

**CA MUKUL VARMA**



**REGISTRATION, DEREGISTRATION,  
AMALGAMATION & BIFURCATION  
OF SOCIETIES**





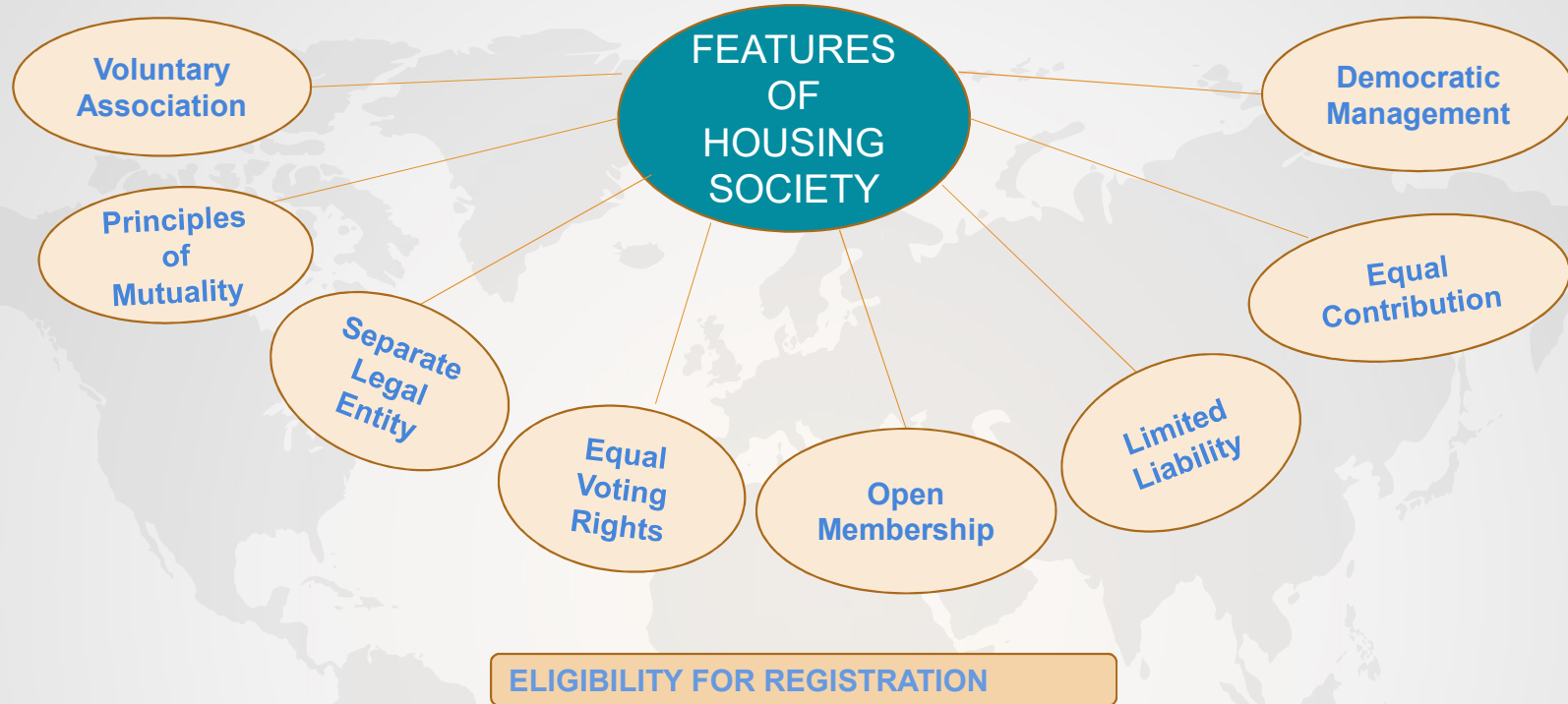
**SEMINAR ORGANISED BY  
WESTERN INDIA REGIONAL COUNCIL OF  
THE INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA AND  
CONDUCTED BY  
CA MUKUL A VARMA**

# PART-I

TRANSITION OF PRO



FORMATION  
OF A  
CO-OPERATIVE  
HOUSING SOCIETY



As per **Section 4** of MCS Act 1960 - A **society**, which has as its objects the promotion of the **economic interests** or **general welfare** of its members, or of the public, in accordance with co-operative principles, or a society established with the object of **facilitating the operations** of any such society, may be registered under this Act:

Provided that, **no society** shall be registered if it is likely to be **economically unsound**, or the registration of which may have an **adverse effect on development of the co-operative movement**, or the registration of which may be **contrary to the policy directives** which the **State Government** may, from time to time, issue.

# ADVANTAGES OF REGISTRATION



## MANAGEMENT OF THE SOCIETY

Being a registered entity, it can **take action against violating members** who violate the rules of the Registered Society framed by the General Body i.e. for parking related issues, disturbing neighbours, illegal repairs, utilising residential space for Commercial purposes, using common area for personal use, etc.

## RESIDENTS SECURITY

**General Safety of members** i.e. Registered Housing Society can by its Bye-Laws , frame rules for the Society. i.e. Restriction on unauthorized entry, use of Society facilities in a planned and safe manner, maintaining cleanliness in the Society, general law and order etc. Importance has specially increased to frame rules with spread of COVID-19.

## SETTLEMENT OF DISPUTE WITH THE BUILDER

It is common for the Societies to have dispute with the Builder. The Registered Society, being an association can take legal measures against builders, for poor construction of building, non-payment of maintenance dues for unsold flats, unauthorized use of society premises, not providing proper handover to the Society.

The National Consumer Dispute Redressal Commission (NCDRC) has clarified that **only registered** residents' welfare associations (RWAs), consumer organizations, cooperative societies or association of flat or plot buyers **can file complaints against builders in the commission.**

NCDRC also clarified that if a body is formed with the **objective of making financial gains**, and not to serve the cause of the consumer or the society in general, it will **not qualify as a voluntary consumer association.**

## LIMITED LIABILITY

Society can be registered with the Limited Liability.

## ACTS APPLICABLE





# MOFA 1963 AND WHY WAS IT ENACTED?

## MOFA-MAHARASHTRA OWNERSHIP FLATS ACT-1963

↓  
Protect/Regulate Interest of Flat Buyers

↓  
Malpractices of Builder

- ☞ Construction Delays
- ☞ No Timely Approvals
- ☞ Defective Title
- ☞ Delay in Possession
- ☞ Delay in Conveyance



## DEFINITION OF BUILDER PROMOTER

### MOFA

Builder or Developer who  
Constructs and Sells Flats

### RERA

Land Owner, Builder ,  
Developer , Contractor etc.

### MCS Act

Same as in RERA



## IMPORTANT SECTIONS-MOFA/RERA

### Section 4

Written Agreement and its Registration.

### Section 10

Formation of Society.

### Section 13

Punishment - 3 Years Imprisonment or Fine or both.

### Section 13a

Trial of offence under the Act-Metropolitan Magistrate or Judicial Magistrate of the first class.

### RERA'2016

### Section 11 (4)

Formation of Society/Company/Association/Federation

## IMPORTANT PROVISIONS RELATED TO FORMATION OF SOCIETY

MOFA 1960	RERA 2016	MCS ACT 1960
Within 4 months from registration of at least 60% of the Flat Purchaser Agreements.	Within 3 months from the date of the issue of OC or payment of full consideration by 51% of the total no. of allottees.	No Formation, unless it consists of at least Five Persons or 51% of total Flat Purchasers as per Proposed or Sanctioned Lay-out.

## IMPORTANT DEFINITIONS - OLD

### Section 2 (16) of MCS Act 1960.

**“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.

### Section 2 (19)

**“member”** means a person joining in an application for registration of the co-operative society which is subsequently registered , or a person duly admitted to membership of the society after registration and includes a nominal or associate member.

### Section 2 (27)

**“society”** means a co-operative society registered or deemed to be registered under this Act

### Section 2 (28)

**“society with limited liability”** means a society having the liability of its members limited by its bye laws



## CHAPTER XIII B inserted by Maharashtra Amendment Act XXIII of 2019 wef 9.3.2019

Section 154B(1) provides a **separate chapter** for Housing societies.

1. MCS Act governs all co-operative societies.
2. Societies have different objects, classification and sub classification.
3. Provisions of Act regulate , manage and protect interest of its members.
4. Co-operative Housing Societies > 50% of total societies in the State.
5. Affairs distinct and peculiar but regulated in same manner as per general provisions of the said Act as applicable for all other co-operative societies.
6. Urgent need felt to provide a separate chapter to cater to specific requirements.



## IMPORTANT DEFINITIONS - NEW

**SECTION 154B-1(17)** - 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.

**17(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 leasehold or freehold basis by the society and houses are owned or to be owned by the members.

**17(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 buildings or buildings are held either on freehold or leasehold basis by the society .

**17(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,

**SECTION 154B-1(18)** - 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.

**SECTION 154B-1(22)** - means a person intending to become a Member of a proposed society and who becomes the Member on its registration.

**SECTION 154B-1(23)** - 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.



**HOUSING  
SOCIETY**



**MEMBER**



**PROMOTER**



**PROPOSED  
SOCIETY**



## OBJECTS FOR FORMATION OF SOCIETIES

1. Obtain conveyance from the Owner/ Promoter Builder.
2. Manage, maintain and administer the property of the Society.
3. Raise funds for achieving the objects of the Society.
4. Undertake social, Cultural or Recreational activities.
5. Provide Co-operative Education and Training to develop co-operative skills of its Members, Committee Members, Officers and Employees of the Society.
6. Do all things, necessary or expedient for the attainment of the objects of the Society.



## IMPORTANT PROVISIONS OF BYE-LAWS

### Bye-Law No. 5: Object Clause

To obtain Conveyance from Owner/Promoter of the Right/Title/Interest in Land and Building

### Bye-Law No. 88: Agenda of First AGM- Agenda No. 6

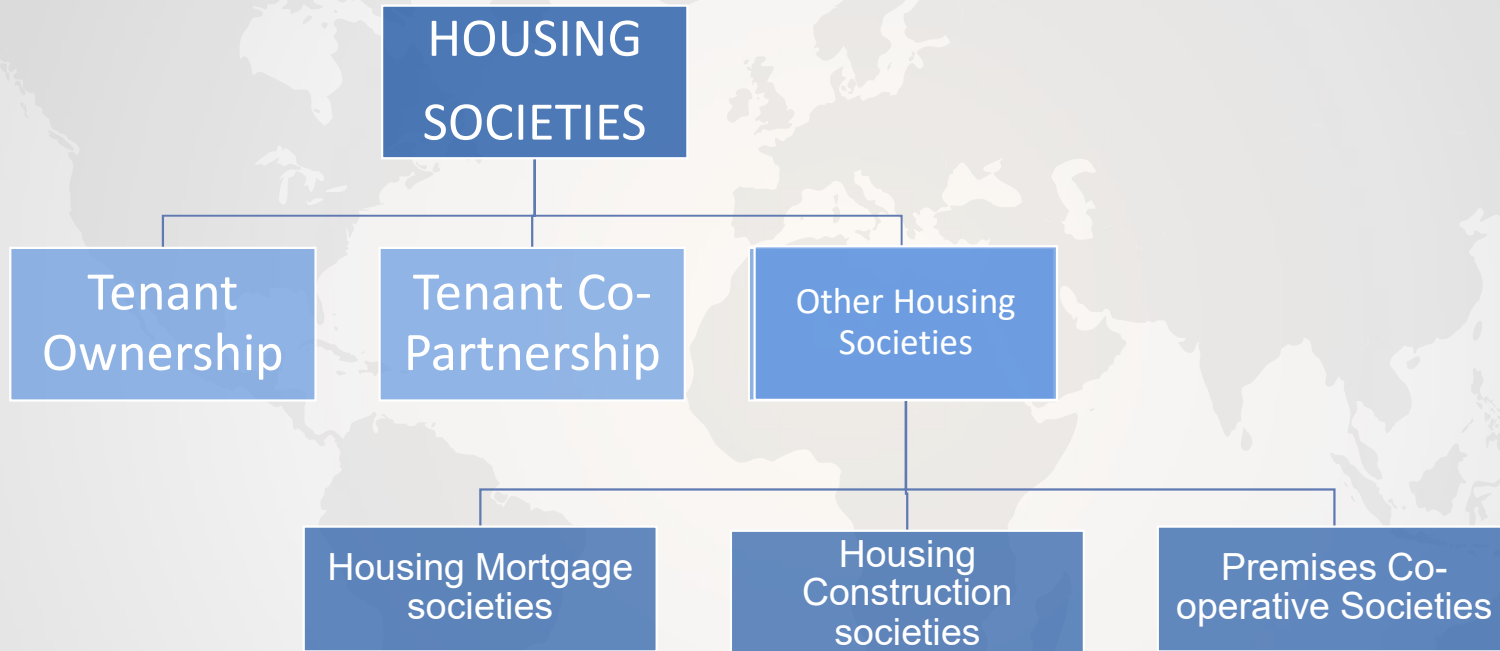
Authorising the Committee to secure Conveyance of the right, title and interest in the Property, in the name of the Society from the Promoter/Builder.

### Bye-Law No. 154

- ☑ Committee in consultation with General Body, to take necessary steps for Conveyance of Land and Building.
- ☑ Committee to Examine in consultation with the advocate of the Society, the deed of Conveyance/deemed Conveyance and Place the Same before the General Body.
- ☑ On Approval, Committee to execute it as per Law.

## PROCEDURE FOR REGISTRATION OF CO-OPERATIVE SOCIETIES.

### Section 12, Rule 10 : Classification and Sub classification of societies



# PROCEDURE FOR NAME RESERVATION OF CO-OPERATIVE SOCIETIES

## Tenant Co-partnership type of societies

1. Elect Chief Promoter.
2. Authority to Chief Promoter to apply for name.
3. Select name of society.
4. Authorize Chief Promoter to appoint consultant and fix fees.
5. Authorize Chief Promoter to open bank account and deposit share money and entrance fees.

## Agenda for holding an informal meeting of members



## Tenant Ownership type of societies in addition to 1-5.

6. Authorize Chief Promoter to appoint Architect.
7. Authorize Chief Promoter to appoint Building contractor.
8. Authority to negotiate and acquire the plot.
9. Authority to get plans and estimates prepared.

## NUMBER OF MEMBERS FOR REGISTRATION

### Tenant Co-partnership Housing Society

- ❖ At least five persons – each member of different family or
- ❖ Fifty one percent of total flat purchasers or intending members  
Whichever is Higher.

### Tenant Ownership Housing Society

- ❖ At least five persons – each member of different family or
- ❖ Fifty one percent of total plot purchasers or Whichever is Higher.

### Association of Society

- ❖ At least five housing societies.

### Co-operative Housing Association

- ❖ At least two housing societies or other legal bodies.

Family: "A wife, husband, father, mother, dependent son or unmarried dependent daughter."

# PROCEDURE FOR NAME RESERVATION OF CO-OPERATIVE SOCIETIES

## Co-Operative Societies



Replaced by

Application for  
Registration (Section 6)

Application for reservation of name and permission  
for opening bank account. (Section 154B-3)

Tenant Co-  
Partnership  
Housing  
Society

- Application in prescribed format .
- Copy of I.O.D.
- Copy of Commencement certificate.
- Title Clearance certificate.
- Copy of Occupation certificate.
- Copy of one registered agreement of any Flat purchaser.
- Form of Resolution electing Chief Promoter & giving him authority for doing certain acts on behalf of proposed society in "Annexure I"

Tenant Co-  
Ownership  
Housing  
Society

- Application in prescribed format .
- Copy of Tentative Layout plan certified by Architect .
- Copy of Sanctioned Layout plan.
- Copy of any agreement entered into for purchase of land or power of Attorney.
- Title Clearance certificate.
- Form of Resolution electing Chief Promoter & giving him authority for doing certain acts on behalf of proposed society in "Annexure I"

# PROCEDURE FOR NAME RESERVATION OF CO-OPERATIVE SOCIETIES

## APPLICATION FORM FOR NAME RESERVATION

- a) Name of the proposed Society to be reserved.
- b) Details of plot, such as plot No. location and Municipal Ward on which the building is proposed to be constructed or already constructed.
- c) Postal address for correspondence purpose.
- d) Enclose a copy of the agreement for sale
- e) No. of flats proposed to be constructed or already constructed.
- f) No of Promoters who have already joined the Proposed Society.
- g) Whether the applicant is one of the Promoters of the proposed Society.
- h) Address of the Proposed Society where the records will be kept till registration.
- i) Full name, occupation and Address of the Chief Promoter.
  - (1) Residential Address
  - (2) Business Address
  - (3) Occupation
  - (4) Telephone No. of Office and Residence if any.
- j) Suggest four alternative names  
in order of preference in the  
event the proposed name is  
not available for reservation

(1) _____	C.H.S LTD
(2) _____	C.H.S LTD
(3) _____	C.H.S LTD
(4) _____	C.H.S LTD

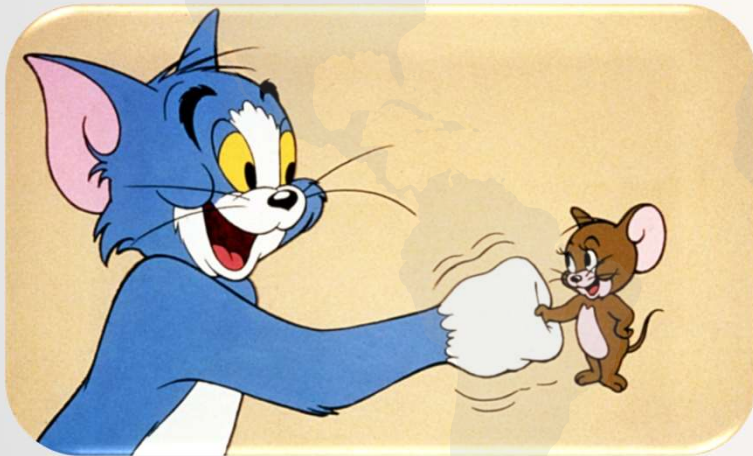
## PROCEDURE FOR NAME RESERVATION OF CO-OPERATIVE SOCIETIES

- Registrar to dispose of the application within 30 days by granting name reservation letter .
- Validity of name reservation – 2/3 months.
- Extension of validity possible once or twice.
- Bank account to be opened in District Central Co-operative Bank or Urban co-operative bank.
- Deposit share money and Entrance fees.
- Obtain closing bank balance certificate.



# PROCEDURE FOR APPLICATION FOR REGISTRATION OF CO-OPERATIVE SOCIETIES 154B-3(3)

Builder Co-operation



Builder Non-Co-operation



## PROCEDURE FOR APPLICATION FOR REGISTRATION WITH BUILDER CO-OPERATION

Application in prescribed form to the Registrar of the Ward

### Prescribed Forms & Enclosures

1. Form A [Marathi ,Hindi or English]
2. Statement A : (Particulars of Promoters)
3. Statement B : (Proposed society information)
4. Statement C : (Further information of Promoters)
5. 2 copies of bye laws.
6. Copy of name reservation letter.
7. Closing bank balance certificate.
8. Statement of account.
9. Scheme of the society showing viability of the society
10. Form X [**Tenant ownership type society**]
11. Form Y [**Tenant Co-partnership type society**]
12. Declaration/ Affidavit of 5 persons (Promoters )
13. Affidavit of child labour not employed.
14. Specimen copy of agreement [to check clause for formation of society]
15. Index II of all members who have joined as Promoters for formation of society.
16. Title Clearance certificate.
17. Challan of Rs.2,500/- paid into RBI or SBI towards registration fees



FormA,Stmnt  
ABC

### Tenant Ownership type of societies

#### Additional documents

Layout plan.

Zone certificate from competent authority .

## PROCEDURE FOR APPLICATION FOR REGISTRATION WITH BUILDER CO-OPERATION

### Requirements from the Builder

1. Form Z
2. Occupation certificate. [not a mandatory requirement]
3. Architect's certificate
4. Approved building plan
5. List of sold and unsold flats on builder letter head.
6. Development agreement copy.
7. Power of attorney of land.
8. Copy of last paid electric bill and receipt
9. Copy of last paid water charges bill and receipt
10. Copy of last paid Property tax paid bill and receipt.
11. N.A.order.
12. 7/12 extract
13. Property card

## PROCEDURE FOR APPLICATION FOR REGISTRATION : BUILDER NON CO-OPERATION

Application in **Form No VI** [Rule 12]

Receive acknowledgement to Application made.

Scrutiny of application [Rule 13]

Notice for compliance in **Form No VIII** if application incomplete.

CA to issue notice of hearing within 15 days of registration of application.

Notice to be sent by registered post with acknowledgement due.

CA to issue public notice inviting claims, objections in local newspapers having wide circulation in case notice not served on builders/opponents.

Appear in person or through Advocate or authorised representative.  
Opponent to file written statement.

## **PROCEDURE FOR APPLICATION FOR REGISTRATION : BUILDER NON CO-OPERATION**

**Opponent does not appear on hearing date or adjourned date -> CA to decide case ex parte. Sufficient cause shown before deciding application – Opponent will be heard.**

**Applicant does not appear on hearing date or adjourned date -> CA may dismiss the application.**

**CA to call for production and inspection of documents.**

**If document not provided, adverse inference may be drawn against such party.**

**Inspection of documents cannot be brought before CA.**

**Oral arguments post written submissions.**

**Closure of the case.**

**Order within 6 months from date of receipt of application .**

**Order to have official seal and copy sent to all concerned parties.**



## PROCEDURE FOR APPLICATION FOR REGISTRATION : BUILDER NON CO-OPERATION

### Prescribed Forms & Enclosures

1. Form A [Marathi ,Hindi or English]
2. Statement A : (Particulars of Promoters)
3. Statement B : (Proposed society information)
4. Statement C : (Further information of Promoters)
5. 2 copies of bye laws.
6. Copy of name reservation letter.
7. Closing bank balance certificate.
8. Statement of account.
9. Scheme of the society showing viability of the society
10. Form X [Tenant ownership type society]
11. Form Y [Tenant Co-partnership type society]
12. Declaration/ Affidavit of 5 persons (Promoters )
13. Affidavit of child labour not employed.
14. Specimen copy of agreement [to check clause for formation of society]
15. Index II of all members who have joined as Promoters for formation of society.
16. Title Clearance certificate.
17. Chalan of Rs.2,500/- paid into RBI or SBI towards registration fees.

### Additional documents in case of non co-operation from Builder

1. Letter / Notice to the Builder Promoter to form the society
2. Indemnity bond/Affidavit of Chief Promoter [stating that the builder is not co-operating and members are proceeding for formation of the society]



## PROCEDURE FOR REGISTRATION OF CO-OPERATIVE SOCIETIES.

### **Section 9 : REGISTRATION**

Registrar to act on the proposal within 2 months from submission date.  
Issue Registration certificate under Section 9 or reject the registration proposal giving valid reasons for rejection.

### **Failure to act within 2 months**

#### **Procedure**

Refer application to higher officer within 15 days .  
2 months time to higher officer to dispose of the application .  
Inaction by higher officer within 2 months, society deemed registered.  
Registrar to issue certificate of registration within 15 days.

### **Section 10 : EVIDENCE OF REGISTRATION**

Certificate of registration signed by Registrar conclusive evidence of Registration of society unless proved that the registration of the society has been cancelled.

## PROCEDURE FOR REGISTRATION OF CO-OPERATIVE SOCIETIES.

### **CERTIFICATE OF REGISTRATION – RULE (5)**

- (1) On receipt of an application under Rule 4, the Registrar shall enter particulars of the application in the register of application to be maintained in Form 'B', give a serial number to the application and issue a receipt in acknowledgement thereof.
- (2) The Registrar may give, wherever necessary, opportunity to the promoters to modify the proposed bye-laws before finally registering the society or rejecting the application for registration of the society.
- (3) On registering a society and its bye-laws under sub-section (1) of Section 9, the Registrar shall as soon as may be, notify the registration of the society in the Official Gazette and grant to the society, a certificate of registration signed by him and bearing his official seal and containing the registration number of the society, and the date of its registration. The Registrar shall also furnish the society with a certified copy of the bye-laws approved and registered by him

### **FORM OF REPORT UNDER RULE (6)**

The report to be made by the Registrar to the State Government under sub-section (2) of Section 9 shall be in Form 'C'.

### **MAINTENANCE OF REGISTER (RULE 11)**

- (1) The Registrar shall divide the register into parts, one for each district in the State. A society shall be registered in that part, for a district in which its head office is situated.
- (2) The Registrar shall assign for each district and each class or sub-class of societies, a code symbol, for giving registration numbers to the societies and the societies shall be registered from the dates specified by him.

## PROCEDURE FOR REGISTRATION OF CO-OPERATIVE SOCIETIES.

### **Rule 7 : REFUSAL OF REGISTRATION**

Where any society does not furnish the information in regard to the society as required by the Registrar or fulfil any of the conditions laid down in the Act or these rules, the Registrar may refuse to register that society.

### **Section 152 : APPEAL AGAINST REFUSAL OF REGISTRATION**

- Appeal to the Divisional Joint Registrar .
- Appeal within 2 months of date of order .
- Interim order possible including order of stay.
- Interim order without hearing the other side- final order within 3 months after hearing both the parties.

## PROCEDURE POST FORMATION OF CO-OPERATIVE SOCIETIES.

First General Body meeting within 3 months of registration .

Chief Promoter Society to convene First General Body meeting. On failure, the Registering Authority shall convene it.

Clear 14 days Notice of the First General Body Meeting of the Society.

### AGENDA AT THE FIRST GENERAL BODY MEETING OF THE SOCIETY

1. Election of a President for the meeting,
2. Admission of new Members (other than the promoters) who have applied for Membership of the Society.
3. Receiving and Approving the Statement of Accounts, prepared by Chief Promoter
4. Constitution of a Provisional Committee until regular elections are held
5. Fixing borrowing limits.
6. Authorising the Committee to secure conveyance
7. Appoint internal Auditor of the Society and fix his remuneration.
8. Authorise One of the Members of the Provisional Committee to call the first meeting of the Provisional Committee,
9. Consider affiliation of the Society as Member of the Housing Federation of the District.
10. Consider any other matter to be brought before the meeting with the permission of the Chair, excepting those requiring proper notice.

## PROCEDURE POST FORMATION OF CO-OPERATIVE SOCIETIES.

### **ADDITIONAL AGENDA FOR PLOT-PURCHASED TYPE SOCIETY**

1. To review and approve the Report of the Chief Promoter of the Society regarding the work done and proposed to be done with reference to the financial and physical aspects of the scheme of construction.
2. To confirm the agreement for purchase of the plot/building for the Society entered into by the Chief Promoter of the Society with the vendors.
3. To approve the site plan and the scheme of construction.
4. To confirm the appointment of Architect of the Society made by the Chief Promoter, if no such appointment is made by the Chief Promoter of the Society ,to appoint a new architect in place of the one already appointed.

## RIGHT OF BUILDER AFTER SOCIETY HAS BEEN FORMED



When a Purchaser is buying a flat; he is not only purchasing the flat but also acquiring an undivided right title and interest in the Property



After the Registration of a Housing Society any balance unutilised residual Floor Space Index (FSI) shall be available to the society and not to the Builder- Judgement by MSCDRC



As per MOFA Provisions, after Registration of the Society, the Builder cannot claim residual FSI or further FSI in the plot or layout



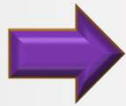
Any provision in the Builders Agreement for sale contrary to the statutory provision will not be binding on any Flat Purchaser or the Society.



# FORMATION OF ASSOCIATION

Association  
of society if  
more than 5  
Societies

Co-operative  
Housing  
Association :  
at least 2  
societies



**SAME PLOT  
OF LAND**

## Section 154B -1 : DEFINITIONS

“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;

“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.

## FORMATION OF CO-OPERATIVE HOUSING SOCIETY WITH MANY WINGS.

### Conditions to be fulfilled :

- Separate entrance.
- Separate Electric meter.
- Separate water tank and water meter.
- Tax Assessment separate from BMC.
- Indemnity bond from Builder Promoter for transfer of land wing wise.
- In the proportion of built up area held by all wings.
- Indemnity bond by the Promoter for the common area of building such as compound wall, main gate, open space, garden, gym, etc.

IS IT POSSIBLE



YES

## FORMATION OF SOCIETY WITHIN CO-OPERATIVE HOUSING SOCIETIES.

- No objection certificate required from the main society .

IS IT POSSIBLE



YES

## CONVERSION OF A COMPANY INTO A HOUSING SOCIETY

Flat owners can make an application to the Competent Authority i.e. the District Deputy Registrar to register the society even if the builder has formed the society .

IS IT POSSIBLE



YES

## CONVERSION OF A CONDOMINIUM INTO A HOUSING SOCIETY

Section 14(1) of the Maharashtra Apartment Ownership Act 1970, w.e.f. from 7.7.2018 states that :

A property may be removed from the provisions of this Act , by majority of apartment owners by an instrument to that effect duly executed. i.e. **51% of the total number of apartment owners.**

IS IT POSSIBLE



YES

# PART-2

TRANSFER OF PRO



## AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF THE SOCIETIES (SECTION 17)

(1) A society may, with the previous approval of the Registrar, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide-

- (a) to amalgamate with another society;
- (b) to transfer its assets and liabilities, in whole or in part, to any other society;
- (c) to divide itself into two or more societies; or
- (d) to convert itself into another class of society:

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

- i. Notice has been given by the society to all its members, creditors and other persons whose interest are likely to be affected giving them the option to be exercised within one month from the date of such notice of becoming members of any of the new societies, for continuing their membership in the amalgamated or converted society, for demanding payment of their share or interest or dues.
- ii. All the members and creditors and other interested persons, have assented to the decision.
- iii. All claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied.

2. Conveyance to vest the Assets and Liabilities of the Original Society or amalgamating societies in the new societies or converted or amalgamated Society.

3. The amalgamation, transfer, division or Conversion will not affect rights or obligations of the Societies, any legal proceedings by or against the Societies and such legal proceedings may be continued or commenced by or against the Society.

4. Registration of old Society to be cancelled after Amalgamation, transfer, division or conversion..



## AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF THE SOCIETIES (RULE 16)

### BIFURCATION OF SOCIETY

- 1) Society shall make an **application to the Registrar** giving full details about amalgamation, transfer, division or conversion.
- 2) **Registrar** may after examining the details furnished, give his **approval** to the amalgamation, transfer, division or conversion, if he considers it in the interest of the Society.
- 3) After Registrar's approval Society shall convene a **Special General meeting** by giving **notice** of at least **15 clear days** to all its members and creditors and **pass a resolution for amalgamation, transfer, division or conversion** and the resolution shall contain the **purpose** and the **full scheme** indicating how the Amalgamation, transfer, division or conversion would be useful to the Society and be given effect to.

If Scheme does not involve transfer of liabilities, a statement to that effect shall be made in the application in sub-rule (1). If scheme involves transfer of liabilities, the Society shall give notice in Form 'G' to all its members, creditors and other persons whose interest are likely to be affected.

The **notice** shall also be published in at least one **newspaper** in circulation in the district in which the society's office is situated and a copy thereof shall be exhibited on the notice-board in the society's and Registrar's office.



## AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF THE SOCIETIES (RULE 16)

### BIFURCATION OF SOCIETY

- 4) Within one month from the date of notice, members, creditors or other persons may exercise their option, failing which they deemed to have assented to the transfer of liabilities’.
- 5) The Society shall satisfy all claims of members, creditors and other interested persons.
- 6) Society shall submit a report to the Registrar of the action taken by it and request him to give effect to its decision by registering the Amalgamation, transfer, division or conversion and cancelling the registration of Amalgamated, transferred, divided or converted society .
- 7) On receipt of the report from the society under sub-rule (6), the Registrar shall, after satisfying himself that the procedure has been properly followed, register the amalgamated, divided or converted societies and cancel the registration of the societies which have been amalgamated, divided or converted.

## DIRECTION BY REGISTRAR FOR AMALGAMATION, DIVISION AND REORGANIZATION OF SOCIETIES (RULE 17)

- 1) The Registrar will prepare a **draft scheme** in respect of amalgamation, division or reorganization of any Society stating in particular the manner in which the new committee or committees of the Society shall be constituted and Bye-Laws which such Societies shall follow.
- 2) The Registrar shall **consult Federal Society** and after considering suggestions, shall send the copy of the **draft** of the **order** to the Society or each of the Societies concerned calling upon it or them to invite **objections or suggestions** from any member or class of members thereof or from any creditor or class of creditors and to submit such objections and suggestions together with its own or their own suggestions and objections within a period of **not less than two months** from the date on which the copy of the draft aforesaid was received by it or them. The Registrar shall consider all such suggestions and objections and make such modifications in the draft order and then issue a final order under subsection (I) of Section 18.

## DIRECTION BY REGISTRAR FOR AMALGAMATION, DIVISION AND REORGANIZATION OF SOCIETIES (RULE 17)

- 3) Any **member or creditor** of each of the societies to be amalgamated, divided or reorganized, who has **objected** to the scheme of amalgamation, division or reorganization within the period specified in sub-rule (i), may apply to the Registrar for payment of his share or interest, if he be a member, and the amount in satisfaction of his dues, if he be creditor. Such application shall be separate and distinct from the objection or suggestion which he may have submitted to the society or the Registrar under clause (b) of sub-section (2) of Section 18. It shall be competent for the Registrar to nominate an officer not below the rank of a Deputy Registrar to investigate such applications and to determine the payments required to be made to the members or creditors, as the case may be.
- 4) Subject to the provisions of the Act, the rules and the by-laws, the Registrar may by order require the **society** concerned to **meet** in full or satisfy otherwise **all due claims** of the members and creditors and thereupon the society shall be bound to meet in full or satisfy otherwise all due claims of the members and creditors within such time as may be specified by the Registrar in the order.

# PART-3

TRANSFER OF PRO



## PROCEDURE FOR BIFURCATION OF CO-OPERATIVE SOCIETIES.

### BIFURCATION OF SOCIETY

#### Procedure of Preliminary approval :

- Convene general body with due notice.
- Proposal for bifurcation to be included in agenda.
- Copies of proposed scheme to be part of notice.
- Scheme to be prepared by Secretary & approved by Managing committee.

#### Scheme to contain :

- Reasons for bifurcation
- Details of land and building to be divided.
- Basis of apportionment of assets & liabilities.

#### Conditions:

2/3<sup>rd</sup> majority of m'bers present and voting to approve said scheme.



## PROCEDURE FOR BIFURCATION OF CO-OPERATIVE SOCIETIES.

### BIFURCATION OF SOCIETY

#### **Submission of Application to the Registrar with the undernoted documents :**

1. Copy of Notice of AGM or SGM.
2. Copy of attendance sheet of members present in AGM/SGM.
3. Copy of Minutes of AGM or SGM.
4. Extract of resolution passed in AGM /SGM approving Bifurcation.
5. Registration certificate of society.
6. Copy of Income and Expenditure account and Balance Sheet
7. Scheme of Bifurcation.
8. Copy of Property Cards, Property Tax bills, Electricity bills, Water bills of all the buildings.
9. Authority Letter in favour of Consultant appointed.



## PROCEDURE FOR BIFURCATION OF CO-OPERATIVE SOCIETIES.

### Documents to submit for formation of new societies :

1. Two Bye Laws of the society.
2. Two Copies of Form "A" & "B".
3. Two Copies of Form "C".
4. Chalan of Rs.2500/- towards registration fees .
5. Xerox copy of Property Cards.
6. Xerox copy of Commencement Certificate. (C.C.)
7. Xerox copy of Occupancy Certificate. ( O.C. )
8. Xerox copy of Water Bill.
9. Xerox copy of Electricity Bill.
10. Xerox copy of Property Tax Bill.
11. Xerox copy of Approved Building Plans.

## DEREGISTRATION OF CO-OPERATIVE SOCIETIES.

### Reasons for De-Registration: (Sub-section 1)

- ◆ Society is registered on **misrepresentation** made by applicants;
- ◆ **Work** of the Society is **completed/exhausted**;
- ◆ The **purpose** for which Society is registered is **not served**;

If Registrar is satisfied that any of the above facts are present, he may, after giving an opportunity of being heard to the Chief Promoter, the Committee and the member of the Society, de-register the Society.

A public Notice of the Proceeding of the De-Registration will be given by Registrar if: (Proviso to Sub-Section 1)

- ◆ If Number of members of the Society is very large and it is not possible to obtain correct addresses;
- ◆ It is not possible to serve notice on each such individual member;
- ◆ No proceeding in respect of the de-registration of the society shall be called in question;

Registrar to make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require. (Sub-Section 2)

- ◆ Official Assignee shall realize the assets and liquidate the liabilities within a period of one year;
- ◆ Such period may be extended from time to time;
- ◆ However total period shall not exceed three years in the aggregate; (Sub- Section 3)

- ◆ Official Assignee shall be paid remuneration as prescribed (Sub-section 4);
- ◆ Powers of Registrar under this section shall be exercised not below the rank of Joint Registrar (Sub-section 5);



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