



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ५, अंक ११(२)]

शनिवार, मार्च ९, २०१९/फाल्गुन १८, शके १९४०

[पृष्ठे १७, किंमत : रुपये २७.००

असाधारण क्रमांक २१

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि 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) Ordinance, 2019 (Mah. Ord. IX of 2019), is hereby published under the authority of the Governor.

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

RAJENDRA G. BHAGWAT,
Secretary (Legislation) to Government,
Law and Judiciary Department.

[Translation in English of the Maharashtra Co-operative Societies (Amendment) Ordinance, 2019 (Mah. Ord. IX of 2019), published under the authority of the Governor].

CO-OPERATION, MARKETING AND TEXTILES DEPARTMENT

Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 9th March 2019.

MAHARASHTRA ORDINANCE No. IX OF 2019.

AN ORDINANCE

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

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

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing ;

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XXIV of
1961.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Maharashtra Co-operative Societies (Amendment) Ordinance, 2019.

Short title and
commencement.

(2) It shall come into force at once.

- Amendment of section 73CB of Mah. XXIV of 1961. **2.** In section 73CB of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as “the principal Act”), to sub-section (11), after the existing proviso, the following proviso shall be inserted, namely :—
 “Provided further that, in case of housing society having less than or up to 250 Members, the elections of the Committee shall be conducted by the said housing society in the manner as may be prescribed.”.
- Amendment of section 101 of Mah. XXIV of 1961. **3.** In section 101 of the principal Act, in sub-section (1), the words “by a co-operative housing society, for the recovery of its dues or for the recovery of its maintenance and service charges, or” and the *Explanation II* shall be deleted.
- Amendment of section 146 of Mah. XXIV of 1961. **4.** In section 146 of the principal Act, after clause (p-1), the following clause shall be inserted, namely :—
 “(p-2) any officer or past officer or Member or past Member of the Committee of the housing society fails to supply the copies of the documents as provided under sub-section (2) of section 154B-8 ; or”.
- Amendment of section 147 of Mah. XXIV of 1961. **5.** In section 147 of the principal Act, after clause (p-1), the following clause shall be inserted, namely :—
 “(p-2) if it is an offence under clause (p-2) of that section, with fine of rupees one hundred per day after the expiry of period as provided in sub-section (2) of section 154B-8, which may extend to five thousand rupees;”.
- Amendment of section 152 of Mah. XXIV of 1961. **6.** In section 152 of the principal Act, in sub-section (1), after the figures and words “105 including against an order for paying compensation to society” the words, figures and letters “, and sections 154B-2, 154B-3, 154B-9 and 154B-27 ” shall be inserted.
- Amendment of section 154 of Mah. XXIV of 1961. **7.** In section 154 of the principal Act, in sub-section (2A), after the words and figures or “under section 101” the words, figures and letter, “ or section 154B-29” shall be inserted.
- Insertion of CHAPTER XIII-B in Mah. XXIV of 1961. **8.** After section 154A of the principal Act, the following CHAPTER shall be inserted, namely :—

“CHAPTER XIII-B

CO-OPERATIVE HOUSING SOCIETIES

Application and non-application of provisions of this Act to the housing societies.

154B. (1) The following provisions of this Act shall apply *mutatis mutandis* to the housing societies, namely :—

Section 1, clauses (5), (6), (7), (8), (10), (10-ai), (10-aii), (10-aiii), (13), (14), (16), (17), (18), (20-A), (21), (24), (26), (27), (28), (29), (29A) and (31) of section 2, sections 3, 3A, 4, 5, 7, 9, 10, 12, 13, 14, 15, 17, 18, 19, 20, 20A, 21, 21A, 22, sub-sections (1), (2) and (3) of section 23, sections 25, 25A, 31, 33, 34, 35, 36, 37, 38, 40, 41, 42, except proviso of sub-section (1) of section 43, section 45 and sub-sections (1)(b), (2) and (3) of section 47, section 50, clauses (a) (c), (d) and (e) of section 62, sections 64, 65, 66, 67, 68, 69, 70, 71, 71A, 72, 73, sub-sections (2) to (7) of section 73ID, except sub-section (4) of section 73B, sections 73C, 73CB, 73CC, 73F, 73I, 75, 76, 77, 77A, 78A, sub-sections, (1), (1A), (1B), (2), (3) and (4) of section 79, sections 79A, 79AA, 80, 81 to 89A, 91 to 100, 102 to 110, 145 to 148A, 149 to 154, 154A and 155 to 168.

(2) The following provisions of this Act shall not apply to the housing societies, namely :—

Clauses (1)(a) and (b), (2)(a), (b) and (c), (4), (9), (10-aii-1), (10A), (11), (11-A), (12), (14-A), (15), (16-A), (19) (a), (a-1), (b) and (c) (19A), (22), (23) and (25) of section 2, sections 6, 8, 11, 16, 18A, 18B, 18C, 23(4), 24, 24A, 28, 29, 32, 32A, 39, 44, 44A, 46, 47(1)(a), 47(4), 48, 48A, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62(b), 69B, 72A, 73B(4), 73(1A)(b), 73A, 73AAA, 73CA, 73D, sub-section (1) of section 73ID, sections 74, 78, 101 and sections 111 to 144-1A.

154B-1. In this Chapter, unless the context otherwise requires,—

Definitions.

(1) “allotee” means a Member of a housing society to whom a plot of land or a site, or a flat in a building or complex held by it, is allotted by the co-operative society, or a person who has purchased a flat from the developer or competent authority and joined as a Member of the society ;

(2) “Architect” means a person registered as an architect under the provisions of the Architects Act, 1972 ;

(3) “Association of society” means an association of,—

(a) not less than five registered co-operative housing societies, and

(b) in which the voting rights are so regulated that the Members which are housing societies have not less than four-fifths of the total number of votes in the general meeting of such society;

(4) “Auditor” means a person or an auditing firm who or which has been empanelled on the panel approved by the State Government under sub-section (1) of section 81 ;

(5) “Builder promoter” means,—

(i) a person who constructs or causes to be constructed an independent building or a building consisting of flats, or converts an existing building or a part thereof into flats including the re-development of building or buildings, for the purpose of selling all or some of the flats to other persons and includes his assignees ; or

(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon ; or

(iii) any development authority or any other public body in respect of allottees of,—

(a) buildings or flats, as the case may be, constructed by such authority or body on lands owned by it or placed at its disposal by the Government ; or

(b) plots owned by such authority or body or placed at its disposal by the Government, for the purpose of selling all or some of the flats or plots ; or

(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs flats or buildings for its Members or in respect of the allottees of such flats or buildings ; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or flat is constructed or plot is developed for sale ; or

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1972.

(vi) such other person who constructs any building or apartment for sale to the general public ;

(6) "Chief promoter" means a promoter who has been elected so in the meeting of promoters for registration of a housing or premises society ;

(7) "Corpus fund" means payment received or receivable by the society from the developer in lieu of surrendering its development rights of plot by way of registered document or contributed by Members for any purpose as decided in general meeting ;

(8) "Co-operative Housing Association" means association of housing societies or other legal bodies for the purpose of maintenance of common amenities or conveyance of land and common amenities in respect of plot or layout ;

(9) "Committee" means the managing Committee or other governing body of a society to which the direction and control of the management of the affairs of a society is entrusted to ;

(10) "Committee Member" means a Member of the society who has been elected or co-opted or nominated in accordance with this Act, rules and bye-laws of the society ;

(11) "defaulter" means a Member or flat owner or occupier who fails to pay the dues of the society within three months from the date of service of bill or notice or due date of payment, whichever is later ;

(12) "dues" means the amount payable by a Member or flat owner to the society and demanded by the society by issuing bill or notice in writing and such demand is based on the provisions of this Act, rules and bye-laws of the society ;

(13) "Flat" means block, chamber, dwelling unit, apartment, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified ;

(14) "General Body" means all the Members of the society ;

(15) "General Meeting" means meeting of General Body called and conducted in view of the provisions of this Act, rules and bye-laws ;

(16) "Housing Federation" means the State or District Federal Society notified by the Government in the *Official Gazette* to be the representative of the registered Housing Societies of the specified areas notified by the Government, from time to time ;

(17) "housing society" means a society, the object of which is to provide its Members with open plots for housing, dwelling houses or flats ; or if open plots, the dwelling houses or flats are already acquired, to provide its Members common amenities and services and to demolish existing buildings and reconstruct or to construct additional tenements or premises by using potential of the land ;

(a) "tenant ownership housing society" means a society the object of which is to allot the plots to its Members to construct the dwelling unit or flats thereon or to allot the dwelling units already constructed and where land is held either on lease hold or free hold basis by the society and houses are owned or to be owned by the Members ;

(b) "tenant co-partnership housing society" means a society the object of which is to allot the flats already constructed or to be constructed to its Members and where both land and building or buildings are held either on free-hold or lease-hold basis by the society ; and

(c) "other housing societies" means the house mortgage co-operative societies, house construction co-operative housing societies and premises co-operative societies where all the units are offices or commercial *galas* ;

(18) "Member" means a person joining in an application for the registration of a housing society which is subsequently registered, or a person duly admitted to Membership of a society after its registration and includes associate or joint or provisional Member ;

(a) "Associate Member" means husband, wife, father, mother, brother, sister, son, daughter, son-in-law, daughter-in-law, nephew, niece a person duly admitted to Membership of a housing society on written recommendation of a Member to exercise his rights and duties with his written prior consent and whose name does not stand in the share certificate ;

(b) "Joint Member" means a person joining in an application for the registration of a housing society jointly, which is subsequently registered or a person who is duly admitted to Membership after its registration and who holds share, right, title and interest in the flat jointly but whose name does not stand first in the share certificate ;

(c) "provisional Member" means a person who is duly admitted as a Member of a society temporarily after death of a Member on the basis of nomination till the admission of legal heir or heirs as the Member of the society in place of deceased Member ;

(19) "Officer" means a person elected or appointed by a society to any office according to its bye-laws ; and includes any office bearer such as a chairperson, vice-chairperson, president, vice-president, secretary, joint secretary, treasurer, joint treasurer, Member of the Committee, manager and any other person, by whatever name called, elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society ;

(20) "person" includes,—

(i) an individual, who is competent to contract under the Indian Contract Act, 1872,

(ii) the State Government,

(iii) the Central Government,

(iv) a Hindu Undivided Family,

(v) a company registered under the law for the time being in force,

(vi) a firm registered under the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008,

(vii) local authority,

(viii) an association of persons or body of individuals whether incorporated or not,

(ix) a co-operative society registered under any law relating to co-operatives,

(x) a public trust or family trust formed in accordance with a relevant provisions of law,

(xi) any legal body which can hold the immovable property, and

(xii) any entity as may be notified by the State Government, from time to time ;

(21) "Plot" means a piece of land numbered and shown as one plot in a layout sanctioned or to be sanctioned ;

(22) "Promoter" means a person intending to become a Member of a proposed society and who becomes the Member on its registration ;

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1872.

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(23) "Proposed society" means the society the proposal of which is submitted by the builder promoter or by the chief promoter to the Registrar and which has been granted permission for reservation of name and opening account in bank in its name.

Registration of
co-operative
societies.

154B-2. (1) No tenant co-partnership housing society shall be registered under this Act, unless it consists of at least five persons (each of such persons being a Member of different family) or at least fifty-one per cent. (of total number of flats as per sanctioned plan) flat purchasers or intending Members and who are qualified to become Member under this Act, whichever is higher, joins the registration proposal of housing society to be registered.

(2) No tenant ownership housing society shall be registered under this Act, unless it consists of at least five persons (each of such persons being a Member of different family) or at least fifty-one per cent. (of total number of plots as per proposed or sanctioned lay-out) plot purchasers and who are qualified to become Member under this Act, whichever is higher, joins the registration proposal of housing society to be registered.

(3) No Association of society shall be registered unless it has at least five housing societies as its Members.

(4) No Co-operative Housing Association shall be registered unless it has at least two housing societies or other legal bodies as its Members.

(5) Nothing in this section shall be deemed to affect the registration of any society made before the commencement of the Maharashtra Co-operative Societies (Amendment) Ordinance, 2019.

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(6) The word "limited" or "unlimited" shall be the last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Act.

Explanation.—For the purpose of this section, the expression "Member of a family" means a wife, husband, father, mother, dependent son or unmarried dependent daughter.

Application for
reservation of
name and
permission for
opening bank
account.

154B-3. (1) For the purpose of granting permission to open an account in the bank and reservation of name of the proposed tenant co-partnership housing society or premises society, an application shall be made to the Registrar in the prescribed format and shall be accompanied with the copies of commencement certificate, or the building completion certificate given by the Architect and the copy of resolution of promoters electing chief promoter and authorizing him to make such application and on receipt of such application, the Registrar shall dispose of it within a period of thirty days from the date of its receipt.

(2) For the purpose of granting permission to open an account in the bank and reservation of name of the proposed tenant ownership housing society an application shall be made to the Registrar in the prescribed format and shall be accompanied with the copy of tentative lay-out plan certified by Architect or sanctioned lay-out plan and copy of resolution of promoters electing chief promoter and authorizing him to make such application and on receipt of such application, the Registrar shall decide it within a period of thirty days from the date of its receipt.

(3) For the purpose of registration of a housing society, an application shall be made to the Registrar in the prescribed format and shall be accompanied with documents as prescribed alongwith such fees as may be prescribed :

Provided that, the application shall be signed by the minimum number of plot or flat purchasers or owners or intending Members as provided under foregoing section :

Provided further that, for the registration of a Association of society or co-operative housing association, such application shall be signed by minimum number of authorized office bearers of different societies or legal bodies, as the case may be, as provided under foregoing section.

154B-4. (1) Notwithstanding anything contained in section 22, the society may admit any person as an associate, joint or provisional Member.

Associate,
Joint or
provisional
Member.

(2) Right to vote and contest the election shall be subject to the provisions of sub-sections (2), (3) and (4) of section 154B-11.

154B-5. A housing society shall not admit to its Membership persons exceeding the number of flats or plots, as the case may be, available for allotment in that co-operative housing society :

Limit on
Membership.

Provided that, a plot owners co-operative housing society may admit to its Membership an organization (co-operative housing society, company, association, etc.) of flat purchasers, in case the plot owner had constructed and sold flats as per prevailing rules, in place of original plot owner Member.

154B-6. (1) Every society may 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 effective management ;

(iii) develop professional skills through co-operative education and training.

(2) Every Member of the Committee, whether elected or co-opted, may undergo such co-operative education and training.

(3) (a) Co-operative societies specified by Government shall contribute annually towards the Co-operative Education and Training Fund, within such period and at such rates as may be prescribed and different rates may be prescribed for different societies or classes of societies and such contribution shall be paid in the manner as may be prescribed.

(b) The Co-operative Education and Training Fund shall be used for the purpose of promotion of co-operative movement in the State by way of education of the Members and training of officers of the co-operative societies on co-operative principles and management practices, and for the training and incidental expenses borne by the institutions notified under sub-section (1).

(c) The Co-operative Education and Training Fund shall be administered, utilised, maintained and audited, in the manner as may be prescribed, by such Authority or the Institution as may be notified by the State Government, in this behalf.

(4) Where any society fails to pay the contribution towards the Co-operative Education and Training Fund, within the prescribed period, the amount of contribution due on the date of commencement of the Maharashtra Co-operative Societies (Amendment) Ordinance, 2019 shall be recoverable as arrears of land revenue and on the Authority or the Institution notified in the clause (c) of sub-section (3) making a report of such failure to the Registrar, the Registrar shall, after making such inquiry as he deems fit, grant a certificate for recovery of the amount due as an arrear of land revenue.

Restriction on
transfer of
share or
interest of a
Member.

154B-7. Subject to the provisions of this Act, in case of a housing society, no transfer of share or interest of a Member or the occupancy right, except the transfer of his heir or a nominee, shall be effective unless,—

(a) the dues of housing society are paid ;

(b) the transferee applies and acquires Membership of the co-operative housing society in due course of time :

Provided that, the transfer of share or interest in respect of lease hold properties shall be governed by the terms of the lease, which are not inconsistent with lease of land to the co-operative housing society or with lease by housing society to its Members.

Explanation.— For the purpose of this section, occupancy right shall not include right of a tenant or a licensee on leave and license basis.

154B-8. (1) Every Member of a society shall be entitled to inspect, free of cost, at the society's office during office hours, or any time fixed for the purpose by the society, a copy of the Act, the rule and the bye-laws, the last audited annual balance sheet, the profit and loss account, a list of the members of the Committee, a register of members, the minutes of general meetings, minutes of Committee meetings and those portions of the books and records in which his transactions with the society have been recorded.

Rights of
Members to
inspect the
documents.

(2) A society shall furnish to a Member, on request in writing and on payment of such fees at such rate as may be decided by the Registrar, from time to time, the copies of any documents mentioned in the foregoing subsection within forty-five days from the date of payment of such fees and when the Society is assisted by the Government in the form of share capital, loan and land, the said Society shall furnish such information within thirty days from the date so requested by a member.

Removal of a
Member.

154B-9. When any question arises in respect of a Membership of a person as to whether he has been duly admitted to the Membership of society or has been admitted in violation of the provisions of this Act, rules and bye-laws, the Registrar *suo motu* or on an application shall decide such question within three months from the date of application and if he is satisfied that the person has been admitted as Member in violation of provisions of this Act, rules and bye-laws, pass an order to remove such person from Membership, but no such order adverse to any such Member shall be given without giving him an opportunity of being heard.

Rights and
duties of
Member.

154B-10. (1) A Member shall be entitle to exercise such rights as provided under this Act, rules and bye-laws.

(2) Every Member of a housing society, whether registered before or after the commencement of the Maharashtra Co-operative Societies (Amendment) Ordinance, 2019, to whom plot of land or dwelling units have been allotted, shall be issued certificate of allotment by the co-operative housing society under its seal and signature in such form as may be prescribed.

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2019.

Subject to the provisions of the Transfer of Property Act, 1882 or the Registration Act, 1908, any allotment (including re-allotment), of a plot of land or dwelling unit in a building of a co-operative housing society to its Member as per terms of allotment shall entitle such Member to hold such plot of land or dwelling unit with such title, right and interest, as the case may be.

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16 of
1908.

(3) Except when there is a contract to the contrary, a Member of co-operative housing society shall not be entitle to any title or interest in any plot of land or dwelling unit in a building of a co-operative housing society until he has made such payment as may be specified by the co-operative housing society towards the cost of such plot of land or, construction of such dwelling unit, as the case may be, to the co-operative housing society.

(4) No Member shall be eligible for being appointed, nominated, elected, co-opted or for being a Member of a Committee, if he is a defaulter of the society.

(5) (i) It shall be the duty of the Member of the society to pay the dues of the society within time as decided by society in its general meeting.

(ii) Member shall vacate the flat when required for redevelopment of the building or buildings of the society as decided in its general meeting.

(iii) Member shall perform his duties as provided in this Act, rules and bye-laws.

(6) The Associate Member shall have right to contest the election to the Committee with prior written consent of a Member.

(7) Any action contemplated against the original Member in the Act shall be applicable to such an Associate Member.

154B-11. (1) No Member of society shall have more than one vote in its affairs : Voting rights of Member.

Provided that, every right to vote shall be exercised personally :

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

(2) The Associate Member shall have right to vote with prior written consent of a Member.

(3) The provisional Member shall have right to vote.

(4) In case of joint Member the person whose name stands first in the share certificate, shall have right to vote. In his absence, the person whose name stands second, and in the absence of both, the person whose name stands next and likewise, who is present and who is not a minor, shall have right to vote.

(5) In case of Association of society, authorised Member of member society shall have right to vote.

(6) In case of company or firm or any other body corporate or local authority or any legal body constituted under any law for the time being in force, the authorised director or person or any one of the partners as appointed by the firm, shall have right to vote.

154B-12. A Member may transfer his share, right, title and interest of his property in the society by way of registered document by following the due procedure as provided in the rules or bye-laws. Transfer of share, right, title and interest.

154B-13. On the death of a Member of a society, the society shall transfer share, right, title and interest in the property of the deceased Member in the society to a person or persons on the basis of testamentary documents or succession certificate or legal heirship certificate or document of family arrangement executed by the persons, who are entitled to inherit the property of the deceased Member or to a person duly nominated in accordance with the rules : Transfer of interest on death of a Member.

Provided that, society shall admit nominee as a provisional Member after the death of a Member till legal heir or heirs or a person who is entitled to the flat and shares in accordance with succession law or under will or testamentary document are admitted as Member in place of such deceased Member :

Provided further that, if no person has been so nominated, society shall admit such person as provisional Member as may appear to the Committee to be the heir or legal representative of the deceased Member in the manner as may be prescribed.

Charge of society in respect of share and interest of Member.

154B-14. A society shall have a charge upon share and interest of a Member or past Member or deceased Member to the extent of dues payable by such Member to the society.

Creation of funds.

154B-15. Every society shall create such funds as may be prescribed and also such other funds as it may, from time to time, decide.

Levy of charges by the society.

154B-16. Every society shall levy the charges as prescribed towards its such funds created under section 154B-15.

Investment of funds.

154B-17. A society shall invest or deposit its funds in one or more of the following :—

(a) in a District Central Co-operative Bank, the State Co-operative Bank, having awarded at least “A” Audit Class in last three consecutive years, if no such Central Co-operative Bank is available in district, then any Nationalised Bank ;

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 ; 2 of 1882.

(c) in the shares, or security bonds, or debentures, issued by any other society with limited liability ;

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

Utilization of funds.

154B-18. Funds mentioned in foregoing sections shall be utilized for the purpose as may be specified in bye-laws of the society :

Provided that, the corpus fund may be utilized for the purpose as may be decided in the general meeting of the society.

Constitution of Committee.

154B-19. (1) Committee shall consist of such number of Members as may be decided by the State Government by notification or special order, from time to time.

(2) The Committee of the society shall stand constituted on the date of declaration of result of election to the Committee by returning officer where more than two third of the Committee Members of the strength as may be decided by the Registrar, from time to time, have been elected :

Provided that, in case two third is a fraction, it shall be rounded off to next higher number.

(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 first meeting of newly constituted Committee 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 by co-option and term of the co-opted Member shall be co-terminus with the term of the Committee.

Reservation of certain seats on Committee of societies and election thereto.

154B-20. (1) Notwithstanding anything contained in this Act or in the rules made thereunder or in any bye-laws of any society, on the Committee of such society or class of societies as the State Government may, by general or special order, direct, three seats shall be reserved for,—

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

- (b) one Member belonging to the Other Backward Classes ; and
- (c) one Member belonging to the De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes or Special Backward Classes.

(2) Any individual Member of the society, or any elected Member of the Committee or a Member society or any Member of the Committee of the Member society, whether elected, co-opted or appointed under this section, belonging to the Scheduled Castes or Scheduled Tribes, or Other Backward Classes or De-notified Tribes (*Vimukta Jatis*) or Nomadic Tribes or Special Backward Classes, shall be eligible to contest the election to a reserved seat and every person who is entitled to vote at the election to the Committee shall be entitled to vote at the election to any such reserved seat.

Explanation.—For the purposes of this section,—

(a) a general or special order, if any, issued by the State Government under section 73-B as it existed before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1983, shall be deemed to have been issued under sub-section (1) of this section and shall continue to be in force until duly repealed or amended ;

(b) the expression “Scheduled Castes” includes “*Nav-Boudhas*” ;

(c) the expression “Other Backward Classes, De-notified Tribes (*Vimukta Jatis*) and Nomadic Tribes and Special Backward Classes” means such classes or parts of or groups within such classes as are declared, from time to time, by the State government to be Other Backward Classes, De-notified Tribes (*Vimukta Jatis*) and Nomadic Tribes and Special Backward Classes.

154B-21. (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) Nothing in this section shall apply to a Committee of a society exclusively of women Members.

154B-22. Till the time the Members of reserved categories are not available or elected to fill the reserved seats as provided in sections 154B-20 and 154B-21, such reserved seats shall not be counted for strength of managing Committee for composition of quorum for conducting its meetings.

General provisions for strength of the Committee for quorum.

154B-23. (1) Without prejudice to the other provisions of this Act or the rules made thereunder, in relation to the disqualification of being a Member of the Committee, no person shall be eligible to be appointed, nominated, elected, co-opted for being a Member of Committee,—

Disqualification of Committee and its Members.

- (i) if he is a defaulter of any society, or
- (ii) if he carries on business of letting, subletting and selling of flats in the housing society of which he is a Member, or
- (iii) if he has been held responsible under section 79, 88, 154 B-8(2) or 154B-27 or for payment of cost of enquiry under section 85, or
- (iv) if he has incurred any disqualification under this Act or the rules made thereunder, or

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(v) if he incurs any of the disqualification similar to that mentioned in the provisions of clause (vii), (viii) or (ix) of clause (f) of sub-section (1) of section 73CA.

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

(3) A Member of a Committee who has ceased to be a Member thereof, on account of having incurred disqualification under clause (ii), (iii), (iv) or (v) of sub-section (1), shall not be eligible to be re-elected, re-co-opted or re-nominated as a Member of Committee for five years from the date on which he or she 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 disqualification other than disqualifications, referred to in sub-section (3), shall, unless otherwise specifically provided in this Act, be eligible to be re-elected, re-co-opted or re-nominated as a Member of Committee as soon as such disqualification ceases to exist.

Motion of no confidence against officers of society.

154B-24. (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 a Committee by not less than two third majority of the Committee Members who are present and entitled to vote at such meeting and his office shall thereupon be deemed to be vacant.

(2) The provisions of sub-sections (2) to (7) of section 73ID shall apply *mutatis mutandis* to such motion.

Management of housing society, housing complex, housing association or housing federation.

154B-25. Management of housing society, housing complex, housing association or housing federation shall be carried out in the manner as may be prescribed.

Allotment of plots, flats or houses through draw of lots.

154B-26. (1) Except when there is a contract to the contrary, allotment of plots of land, flats, house or other dwelling units shall be made by the Committee of a housing society to the Members strictly on the basis of draw of lots in respect of such Members whose enrollment as a Member of a housing society is found proper in accordance with provisions of this Act and rules framed thereunder and the bye-laws of a housing society duly registered.

(2) Every Member of a housing society, whether registered before or after the commencement of the Maharashtra Co-operative Societies Amendment) Ordinance, 2019, to whom plots, flats, houses or other dwelling units have been allotted, shall be issued certificate of allotment by the co-operative housing society under its seal and signature in such form, on such terms and on such conditions as may be prescribed. Such certificate shall be issued forthwith when all the dues as may be determined and notified by the housing society are duly paid by the Member.

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Obligation of society to take action and Registrar's powers to enforce.

154B-27. (1) If any society is required to take action for performance of its obligations, responsibilities and duties as provided in this Act, rules and bye-laws or to execute the orders issued by the State Government or by the Registrar, from time to time, and such actions are not taken or such orders are not executed, the Registrar *suo motu* or on an application may issue directions to take such action or actions or execute such orders.

(2) Where any society is required to take any action or to execute the orders as provided in the foregoing sub-section and such action is not taken or orders are not executed,—

(i) within the time provided in this Act, rules or the bye-laws or in the order, as the case may be ;

(ii) where no time is provided, within such time having regard to the nature and extent of the action to be taken as the Registrar may specify by notice in writing,

the Registrar may himself or through a person authorized by him take such action or execute such order at the expense of the society and such expenses shall be recoverable from the responsible officer of the society as if it were arrears of land revenue :

Provided that, before issuing an order or direction and fixing the responsibility of payment of expenses an opportunity of being heard shall be given to the officer of society to whom the Registrar considers to be responsible for not taking such action or not executing such orders.

(3) The Application submitted by a Member to the society for the certificate or certificates for sale of his flat or mortgaging it for obtaining loan or for any other purpose shall be decided by the society within a period of thirty days from the date of receipt of such application and decision thereon shall be intimated to him within a period of fifteen days. If society fails to decide and intimate such application within such time or if such application is rejected, the Member may file appeal to the Registrar for appropriate relief within a period of three months from date of submission of application to the society or within a period of two months from the date of decision of rejection by society, whichever is earlier :

Provided that, every such appeal shall be disposed of by the Registrar within a period of sixty days from the date of its receipt after giving opportunity of being heard to all the parties.

154B-28. (1) Notwithstanding anything contained in this Act but subject to the provisions of this section, the State Government may, by notification in the *Official Gazette*, notify any society as a Housing Federation for the areas specified in the notification.

Housing Federations, their powers and duties.

(2) Every society may affiliate to notified Housing Federation of the area wherein society is located.

(3) Every notified Housing Federation shall create the Education and Training Fund.

(4) Every housing society in the areas for which Housing Federation is notified under sub-section (1) shall contribute to the Education and Training Fund maintained by the notified Housing Federation at the rate as may be decided by the State Government by special or general order, from time to time.

(5) Every notified Housing Federation shall utilise Education and Training Fund for,—

(i) arranging seminars on issues related to housing societies ;

(ii) imparting training to the persons to be appointed as managers or special recovery officers and to the Members and officers of housing societies ;

(iii) any other purpose as may be notified by the Government from time to time.

(6) (i) Every notified Housing Federation shall prepare, declare and maintain the panel of managers and special recovery officers as per the guidelines issued by the Registrar, from time to time.

(ii) The Registrar *suo motu* or on an application may remove such person from the panel maintained by Federation who,—

- (a) has doubtful integrity, or
- (b) has been convicted, or
- (c) has been declared mentally incapable, or
- (d) has misused his position while rendering his services, or
- (e) failed to discharge his duties :

Provided that, such person shall not be removed without giving him a reasonable opportunity of being heard.

(iii) Required qualifications for the Auditors, Managers and Special Recovery Officers shall be decided by the Registrar, from time to time.

(iv) Every notified Housing Federation shall apply to the Registrar for delegation of necessary powers to the persons so trained as special recovery officer for recovery of the dues of the affiliated societies.

(7) Every society may,—

(i) appoint Special Recovery Officer from such panel for execution of Recovery Certificates or Recovery Orders or decrees ; and

(ii) appoint manager from such panel for maintaining records and books of accounts of the society.

(8) Remuneration of Special Recovery Officers shall be decided by the Registrar, from time to time.

154B-29. (1) Notwithstanding anything contained in sections 91, 93 and 98, on an application made by a housing society for the recovery of its dues or for the recovery of its repairs and maintenance, construction cost and service charges, and on the housing society concerned furnishing a statement of accounts and any other documents as may be prescribed, in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears.

Explanation.— For the purposes of this sub-section, the expression “repairs and maintenance and service charges” means such charges as are so specified in the by-laws of the concerned housing society.

(2) Where the Registrar is satisfied that the concerned society has failed to take action under the foregoing sub-section in respect of any amount due as arrears, the Registrar may, on his motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

(3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, and the same shall be recoverable according to the law for the time being in force, 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.

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

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(4) It shall be lawful for the Collector and the Registrar to take precautionary measures in accordance with the provisions of the Maharashtra Land Revenue Code, 1966 or any law or provisions corresponding thereto for the time being in force, until the arrears due to the concerned society, together with interest and any incidental charges incurred in the recovery of such arrears, are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar.

154B-30. In case of a house building society where all plots have been allotted to its Members and basic civic service have been transferred to the local civic body, the Registrar shall, after giving sixty days notice to the Committee, initiate winding up proceedings and such co-operative house building society shall be wound up :

House building co-operative societies which have achieved their objectives.

Provided that, in the case of a co-operative house building society where land has been allotted on perpetual lease, before passing winding up orders the prior consent of the lessor shall be obtained :

Provided further that, where a house building co-operative society has been provided land to run a club, school, community center, dispensary or community facility, etc., by the lessor, the above provision shall not apply to such co-operative house building society, if the general body decides to run these activities for the benefit of the Members and the residence.

154B-31. (1) The rules, orders, by-laws, circulars or instruments having the force of law and existing on the date of commencement of the Maharashtra Co-operative Societies (Amendment) Ordinance, 2019, which are applicable to the societies governed by this Chapter on the date of such commencement, shall, until expressly repealed, modified or amended, continue to apply to the said societies.

Saving as to existing rules, orders, by-laws, etc.

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(2) Every proceedings by or against the society and pending before any Court, tribunal or authority on the said date of commencement shall be continued and decided as if the provisions of this Chapter are not made applicable in respect of such societies.”.

9. In section 156 of the principal Act, in sub-section (1), in clause(e), after the words, brackets and Figures “sub-section (1) of section 137” the words, figures and letter “or section 154B-29” shall be inserted.

Amendment of section 156 of Mah. XXIV of 1961.

10. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Ordinance, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of the principal Act, as amended by this Ordinance which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Power to remove difficulty.

(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.

STATEMENT

The Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), governs all the co-operative societies having different objects, classifications and sub-classifications. The provisions of the said Act regulates the management aspect of the co-operative societies and protects the interest of its members.

Among all co-operative societies governed by the provisions of the said Act, the co-operative housing societies are largest in number being around 50% of the total societies in the State. At present, even though the affairs of the co-operative housing societies are distinct and peculiar, they are regulated in the same manner as per the general provisions of the said Act, as applicable for all other co-operative societies, such as Co-operative Sugar Factories, District Central Co-operative Banks, Co-operative Spinning Mills, etc.

The uniform application of the provisions of the said Act, despite of the uniqueness of the co-operative housing societies, was creating problems and was inadequate to address all the affairs of the co-operative housing societies. This lead to large number of disputes and litigation and thus creates hurdles in smooth functioning of the co-operative housing societies. In this view of the scenario, an urgent need was felt to provide a separate Chapter to cater to the specific requirements of the co-operative housing societies. Therefore a separate Chapter providing for regulation of co-operative housing societies, was inserted in the said Act.

The proposed Chapter, among other things, has catered primarily to the issues of the co-operative housing societies viz. members and their rights, management of societies, audit, enquiry and inspection, settlement of disputes, liquidation, elections of societies, recovery of claims, etc.

2. In the then present dispensation, considerable delay is caused in approval and appointment of Returning Officer and Assistant Returning Officer for conducting elections of co-operative housing societies. To avoid this delay and to ensure timely elections, it is proposed to amend sub-section (11) of section 73CB of the said Act, suitably, by taking the power to the State Government to prescribe by rules the procedure for speedy holding of such elections.

3. The provisions related to recovery of dues or arrears from members are proposed to be deleted from the general provisions meant for all societies in sub-section (1) of section 101 so as to provide relevant provisions in this regard in the proposed Chapter XIIB.

4. Section 152 is proposed to be amended suitably, for providing appeals against the orders passed under sub-sections (1) and (3) of section 154B of the proposed Chapter.

The incorporation of the above-mentioned provisions alongwith other then proposed provisions, would help the members of the societies in the understanding of their rights and liabilities, thereby enabling a more congenial governance environment within the co-operative housing societies. The clarity in the various proposed provisions has minimized the disputes and result in enhancing the efficiency of the authorities dealing with the affairs of the co-operative housing

societies. Similarly, the simplified mechanism proposed for elections has drastically reduced the election related disputes in the otherwise resource crunched co-operative housing societies.

5. To achieve the above objectives, the Maharashtra Co-operative Societies (Third Amendment) Ordinance, 2018 (Mah. Ord. XXV of 2018) was promulgated by the Governor of Maharashtra on the 30th October 2018 and the Maharashtra Co-operative Societies (Third Amendment) Bill, 2018 (L. A. Bill No. LXX of 2018) to convert the said Ordinance was introduced in the Maharashtra Legislative Assembly on the 22nd November 2018. The said Bill is pending in the Maharashtra Legislative Assembly. With a view to ensure that the said provisions are effected immediately, it is considered expedient to amend the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), urgently.

6. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render 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, this Ordinance is promulgated.

Mumbai,
Dated the 9th March 2019.

CH. VIDYASAGAR RAO,
Governor of Maharashtra.

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

DINESH KUMAR JAIN,
Chief Secretary to Government.