# The Maharashtra Co-operative Societies Rules, 1961 ( Amended Rules )

**Rules** means the Maharashtra Co-operative Societies Rules, 1961

**Promoter** means a person, who has signed the application for registration of the society

**Promoter Builder** means a person and includes a partnership firm or a body or association of person, [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.

**Reserve Fund** means the fund constituted under the provisions of Section 66 (1) of the Act and the Bye-law No. 12(i).

**Repairs and Maintenance Fund** means the fund constituted under the Byelaw No. 13(a).

**Sinking Fund** means the fund constituted under the Bye-law No. 13(c).

**Major Repair Funds** means a Fund created by the society and constituted under Bye-law No. 13 (b), for the purpose of Major Repairs including Plastering, building of compound wall, pavement, total painting, reconstruction.

**Open space** means an Area, forming a integral part of the site, left open to sky.

**Open terraces** means terraces which are otherwise not in the exclusive possession of any of the members.

**Member** means a person joining in an application for the Registration of a Cooperative Housing Society which is subsequently registered, or a person duly admitted to membership of a Society after Registration and includes Active Member, Associate member and Nominal Member.

**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?
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.

**Associate Member** means a member who holds jointly a share of a society with others, but whose name does not stand first in the share certificate.

**Nominal Member** means a person admitted to membership as such after registration in accordance with the Bye laws.

**Family** means Group of persons which includes husband, wife, father, mother, sister, brother, son, daughter, son-in-law, brother-in-law, sister-in-law, daughter-in-law, grandson /daughter.

**Transfer Fees** means the sum payable by a transferor to the society for the transfer of his shares along with occupancy right as provided under the Bye-law No. 38(e) (vii).

**Premium** shall mean and include the amount payable to the society by the member, transferring his shares and interest in the capital/property of the society, in addition to the transfer fee as provided under bye-law No. 38(e)(ix).

The funds of the society may be raised in one or more of the following ways:
(a) by entrance fees,
(b) by issue of shares,
(c) by loans and subsidies
(d) by deposits,
(e) by voluntary donations, (but not from Transferor and Transferee)
(f) by contributions towards cost of building or buildings
(g) by fee on transfer of shares, along with the occupancy right,
(h) by premium on transfer of occupancy right over the fiats,
(i) by and for Election Fund.
(j) by any other mode permitted under these bye-laws.

**Share Capital**

The Authorised share capital of the society shall be Rs ......................divided into .............. shares of Rs. 50/- each.
A share certificate, prescribed in bye-laws, bearing distinctive number and in- issue of share indicating the name of the member, the number of shares issued and the value paid thereon, shall be issued by the society to every member for the shares subscribed by him, within a period of six months of the allotment of the shares.
Every such share certificate shall bear the seal of the society and be signed Society's Chairman, the Secretary and one member of the committee, duly authorised by the Committee in that behalf. The same shall be issued by the Secretary of the society.

**The Reserve Fund** of the society shall comprise of

(a) the amounts carried to the said fund, from year to year, out of the net profit of that year, subject to the provisions of Section 66 (1) and (2) of the Act;
(b) all entrance fees received by the society from its members;
(c) all transfer fees received by the society from its members on transfers of the shares, along with the occupancy rights;
(d) all premium received by the society from its members on transfers of their interest in the capital or property of the society;
(e) all donations received by the society, except those received by it for the specific purpose.
The society shall, while finalising the accounts for the preceding co-operative- year, appropriate all amounts referred to in the bye-law No. 12(I) (b) to the Reserve Fund of the society.

**Utilization:** The Reserve Fund of the society may be utilised for the expenditure on repairs, maintenance and renewals of the society's property.

**The Repairs and Maintenance Fund**, at the rate fixed at the general body subject to the minimum of **0.75** per cent **per annum** of the **construction cost of each flat**, incurred during the construction of the building of the society and certified by the Architect, for meeting expenses of normal recurring repairs of the society buildings/property.

**Utilization:** The Repairs and Maintenance Fund may be utilised by the Committee for meeting the expenditure on maintenance of the society's property and repairs and renewals thereof.

**<u>Major repairs funds</u>**, as and when required and decided by the General Body at the rate fixed on area basis.

**<u>The Sinking Fund</u>** at the rate decided at the meeting of the general body, subject to the minimum of **0.25** per cent **per annum** of the **construction cost of each flat** incurred during the construction of the building of the society and certified by the Architect, excluding the proportionate cost of the land
To create **Education and Training Fund** from the Members as contribution of **Rs 10 per month** / **per unit** or as decided by the General Body.

**Utilization**: On the resolution passed at the meeting of the general. Body of the society, the Sinking Fund may be used by the society for reconstruction of its building/buildings or for carrying out such structural additions or alteration to the building/buildings, as in the opinion of the Society's Architect, would be necessary to strengthen it/ them or for carrying out such heavy repairs as maybe certified by the Architect and on approval of General Body. The Education & Training Fund be utilized as provided under section 24(A) of the Act.Utilisation of all funds with the prior permission of General Body.

The ***membership of the society*** shall consist of
**(i)** Members, including associate members and **(ii)** nominal members.

The number of members in the society shall be limited to the number of Flats/ Units constructed in the building/buildings.

**Conditions for Membership**

An individual who is eligible to be the member and who has applied for membership of the society in the prescribed form, may be admitted as member by the committee on complying with the following conditions:-
(i) he has fully paid the value of at least Ten shares of the society, along with his application for membership;
(ii) he has paid the entrance fee of Rs. 100/-, along with the application for membership;
(iii) he has given the application, as prescribed the particulars in regard to any house, plot or flat owned by him or any of the members of his family, anywhere in the area of operation of the society; -
(iv) he has given the undertaking in the prescribed form to the effect that he shall use the flat for the purpose for which it was purchased by him;
(v) he has furnished an undertaking in the prescribed form, if he has no independent source of income;

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 of member of a society, until he has made such payment to the society in respect of **10 shares of Rs. 50/-** each along with the **entrance fee** of Rs. **100/-** to the society in respect of membership, or acquired such interest in the society.
Provided further that, in case of increase in minimum contribution of member in share capital to exercise right of membership, the society shall give a due notice of demand to the members and give reasonable period to comply with.

**ACTIVE MEMBER:**
**(1)** A member shall be called as 'Active Member' if :-
a. He has purchased and owns the Flat / Unit in the Society.
b. He has attended at least One General Body Meeting within a consecutive period of Five years.
c. He has at least paid the amount equivalent to one year of society Maintenance and Service charges, within a consecutive period of Five years.

**(2)** A member who is not an 'Active Member' shall be the 'non-Active Member'. Society shall classify the members as 'Active' or Non-Active' member at the close of every financial year.
**(3)** Society shall communicate to every Non-Active member about his classification, within a period of 30 days from 31st March of every year as prescribed under these By-laws as per Appendix -
**(4)** If a question, of a member being Active or Non- Active arises, an appeal shall lie to the Registrar within a period of 60 days from the date of communication of such classification.
**(5)** The ' Non-Active' member can be reclassified as 'Active member' if he satisfies the conditions laid down under Byelaw no. 22(B)(1).

**LEVY OF CHARGES OF THE SOCIETY**

(i) Property Taxes,
(ii) Water Charges,
(iii) Common Electricity Charges,
(iv) Contribution to Repairs and Maintenance Fund,
(v) Expenses on repairs & maintenance of the lifts of Society, including charges for running the lift.
(vi) Contribution to the Sinking Fund,
(vii) Service Charges,
(Viii) Car Parking Charges,
(ix) Interest on the defaulted charges,
(x) Repayment of the installment of the loan and interest,
(xi) Non-occupancy Charges,
(xii) Insurance Charges,
(xiii) Lease rent,
(xiv) Nonagricultural tax.
(xv) Education and Training Fund
(xvi) Election Fund
(xvii) Any Other Charges

The ***Service charges of the society*** referred to at (vii) above shall include the following:

(i) Salaries of the office staff, liftmen, watchmen, malis and any other employees of the Society.
(ii) Where the Society has independent Office, the property taxes, electricity charges, water charges etc.
(iii) Printing, Stationery and Postage,
(iv) Travelling Allowance and conveyance charges to the staff and the members of the Committee of the Society.
(v) Sitting fees paid to the members of the Committee of the Society,
(vi) Subscription to the Education Fund as per section 24 A of the Act.
(vii) Annual Subscription of the Housing Federation and any other co-operative institution to which the Society is affiliated.
(viii) Entrance fees for affiliation to the Housing Federation and any other cooperative institution.
(ix) Audit Fees for internal, Statutory and reaudit, if any.
(x) Expenses incurred at meetings of the general body, the Committee an the Sub-Committee, if any
(xi) Retainer fees, legal charges, statutory enquiry fees. However, Legal Charges of any disputes/Litigation of whatsoever nature between member to member or member and their family in which Society is a party, in such cases Legal and litigation charges is required to be charged to the respective member/ members.
(xii) Common electricity charges.
(xiii) Any other charges approved by the General Body at its Meeting. However such charges should not contradict the provisions of the Act, Rules and byelaws of the Society.

The Committee shall apportion the Share of each member towards the charges of the Society on the following basis:

**i. Property taxes:** As fixed by the Local Authority
**ii. Water Charges :** On the basis of total number and size of inlets provided in each flat.
**iii. Expenses on repairs and maintenance** of the building/buildings of the Society: At the rate fixed at the general body from time to time, subject to the minimum of **0.75 percent per annum**, of the construction cost of each flat for meeting expenses of normal recurring repairs
**iv.** Expenses on **repairs and maintenance of the lift**, including charges for running the lift : Equally by all the members of the building in which lift is provided, irrespective of the fact whether they use the lift or not.
**v. Sinking Fund :** As provided under the bye-law No. 13(c).
**vi. Service Charges :** Equally divided by number of flats.
**vii. Parking Charges :** At the rate fixed by the general body of the society at its meeting under the bye-law No. 84/85.
**viii. Interest** on the delayed payment of Charges: At the rate fixed under the bye-law No. 72 to be recovered from the defaulter member.
ix. Repayment of the installment of the loan and interest: The amount of each - installment with interest fixed by the financing agency.
**x. Non-occupancy charges**: At the rate fixed under the byê-law No. 43(2)(iii)(c)
**xi. Insurance Charges:** The built up areas of each flat, provided that if there is increase in the insurance premium due to storing any specific goods in any flat, used for commercial purposes, the extra burden of insurance premium shall be shared by those who are responsible for such increased premium in proportion of the built up areas to their flats
**xii. Lease Rent:** The built up area of each flat.
**xiii. Non-Agricultural tax:** The built up area of each flat
**xiv. Education and Training Fund**: Rs. 10 per Flat/unit per month.

The Society shall cause the **STRUCTURAL AUDIT** of the Building of the society as follows :-

1) For the building ageing between 15 to 30 years ________________ Once in 5 years.

2) For the building ageing above 30 years __________Once in 3 years. Such STRUCTURAL AUDIT shall be conducted by the Architects from the panel of the Municipal Corporations in case of the societies which are in the limits of Municipal Corporations. Incase of other societies such structural audit shall be carried by the Govt. Approved Architect.

Meetings :

**First General Meeting :** The first general body meeting of the promoters, who have signed the application for registration of the Society, shall be held within the period of 3 months of the date of the registration, of the Society, as provided under Rule 59 of the Rules. It shall be the responsibility of the chief Promoter of the Society to convene the said meeting within the stipulated period.

On failure of the Chief Promoter of the Society to hold the first general body meeting within the period, mentioned in the bye-law No 86, the Registering Authority shall cause it to be called.

Fourteen clear days' Notice of the first general body meeting of the Society shall be given by the Chief Promoter of the Society or as the case may be, by the officer authorized by the Registering Authority, to all the promoters, who have signed the application for registration of the society. Period of notice for the first general meeting.

**Annual General Body Meetings**
The annual general body meeting of the society shall be held on or before 30th September each year as provided under Section 75(1) of the Act. (As there is no provision for extension to hold AGBM )

**MAINTENANCE OF ACCOUNT BOOKS AND REGISTERS.**
The society shall maintain the following books of accounts, records and Registers.

(i) The Register of Members in "I" form prescribed under Rule 32 of the MCS rules 1961.
(ii) The List of Members in 'J' form prescribed under Rule 33 of the MCS rules 1961.
(iii) The Cash Book,
(iv) The Genera! Ledger,
(v) The Personal Ledger.
(vi) The Sinking Fund Register.
(vii) The Audit Rectification Register in 'O' form, prescribed under the MCS rules 1961.
(viii) The Investment Register.
(ix) The Nomination Register.
(x) The Society / Members LoanRegister/Mortgage Register.
(xi) The Minutes Book for the meetings of the Committee of the society.
(xii) The Minutes Book for the meetings of the general body of the society.
(xiii) The Property register and furniture,fixtures and office equipment.
(xiv) The Structural and FireAudit Register and Lift Inspection Record
(xv) The Register of Nominal Members (Tenant occupant)
(xvi) The Register for Active Members.

**APPROPRIATION OF PROFITS.**
**(a)** After providing for the interest upon any loans and deposits and after making such other deductions as required under Section 65(1) and 66 of the MCS Act 1960 and Rule 49A of MCS Rules 1961, Twenty five percent **(25%)** of the **net profit** of **all the business** carried on by or on account of the society, shall be placed at the credit of the **Reserve Fund** of the society

**(b)** The remaining seventy five percent **(75%)** of the net profit of the society shall be utilised as provided under Rule 50, 51, 52, 53 of MCS Rule 1961.
i) To pay dividend not exceeding **15 percent per annum**, upon the paid up share capital at such rate as the Committee may recommend and the annual general body meeting may approve. The dividend on shares shall be paid to the registered holders of such shares according to the books of the society as on the last day of the preceding co-operative year.
ii) To pay **honorarium** to office-bearers of the society no exceeding fifteen percent **(15%)** of the net surplus to reward them for the sacrifice of their valuable time for the working of the society.* or as decided by the General Body Meeting.
iii) To allocate to a common welfare fund, such part of the profit as the annual meeting of the general body may determine, to be utilised in furtherance of the objects specified in the bye-law No. 5(d).
iv) The balance, if any, shall be carried forward or dealt with in such manner as the annual general body meeting, on the recommendations of the Committee, may determine

**Auditor :**

The society may, if it considers it necessary, appoint an internal Auditor, to audit the accounts of the society, at the annual general body meeting. The Society shall appoint the Statutory Auditor in its General Body Meeting from the panel of Auditors approved by State Govt. and same Statutory Auditor shall not be appointed for more then two consecutive years. The Statutory Auditor shall submit his Audit Report as provided in section 81 of the Act.

It shall be the responsibility of the Committee to get the accounts **audited within a period of six months from the closure of financial year** and in any case before issuance of notice of the holding of the Annual General Body Meeting.

The Remuneration of Auditors so appointed shall be decided by the General Body Meeting of the Society

**Expenditure without concent :**
The Committee shall be competent to incur expenditure on the repairs and maintenance of the society's property once in a financial year, the onetime expenditure does not exceed :
Upto 25 members Rs. 25.000/-
26 to 50 members Rs. 50,000/-
51 and above Up to Rs. 1,00,000/-
If one time expenditure on repairs and maintenance of the society's property exceeds the limits as mentioned under bye-law No. 158(a) prior sanction of the meeting of the general body of the society shall be necessary.