

Amendment of Maharashtra Co-operative Societies Act, 1960

Following the 97th Amendment of Constitution of India, the states were required to amend their respective co-operative laws on or before end of one year of the amendment of constitution. The Government of Maharashtra issued an Ordinance on 13th of February, 2013 to amend the Maharashtra Co-operative Societies Act, 1960. The changes were effective from 14th February, 2013.

Later the amendment act to amend the Maharashtra Co-operative Societies Act, 1960 was introduced and the same was passed in the Maharashtra legislature. The Joint Committee of both the houses of legislature was constituted with 19 Members headed by Shri Harshvardhan Patil Minister of Co-operation as a Chairman of the Committee. It submitted its report wherein the following important changes were suggested.

- a. Right to General Body to condone the non-attendance and restore the status of Active Membership.
- b. Housing and Premises Societies were excluded from the restriction imposed relating to voting up to 2 years after admission as a member.
- c. The Joint Committee proposed changes in the Rules for promoting attitude of the professional management and autonomous functioning instead of present functioning which is wholly on voluntary basis.

The following important changes were effected in the Maharashtra Co-operative Societies Act, 1960.

Active and Non Active Members:

To be an active member, a person:-

- a. Need to have interest in the flat/ unit in the Society.
- b. Attend at least one General Body Meeting in previous five consecutive years.
- c. Should have paid the amount equal to one-year maintenance and service charges within the period of five years.
- d. General Body is to have the authority to Condon non-attendance.
- e. At the same time being non active member can attract the provisions of Section 35 relating to expulsion if he remains non active for a period of 10

years.

- f. At the same time the inactive member will lose the benefit of voting and participation in the Management of society.
- g. There is a general restriction where by unless the period of two years is completed after enrollment as member by an individual he shall not be eligible for voting in the affairs of Society. However, the Housing Societies and Premises Societies have been excluded from this restriction.

Annual General Body Meetings

- a. The appointment of the auditor will be made in the General Body meeting of the society for the current financial year.
- b. The society will not appoint any one auditor for more than three consecutive years.
- c. Society will intimate the registrar about the appointment of the auditor within 30 days of the Annual General Meeting.
- d. The intimation should include the written consent of the Auditor about accepting the Statutory Audit Assignment.
- e. The General Body Meeting will be called within 6 months after the close of financial year i.e. on or before 30th September.
- f. If the meeting is not called before 30th September the registrar or any authorized officer may call such meeting. The expenses of such meeting shall be paid out of the funds of society or by such person or persons who in opinion of the registrar were responsible for refusal or failure to call the General Body meeting.
- g. In every General Body meeting of the society the minutes of the last Annual General Meeting and the minutes of the Special General Meeting of the society shall be read along with action taken report about the decisions taken in such meetings.
- h. In every General Body meeting, the Managing Committee shall lay before the society the following documents.
 - o The audited balance sheet along with audited profit and loss account, audit

report of the preceding financial year submitted by the auditor appointed as above and rectification report of earlier audits.

- Proposed transfers to Reserve accounts.
 - Annual report of the working of Society signed by Chairman or any other authorized committee members.
 - Plan for disposal of surplus fund available with society.
 - List of amendments of Byelaws of the society, if any.
 - Declaration regarding date and conduct of its election of Managing Committee, when due.
 - Annual budget for next year.
 - Any other information required by the registrar in pursuance of the act and the rules.
 - Such other business will be transacted as may be laid down in the Byelaws and for which due notice is given.
- a. The General Body will consider the audit report as presented before it and the compliances, if any.
 - b. The General Body will considered important communications received from the registering authority, statutory auditor, government, collector, local authority, other competent authorities.
 - c. The General Body may consider any other matter with permission of chair after regular agenda is over. However, such matters should not be requiring special proper notice.

Audit, Auditors, Report, General Body meetings :

- a. The society will appoint the auditor in its General Body meeting out of the penal prepared by the registrar and approve by the state government.
- b. The appointment of the auditor will be made in the General Body meeting of the society for the current financial year.
- c. The society will not appoint any one auditor for more than three consecutive years.

Auditing, Auditor's Report and Reporting

- a. The audit will be completed within 4 month of the close of the financial year i.e. on or before 31st July.
- b. The Auditor's Report shall include all the particulars of defects or irregularities observed in the Audit and in case of financial irregularities and miss-appropriation or embezzlement of funds, or fraud the auditor shall investigate and report the *modus operandi*, the entrustment and the amount involved.
- c. The auditor will also report about irregularities and their implications on the financial statements, to be indicated in detailed in the report with corresponding effect on income and expenditure.
- d. The auditor will also report on functioning of the committee and sub-committees of the society and point out irregularities and violations and also fix responsibilities for irregularities and violations.
- e. If brought to the notice of the Registrar that the report submitted by auditor does not disclose true and correct picture of account, the Registrar may carry out or cause to carry out a test audit of accounts. The test audit shall include examinations of items as specified by the Registrar in his order.
- f. The Auditor shall submit his report to the Registrar within 1 month of completion of audit and in any case before issuance of notice of Annual General Meeting.
- g. If the auditor has come to conclusion in his audit report that any person is guilty or any offence relating to accounts or any other offense, he will file specific report to the registrar within 15 days of submission of audit report and after obtaining written permission of Registrar file first information report (FIR) of the offence. If the auditor fails to file FIR he will be liable to be disqualified and his name will be remove from the penal of auditor as well as will attracts other actions if the registrar so decides.