

PROFESSIONAL OPPORTUNITIES FOR CAS IN CO-OPERATIVE SECTOR



LAW & MANAGEMENT OF CO-OP. SOCIETIES

PRESENTED BY

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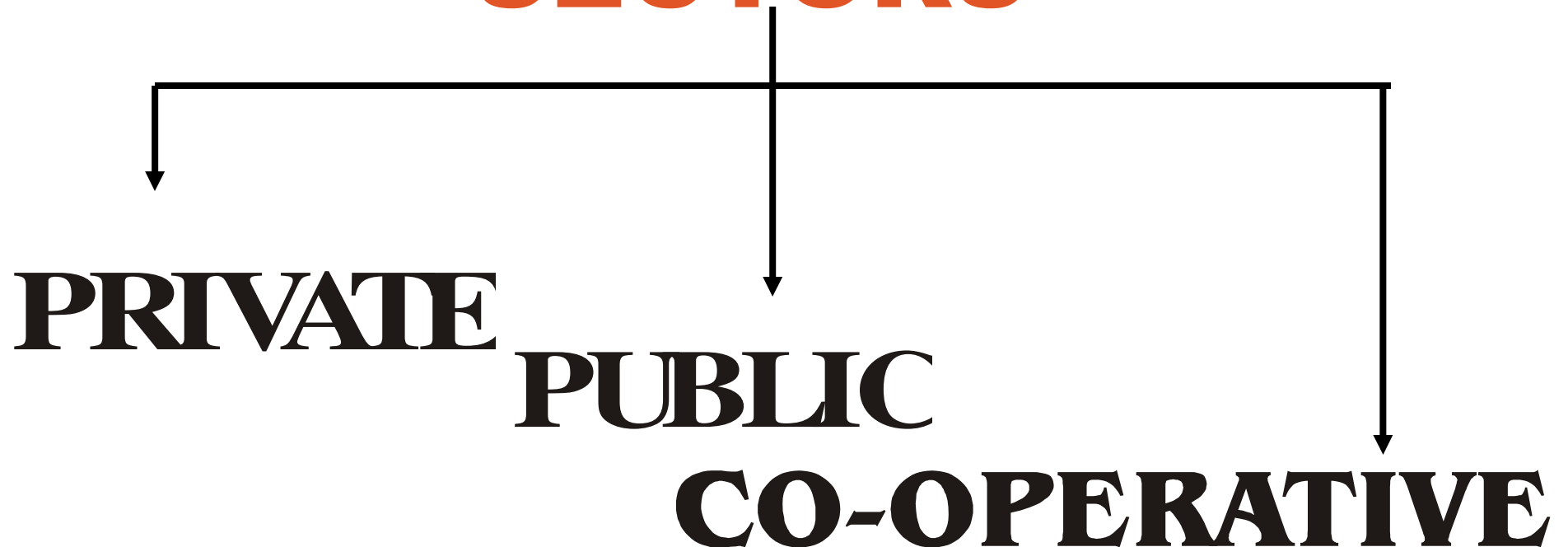
ORGANISED BY: BY NAGPUR BRANCH OF WIRC OF ICAI

1. UNDERSTAND CO-OPERATIVE AS BUSINESS ENTERPRISE

ECONOMIC ACTIVITIES

THREE

SECTORS



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

“ International Co-operative Alliance (ICA)”



3. ADHERENCE TO CO-OP. PRINCIPLES

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

CO-OPERATIVE ENTERPRISE- BUSINESS OPPORTUNITIES

Agriculture

Food

Retail

Wholesale

Housing

Child Care

Community Development

Financial Services

Community Economic Development

Media & Communications

Arts & Culture

Transportation

Energy

Environment

Travel

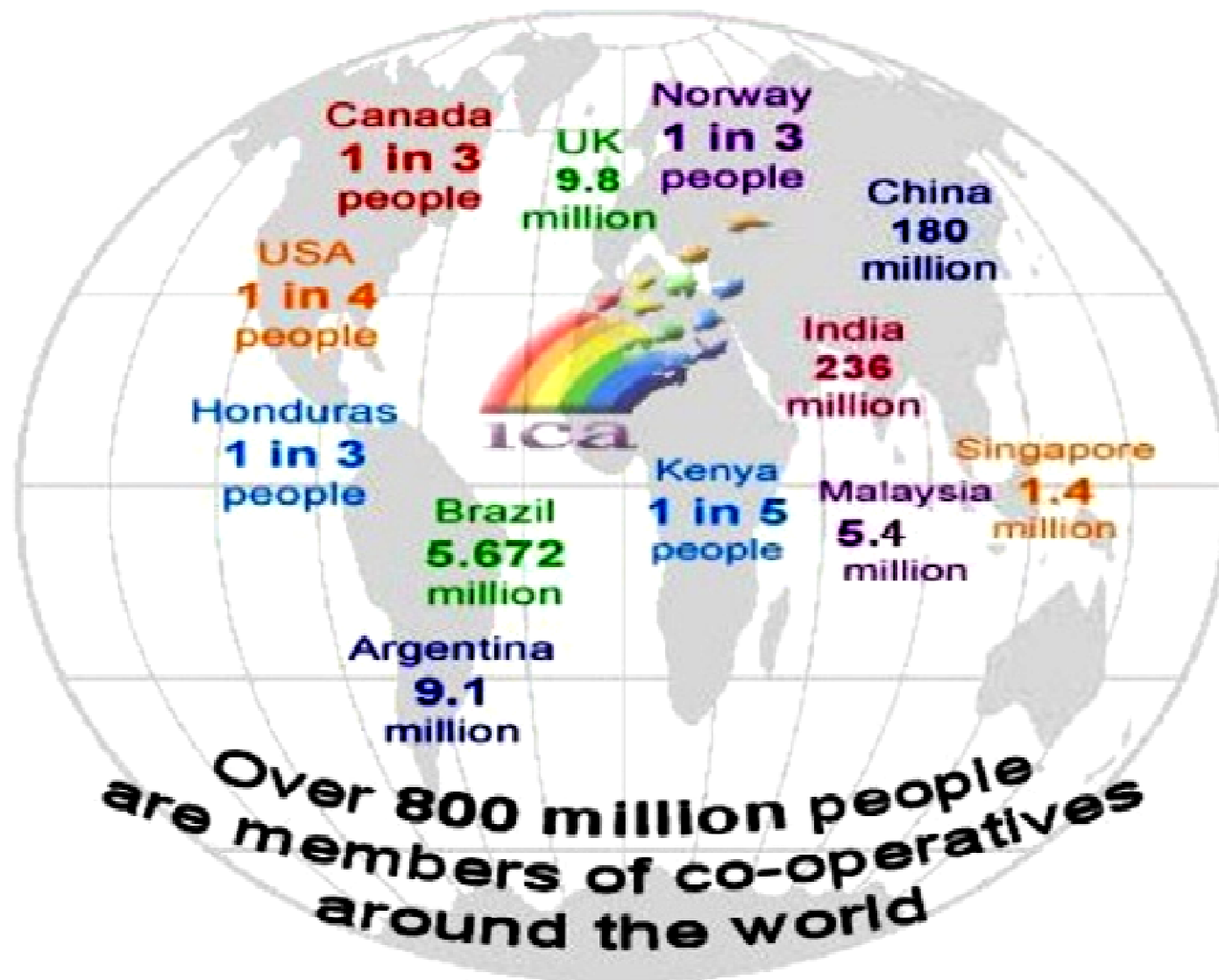
Education & Research

Recreation

Health

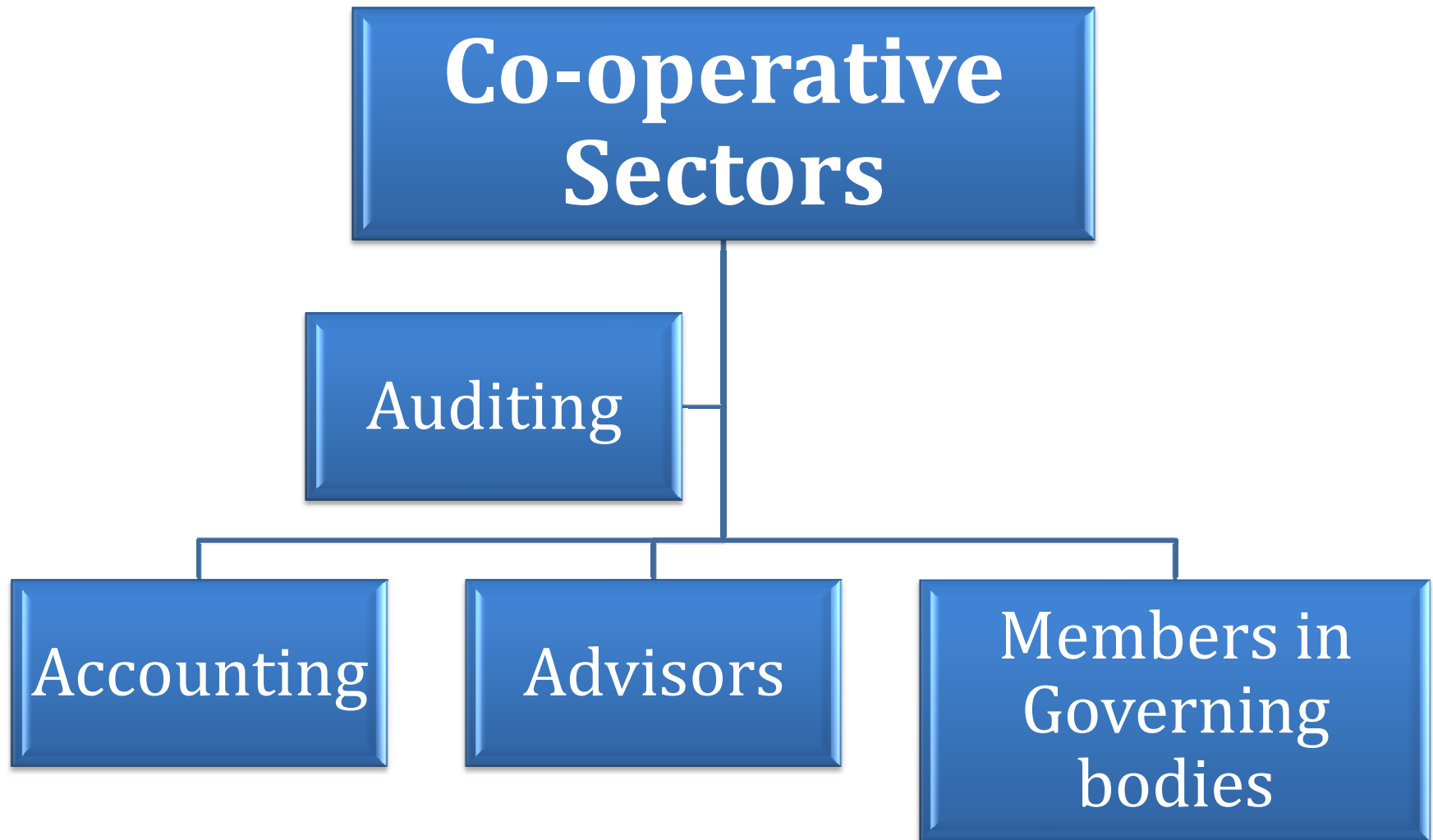
Federations & Associations

Services





PROFESSIONAL OPPORTUNITIES IN CO-OPERATIVE SECTORS





Financial Management- An Overview



2. STUDY THE APPLICABLE LEGISLATION

ACT AND RULES APPLICABLE

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

DEVELOPMENT OF LAWS

- **Co-op. Credit Societies Act, 1904-** for credit
- **Co-op. Societies Act, 1912** – for non-credit
- **Co-op. Societies became a state subject in 1919**
- **Various State Laws** e.g. Maharashtra Co-op Soc. Act 1960, Kerala Co-op Societies Act, 1969
- **Multi-State Cooperative Societies Act (MSCS) 2002** – for multi-state cooperatives (replaced the earlier Act of 1984)
- Now **97th Constitutional Amendment for co-ops.**

TYPES OF CO-OPERATIVE SOCIETIES

**Multi state
cooperative**



**Regulated by Multi
state cooperative
Societies Act, 2002**

**State
cooperative**



**Regulated by
respective state
cooperative Act**

4. ENSURE GOOD GOVERNANCE

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

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

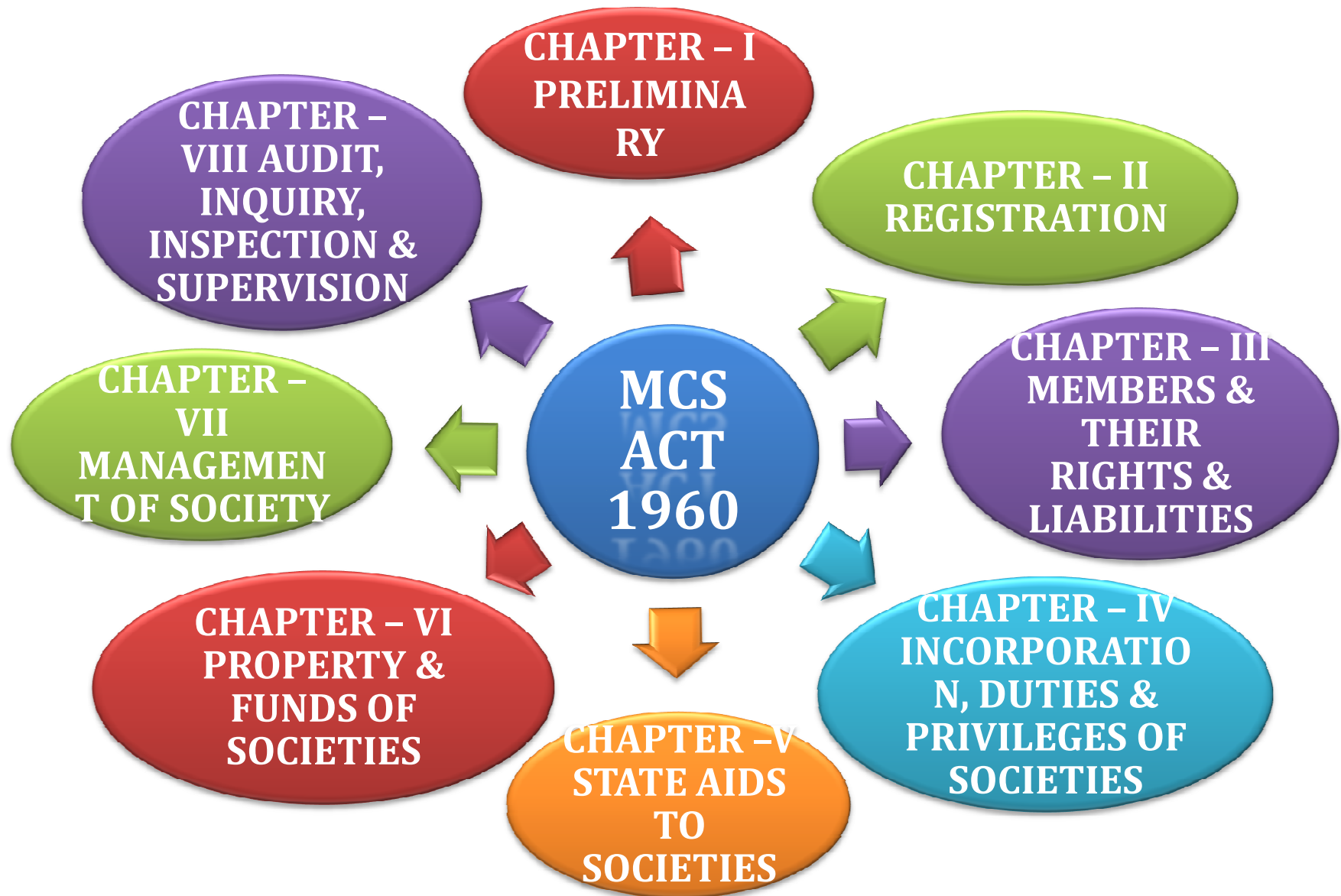


- Amendment of Article 19 makes Right to form Cooperative Societies a **Fundamental Right**.
- Insertion of Article 43B makes it a **Directive Principles of State** to ensure voluntary formation, autonomous functioning, democratic control and professional management of Cooperative Societies.
- **Election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

97th Constitutional Amendment – Highlights (Cont'd)

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

THE MAHARASHTRA CO-OP. SOCIETIES ACT - 1960







**IMPORTANT PROVISIONS
OF
MAHARASHTRA COOPERATIVE
SOCIETIES ACT, 1960.**

CONCEPT OF ACTIVE MEMBER

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

‘Active member’ means one who

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

- **Section 26(1)**

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

Provided that no member shall exercise the rights until:

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

CONCEPT OF ACTIVE MEMBER

- **Section 26(2)**

It shall be duty of every member of a society-

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

- **Provided:**

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

ACTIVE MEMBER-As per bye laws

Provision made in New Model Bye-laws-Housing:

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

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

ACTIVE MEMBER-As per bye laws

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

Bye-law No. (14) ACTIVE MEMBER :

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

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

ACTIVE MEMBER-As per bye laws

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

LEVEL OF SERVICES FOR BECOMING ACTIVE MEMBER :

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

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

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

AUTHORISED PERSON-AS PER MCS ACT,1960

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

AUTHORISED PERSON-AS PER MCS ACT,1960



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

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

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

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

MCS Act,1960-On Professional Mgt

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

ELECTION TO BE CONDUCTED BY STATE CO-OP ELECTION AUTHORITY

Changes made in MCS Act. 1960:

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

1. The superintendence, direction and control of the preparation of the electoral rolls
2. The State Co-operative Election Authority shall consist of a State Co-operative Election Commissioner (Provided that a person appointed as the State Co-operative Election Commissioner shall retire from the office on completion of the age of 65 years.)

Constitution of the Committee

MCS Act. 1960: Section 73-AAA. :

The Committee shall consist of numbers per the bye laws:

- Provided that the maximum shall not exceed 21.
- Provided Banking Regulation Act 1949 shall apply to all societies carrying the business of banking.
- The Committee may co-opt “ 2 expert directors”
- The committee may nominate 1 functional director(upto 17 members) and if more directors : 2 functional directors.
- Functional and Expert directors are in addition to elected 21 directors.

CHAPTER – VIII- AUDIT INQUIRY INSPECTION AND SUPERVISION

✓ 81. AUDIT:

- **Within 4 months of close of financial year.**
- **Responsibility of Society.**
- **Auditor/firm from a panel prepared by Registrar and approved by State Govt.**
- **possessing required qualifications and experience.**
- **Appointed by GBM of society.**
- **Audit Report to be placed before AGBM.**

CHAPTER – VIII- AUDIT INQUIRY INSPECTION AND SUPERVISION

- **Apex society Audit Report before both Houses of the State Legislature.**
 - **If society fails- Registrar may cause its accounts to be audited.**
 - **One Panel Auditor to Audit of maximum 20 societies in a financial year- excluding societies having paid up share capital of less than rupees one lakh.**
- ✓ **82. RECTIFICATION OF DEFECTS IN ACCOUNTS:**
- **Within 3 months from the date of audit report,**
 - **To Registrar.**
 - **Steps to rectify the defects and remedy irregularities.**
 - **To be placed before next GBM.**

CHAPTER – VIII- AUDIT INQUIRY INSPECTION AND SUPERVISION

- Registrar may make order to take action.
- If MC fails to submit audit rectification report to Registrar/AGBM;
- All MC members – committed offence u/s 146.
- Liable for penalty u/s 147.

✓ 83. INQUIRY BY REGISTRAR:

✓ 84. INSPECTION OF BOOKS OF INDEBTED SOCIETY.

✓ 85. COSTS OF INQUIRY AND INSPECTION.

✓ 86. RECOVERY OF COSTS.

CHAPTER – VIII- AUDIT INQUIRY INSPECTION AND SUPERVISION

- ✓ **87. REGISTRAR TO BRING DEFECTS DISCLOSED IN INQUIRY OR INSPECTION TO NOTICE OF SOCIETY.**
- ✓ **88. POWER OF REGISTRAR TO ASSESS DAMAGES AGAINST DELINGQUENT PROMOTERS, ETC:**
 - **Within period of 5 years prior to Audit u/s 81 or Inquiry u/s 83 or Inspection u/s 84 or winding up of u/s 105:**
 - **Proceedings shall be completed within 2 years from order by Registrar:**
 - **Extension of maximum 6 months.**

CHAPTER – VIII- AUDIT INQUIRY INSPECTION AND SUPERVISION

- ✓ **88A. DEPOSIT TOWARDS FEES OF INQUIRY.**
- ✓ **89. POWER TO ENFORCE ATTENDANCE, ETC.**
- ✓ **89A. POWER TO INSPECT WORKING OF SOCIETY.**

CHAPTER – IX- SETTLEMENT OF DISPUTES

✓ 91. DISPUTES:

✓ 91A. CONSTITUTION OF CO-OPERATIVE COURTS.

✓ 92. LIMITATION:

✓ 93. TRANSFER OF DISPUTES FROM ONE CO-OPERATIVE COURT TO ANOTHER AND SUSPENSION OF PROCEEDINGS IN CERTAIN CASES.

- Power to Transfer Disputes to President of Co-operative Appellate Court.

✓ 94. PROCEDURE FOR SETTLEMENT OF DISPUTES AND POWER OF CO-OPERATIVE COURT: Court Procedure

CHAPTER – XII- OFFENCES AND PENALTIES.

- ✓ **145. PROHIBITION OF USE OF THE WORD “CO-OPERATIVE”**
 - No person, other than registered/deemed to be registered co-op. without sanction of State Govt. function/trade/carry on business under name/title of word "co-operative" .
 - Every such person on conviction, be punished with fine up to Rs. 500/-.
- ✓ **146. OFFENCES.**
- ✓ **147. PUNISHMENTS FOR OFFENCES UNDER SECTION 146.**

REGISTRATION Of Cooperative Business Enterprise under the Applicable Act

- **Registration of the society for different Objects**
- **Registration under Maharashtra Cooperative Societies Act, 1960**
- **Registration under Multi State Cooperative Societies Act, 2002.**
- **Registration of Cooperative Housing Society through the builder or by the members under non co-operation from the builder**
- **Consultancy for facilitating registration through builder**
- **Amalgamation, Division or merger of the societies.**

ARRANGING MEETINGS THROUGH THE REGISTRAR

- **First meeting, if not conducted within 3 months from the registration, if reported to the registrar by any members.**
- **Requisition general body meeting, if not done by the committee within 1 month of request made by 1/5th members.**
- **Attending the meeting of the members on behalf of the registrar**
- **Conducting the Annual General body meeting after 30th September on behalf of the registrar.**

Consultancy for taking over and handing over of the charge

- **Facilitating to take the charge from the outgoing committee.**
- **If the old committee reluctant to give the charge or handover the documents, approach the registrar and facilitate to receive the records.**
- **In the case of Coop Hsg society Consultancy and facilitation to verify the documents to be received from the chief promoter or builder at the time of taking over of the society.**

CONDUCT THE ELECTION AND CONSTITUTE THE COMMITTEE

- **Society can appoint the CA as the Election officer**
- **Registrar also can appoint as the Election officer**
- **Constitution of the committee by the Registrar by the proper order**
- **Advise related to No Confidence to be passed against the office bearers.**
- **Regarding Cooption or election of vacant posts.**

AUDIT, INSPECTION AND ENQUIRY

- **Statutory audit – by registrar or by the society**
- **Internal audit - by the Society**
- **Inspection u/s 89 through the registrar**
- **Enquiry officer u/s 83 by the registrar**

AUTHORISED OFFICER APPOINTMENT BY THE REGISTRAR

- To conduct the first meeting or any general body or committee meeting.**
- To execute the orders of transfer of shares etc u/s 79**
- To conduct the meeting for the purpose of re-development**
- Election officer**
- Verification of documents filed under deemed conveyance.**
- For vetting of the conveyance deed on behalf of registrar**
- For execution and registration of conveyance deed under the deemed conveyance procedure**

CONSULTANCY TO THE PARTIES

- **Societies**
- **Individual members**
- **Registrar as a representative or authorized officer.**

VARIOUS DEPARTMENT / AUTHORITIES WITH WHOM THE SOCIETIES MAY HAVE TO INTERACT

- Dy. Registrar**
- Joint Registrar**
- Ministry**
- High court**
- Consumer Court**
- Co-operative Court**
- Appellate Court**
- B. M. C. – Illegal construction, dispute in property taxes, dispute in water charges levied, BMC notices for pest control, leave and license information, change of users etc.**
- Federation of the society for executing the recovery order issued by the registrar,**
- Represent to the Federation not to appoint any administrator**
- Various disputes to be handled by the Federation**

REPRESENTATION BEFORE THE REGISTRAR

- ▶ **For admission of membership filed u/s 22 and 23 of the M.C.S Act either on behalf of the society or on behalf of member.**
- ▶ **Appeal before the Joint registrar**
- ▶ **Recovery of dues from members u/s 101 either on behalf of the society or on behalf of member**
- ▶ **Expulsion of member u/s 35 again on behalf of the society or on behalf of member.**
- ▶ **For conveyance under deemed conveyance provision on behalf of the society or on behalf of the builder**
- ▶ **Adoption of bye-laws**
- ▶ **Withdrawal of Sinking Fund**

CONSULTANCY

- **For stamp duty and registration**
- **Drafting of the agreement**
- **Filing of Income tax returns**
- **Filing of TDS returns**
- **Transfer documents**
- **Transfer of shares and the flat due to the death of the member**
- **Gift deed and transfer of flats and shares.**

PREPARATION OF STATUTORY REGISTERS & Annual Filing of Returns

- **Share register,**
- **Member register in I form**
- **List of members in J form**
- **Nomination register**
- **Property Register**
- **Mortgage Register**
- **Investment register**
- **Issue of share certificate**
- **Record of individual files of the members with application form, agreement copies, receipt of various undertakings etc.**
- **Allotment of flat registers**
- **Filing of Annual Returns as per section 79(1A)**

CONVEYANCE AND DEEMED CONVEYANCE

- O Procuring the various documents**
- O Studying the case and giving the report**
- O Attending the meeting with the committee and the general body to discuss about the conveyance advantages and the various remedies.**
- O Drafting the petition for deemed conveyance**
- O Appearing for the society or the builder in the hearing of deemed conveyance before the deputy registrar.**

CONVEYANCE AND DEEMED CONVEYANCE

- **Act as the authorized officer appointed by the registrar**
- **Vetting of the conveyance deed, if referred by the registrar**
- **Get the stamp duty adjudicated on the conveyance deed.**
- **Verification of the stamp duty liability of the individual flat buyers**
- **Registration of conveyance deed and obtaining the deemed conveyance order**

RE-DEVELOPMENT PROCESS AND PROCEDURE

- **Procuring the various documents required for re-development**
- **Studying the case and giving the feasibility report**
- **Attending the meeting with the committee and the general body to discuss about the re-development process and procedure**
- **Drafting the various correspondence, agreement on re-developments, minutes writing**
- **Appearing for the society or the builder in the before the deputy registrar.**

RE-DEVELOPMENT PROCESS AND PROCEDURE

- **Act as the authorized officer appointed by the registrar to attend the general body in which developer is appointed.**
- **Vetting of the various agreements provided by the developer**
- **Get the stamp duty adjudicated on the Development agreement, individual agreements etc.**
- **Verification of the stamp duty liability of the individual flat buyers**
- **Registration of development agreement, individual agreement etc.**

INCOME TAX, SERVICE TAX AND TAX PLANNING

- **Tax Planning**
- **Income Tax filing**
- **T.D. S return**
- **Service tax payment**
- **Service tax Return.**

RETAINERSHIP

- **Attending the meeting of the society**
- **Annual contract for various services
(Retainer ship)**
- **Case to case consultancy for transfer,
recovery or legal heir transfer etc.**

STAMP DUTY AND REGISTRAR.

- **Drafting the agreement and deeds**
- **Calculation of stamp duty on various types of instruments.**
- **Obtaining the certified copies and index
ii**
- **Registration of the documents with the
sub-registrar**

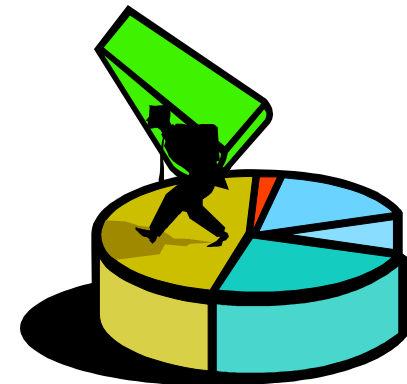
PROJECT LOANS AND HOUSING LOANS

- **Housing loans for individuals**
- **Project loans for the builder**
- **Re-development loans**
- **Major repairs from the Mumbai District
Central Co-op bank or**
- **Maharashtra State Co-operative Bank.**

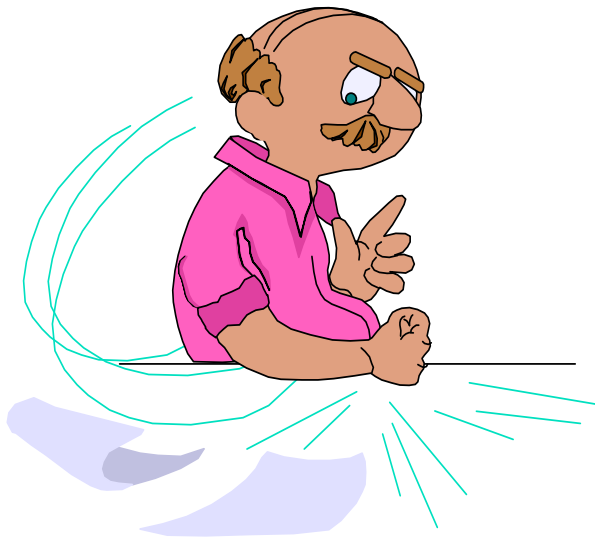
DECISION MAKING PROCESS IN CO-OPS

ANY DECISION MAKING DEPENDS ON:

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



Individually Owned Business



One Person

- Owns
- Controls
- Operates
- Benefits/Profits

Private Company

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



WHAT IS A COOPERATIVE?

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

DEMOCRATIC MEMBER CONTROL



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



PARTICIPATION ROLES

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

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



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Co-op Enterprises & Co-op Stakeholders



Let us be Partner in Nation Building

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

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

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CHAIRMAN

MAHARASHTRA SOCIETIES WELFARE ASSOCIATION, MEMBER OF TASK FORCE FOR NPOS & CO-OPS OF MAHARASHTRA, CONVENER TO PREPARE GUIDANCE NOTE ON AUDIT OF DISTRICT AND STATE CO-OP BANKS –PUBLISHED BY PDC OF ICAI, CO-OPTED MEMBER OF CO-OP COMMITTEE (MAHARASHTRA) OF WIRC OF ICAI.