
146.

147. Every society, officer or past officer, member or past member, employee or past employee of a society, or any other person who commits an offence under section 146 shall, on conviction be punished.—

(a) if it is an offence under clause (a) of that section with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both;

(b) if it is an offence under clause (b) of that section, with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees, or with both;

(c) if it is an offence under clause (c) of that section, with fine which may extend to five hundred rupees;

(d) if it is an offence under clause (d) of that section, with fine which may extend to five hundred rupees;

(e) if it is an offence under clause (e) of that section, with imprisonment for a term which may extend to one year, or with fine, or with both;

(e-1) if it is an offence under clause (e-1) of that section, with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;

(e-2) if it is an offence under clause (e-2) of that section, with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;

(f) if it is an offence under clause (f) of that section, with fine which may extend to two hundred and fifty rupees;

(g) if it is an offence under clause (g) of that section, with fine which may extend to five hundred rupees;

(h) if it is an offence under clause (h) of that section, with fine which may extend to five hundred rupees;

(i) if it is an offence under clause (i) of that Section, with fine which may extend to five hundred rupees;

(j) if it is an offence under clause (j) of that section, with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

(k) if it is an offence under clause (k) of that section, with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both;

(l) if it is an offence under clause (l) of that section, with fine which may extend to one hundred rupees;

(m) if it is an offence under clause (m) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both;

(n) if it is an offence under clause (n) of that section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both;

(o) if it is an offence under clause (o) of that section, with imprisonment for a term which may extend to two years, or with fine, or with both;

(p) if it is an offence under clause (p) of that section, with imprisonment for a term which may extend to three years, or with fine, or with both;

(q) if it is an offence under clause (q) of that section, with fine which may extend to two hundred and fifty rupees.

148.

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CHAPTER XIII

APPEALS REVIEW AND REVISION

149. to 151.

* * * * *

152. (1) An appeal against an order or decision under sections 4,9,11,12,13,14,17,18,19,21,21A,29,35,77A,78,79,85, 88 and 105 including against an order for paying compensation to society shall lie,- Appeals.

(a) if made or sanctioned or approved by the Registrar, or the Additional or Joint Registrar on whom powers of the Registrar are conferred, to the State Government,

(b) if made or sanctioned by any person other than the Registrar or the Additional or Joint Registrar on whom the powers of the registrar are conferred, to the Registrar.

(2) to (4)

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152A. (1) Notwithstanding anything contained in this Act or rules or the bye-laws made thereunder, a person aggrieved by the rejection of nomination of a candidate at the election of a Committee of any society other than a society specified by or under section 73G, 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 specified by or under section 73G, an appeal shall lie to the Divisional Commissioner who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of the Commissioner in appeal shall be final and no further appeal or revision shall lie against the decision of the Divisional Commissioner in such appeal. Appeal against rejection of nomination paper at election.

(2)

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153.

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154. (1) and (2)

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(2A) No application for revision shall be entertained, against the recovery certificate issued by Registrar under section 101 unless, the applicant deposits with the concerned society, fifty percent amount of the total amount of recoverable dues. Revisionary powers of State Government and Registrar.

(3) and (4)

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CHAPTER XIII-A

MAHARASHTRA STATE CO-OPERATIVE COUNCIL.

154-A.

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CHAPTER XIV

MISCELLANEOUS

155. to 156.

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157. The State Government may, by general or special order, exempt any society or class of societies from any of the provisions of this Act, or of the rules made thereunder, or may direct that such provisions shall apply to such society or class of societies other than co-operative credit structure entity with such modifications not affecting the substance thereof as may be specified in the order : Power to exempt societies from provisions of Act.

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

Delegation of power of Register to certain authorities and officer	158.	The State Government may, by notifications in the <i>Official Gazette</i> , and subject to such conditions (if any) as it may think fit to impose, delegate all or any of the powers of the Registrar under this Act to any federal authority or to an officer thereof or to any other authority or to an officer of the Zilla Parishad constituted under the Maharashtra Zilla Parishads and Panchayat Samities Act, 1961 and such authorities and Officer of the Zilla Parishad shall work under the general guidance, superintendence and control of the Registrar specified in the notifications.				
	159.		**	**	**	**
Handing over records and property to new Chairman on election.	160.	(1) and (2)	**	**	**	**
		(3) If the retiring Chairman's to whom a direction has been issued as aforesaid does not comply with such direction, he shall on conviction be punished with simple imprisonment which may extend to one month, or with fine which may extend to five hundred rupees, or with both; and the Registrar may, on the retiring Chairman's failure to comply with such direction, take order for seizing the records and property and handing it over to the new Chairman, in the manner provided in section 80				
	160.	(A) and 160.B.	(2)	**	**	**
Registrar and other officers to be public servants.	161.	The registrar, a person exercising the powers of the Registrar, an Officer as defined in clause (20) of section 2, a person appointed as an Official Assignee under sub-section (2) of section 21-A, or as an administrator under section 77-A or 78, or a person authorised to seize books or funds of a society under sub-section (3) of section 80, or to audit the accounts of a society under section 81 or hold an inquiry under section 83, or to make an inspection under section 84, or 89-A or to make an order under section 88, or a person appointed as a member constituting a Co-operative Court under section 91A or the Co-operative Appellate Court under section 149, or a Liquidator under section 103, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.				
	162. to 164.		**	**	**	**
Rules.	165.	(1)	**	**	**	**
		(2) In particular, and without prejudice to the generality of the forgoing power, such rules may-				
		(i) to (xxxii)	**	**	**	**
		(xxxii) prescribe the rate at which a society shall contribute towards the education funds of the State federal society under section 68 :				
		(xxxiii) to (xxxv)	**	**	**	**
		(xxxv-a) prescribe the procedure for the election to notified societies election under section 73-1C (1) ;				
		(xxxv-b) prescribe the manner of recovery of the expenses of holding elections to notified societies by the Registrar, under section 73-1C(2);				
		(xxxv-c)	**	**	**	**
		(xxxv-d) prescribe the manner to fill in the seat reserved for the employees by selection, or by election by employees under section 73-BB (1);				
		(xxxv-d-1) prescribe the conditions, on which the society may grant permission to a member to carry on the business of the kind carried on by it, outside its area of operation, under section 73F (2);				

(xxxv-e) to (xliv) * * * * * * * *

(xlv) prescribe the accounts and books to be kept by a society or class of societies;

(xlvî) * * * * * * * *

(xlvîî) prescribe the procedure for appointment of auditors under section 81;

(xlvîîî) to (liî) * * * * * * * *

(liîî) prescribe the form in which a dispute shall be referred to the Co-operative Court;

(liv) to (lix) * * * * * * * *

(lix-a) to prescribe the manner in which inquiry is to be made by the Registrar for grant of certificate for recovery under section 101; the form and procedure for the application for grant of such certificate and the fees and documents to be accompanied thereto;

(lx) to (lxxv) * * * * * * * *

(3) and (4) * * * * * * * *

166. and 167. * * * * * * * *

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L.C.Bill No. II of 2013.]

**[A Bill further to amend the
Maharashtra Co-operative
Societies Act, 1960.]**

**[SHRI HARSHVARDHAN PATIL,
Minister for Co-operation.]**

**[As passed by the Legislative
Council on the 15th April 2013,
with amendments.]**

DR. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Council.