

MADE EASY

WEST BENGAL CO-OPERATIVE SOCIETIES LAW

1. What Act and Rules are applicable in this law?
The West Bengal Co-operative Societies (Amendment) Act, 2011 as well as Rules, 2011 are applicable relating to Co-operative Societies in West Bengal (Refer to Notification No. 177-Coop/H/2R-1/2006(Pt.) dated 18.01.2011 and No. 179-Coop/H/2R-1/2006(pt.) dated 18.01.2011).
2. What is the basic Act now in vogue relating to Co-operative Societies Law in West Bengal?
The West Bengal Co-operative Societies Act, 2006 and The West Bengal Co-operative Rules, 2006 are in vogue relating to Co-operative Societies Law in West Bengal.
3. State the basic objects of Co-operative societies Law in West Bengal
The basic objects intend to infuse a new life into the Co-operative movement of West Bengal on the face of new challenge of globalization and liberalization of the Indian economy. The law extends to the whole of West Bengal.
4. State the salient features of Co-operative Societies in West Bengal
Co-operatives in West Bengal happen to be autonomous associations of persons united voluntarily to meet their common needs and aspirations through a jointly owned and democratically controlled enterprise and adhering to the co-operative principles and values.
5. What would be registered terminology in the name of Co-operative Societies?
The registered Co-operative Societies are termed with the name ending with the words "limited liability" signifying the Societies having the liability of its members limited by its bye laws to the amount, if any, unpaid on the shares respectively held by them or to such amount as they may have respectively thereby undertake to contribute to the assets of the co-operative societies in the event of its being wound up.
6. Is the Company's Act, 1956 applicable to the Co-operative societies?
No. The provisions of Companies Act, 1956 shall not apply to Co-operative Societies. (Section 8)
7. What is the meaning Co-operative year?
"Co-operative Year" means the year commencing on the 1st day of April every year.
8. What do you understand by "Bye Law" of the Co-operative Societies?
"Bye law" of the Society means a Bye Law registered under the Act and includes an amendment thereof.
9. Can a partnership of Co-operative Societies be formed?
Yes. Section 26 of West Bengal co-operative Societies Act states that any two or more Co-operative Societies may by resolution passed at general meeting by a majority of members present and voting in each of such Co-operative Societies, enter into a contract of partnership for carrying on any specific business permissible under the bye laws of such Co-operative Societies on such terms and conditions as may be mutually agreed upon. Such partnership of Co-operative Societies shall be governed by the provision of the Indian Partnership Act, 1932 (Act 9 of 1932).
10. What is the genesis of forming Co-operative Societies?
The area of operation adopted by the Societies happens to be the genesis of forming Co-operative Societies in West Bengal. It is worthnoting to mention Consumers' Co-operative Society, Co-operative Farming Society, Co-operative Land Development Bank, Co-operative Housing Society, Co-operative Credit Society so on and so forth.

11. How the business activity is managed in co-operative Societies?
The strategic management of the Co-operative societies is entrusted upon a Board of Directors constituted u/s 32 headed by Chairman or the Chief Executive.
12. What is Apex Co-operative Society?
It means a Co-operative Society whose area of membership extends to the whole of West Bengal and the primary object of which is to promote the objects and to provide facilities for the operation of other Co-operative Societies which are its members and include West Bengal State Co-operative Bank Ltd. and West Bengal State Co-operative Agriculture and Rural Development Bank Ltd.,
13. State the types of Share Capital of a Co-operative Society
There are two types of Share Capital viz. Preferential Share Capital and Equity Share Capital. These two types of share capital are raised by the Society as authorized by virtue of registration certificate of the Society.
14. What is the meaning of Registrar?
It means the registrar of Co-operative Societies appointed u/s 12 and includes Additional Registrar, Joint Registrar, Dy. Registrar, Asst. Registrar of Co-operative Societies and any other officers who is appointed under that section to assist the Registrar and on whom all or any of powers of the Registrar under this act are conferred.
15. What is Working Capital of a co-operative Society?
Working Capital of a co-operative Society means the total capital of a Co-operative Society consisting of Borrowed Capital and Owned Capital.
16. What is the consequence of omission of the word "Co-operative" in the name of a Society?
No person other than a Co-operative Society shall trade or carry on business under any name or title of which the word "Co-operative" or its equivalent in any language is a part. Any violation of the provision as stated shall constitute an offence punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 5000/- or both.
17. What is procedure for submission of application for registration of a Co-operative Society?
The Procedure is as follows:
 - a) An application for registration of a co-operative Society in Form as prescribed and its bye laws shall be submitted to the Registrar by hand or by registered post with acknowledgement due with one copy to the District Co-operative Union in the case of Co-operative Society having its area of membership within a district and to the State Co-operative Union in more than one Co-operative range.
 - b) Every such application shall be accompanied by i) 4 copies of proposed bye laws of the Co-operative society as adopted by the Promoting Members; ii) a list of names of the members with their addresses, occupations and equity participation and signatures, iii) a list of members of the 1st Board elected by the promoting members, iv) True copy of the minutes of the meeting at which the bye laws were adopted and election was held duly signed by the Chairman and v) a scheme of the project, if any, to be undertaken by the proposed Co-operative society(refer to West Bengal Co-operative Societies Act, 2006).
18. What are the matters to be included in the bye laws?
The Bye laws of the Co-operative Societies may provide the following matters to be included as decided by the General Body
 - a) Identification of the Co-operatives
 - b) Objects and services
 - c) Capital and fund
 - d) Membership

- e) Members right and obligation.
- f) General body
- g) Chief executive and staff
- h) Finances
- i) Other matters.

19. Indicate the provision of Annual General Meeting of Co-operative Societies

Tabulation:

| Category of Co-operative Society | Period during which the AGM to be held |
|---------------------------------------|--|
| a) All Primary co-operative Societies | April, May & June |
| b) All Central co-operative Societies | September |
| c) All apex Co-operative Societies | December |

20. State the power of State Government to give financial assistance to the co-operative Societies

Notwithstanding anything contained in any other law for the time being in force the State Government may, subject to the rules, -

- a) Grant loans to, take shares in, or give financial assistance in any other form to, any Co-operative Society;
- b) Guarantee the payment of share capital of any Co-operative Society and dividends thereon at such rate as may be specified by the State Govt.: and
- c) Guarantee the repayment of principal and payment of interest on loans and advances to any Co-operative Society.

21. State the liability of members upon the dissolution of the Co-operative Societies

The members of Co-operative Societies shall upon the dissolution of Co-operative Societies, be jointly and severally liable to contribute towards any deficiency in the assets of the Co-operative Societies if the Society is a co-operative Society with limited liability, subject to such limitation as may be provided in the Bye Laws.

22. Who appoints the Registrar of co-operative Societies in West Bengal? What are the powers and duties conferred to the Registrar of Co-operatives?

The State Government may appoint a person to be the Registrar of Co-operative Societies [Section 12(1) of the Act]

Under Section 13 the State government may, by general or special order, confer all or any of the powers or impose all or any of the duties or the Registrar under this Act, other than those specified in the first schedule on any person appointed under sub-section of (1) of section 12 to assist the Registrar.

23. How a Co-operative Society is registered?

Procedure:

- a) Subject to the provision of the Act and Rules a Co-operative Society is established with the object of social and economic betterment of its members in their common interest through self-help and mutual aid in accordance with the Co-operative principles and facilitating the operation of such co-operative society including a co-operative society formed by division of an existing co-operative society or by amalgamation or reorganization of two or more co-operative societies with the approval of their members may be registered under this act with limited liability.
- b) An application for registration of a co-operative society shall be submitted to the Registrar in Form 1 and shall be signed by the applicant.
- c) With every application there shall be submitted duly signed by the applicant, four copies of the bye-laws which the society proposes to adopt

- d) A list of names of the members with their addresses, occupations and equity participations and signatures shall be accompanied with this application.
 - e) A list of members of the first Board elected by the promoting members is to be enclosed.
 - f) A true copy of the Minutes of the Meeting at which the bye-laws were adopted and election was held duly signed by the chairman is enclosed.
 - g) A scheme of the project, if any, to be undertaken by the proposed co-operative society is submitted.
 - h) Every application shall be signed by at least 10 individuals from different families in the case of a proposed primary co-operative society and by the authorized representative of at least 5 primary co-operative societies in the case of a proposed federal co-operative society.
 - i) On receipt of the application the Registrar shall satisfy himself that the application and the bye-laws are in conformity with the provision of the act, the rules and the bye-laws are suitable for carrying out the objects of the society and ensuring the safe conduct of the business of the society.
 - j) When a society is registered, the Registrar shall grant Certificate of Registration in Form II
24. What is the minimum requirement of application for registration by a Housing Co-operative Society?
By virtue of section 16 of the Act the number of applications shall not be less than 8 in the case of registration of a Housing Co-operative Society.
25. Can a Co-operative Society be a Body Corporate?
Yes. After registration a co-operative society shall be a Body Corporate by the name under which it is registered. It has a perpetual succession and a common seal. The Co-operative Society shall be entitled to acquire, hold and dispose of property to enter into contracts on its behalf, to institute and defend suits and other legal proceedings, and to do all other things necessary to achieve its objectives.
26. `What is the provision for display of name of a co-operative society?
According to section 18 of the Act every co-operative society shall display its name and the address of its Registered Office along with the Registration No. in legible character in a conspicuous position –
- a) At every office or place at which it carries on business;
 - b) In all notices and other official publications;
 - c) On all its contracts, business letters, orders for goods, invoices, statements of account, receipts & letter of credit; and
 - d) On all bills of exchanges, promissory notes, endorsements, cheques and orders for money, it signs or that of signed on its behalf.
27. What are the different meetings to be held in a co-operative society?
The meetings may be the followings:
- i) Annual General Meeting (section 29)
 - ii) Half Yearly General Meeting (section 30)
 - iii) Special General Meeting (section 31)
28. State the procedure for holding Annual General Meeting of a Co-operative Society?
The procedure is as follows:
- i) Every Co-operative Society shall hold a General Meeting of its members or delegates or representatives in every co-operative year in accordance with a fixed programme, that General Meeting shall be called the Annual General Meeting.

- ii) The 1st Annual General Meeting of every co-operative society shall be held within 15 months from the date of its registration and thereafter Annual General Meetings shall be held as provided in section 29.
- iii) An Annual General Meeting shall be convened by the Secretary or any other officer authorized by the Board in accordance with direction of the Board.
- iv) Unless, otherwise provided in the bye-laws, all notices of the meeting stating the place, date and hour of the meeting together with the statement of business to be transacted at it, shall be sent to every member or delegate or representative not less than 21 days before the date of the meeting.
- v) Any accidental omission to give notice to any member or delegate or representative or non receipt of the notice by any or a few of them shall not invalidate the proceeding of the meeting.
- vi) If the Board fails to take steps or does not give direction to convene any Annual General Meeting at least two months before the expiry of the period for holding 1st Annual General Meeting, the Chairman or in his absence the Vice Chairman or in the absence of both, the highest designated employee shall convene the 1st Annual General Meeting.
- vii) On the failure of the Board to call the Annual General Meeting within the period as specified in the Act, the Registrar shall call the Annual General Meeting to transact the business in the meeting so fixed.
- viii) The agenda of the Annual General Meeting contains a number of points/matters which need discussion and disposal at the meeting. A few examples may be given as follows:
 - i) Election of Directors of the Board, if any.
 - ii) Consideration of the Annual Report prepared and presented by the Board;
 - iii) Approval of the Annual Budget;
 - iv) Consideration of the latest Audit Report and compliance thereof and audited Statements of Account refer to in section 98
(For details refer to section 29 of the Act.)

29. What is the legal procedure for half yearly General Meeting?

The procedure:-

- a) A Half-Yearly General Meeting of a Co-operative Society shall be called at any time after six month, but within 8 months from the date of last date of Annual General Meeting for the following purposes:
 - i) To review of the activities of the Co-operative Society on the basis of the report placed by the Board;
 - ii) To consider Audit Report, if any;
 - iii) To review financial position on the basis of Provisional Accounts;
 - iv) Any other item as may be specified in the bye-laws.
- b) A Half-Yearly General Meeting shall be called in accordance with the provision of sub-section 1 of section 29

30. State the procedure of holding special General Meeting by a co-operative Society

The procedure:

- i) A Special General Meeting of a Co-operative society may be called at any time for the following reasons
 - a) Where Board decides to call a Special General Meeting on urgent matter or under sub-section 1 of section 29
 - b) Where at least 1/3rd of the members or delegates or representatives of the co-operative society place before the Board a requisition in writing for discussion and decision on a specific object including a call for adoption

of resolution in a Special General Meeting for 'No Confidence' against the Board or its reconstitution before the expiry of the full term of five years.

- ii) The Secretary shall call the Special General Meeting within two months from the date of requisition so received
31. How the proceeding of meetings of a co-operative society is recorded?
Every co-operative society shall cause minutes of proceeding of Annual General Meeting and other General Meetings to be entered in a book kept for that purpose. The minutes shall be drawn up and signed by the Chairman of the meeting within three working days from the time when the meeting concludes. A General Meeting of the society of which the proceedings have been so recorded, shall be deemed to have been duly called and held.
32. What is the quorum of General Meetings of a co-operative society?
The quorum of an Annual or Half-Yearly or Special General Meeting shall be 1/5th of the total number of members or delegates or representatives subsisting on the date of the meeting.
33. Is the business transacted in a meeting without quorum valid?
No. No business shall be transacted at any meeting unless there is a quorum.
34. Is Quorum of a meeting necessary in case of an adjourned meeting?
No. No Quorum shall be necessary at an Annual or Half-Yearly or Special General Meeting which had been adjourned earlier for want of quorum.
35. Discuss in brief the management of Co-operative Societies
- 1) There shall be a Board of Directors of every co-operative society to manage its affair and the Board shall consist of such number of Directors as may be specified in the bye-laws of the co-operative societies.
 - 2) The number of Directors to be elected by the members of a Co-operative Society shall not be less than 6 or more than 15.
 - 3) Where the number of members of co-operative society is less than 12 the number of Directors shall not be less than 3 or more than 6
 - 4) The State Government may nominate one person in the Board if it has subscribed to the Share Capital of a Co-operative Society or guaranteed the principal and interest in respect of loans and advances to the Co-operative societies
 - 5) A Director elected or nominated shall hold office for a term of five years of the Board or till the Board is dissolved u/s 34 or 35 or 36 whichever is earlier.
 - 6) No person, at any time, hold office as a Director of the Board in more than –
 - a) 4 Primary Co-operative Societies;
 - b) 2 Central co-operative Societies; and
 - c) 2 Apex Co-operative Societies
36. What is the Quorum of Meeting of Board?
Unless a larger proportion is provided in the bye-laws, the Quorum at the meeting of the Board shall be 1/3rd of the total number of Directors subsisting on the date of issue of the notice for the meeting.
37. What are the powers of the Board?
The Board of Co-operative Societies shall have full control over the administration and the business of the society and shall exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under the Act, Rules of the Co-operative Societies and provisions in the bye-laws of the respective society.
38. Specify the duties of the Board
The Board shall observe, in all their transactions the provisions of the act, rules and bye-laws and shall cause to perform the following duties, viz.
- a) To receive and disburse money;

- b) To maintain true accounts of money received and expended and accounts of the assets and liabilities;
 - c) To prepare for submission to the Annual General Meeting –
 - i) An Annual Report on working of the Society;
 - ii) An Annual State of Accounts including a Balance Sheet;
 - iii) A statement of loans and defaults and appointments as required under clauses (g) and (h) of sub-section of 5 of section 29 of the Act.
 - iv) To prepare the statement of accounts required for audit and to place those along with relevant vouchers and other connected papers before the Auditors;
 - v) To maintain Register of Members upto date
 - vi) To conduct business with utmost transparency
 - vii) To prepare data base of the society;
 - viii) To create awareness amongst the members in the affairs of the society
 - ix) To prepare Code of Conduct of the members of the Board;
 - x) To prepare Loan Policy, Management Policy, Investment Policy and other policies required to formulate in the interest of the society.
39. To whom Annual Return of the Co-operative society is submitted? Which form is used for such submission?
Every co-operative society shall submit the Annual Return to the Registrar of Co-operative society. The Annual Return is submitted in form XV.
40. How the compromise between Co-operative Society and its Creditors is made?
By virtue of section 62 the settlement shall be made between Co-operative Society and its Creditors by the Board to be ratified by the General Body.
41. Define Liquid Cover
Liquid Cover means any assets which can be converted into ready cash at once and which are maintained in one or more of the following forms:
- a) Cash in hand or with Central and State Co-operative Bank or with such banks as the General Body may approve
 - b) Post Office Savings Bank Account
 - c) Government Securities including NSCs, KVPs etc.
 - d) Other investments approved by the Board
42. What is “Financing Bank” in case of Co-operative Societies?
“Financing Bank” in case of Co-operative Societies may include State Co-operative Bank, A Central Co-operative Bank, State Co-operative Agricultural & Rural Development Bank, A primary Co-operative Bank, State Bank of India, National Bank for Agriculture & Rural Development (section 4 of the Act)
43. What do you understand by Joint member? What is the provision for voting right of a Joint member?
Joint member means any one or two persons admitted jointly to the membership of a co-operative society under sub-section 4 of section 63 and includes either of the following persons so admitted:
- i) Husband & wife
 - ii) Father and son or daughter: and
 - iii) Mother and son or daughter
- Voting right of the joint members shall be exercised by the first named member and in his/her absence by the other member.

44. What is the Co-operative Service Commission? What is the tenure of the office of Commission?
By virtue of section 94 of the Act the State Government shall constitute a Co-operative Service commission and shall appoint the following three persons as members of the commission:
- a) One person who has held a post not below the rank of a Special Secretary to the Government of West Bengal to be chairman of the Commission;
 - b) Two persons from two different Apex co-operative societies to be nominated by the State government.
- The Chairman and other members of the commission shall hold office for a term of three years
45. Who is Director of Co-operative Audit?
Director of Co-operative Audit means the person appointed u/s 12 and includes additional Director of Co-operative Audit, Dy. Director of co-operative Audit, Asst. Director of co-operative audit or any other officers who are appointed under that section to assist him and on whom all or any of the powers of the Director under this Act are confirmed.
46. What are the different types of audit to be conducted in a Co-operative Society?
An audit under clause (b) of sub-section (1) of section 97 shall include Annual Audit, Running Audit, Concurrent Audit, Re-Audit, Cost on performance Audit and Internal Audit.
47. Define concurrent Audit. How Concurrent audit is conducted?
Concurrent Audit means audit of accounts of co-operative society in a co-operative year on daily basis.
The auditor shall issue audit memo pointing out the errors and irregularities daily and the co-operative society shall submit a rectification report within three days from the date of receipt of the audit memo.
48. Is Right to Information Act applicable to Co-operative Societies?
Yes. Right to Information Act is applicable to any Co-operative Society. The members of the Society have right to inspect Books of Account, Registers, Financial Statement etc.
49. What is the special requirement of disclosure in financial statement?
Apart from preparation of financial statement of accounts of the Co-operative societies the special requirement of disclosure of various funds can be enumerated as below:
- i) Bad Debt fund – Not less than 15% of Net Profit in a Co-operative Year
 - ii) Reserve Fund - Not less than 10% of Net Profit in a co-operative Year
 - iii) Co-operative Education Fund – 5% of Net Profit in a co-operative subject to a maximum of Rs. 15,000/-
50. Is it essential of obtain SME Registration by a Co-operative Society?
Yes, Enterprises falling under MSME are required to obtain MSME registration in India since a lot of benefits can be obtained with EM number by the Co-operative societies in respect of financial credit and other facilities like land, industrial set up water, electricity, telephone connection etc. etc.