



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ५, अंक ५]

सोमवार, मार्च २५, २०१३/चैत्र ४, शके १९३५

[पृष्ठ ४४, किंमत : रुपये १८.००

असाधारण क्रमांक १३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Amendment) Bill, 2013 (L. C. Bill No. II of 2013), introduced in the Maharashtra Legislative Council on the 25th March 2013, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

L. C. BILL No. II OF 2013.

A BILL

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

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

Mah.
XXIV of
1961.
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;

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

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

Amendment
of section 2 of
Mah. XXIV of
1961.

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 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:-

" 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:—

"(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:-

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

(f) in clause (19),—

(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 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, 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, 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 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;”.

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:-

“Provided also that, the Registrar may specify the norms and conditions for registration of societies or class of societies.”

Amendment of section 6 of Mah. XXIV of 1961.

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,—

(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;”;

Amendment of section 14 of Mah. XXIV of 1961.

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

“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 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.”.

7. In section 17 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be added, namely:-

“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.”.

Amendment of section 17 of Mah. XXIV of 1961.

8. In section 18 of the principal Act,—

(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:-

“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 the Registrar shall be at liberty to proceed further to take action accordingly.”;

Amendment of section 18 of Mah. XXIV of 1961.

(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,—

(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.”;

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

“(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.”.

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”;

(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”.

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;

(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.”.

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

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

“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;

(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.

(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.”

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

Substitution of section 26 of Mah. XXIV of 1961.

“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:

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,

(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:

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:

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:

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 15 the date of commencement of the Maharashtra Co-operative Mah. Societies (Amendment) Act, 2013, all the existing members of theof society shall be eligible for voting, unless otherwise ineligible to 2013. vote.”.

Amendment
of section 27
of Mah. XXIV
of 1961.

16. In section 27 of the principal Act,-

(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.”;

(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.”;

(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;

(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.”;

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

Amerdment
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;

(b) in sub-section (2),—

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

(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 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,-

(a) for the words "rupees three thousand" the words "rupees ten thousand" shall be substituted; Amendment of section 44A of Mah. XXIV of 1961.

(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 "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, -

(a) for the words "Every society other than the co-operative credit structure entity" the words "A society" shall be substituted; Amendment of section 70 of Mah. XXIV of 1961.

(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;"

(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, 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,-

(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; Amendment of section 73 of Mah. XXIV of 1961.

(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.

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

Constitution of committee.

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

10 of 1949.

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

(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):

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:

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.

(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.

(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.

(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

(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.”.

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

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

Amendment of section 73-B 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;

(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;

(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).";

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

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

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

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

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

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

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 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.

Reservation for women.

(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).

(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.

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 :-

“(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 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 conditions as may be prescribed.”;

(b) in sub-section (1),-

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

“(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 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 credit society;

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

(ii) after clause (ii), 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 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) 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 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:

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 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 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, 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 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, -

(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;

(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) 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.
.....
of 2013.

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

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

“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 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.

(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.

(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.”

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:—

“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”;

(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:—

“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:—

“(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 loans made during the preceding year and the amount outstanding and overdue at the end of that year;

(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;

(vi) audit report of the preceding financial year;

(vii) rectification report of earlier audit;

(viii) annual budget for next year;

(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.

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;

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.";

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

“(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 :

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:—

“(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.”;

(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 ;

(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 ;

(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;

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

"Special general body meeting."

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;

(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),—

(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;

(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. ";

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

(f) in sub-section (3),—

(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:—

"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;

(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 ;

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

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

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

"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."

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

Substitution of section 78 of Mah. XXIV of 1961.

"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.

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

(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 :

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 :

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.

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 :

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 :

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 (ii) 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.

(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.

(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.

(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.

(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.”.

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

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 :

10 of
1949.

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 :

10 of
1949.

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 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;
- (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.

(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.”;

(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;

(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 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 Registrar’s power to enforce performance of such obligations.”.

Amendment
of section 79A
of Mah. XXIV
of 1961.

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 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),—

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

(ii) 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 fixed by general body of the society.

(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 I.—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;

38 of
1949.

(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;

38 of
1949.

(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 Graduation or Post Graduation Degree, in addition to 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.”;

(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”;

(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), —

(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:—

“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”;

(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:—

“(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 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:—

“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:—

“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 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;

(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.”.

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.

“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:

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:— Amendment of section 89A of Mah. XXIV of 1961.

“(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.”.

55. After section 89A of the principal Act, the following section shall be inserted, namely:— Insertion of section 89AB in Mah. XXIV of 1961.

“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. Grievances Settlement and Redressal Committee, its constitution, powers, functions, etc.

(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.

(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;
- (ii) Conciliation;
- (iii) Judicial Settlement, including settlement through *Lok-Adalat*;
- (iv) Mediation.

(4) Where a dispute has been referred—

26 of
1996.

(a) for arbitration or conciliation, the provisions of the 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.

(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*;

39 of
1987.

(c) for judicial settlement, the Court may refer the same to a 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;

(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.

“(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 the dispute was called out for hearing and appoint a day for hearing and deciding the dispute on merits.

(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.”.

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

Amendment
of section 95
of Mah. XXIV
of 1961.

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

(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,—

(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";

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

64. In section 101 of the principal Act,—

(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";

(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";

(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;

(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.";

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

"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 .";

Amendment
of section 101
of Mah. XXIV
of 1961.

(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."

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.

"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 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."

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 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 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.

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),—

(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:—

"(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;”;

(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:—

“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;

(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:—

“(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),—

(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,—

(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),—

(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, 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;

(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;

(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;

(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 ;

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

"(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.";

(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,—

(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.

(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),—

(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,";

(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;

(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, 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:—

“(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 “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;

(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 “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;

(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:—

“(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 “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;

(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;

(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;

(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:—

"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:—

"(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:

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."

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;

(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."

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;

(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.";

(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:

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.”.

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;

(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.”.

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. 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.

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;

(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.

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;

(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;”;

(b) clause (xxxvii) shall be deleted;

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

“(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;

(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;

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

“(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 (xlv), 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;”;

(i) for clause (xlvii), the following clause shall be substituted, namely:—

“(xlvii) prescribe the procedure for appointment of auditors under sections 75 and 81; 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 (liii), the following shall be added at the end, namely:—

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

(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.
.....
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 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 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 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 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 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.

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.

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 (xlv) 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 (xlv) 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.