

SEMINAR ON CO-OPERATIVE SECTOR



**BYE-LAWS
MEANING, IMPORTANCE,
LEGALITY AND ADOPTION-LAW
AND PROCEDURE**

CA. RAMESH S. PRABHU

What is an ACT

Act is a set of Law defined by the State in conjunction with Central Act applicable for a state.

What is a RULE

Rules are procedural aspects framed by the State in conjunction to the Act.

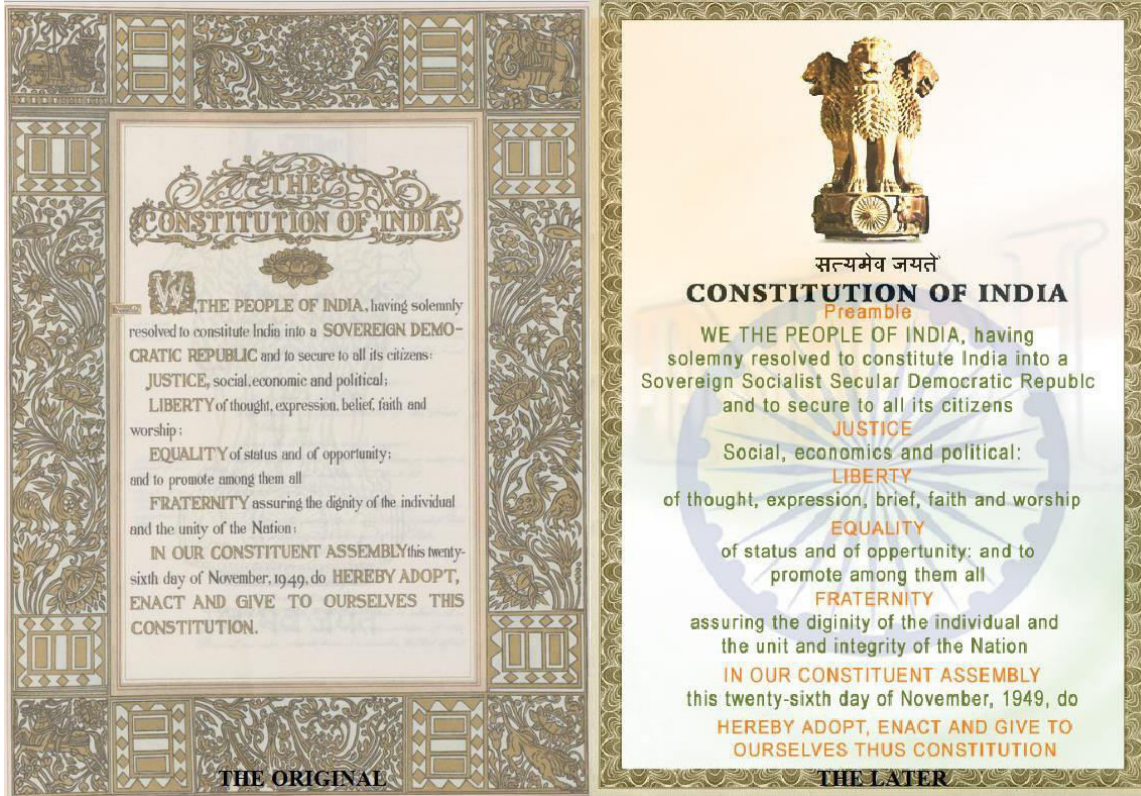
What is a BYE LAW

- ✓ Bye laws are the rules for internal management of the societies duly approved by the registrar at the time of registration of the society and from time to time.
- ✓ The bye-laws of a society constitute a contract between a member and the society.
- ✓ It is the rule book for the management of the society.
- ✓ The bye-laws are framed within the provisions of the Act and the Rules made there under.
- ✓ Bye-laws include the objects of the society and completely define and restrict the society's activities, but the rights and liabilities of members are determined by the Act and Rules and not by the bye-laws as such.

Laws governing Cooperative Societies

- ✓ Notification and Orders
- ✓ Commissioner's Circular
- ✓ Registrar's Direction and Guidelines
- ✓ General body resolutions
- ✓ Managing Committee Resolutions

Disclaimer – Non of the above can supersede the MSC Act, 1960 & MCS Rules 1961



On 15th February, 2012 the 97th Constitutional Amendment came into force.

Insertion in part III of Article 19(1)(c)

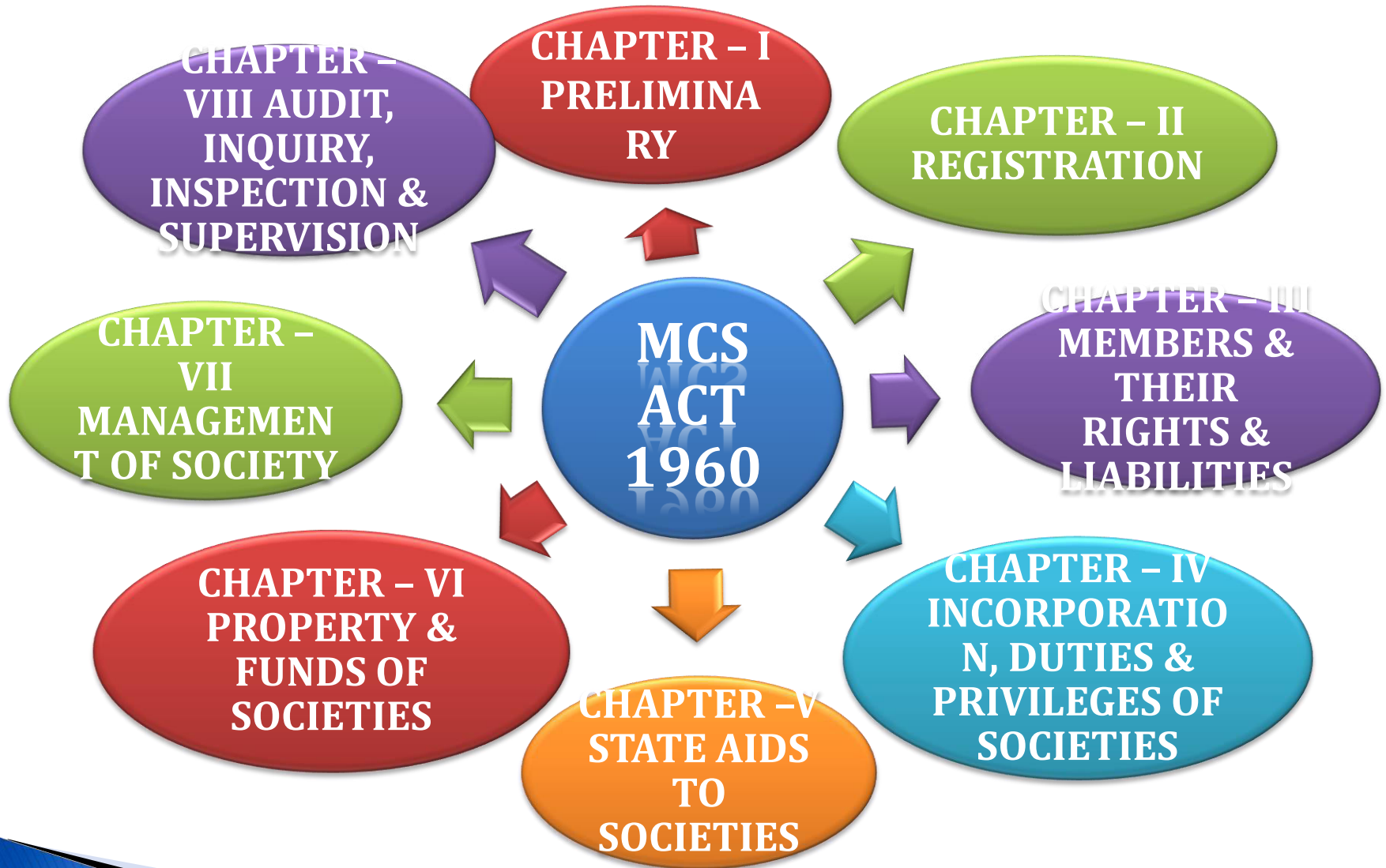
By insertion Article 43B in part IV

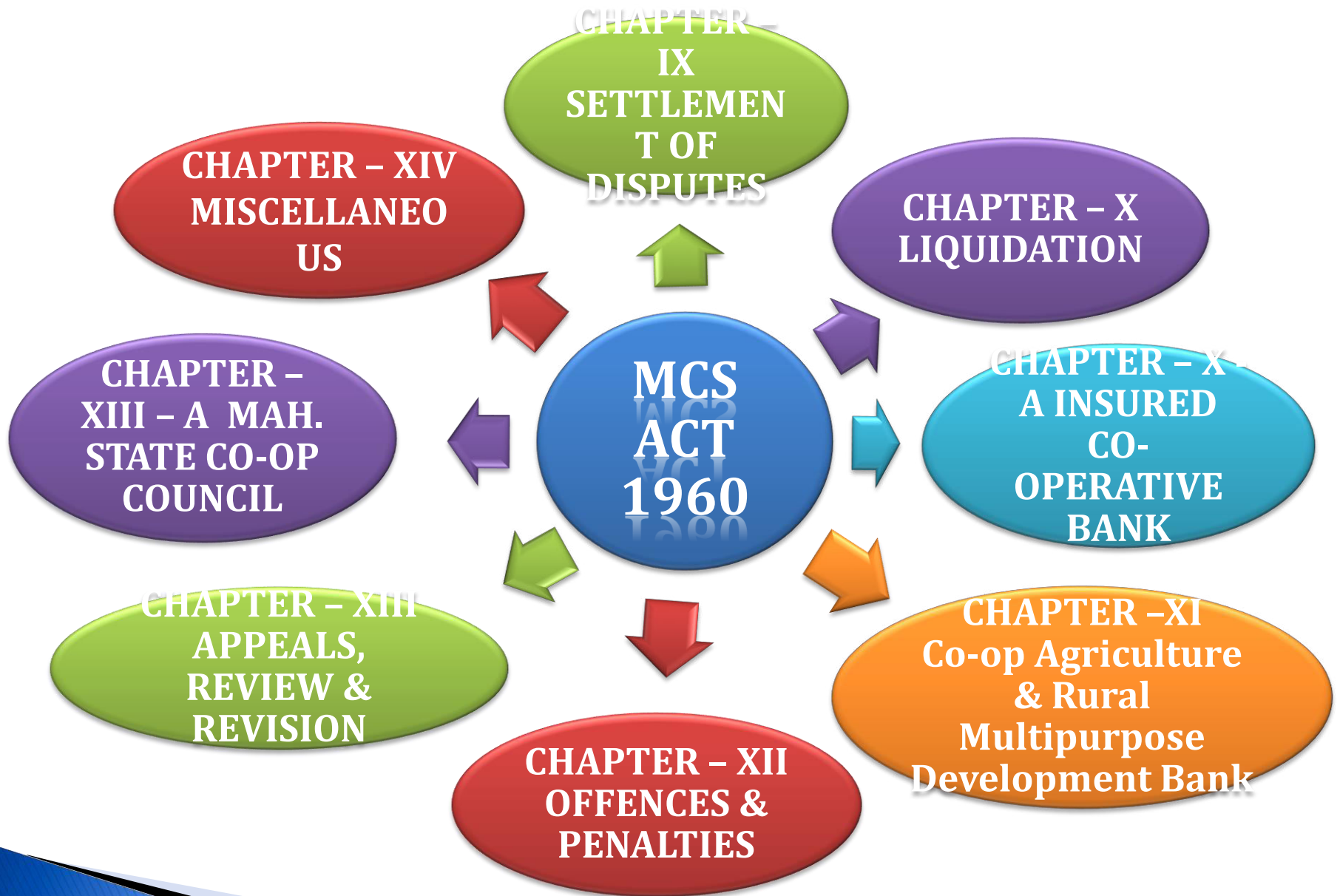
Part IX B is inserted
to include
to 243 ZR

in the Constitution
article 243ZH

- Article 243ZH – Definitions
- Article 243ZI – Incorporation of Cooperative Societies
- Article 243ZJ – Number and term of members in the board and its office bearers.
- Article 243ZK – Election of member of board
- Article 243ZL – Suppression and suspension of board and interim management.
- Article 243ZM – Audit & Accounts of Cooperative societies
- Article 243ZN – Convening of general body meetings
- Article 243ZO – Right of a member to get information.
- Article 243ZP – Returns
- Article 243ZQ – Offences & Penalties
- Article 243ZR – Application to Multi state cooperative societies

MAHARASHTRA COOPERATIVE SOCIETIES ACT, 1960





CHAPTERS IN THE BYE-LAWS

- I. PRELIMINARY [1 -2]
- II. INTERPRETATIONS [3]
- III. AREA OF OPERATION [4]
- IV. OBJECTS [5]
- V. AFFILIATION [6]
- VI. FUNDS, THEIR UTILISATION AND INVESTMENT [7 -15]
- VII. MEMBERS & THEIR RIGHTS [16-44]
- VIII. RESPONSIBILITIES AND LIABILITIES OF MEMBERS [45- 64]
- IX. LEVY OF CHARGES OF THE SOCIETY. [65 – 71]
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CHAPTERS IN THE BYE-LAWS

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- XVII. CONVEYANCE/DEEMED CONVEYANCE OF THE PROPERTY, AND REDEVELOPMENT AND REPAIRS/ MAINTENANCE OF THE PROPERTY [154-162]**
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- XIX. REDRESSAL OF MEMBERS COMPLAINTS [172-174]**
- XX. REGARDING REDEVELOPMENT OF BUILDINGS THE CO-OPERATIVE HOUSING SOCIETIES [175]**

Amendment to MCS Act 1960 & MCS Rules 1961

- Government of Maharashtra had issued Ordinance dated 14.02.2013.
- MCS(Amendment) Act 2013, approved by Governor of Maharashtra on 13.08.2013 and same were published in the Government Gazette.

- 1.Election Commission like authority mandated – SCEA
- 2.Fixed term of Managing Committee – 5 years
- 3.Active Member concept U/s 27 of MCS Act
- 4.Professional management by Expert & Functional Director:

❖ Role of Expert Director:

Such expert director will have no right to participate in the election of society, but they can advice on other subjects of the managing committee meeting

❖ Role of Functional Director:

Functional Director apart from election they could not advice on any other subject.

5. Applicant to take 10 shares of Rs.50 each(Bye law No.22)on rights of membership.
6. **Classification** of Active and Non-Active members.
7. Definition of Associate member
8. Co-operative Education and training to members, committee members **officers** and employees. Education and Training fund of Rs.10 per member per month to be collected
9. Utilisation of Sinking fund
10. NOC of society for transfer of **flat** or property is not required. However, Rule 24 and Bye law No.38 on transfer of shares and interest wants the transferring member to give 15 days notice to the society of his intention to do so alongwith the consent of the transferee member.
11. Elections of management committee

12. Casual vacancy in management committee to be informed to Election Authority and co-option is not allowed.
- 13. Disqualification** of committee & its members- Sec.77-A & 78
14. Strength of Management committee and Reservation of seats for Women and for members of SC,ST & OBC category with Expert and Functional Directors appointment possible subject to conditions.-Sec.73AAA & bye law No.114
15. Last date for conducting AGM is on or before 30th Sept.
16. Appointment of Auditors ,their Remuneration,
17. Cash expenses limit Rs.1500/- as against Rs.4500/-in Bye laws. Bye law No.144
18. Cash in Hand at the close of the day limit increased from Rs.300 to Rs.5000/-Bye law 143

19. For encroachment of common areas by members to be charged at 5 times the monthly maintenance charges for the period of such encroachment.-Bye law No.168
20. Applicability and adoption of Accounting standards prescribed by state government and by ICAI-Sec.81
21. Filing of Annual Mandatory Returns with the Registrar.Sec.79(1A) & 79(1B)
22. Concept of Emergency Planning Scheme and Fire Safety Audit introduced.-Bye law No.75
23. Structural Audit –once in 5 yrs for Bldg ageing 15-30 years and once in 3 years if Bldg ageing more than 30 year by TMC/BMC approved structural engineers.
24. One time limit for repairs and maintenance expenses management committee can decide is Rs.1 lac Max.-else General Body permission must.

25. Cheques should be signed by Secretary And Chairman/Treasurer and same with the vouchers.
26. Creating Awareness regarding Nomination to be **filed**.
27. Security bond for holding cash from the employee and officer
28. The word “**Administrator**” has been removed and now the term is "authorized **officer**”
29. Audit **rectification** memo needs to be submitted to Registrar in ‘**O**’ form within 3 months from the date of the audit report and even auditor has to give remarks on that- Penalty for society of Rs.5000 u/s 147
30. Introduction of sec.146 offences and 147 which talks about penalties/Bye law no 165(a)

ADOPTION OF BYE LAWS

Section 13 of MCS Act 1960

1. A General Body meeting of members to discuss and decide on adoption of New Model Bye law shall be called by giving 14 clear days notice
2. Resolution to be passed for adoption of New Model Bye Law.
3. This shall be approved by 2/3rd Majority of members present in the meeting.
4. Within 2 months of General body meeting in which the adoption has been passed, the proposal for adoption to be submitted to the Registering Authority along with the following documents:

- ❖ 4 copies of the bye law to be adopted duly signed at the required places.
 - ❖ A certified copy of the existing registered bye law (some Registrar's ask for the original copy of the existing bye laws.
 - ❖ Applicable adhesive non judicial stamp to be affixed on the covering letter.
 - ❖ Copy of the Resolution passed to adopt the new bye law.
5. All documents to be signed by the Chairman, Secretary and one Managing Committee member duly authorised to do so.
 6. Within 2 months, the society to contact the Registering Authority's office for copy of the approved bye law.
 7. This copy will have the round stamp of the department in all the pages and also the signature of the Registering authority in the last page.



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CA.Ramesh S. Prabhu, FCA, CISA(USA)

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

CA RAMESH PRABHU ,