



# REGISTRATION, DEREGISTRATION, AMALGAMATION AND BIFURCATION OF CO – OPERATIVE HOUSING SOCIETIES

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# HOUSING CO - OPERATIVE: the concept

- “A legally incorporated group of persons, generally of limited means, pursuing the same cause of meeting the common need of housing or its improvement based on mutual assistance.”
- In such a cooperative, membership is voluntary, control is democratic and members make an approximately equal contribution to the capital required.

# CO – OPERATIVE HOUSING SOCIETIES

- Formed to provide residential houses to members;
- Purchase lands, develop it and construct houses, flats and allot the same to members;
- Some societies also provide loans at low rates of interest to members to construct their houses;
  - Eg. The Employees Housing Societies and Metropolitan Housing Co – operative Society

# CHARACTERISTICS

- Open membership
- Voluntary association
- State control
- Democratic management
- Service motive
- Separate legal entity
- Distribution of surplus
- Self – help through mutual co - operation

# HOUSING SOCIETY AND TYPES

- Section 2, Clause 16:
  - “a society, the object of which is providing its members with dwelling houses.”
  - The object of a housing society is to provide its members with dwelling house with suitable amenities on reasonable terms. For the purpose, the society may purchase land of the State Government may, through land acquisition proceeding, acquire land for the society.

# TYPES OF HOUSING CO - OPERATIVES

- According to **Rule 10(5)**, sub-classes of a Housing Society are:
  - Tenant Ownership Housing Society,
  - Tenant Co-partnership Society,
  - Other Housing Societies.

# REGISTRATION OF SOCIETY

- **Object:**

- enable the society to have common seal
- perpetual succession
- A suit can be filed by a society and against the society
- By virtue of registration the society also gets certain rights and privileges, such as
  - admissibility of copy of entry as evidence (Section 40);
  - Exemption from compulsory registration of instrument relating to the shares and debentures of society (Section 41);
  - Exemption from payment of stamp duty or any other fee or other taxes specifically mentioned in Section 42;
  - Facilities of getting loans from the commercial banks and other financial institutions, etc.

# REGISTRATION

- Benefits:
  - duly certified copy of any entry in a book, register or list kept by a society, shall be admissible in evidence in all proceedings and shall have the same evidentiary value as the original entry, provided the copy is duly certified (Sec. Rule 27(3) and is a copy of an entry made in any book, register or list regularly kept in the course of business (Chapter IV of the Co-operative Societies Act: Section 40, Rule 27(3))



# WHAT KIND OF SOCIETIES MAY BE REGISTERED?

- Section 4:
  - 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].

# PROCEDURE FOR REGISTRATION

- MEETING OF PROMOTORS AND APPOINTMENT OF CHIEF PROMOTER
  - minimum 10 adult individuals from independent families desiring to form a Society should gather
  - hold a meeting to
    - select a provisional committee and elect a Chief Promoter for formation of a society
    - (b) select a name for such Society with three alternatives and to pass appropriate resolutions in that behalf

- In case of an Open Plot Society, the Chief promoter should be authorized at such meeting to
  - appoint architects and building contractors
  - negotiate and acquire a plot and
  - get the plans and estimates prepared for such society. The specimen forms of resolutions to elect a Chief promoter and to give him authority as aforesaid are available with the Registrar office or at the Federations office.

- Name reservation

- apply to the registration authority (RA) for reservation of name for the society and obtain letter from the RA in that connection
- The resolutions passed at the promoters meeting as above should accompany such application for reservation of name as aforesaid
- forms are available at the District Co-operative Housing Federation office
- letter reserving the name of the society shall be valid for 3 months
- The validity of the name is normally extended on an application for 1 or 2 further terms of 3 months each

- Bank account and deposits
  - open a bank account in the name of the proposed Society as per the RA's directions in that behalf that shall contained in the letter reserving the name and thereafter deposit therein the entrance fee share money and the amount recovered for preliminary expenses from the promoters and obtain the certificate from such bank in respect of such deposits. Normally the directions of the RA are to open account with a proximate branch of the District Central Cooperative Bank or any other urban Co-operative bank

- Application for Registration
  - Rule 4: Application for registration and registration fees
  - Application to be sent to the Registrar by registered post or delivery by hand
    - Every application for registration of a society under Section 8 shall be made
      - in Form 'A' in Marathi, Hindi or English
      - subject to the provisions of sub-section (2) of Section 8 and sub-rules (2) and (3)
        - be signed by the applicants

- in addition to four copies of the proposed bye-laws of the society, be accompanied by
  - a list of persons who have contributed to the share capital, together with the amount contributed by each of them, and the entrance fee paid by them;
  - a certificate from the Bank or Banks stating the credit balance therein in favour of the proposed society
  - a scheme showing the details explaining how the working of the society will be economically sound and, where the scheme envisages the holding of immovable property by the society, the description of such property proposed to be purchased, acquired or transferred to the society



- such other documents as may be specified in the model bye-laws, if any, framed by the Registrar
- the registration fees at the following rates
  - Housing Societies (excluding societies of Backward Class persons)
    - Tenant Ownership Housing Societies: Rs. 2,500/-
    - Tenant Co-partnership Housing Societies: Rs. 2,500/-
    - Other Housing Societies: Rs. 2,500/-

Housing Societies of Backward Class Persons: Rs. 50/-

Housing Societies of Lok Awas Yojana: Rs. 50/-

- Where any member of a society to be registered is a registered society, a member of the committee of such registered society shall be authorized by that committee by a resolution to sign the application for registration and the by-laws on its behalf, and a copy of such resolution shall be appended to the application.

- Where any member of a society to be registered is a firm, company, other corporate body, society registered under the Societies Registration Act. 1860, or local authority or public trust registered under any law for the time being in force for the registration of such trusts, then such firm, company, corporate body, society, local authority or public trust, as the case may be, shall duly authorise any person to sign the application for registration and the bye-laws on its behalf, and a copy of the resolution giving such authority shall be appended to the application.

# Criterion for registration of Co – operative Housing Societies

- **The documents required for registration of Tenant Co-partner Housing Society:**
  - 7/12 extract of the land or property card.
  - Certificate from the competent authority regarding non-agricultural land.
  - The order regarding applicable/non applicable of land ceiling Act.
  - Construction layout approved by the competent authority.
  - Letter of sanction for starting construction.

- Certificate regarding completion of construction work.
- Development Agreement if the land is taken for development.
- Letter of Power of Attorney of the land.
- Title search report of the land.
- The registered agreement of purchases of the flat with necessary stamp duty paid.
- Architect Certificate regarding construction.
- List of Members

- Scheme of the Society.
- Application for reserving name.
- At least ten members are necessary for registration of society. However the government has given permission subject to some conditions for the Housing society of less than 10 members exercising powers under section 7.
- If the land is given by the government or undertaking agency of the government then its guarantee letter.

- No objection certificates from the Charitable Commissioner if the land is of Trust.
- Certificate of the competent authority regarding non-agricultural plot.
- While registering SRA/SRD and MHADA recognized Co-operative Housing Societies, it is obligatory to fulfill the necessary papers as per instructions given by that authorities by their circulars in addition to above criterion.

- Application for Registering Society (A form)
- Table giving information of society (B Form)
- Table giving details of the members ( C Form)
- Statement of Accounts of the Members (D Form)
- Bye-Laws of the Mortgage Society.
- Notarized Guarantee letter by the Chief Promoter of the society on the stamp Paper of Rs. 100/-



- Notarised Guarantee letter by the Builder, Promoter on the Stamp Paper of Rs. 100/-
- Affidavit of Members (Affidavit of Minimum 10 Promoters)
- Two copies of bye laws approved by the Commissioner, Cooperation and Registrar, Co-operative Societies, Maharashtra State Pune.
- Proof of the bank balance of depositing the amount of each share of Rs. 500/- of the promoter member and admission fee of Rs. 100/- after getting permission for reservation in the District Central Cooperative Bank.
- Chalan of Rs. 2500/- deposited in the Government Treasury Registration fee for the Housing Society of Backward class is Rs. 50/-.

## Documents required for registration of Tenant Ownership Housing Society

- Documents as mentioned under the requirements for registration of Tenant Co-partner Housing Society, and in addition thereto:
  - Zone Certificate from the competent authority regarding in which area the land situated.
  - Layout Plan.
  - Minimum 10 members are required for registration of society.

# Other Housing Societies - House Mortgage Societies

- The members can form House Mortgage Society for giving loans and to give guarantee of it for constructing residential houses on their own plot or the plot taken on long term lease or to purchase or to make additions in their own present residing houses and/ or to make alterations and to undertake all such work for fulfillment of its purposes, to sale the entire immovable and movable property and assets or any of its part, to lease it out or to dispose it or to do any transaction in that respect.

- For registration of House Mortgage Society, following documents are necessary –
  - Application for registration of Society (A Form)
  - Table containing information of the society (B Form)
  - Table containing information of the members (C Form)
  - Statements of accounts of the members (D Form)
  - Two copies of Bye Laws.

# Builder-Non Cooperation Co-operative Housing Society

- If builder/promoter procrastinate in registering the Co-operative Housing Society, then in that case, the application for registration of society be submitted in **Form 6 (Rule 12)** before the authorized officer (District Dy. Registrar in the respective district, who have given power under **section 10(1) of the Maharashtra Ownership Flats Act 1963** (For making regulation for encouraging their constructions, their sale, management and transfer).

- Section 10 (1) of MOFA, 1963:
  - As soon as a minimum number of persons required to form a Co – operative society or a company have taken flats, the promoter shall within the prescribed period submit an application to the Registrar for registration of the organization of persons who take the flats as Co – operative society or, as the case may be as, a company; and the promoter shall join, in respect of the flats which have not been taken, in such application for membership of a Co – operative society as the case may be, of a company. Nothing in this section shall affect the right of the promoter to dispose of the remaining flats in accordance with the provisions of this Act

# Section continued

- Provided that if the promoter fails within the prescribed period to submit an application to the Registrar for registration of society in the manner provided in the Maharashtra CO – operative Societies Act, 1960, the Competent Authority may, upon receiving an application from the persons who have taken flats from the said promoter, direct the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar concerned, to register the society:
- Provided further that, no such direction to register any society under the preceding proviso shall be given to the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar, by the Competent Authority without first verifying authenticity of the applicants, request and giving the concerned promoter a reasonable opportunity of being heard.

- Promoter as defined u/s 2(c) of the Act:
  - Promoter means a person and includes a partnership firm or a body or association of persons whether registered or not who constructs or causes to be constructed a block or building of flats or apartments for the purpose of selling some or all of them to other persons, or to a company, co – operative society or other association of persons, and includes his assignees; and where the person who builds and the person who sells are different persons, the term includes both.
  - “to construct a block or building of flats or apartments” includes to convert a building or part thereof into flats (section 2(e))



- While submitting the said proposal, following documents are necessary:
  - 7/12 extract of the land or property card.
  - Competent Authority Certificate regarding non-Agricultural land.
  - Order regarding applicable/non-applicable Land ceiling Act Map of the construction approved by the competent authority.
  - Letter of given permission for construction.

- Completion certificate of Construction.
- Development Agreement if the land is taken for development.
- Power of Authority letter of the Land.
- Copy of the Title search Report.
- Agreement copy of the flat purchased.
- Architect certificate regarding construction.
- List of the Members.
- Scheme of the Society.
- Application regarding reservation of Name.
- Minimum 10 Members shall necessary for the registration of the Society.

- Application for registration of Society (A Form)
- Table containing information of the society (B Form)
- Table containing information of the members (C Form)
- Statement of Accounts of the members (D Form)
- Notarised guarantee letter of the chief promoter of society on the stamp paper of Rs. 100/-
- Notarised Indemnity Bond of the members who applied for the registration of society on the stamp paper of Rs. 200/-
- Affidavit of the Members (Minimum 10 promoters' Affidavit)

- Two copies of bye laws approved by the Commissioner, Co-operation and Registrar, Maharashtra State, Pune.
- Bank balance statement of the promoter members who have deposited Rs.500/- each as a share and admission fee Rs.100/- in District Central Co-operative Bank after getting sanction for the reservation of name in district of Rs.2500/- paid as society Registration fee in the Government Treasure.

# RULE 5: REGISTRATION

- 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.

- 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.
- 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.

- For registering the Co-operative Housing Society, the concerned Registrar by scrutinizing the proposal submitted after fulfillment of above mentioned documents shall make an arrangement of issuing certificate of registration society under Section 9 (1) of the Maharashtra Co-operative Society Act 1960, and copy of the registered bye-law, memorandum regarding registration of society to the chief promoter. The order regarding registration of society should have been sent for publishing in government gazette to the Government Printing Press for appropriate action.

# Section 9(1) of MCS ACT: REGISTRATION

- If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, or any other law for the time being in force, or policy directives issued by the State Government under section and that its proposed bye – laws are not contrary to this Act or to rules, he shall, within two months, from the date of receipt of the application register the society and bye – law.



- Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of 15 days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within 2 months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the society and its bye – laws shall be deemed to have been registered and thereafter the Registrar shall issue a certificate of registration under his seal and signature within a period of fifteen days.

- Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons thereof, to the person making the application and if there be more than one to the person who has signed first thereon.
- The Registrar shall maintain a register of all societies registered, or deemed to be registered, under this Act.

- The Chief Promoter should have to arrange first general body meeting of the Promoter members within 3 months from the date of registration of society (Under rule 59 of the Maharashtra Co-operative Societies Rules 1961) and necessary resolution should be passed in this meeting. If such a meeting was not taken by the chief Promoter then in that case if complaint received to the concerned Registrar, then by appointing authorized officer such a meeting can be conducted in the Chairmanship of authorized officer.

- If the registration of the society is denied, then it is necessary that by passing the written order in this regard by the Registrar, and a copy of it should have to be given to the concerned. **Appeal under section 152** can be filed before the immediate senior officer against this decision.
- It is necessary to take decision on the registration of the society within a period of two months from the date of the proposal of the society submitted to the Registrar. If such decision was not taken within two months then it is necessary to send that proposal to the immediate senior officer.

- If the Registrar had not taken any action on the proposal received for registration under section 9(2) of the Maharashtra Co-operative Societies Act 1960, as expected under this section within two months, then it is presumed that the deemed registration of the Housing Society.

# Section 6: Conditions of Registration

- (1) No society, other than a federal society, shall be registered under this Act, unless it consists of at least ten persons or such higher number of persons as the Registrar may having regard to the objects and economic liability of a society and development of the co-operative movement, determine from time to time for a class of societies, (each of such persons being a member of a different family), who are qualified to be members under this Act, and who reside in the area of operation of the society.
- *The expression "member of a family" means a wife, husband, father, mother, [son or unmarried daughter.]*

- A co-operative housing society can now be registered with an application signed by only 10 flat purchasers after a recent benchmark ruling from the Bombay High Court. *Anil Jadwani vs. State of Maharashtra (CHWS/80/2010)*
- (60% of total flat owners is minimum number of eligible members – Circular dated 24-7-1992 of State Government) *Om Sai Pratibha Co-operative Housing Society vs. State of Maharashtra and Others, 2002(5) Bom. C. R. 177.*
- The requirement of 90% membership of a proposed society is only a part of guideline policy and not a statutory limit. (*Dr. D. C. Shah vs. State of Maharashtra; State of Maharashtra Writ petition No.1642 of 1983 Decided on 28/8/1984 Citation 1985 CTJ 37*)

# Rule 7: Refusal of Registration

- Where any society does not furnish the information in regard to the society as required by the Registrar or fulfill any of the conditions laid down in the Act or these rules, the Registrar may refuse to register that society.
- **An appeal against the decision of the Register (i) to refuse to register the society or (ii) refuse to register its bye-laws lies under Section 152(1). The appeal should be filed before the Divisional Joint Registrar within two months from the date of communication of refusal of registration.**



## Rule 6: Form of report under Section 9(2)

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

# Section 10: Evidence of Registration

- A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned, is duly registered, unless it is proved that the registration of the society has been cancelled. **(Rukshana Apartment Co-operative Housing Society Ltd vs. Smt. S. Aluwalia and Others, 1987(T.J. 456)**

# Rule 10: Classification and sub-classification of societies

- (1) After registration of a society, the Registrar shall classify the society into one or other of the following classes and sub-classes of societies prescribed below according to the principal object provided in its bye-laws:

- Housing Society
- Tenant Ownership Housing Society
- Housing Societies where land is held either on lease-hold or free- hold basis by Societies and houses are owned or are to be owned by members.
- Tenant Co- partnership Housing Society
- Housing Societies which hold both land and buildings either on leasehold or free-hold basis and allot them to their members.
- Other Housing Societies House
- House Mortgage Societies and House Construction Societies

- (2) If the Registrar alters the classification of a society from one class of society to another, or from one sub-class thereof to another, he shall issue to the society a copy of his order as in the case of an amendment of the bye-laws.

## Section 17: AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

- (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

- Provided that, when such amalgamation, transfer, division or conversion, aforesaid, 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) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), 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, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be;

- (ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member of creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and
- (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) Notwithstanding anything contained in the Transfer of Property Act, 1882 or the Indian Registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

- (3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case may be, the converted society, or the new societies.

- (4) Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, or the new societies between which the society may have been divided.

# Section 18: POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANISATION IN PUBLIC INTEREST, ETC

- (1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the cooperative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganised then notwithstanding anything contained in the last preceding section but public subject to the provisions of this section, the Registrar may, after consulting such interest, etc. federal society as may be notified by the State Government by order notified in the Official Gazette, provide for the amalgamation, division or reorganisation of those societies into a single society, or into societies with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations, as may be specified in the order.

- (2) No order shall be made under this section, unless—
- (a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned;
- (b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, either from the society or from any member or class of members thereof, or from any creditor or class of creditors.

- (3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, the division or reorganisation.
- (4) Every member or creditor of [or other person interested in,] each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation his share or interest, if he be a member, and the amount in satisfaction of his dues if he be a creditor.

- (5) On the issue of an order under subsection (1). the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised.
- (6) Nothing contained in this section shall apply for the amalgamation of [two or more co-operative banks or two or more primary agricultural credit societies]

## **Rule 16: Amalgamation, transfer of assets and liabilities, division or conversion of societies**

- (1) Every society desiring to effect amalgamation, transfer of assets and liabilities, division or conversion shall make an application to the Registrar in that behalf, giving full details about such amalgamation, transfer, division or as the case may be, conversion.



- (2) On receipt of such application, the Registrar may, after examining the details furnished in the application and other particulars which he may call upon the society to furnish, give his approval to the amalgamation, transfer, division or conversion, if he considers such amalgamation, transfer, division or conversion, as the case may be, to be in the interest of the society,

- (3) After the receipt of Registrar's approval under sub-rule (2), the 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 of assets and liabilities, division or conversion, as the case may be, by two-third majority of the members present and voting at the meeting. The resolution so passed shall contain the purpose and the full scheme indicating how the proposed amalgamation, transfer, division or conversion would be useful to the society and be given effect to. Where the scheme does not involve transfer of liabilities of the society to another society, a statement to that effect shall be made in the application to be made under sub-rule (1). Where the scheme involves transfer of liabilities of the society, the society shall give written notice in Form 'G' to all its members, creditors and other persons whose interests are likely to be affected by such transfer. 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.

- Provided that the State Government may, in the case of any society, dispense with the giving of such notice, regard being had to the extent of liabilities, the financial position of the society and its members and other relevant factors pertaining to such society.

- (4) Within one month from the date of notice referred to in sub-rule (3), the members, creditors and other persons whose interests are likely to be affected by the transfer of the society's liabilities may exercise their option as required by clause (f) of the proviso to subsection (0 of Section 17 failing which they shall be deemed to have assented to the transfer of liabilities of the society to another society.
- (5) The society shall meet in full and otherwise satisfy all claims of members and creditors and other interested persons who exercise the option.

- (6) The society shall submit a report to the Registrar of the action taken by it and request him to give effect to its decision for amalgamation, transfer, division or conversion by registering the amalgamated or converted society or the new society, as the case may be, and canceling the registration of the societies which have been amalgamated, divided or converted.
- (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.

# De – registration of housing societies:

- If the society is registered, it may be de – registered:
  - On the misrepresentation made by the applicants, or
  - The work of the society is completed or exhausted, or,
  - The purpose for which the society has been registered are not served.
- Such societies can be de-registered under the provision of Section 21-A of the M.C.S. Act 1960.

- Registrar can cancel the registration of CHS under section 21 of the M.C.S. Act 1960 after giving an opportunity of being heard to the Chief Promoter, the committee and the members of the society. Under the following circumstances:
  - If a CHS transfer the whole of its assets and liabilities to another society or.
  - Amalgamates with another society, or
  - Divides itself into two or more societies or,
  - Liquidation proceedings are terminated under section 109.

# Section 21: CANCELLATION OF REGISTRATION

- The Registrar shall make an order canceling the registration of a society if it transfers the whole of its assets and liabilities to another society, or amalgamates of with another society, or divides itself into two or more societies or if its affairs are wound up, [or it is de-registered under the provisions of sub-section (1) of section 21A] [or winding up proceedings in respect of the society are closed or terminated under section 109.]The society shall, from the date of such order of cancellation, be deemed to be dissolved, and shall cease to exist as a corporate body.



## Section 21A: De - Registration

- 1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants or the purpose for which the society has been registered are not served, he may, after giving an opportunity of being heard to the Chief Promoter, the Committee and the members of the society, de-register the society.
- 2) When a society is de-registered under the provisions of sub-section (1) the Registrar may, notwithstanding anything contained in MCS Act, 1960 or any other law for the time being in force, make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require.

- 3) The Official Assignee has power to realise the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended date from time to time, so however, that the total period does not exceed three years in the aggregate.
- 4) The remuneration and allowances as may be prescribed shall be payable to Official Assignee and he is not entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

- 5) The powers of the Registrar under subsections (1) and (2) shall be exercised only by the Registrar or Joint Registrar of Cooperative Societies.
- The Official Assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

# BIFURCATION/ DIVISION OF SOCIETY

- The Maharashtra Co-operative Societies Act, 1960 (Section 17) and the Maharashtra Co-operative Societies Rules, 1961, provide for division of a Co-operative Society. The procedural details are given in the Act and the Rules.
- Division of a society is not permissible unless the Registrar is convinced that there is no alternative other than to divide a society into one or more subdivisions. The Registrar may consider division of a Co-operative housing society on the following grounds:
  - 
  - The membership is so large that the affairs of the society are unmanageable.
  - The units (building) are located plots, which are far away from each other, rendering the management of the society difficult.
  - There are factions in the society.

## ○ **The prerequisite for bifurcation**

- The plots on which the buildings are constructed should be independent of each other in the Municipal records. If the buildings are constructed on the same plot, the plot should be divisible. If the plot is not divisible, bifurcation is not possible.

## ○ **Scheme**

- The Secretary of a society should first prepare a scheme for two or more units and place the same before the meeting of the managing committee of the society. The scheme should include
  - (i) Reasons for bifurcation
  - (ii) Details of the land and buildings to be divided
  - (iii) The basis on which the assets and liabilities are proposed to be divided
- Preliminary approval of the proposed scheme of division of the society by the Registrar is necessary before the scheme is finally approved by him.

# Procedure of preliminary Approval

- (i) A general body meeting, with due notice as provided in the Bye-laws of the society, should be convened. A proposal for division of the society should be included in the agenda of the general body meeting. Copies of the proposed scheme of division of the society should accompany the notice and both should be filed with the Registrar.
- (ii) A resolution, deciding to divide the society on the basis indicated above has to be passed at the general body meeting with a simple majority. Thereafter, the society should make an application (for which no form is prescribed) to the Registrar, together with a copy of the notice convening the general body meeting, a copy of the proposed scheme of division of the Society and a copy of the resolution of the general body meeting of the Society deciding to divide the society. This is necessary to obtain the Registrar's preliminary approval of the scheme.