CHAPTER V
REGULATION AND CONTROL OF ECCS

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CHAPTER V
REGULATION AND CONTROL OF THE ECCS

5.1 INTRODUCTION:

In this fifth chapter, the researcher has presented an analytical outline of the controlling structure that regulates the ECCS. The researcher has analyzed the system of control with special reference to the financial aspects and working of the ECCS and the legal provisions of act applicable to the ECCS. There are various controlling bodies that regulate the Employees’ co-operating credit societies.

History of co-operative credit is very old in India. In fact, the co-operative movement was initiated in 1904 by the establishment of Agricultural co-operative credit societies. These societies were organized to relieve the indebtedness of people and promote thrift. The origin of Employees’ co-operative credit societies is based on this principle only. The co-operative credit institutions in India have been organized into the short-term and the long-term structures. The short co-operative credit structure is based on a three-tier structure, except the States in the northeast region. At the lowest tier are the employee’s co-operative credit societies. These are organized at the local organizational level. At the second tier are the District Central Co-operative Banks (DCCB) organized at the district level. At the third and uppermost tier are the State Co-operative Banks (SCB) State levels.

The Employees’ co-operatives Credit Societies generally advance loans for non-productive purposes or consumption loans advanced to the Employees’. The repaying capacity of the individual is taken into account while advancing such loans. The CCB are of two types – Co-operative banking union and mixed central co-operative banks. The membership of the former is open only to the co-operative societies, while the membership of the latter is open to both, individuals and the co-operative societies. The chief task of the
Central Co-operative Banks is to advance loans to the ECCS in times of need so that they can fulfill the requirements of Employees’. The SCB, in turn, advances loans to the CCB in order to augment their capacity to provide loans to the Employees’ as the local organizational level ECCS. It is also coordinated and regulated by the working of the CCB. It also provides the link between the Reserve Bank of India and the money market on the one hand lowers levels of co-operative structure on the other.

"In a democratic form of Government, with the object of establishing a Socialistic pattern of Society, Co-operative has a distinctive philosophy which will help to achieve our goal. In reality, "Co-operation is a key to country's Prosperity", with these words, Shri. Jawaharlal Nehru, the late Prime Minister of India, inaugurated the Golden Jubilee celebrations of the Maharashtra State Co-operative Bank, the Premier co-operative institution of the nation. These remarks are equally applicable to the Employees’ Co-operative Credit Societies. The question is whether the societies as the grass root level have been able to keep up with the said 'distinctive philosophy' as referred to here.

Co-operation as a firm of economic organization, whether it relates to production or distribution or consumption, has become very important today in the context of the dissatisfaction that people feel about the working not only of private sector organizations, but also of public sector organizations. V.K.R.V. Rao, the Director of Institute of Social & Economic Development, has rightly observed, "In India co-operation has mainly taken the form of credit and even here, the co-operative movement has not been able to raise from its own members the funds it requires for its operation. I think therefore some serious thoughts should be given to the reason why co-operative movement has failed to answer the challenges of functioning as the most favored alternative both to the private sector enterprise and the public sector enterprise".

These remarks of V.K.R.V. Rao are equally applicable to Employees’ Co-operative Credit Societies. These societies have to work and sustain under a highly competitive situation under the trends of privatization, liberalization and
globalization. The issues related with this are concerned with the problems of management and control of the Employees’ Co-operative Societies. It would not be out of place at the outset to summarize the various problems of co-operative societies in general and the Employees’ Co-operative Credit Societies in particular.

5.2 ADMINISTRATION OF CO-OPERATIVES:

The Minister for Co-operation is the overall in charge of the co-operative administration in Maharashtra. The Minister of state for Co-operation administrates an independent department of co-operation. The independent department of co-operation is assisted by the executive side. The Principal Secretary for co-operation to the Government of Maharashtra heads the department at the Mantralaya level at Mumbai, i.e. The Commissioner for Co-operation and Registrar of Co-operative society of Maharashtra State. The Commissioner is assisted by a number of Deputy Secretaries. As the head of the department at the field level has his main office at Pune.

The Commissioner of Sugar (Pune) looks after the sugar co-operatives, whereas, the Director of Agricultural marketing (Pune) and the Director of Handloom, Power loom and Co-operative Textiles are concerned with the Agricultural Marketing and Co-operative textiles.

5.3 PRESENT POSITION OF SUPERVISION:

The staff of the co-operative departments in the concerned State is at present, mostly carrying on audit. However, in Punjab, the audit of co-operative societies is with a Chief Auditor assisted by adequate staff. In U.P. there is audit of co-operative carried by Panchayat Audit Organization. In bigger co-operative institutions, concurrent audit system has been introduced. This is the situation regarding co-operative societies in general and the same is applicable to Employees’ Co-operative Credit Societies.
In most states, the financial supervision over ECCS is entrusted to the Central Co-operative Banks, while the responsibility of supervision over other types of societies rests with the co-operative departments. However, in some States different arrangements have been made. In U.P., a centralized cadre of supervisors has been constituted and the U.P. Co-operative Union has been recognized as the Federal authority for the management of the cadre at the State Level. In Punjab supervision work is with the Co-operative department.

5.4 AGENCIES OF SUPERVISION:

The possible agencies for conducting supervision over the co-operative societies can be as follows:

a) The Registrar, Co-operative Department.

b) Special Auditor, Co-operative Department.

c) District Central Co-operative Bank, i.e. ADCC Bank in case of Ahmednagar District.

d) The Maharashtra State Co-operative Bank indirectly as the State financing agencies and federations of co-operative societies.

As mentioned above, it is mostly the co-operative departments that are at present, carrying on the work of supervision over Co-operative societies. This agency may be suitable in the initial stages of development of the co-operative movement, but cannot be justified for all times to come, because such a course is not in tune with the policy of self-reliance and self-sufficiency of the co-operative movement. The Working Group, however, recommended that the co-operative and Panchayat being both democratic bodies, One could not be subordinated to the other. It was of the opinion that there were two serious objectives to the transfer of supervisory powers from the Registrar to the local self-governing institution. In the first place "Co-operative movement is becoming self-reliant in a few States and is gradually shaking off official tutelage. If this process is frozen at the present stage of development, add the local bodies as successors-in interest to Government assume powers corresponding to the Registrar; the co-operatives have no prospects of
becoming self-regulatory in the near future. Secondly, Registrar at government offices is expected to the above political influences and is likely to take on objectively from local bodies which are obviously subject to political influence."

The idea of transferring the work of supervision to the supervisory unions has already been experimented upon in Maharashtra Sate, but the results have not been very encouraging. The only alternative left and which is considered most suitable is the transfer of supervisory functions to the central financing agencies and the federations of the co-operative societies. The committee on co-operative Administration has recommended, "The central banks are the proper agencies to assume the responsibility for supervision of primary credit societies." So far as societies other than primary credit societies are concerned, the committee recommended "Ultimately their supervision also should be transferred to the appropriate federal agencies." The committee further recommended, “Till some systematic arrangements for supervision are made within the co-operative sector, supervision has to remain the direct responsibility of the co-operative departments.”

5.5 THE ROLE OF REGISTRAR:

The registrar plays an important role in the management and control of Employees’ Co-operative Credit Societies. Therefore, it has to observe the significance of the role of registrar of co-operatives.

The registrar of Co-operatives plays the role of a king-pin. Prof. Dubhashi P.R. has rightly remarked that, "The Registrar of Co-operative Societies from the very beginning was described as Brahma, Vishnu and Mahesh. Brahma is the creator, Vishnu is the protector and Mahesh is the destructor. The Registrar creates a co-operative society by registering it and protects it throughout its existence by arranging for audit, inspection, inquiry and supervision of the co-operative movement."
In order to promote and ensure an orderly development of the co-operative movement in the State, the Registrar is appointed by the State Government, who is the king-pin of the co-operative movement. In other words, he is the whole and sole controller. The Department of Co-operation of which the Registrar is the head in charged with the responsibility of working as a friend, a philosopher and a guide to look after the co-operative movement.

The Registrar has to ensure that the law is administered in the best interests of the institutions concerned, besides arranging timely audit and inspection. Therefore, it would not be out of place to have a look at the provisions of the law regarding this matter.

5.6 REGISTRATION U/S-4 TO 8:

In accordance with co-operative principles, a society has its own objectives such as the promotion of economic interest; a general welfare of its members. A society established with an objective of facilitating the operations of any such society may be registered under the MSC Act.

The ECCS society has consisted of at least ten persons who are qualified to be members under the act. For the registration, an application has to be made to the registrar in form 'A' in Marathi, Hindi or English that is signed by the applicants. Along with an application, four copies of the proposed byelaws of the society should be enclosed. The member has to be an employee of respective organization. He should be a permanent employee and the employer should have given a certificate u/s 49 of the MCS Act 1960 for deduction of the Society’s dues from his salary.

The following documents should be accompanied

1) A list of persons who have contributed to share capital together with the amount contributed by each of them.
2) A copy of the challan paying registration fees in the government treasury. Registration fees paid in Rule-4 of the M.C.S.Act and their Rules 1961 shows the registration fees for ECCS in Rs.500.

3) Four copies of the Byelaws of the ECCS.

4) A statement giving details about amount collected and expended.

5) The Bank balance certificate on the date of application.

6) Scheme of the society.

7) Other required documents as per the advice of the registering authority.

The classification and sub classification of co-operative society are under the Rule 10 of M.C.S. Rule, 1961. The classification is mentioned in registration certificate of the society. Salary earners credit society is classified as credit resource society.

5.7 NORMS OF MEMBERSHIP:

The membership criteria given in the byelaws of Employees’ credit co-operative society and conditions of admission to membership under the rule 19 of M.C.S. Rule, 1961

The following are the conditions for a membership:

1) An individual, completing the age of 18 and mentally sound and as well as competent to contract under The Contract Act, 1872.

2) A person should be a permanent employee of the respective employer.

3) A person should fulfill the eligibility norms laid down in the byelaws.

Societies other than those referred into rules 36 and 37 with limited liabilities have to take the prior sanction of the registrar. The liabilities of the societies should not be exceeding total ten times the total amount its paid up share capital, accumulated reserve fund and building fund minus accumulated losses.
5.8 RESTRICTION ON SHARE HOLDING SEC, 28

In the ECCS a member can hold shares not exceeding 20% of the paid up share capital or Rs.50,000 whichever is less. This provision helps in curbing capitalistic tendency by any member.


5.9 RESTRICTIONS ON BORROWINGS U/S- 43, RULES 35 TO 38:

The society cannot borrow to any extent but upto a certain limit, which is related to the owned fund. The Society shall receive the deposit from the members and disburse the loans to members. Only to such extent and such conditions may be prescribed by the byelaws of the society. The byelaws of the co-operative society state that the ECCS can borrow 10 times of the owned funds. The society that has not taken any financial assistance from the government in the form of share capital, such society may adopt its own borrowing policy having regard to its financial position.

5.10 DEDUCTION FROM SALARY TO MEET SOCIETIES CLAIM IN CERTAIN CASES U/S-49:

The Member of a society may execute and agree in favors of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such a total amount payable to the society and in such installment as may be specified in the agreement to the society amount so deducted in satisfaction of any debts or other demand of the society against the member. If the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the concerned, or makes default in remitting the amount deducted to the society, the employer shall be personally liable for the amount and if the employer has made the deductions but the amount so deducted is not remitted to the society then such amount together with interest there on at 1.5% rate of interest charge
by the society to the member for the period commencing on the date on which
the amount has to be paid to the society.

5.11 RESERVED FUND U/S-66, RULES 54:

Every society can derive a profit from its transaction; however, it has to
maintain the reserve fund. Every society shall carry at least 25% of the net
profits each year to the reserve fund and the said fund may be invested in the
DCC Bank as per the provisions of section under 70 of MSC, Act, 1961. The
considering the financial position and class of society the registrar has power to
reduce the percentage of the reserve fund from 25% to 10%.

5.12 RESTRICTIONS ON DECLARATION OF DIVIDEND U/S-67:

The society shall pay a dividend at the rate exceeding 15% except to the
prior sanction of the registrar of society. Those societies in the profit can only
declare dividend. The Government of Maharashtra Co-operative Departments
circular has given the right to the financially sound societies that they will
declare dividend more than 25% prior sanction of the registrar. (Circular
Commissioner for Co-operation & Registrar of Co-operative Societies
Maharashtra State, Pune-1)

5.13 THE LOAN LIMIT AND INSTALLMENTS TO THE ECCS:

The loan and Installments are fixed as per the byelaws of the ECCS. The
annual general Meeting has the right to change the loan limit by passing a
special resolution. The loan limit has to be approved by the registrar of Co-
operative through the circular. The installments of the loan should be
considered the Payment of Wages Act. (As per circular No. Nagari Bank/ D-
4/Salary earner /coop. Soci. /loan limit increase /97, dated 22nd October, 1997
and Circular No. D-4/ Pagardar Karmchari Patsanstha/karja Maryada/06
dated18th November, 2006).
5.14 INVESTMENT OF FUNDS SECTION-70:

A society shall invest or deposit its funds in one or more of the followings:

1. In a Central District Bank or State Cooperative Bank.

2. In any security specified in section 20 of the Indian Trust Act, 1882.

3. In the share or security bonds or debentures issued by any other society with the limited liabilities with prior permission of Registrar.


5.15 FINAL AUTHORITY U/S-72:

The final authority of every society shall vest in the general body of the members in the general meetings. The Delegates shall attend the general meeting as per the byelaws of the society and to exercise all their power in the general meeting as a member.

Every society shall complete the books of accounts within a period of three months after the completion of the financial year. The Society conducts the annual general meeting U/s-75 and a special general meeting may be called up at any time by the chairperson when a majority of committee or members approves as per section 76.
5.16 THE RAISING OF FUNDS BY SOCIETY- RULES 39:

Every society that has a share capital shall provide, as stated in the byelaws, the maximum amount of such share capital, the number of shares into which it is divided, the class of shares, the face value of each share of each class and the rights and liabilities attached to each class of shares.

Every member has the right to subscribe the share capital maximum upto Rs.50000 or 1/10 of the paid up capital whichever is lower as per the circular. (Circular no.ADP/Nagri Patsanstha /Le.p.Varg /2002/1176 dated 16 Sept.2002, Commissioner for Co-operation & Registrar of Co-operative Societies, Maharashtra State, Pune-1.).

5.17 RATE OF ANNUAL CONTRIBUTION TO EDUCATION FUND OF STATE FEDERAL SOCIETY; RULES-53:

The ECCS shall contribute annually U/S 68 towards the educational fund of the state federal society. The rate of contribution per year for the ECCS is 1/10 % of the working capital subject to maximum Rs.1000.

5.18 ACCOUNTS AND BOOKS TO BE KEPT; RULES- 65:

Every society shall keep required books of accounts under the sub rule (1). The Annual statement of accounts including balance sheet is prepared under the rule 61 within 45 days of the close of every co-operative year (i.e.1st April to 31st March). The committee of every society shall prepare the annual statement of accounts showing

a) Receipts and Payments during the previous co-operative year.

b) The Profit and Loss Accounts for the year and

c) The Balance Sheet as at the close of the year.
The Balance sheet and Profit and loss account to be laid before the annual general meeting in the form 'N'. The amount of rebate on interest is not debited to profit and loss account after considering Sec.49A, 50 and 51 while appropriation of profit. (Circular No.v-9/Salary Earner/rebate on Interest/2008 Dated 30th June,2008Deputy Registrar of Co-operative Societies, Ahmednagar).

5.19 THE PROVISIONS OF MSC ACT HAVING A BEARING ON THE CONDUCT OF AUDIT:

The co-operative law governs the Employees' Co-operative Credit Societies. The relevant provisions of conduct the audit have been summarized below:

a) As far as an auditor is concerned, the provisions of Section 81 of MSC Act, which deals with the statutory audit, are relevant for his purpose. Section 81 (1) (a) provides “the registrar shall audit, or cause to be audited at least once in a co-operative year, by a person authorized by him by general or special order in writing in this behalf the accounts of every society which has been given financial assistance including guarantee by the State Government or Government Undertaking from time to time, and the accounts of ECCS. Section 81 (1) (b) provides “the societies other than the societies referred to in clause (a) shall arrange to get their accounts audited at least once in a co-operative year by an auditor from the panel of auditors maintained by the Registrar or by a Chartered Accountant holding a certificate in co-operative audit issued by the ICAI.”

b) The Statutory Auditor is required to submit Audit Memorandum in addition to his report on the Truth and Fairness of the Financial Statements audited by him.

c) The registrar has fixed the scale of fees by a circular.
Co-operative Department exercises control over the financial transaction of the ECCS by conducting the investigation (official audit of the financial statements and reports) with reference to the technicalities dictated by the cooperative department. The objective is to bring about more transparency in the financial transactions, which indicates the sound liquidity and safety position of the ECCS for safeguarding interest of depositors and shareholders.

The statutory audit according to the provisions of the MSC Act is an exercise to ensure that the ECCS, which, utilize public funds, meet their social accountability. The departmental audit also confirms that managements of the ECCS do not misuse their power for satisfying vested interest at the cost of the society.

The main points of reference for determining viability of the ECCS are:

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<th>Section No.</th>
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<tr>
<td>21</td>
<td>Restriction on loans</td>
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<tr>
<td>Rule 43</td>
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<tr>
<td>30 &amp; 43</td>
<td>Restrictions on borrowings</td>
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<tr>
<td>32 &amp; 70</td>
<td>Investments of surplus funds</td>
</tr>
<tr>
<td>79</td>
<td>Maintenance of proper books of accounts in Relation to All sums of money received and spent a) Nature of assets and liabilities b) Furnishing of all statements and returns regarding investments, deposits, and cash.</td>
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<td>65 &amp; 49(a)</td>
<td>Ascertainment of profit:</td>
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After all permissible deductions like interest, establishment charges, audit fees, working expenses, depreciation, bonus and income tax, provision for bad and doubtful debts, contribution to funds, investment, retirement benefit fund. Provision for bad debts and revenue losses not adjusted against any fund
created out of profits and other contributions, provision of any claim admissible under any law. Profit and Loss A/c and Balance Sheets are to be prepared according to the principle of doctrine of disclosure – i.e. Disclosure of all material facts. Profit and Loss A/c. and Balance sheet should be prepared (Rule 62) by observing proper accounting conventions and mandatory accounting standards, provisions relating to depreciation should be consistently followed. Cash or accrual method of accounting should be followed for ascertainment of profit. The ECCS should follow mercantile system of accounting to disclose a true and fair view of profit after making all the provisions. Profit & Loss A/c. and Balance sheet should be prepared in the prescribed form "N".

The Registrar of co-operative societies has (Rule 50 (2)) power to determine that the Profits are not appropriated to the Reserve fund or any other fund before payment of dividend to members. There is no prohibition on payment of bonus. But proper justification as to the sound financial position and good profitability should be given for declaring higher dividends. The auditor must scrutinize the resolution regarding the appropriation of profits through the minute and verifying the accounting entries relating to appropriation of profits.

The financial statements and balance sheets should be submitted in the co-operative year i.e. commencing on 1st April and closing on 31st March every year.

In respect to the dimensions of departmental audit the authorities of the co-operative department pointed out that the specific provisions in the following section of the MSC Act and other rules are to be followed:

a) Section 17 and 17(2) of central Act providing that an Auditor authorized by the Registrar shall perform audit according to Section 81 of the MSC Act and the scope of this Audit includes examination of overdue dates, verification of cash balance and securities and valuation of assets and liabilities. The normal definition of audit given by Spicer and Pegler is applicable to co-operative audit which implies that the
auditor should conduct a critical examination of financial analysis recorded in the books of accounts for ascertaining profitability and viability of the ECCS and for giving to the shareholders and depositors a true and fair vie of the state of affairs of a co-operative bank.

b) The Rule 69 of MSC Act pertains to qualification of Auditors who are authorized to act as auditors, these auditors are certified auditors.

c) Sect.81 (1) (a) and 81(1) (b) contain rules regarding appointment of Auditors as per the MCS act 1993. Various amendments have been introduced to the provisions for empowering the Registrar of co-operative to appoint Auditor for conducting statutory audit and the relevant procedure. These amendments have resulted into reduction of the powers of General Body of Co-operative Society. The scope of the audit has been so defined by these amendments that directions and guidelines have been provided to the statutory Auditor to ascertain the following Matters –

Whether the loans and advances and debts have been properly secured, transactions of the ECCS are not prejudicial to the interest of the society.

d) Sect. 81(3)(b) inserted by the amendment Act of 1985 empowers the Registrar to depute a flying squad for the examination of books, records, accounts and verification of cash balance. The report of flying squad shall be deemed to be an audit report for the purpose of taking further action, if necessary.

Because of these provisions Emergency test Audit can be carried out over and above regular statutory audit and this will reduce the scope for strategic planning of Misappropriation, Manipulation and criminal documentation attempted by the Managements of the ECCS. This ensures that the management of the ECCS is in accordance with the sound commercial principle.
e) Right and duties of Auditors

Section 17 of the Central act makes a brief reference to the rights of auditor stating that the auditor has a right to have an access to the books of account, papers and securities of the ECCS. According to Sec. 81(2) to 81(5) of the MSC, Act 1960.

The main principle behind determining rights and duties of the auditors is that the auditor cannot perform statutory audit in a scientific and objective manner without reservation unless the auditor is enable to have –

(i) Access to all books of accounts and other records and documents.
(ii) To summon any responsible person for the custody of books and for giving proper explanation and information relating to accounts.
(iii) To receive notices regarding meetings and to exercise the right to being heard at these meetings.
(iv) To impound Books of accounts and documents, with the permission of the Registrar for certain incriminatory evidence against committee members’ office or Employees’ of the ECCS.
(v) Unless the auditor is empowered by the law, the auditor cannot be in a position to submit his rational audit report in the prescribed form along with his objections (Rule 69(3)) and cannot ensure proper financial performance of the ECCS.

The auditor can also ensure that the co-operative society has answered satisfactorily all the questions contained in the questionnaire, which are called Audit Memos. If these questions are properly answered, then only the auditor can confirm that the society has complied with the Act, Rules and the Byelaws.
As per the requirements of the co-operative department, it has become a regular auditing practice for the auditors to submit these Audit Memo forms duly answered along with the Main Audit Report.

f) The Statutory Audit report is discussed with the Managing committee for determining the qualitative and quantitative aspect of the financial performance of a co-operative bank by properly obtaining explanations on the negative remarks made by the Auditor. This procedure ensures management of a co-operative ECCS on the principles of democratic management and also management of ECCS on commercial principles.

g) In pursuance of Rule 69 (9) and on completion of the Statutory Audit, the Auditor awards an audit Classification letter. The class of the ECCS, which indicates whether the performance of the ECCS is very good, fair, poor and very poor. This Audit classification throws light on the following dimensions of the financial performance of a ECCS. Financial position disclosed by Balance sheet and conclusions on the basis of application of ratio analysis and fund flow statement technique.

a) Profitability: How it compares with last three years. Rate of return on capital employed.

b) Operational efficiency.

c) Internal controls and internal checks.

d) Overdue debt position.

e) Deposit mobilization efforts, loan recoveries, maintenance of liquidity etc.

f) Efficiency in the maintenance of accounting records and systems.

Co-operative department has issued certain directions regarding the award of classification, through circular, on the basis of marking system, in the case of ECCS. The circular is enclosed as annexure to this book, which may be useful as guide for the purpose.
5.20 LEGAL PROVISIONS REGARDING CO-OPERATIVE AUDIT AND INSPECTION.

Section 81 [(l)(a)] The Registrar shall audit, or cause to be audited, at least once in each co-operative year, by a person authorized by him by general or special order in writing in this behalf, the accounts of every society which has been given financial assistance including guarantee by the State Government or Government undertakings, from time to time, and the account of the apex societies, State and District Level Federal Societies, District Central Co-operative Banks, Co-operative Sugar Factories, Urban Co-operative Banks, Co-operative Spinning Mills, District and Taluka Co-operative Sale and Purchase Organizations, and any such Society or class of societies which the State Government may, from time to time, by notification in the official Gazette specify.

Section [b] The societies other than the societies referred to in clause (a) shall arrange to get their accounts audited, at least once in each co-operative year, by an auditor from the panel of auditors maintained by the Registrar, or by a chartered accountant holding a certificate in co-operative audit issued by the Institute of Chartered Accountants of India:

Provided that, the Registrar may, for reasons to be recorded in writing, audit or cause to be audited accounts of any such societies of any year and at any time.

Section (2) The audit under sub-section (1) shall include examination or verification of the following items, namely:

- Overdue of debts, if any;

- Cash balance and securities and a valuation of the assets and liabilities of the society:
What are loans and advances and debts made by the society on the basis of security have been properly secured and the terms on which such loans and advances are made or debts are incurred are not prejudicial to the interest of the society and its members;

Whether transactions of the society that are represented merely by book entries are not prejudicial to the interest of the society;

Whether loans and advances made by the society have been shown as deposits;

Whether personal expenses have been charged to revenue account;

Whether the society has incurred any expenditure of its objects;

Whether the society has properly utilized the financial assistance granted by Government or Government undertakings or financial institutions, for the purpose for which such assistance was granted; whether the society is properly carrying out objects and obligations towards member.

Section (2A) Where, in the opinion of the State Government, it is necessary in the public interest to do so in relation to any society or class of societies for ensuring management thereof in accordance with sound business principles or prudent commercial practices, the State Government may, by order, direct [that such society or class of societies shall prepare and maintain its accounts in the form determined by the State Government, from time to time and] that cost audit or performance audit or both, of such society or class of societies, as may be specified in the order, shall be conducted.

Section (2B) Whereas any order is issued under sub-section (2A), the Registrar shall cause such audit of such society or class of societies to be conducted by a cost accountant who is a member of the Institute of Cost and Works Accountants of India constituted under section 3 or Cost and Works Accountants Act, 1959,].
Section (3) [a] The Registrar or the person authorized shall, for the purpose of audit at all time have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to or in the custody of the society, and may summon any person in possession or responsible for the custody of any such books accounts, documents, papers, securities, cash or other properties to produce the same at any place at the head-quarters of the society or any branch thereof.

(b) The Registrar shall be competent to depute Flying Squad to a society or societies for examination of books, records, accounts, and such other papers and for verification of cash balance. The report of the Flying Squad shall be deemed to be an audit report for the purpose of taking further action, if necessary.

(c) The Registrar or the person authorized by him in this behalf may carry out or cause to be carried out the test audit of the accounts of any society. The test audit shall include the examination of such items as may be prescribed.

(4) Every person who is, or has at any time been, an officer or employee of the society. And every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar, or the person authorized by him, may require.

(5) The auditor appointed under sub-section (1) shall have the right to receive all notices, and every communication relating to the annual general meeting of the society and to attend such meeting and to be heard there at in respect of any part of the business with which he is concerned as auditor.

Section [5A)] If, during the course of audit of any society, the auditor is satisfied that some books of accounts or other documents contain any incriminatory evidence against past or present officer or employee of the society the auditor shall immediately report the matter to the Registrar and,
with previous permission of the Registrar, may impound the books or
documents and give a receipt there of to the society.

Section (5B) The auditor shall submit an audit memorandum duly
signed by him to the society and to the Registrar in such form as may be
specified by the Registrar, on the accounts examined by him and on the balance
sheet and profit and loss account as on the date and for the period upto which
the accounts have been audited, and shall state whether in his opinion and to
the best of his information and according to the explanation given to him by the
society the said accounts give all information required by or under this Act and
present the true and fair view of the financial transaction of the society.

6. If it appears to the Registrar, on an application by a society or
otherwise, that it is necessary or expedient to re-audit any accounts of the
Society, the Registrar may by order provide for such re-audit and the provision
of this Act applicable to audit of accounts of the society shall apply to such re-
audit.

Section 82 If the result of the audit held under the last preceding section
discloses any defects in the working of a society, the society shall within three
months from the date of audit report, explain to the Registrar the defects or the
irregularities, and report to the Registrar the action taken by it thereon. The
Registrar may also make an order directing the society or its officers to take
such action, as may be specified in the order to remedy the defects within the
time specified therein. Where the society concerned is a member of a federal
society, such order shall be made after consulting the federal society.

Section 82 [(1)] The Registrar may of his own motion, and shall
on the application of one-third of the members of a society, himself or by a
person duly authorized by him in writing in this behalf, hold an inquiry into the
constitution, working and financial condition of a society.
(2) Before holding any such inquiry on an application, the Registrar may (having regard to the nature of allegations and the inquiry involved, require the applicant to deposit with him such sum of money as he may determine) towards the cost of the inquiry. The deposit shall be refunded to the applicant, and the Registrar may under section 85, after following the procedure laid down in that section, direct from whom and to what extent the cost of the inquiry should be recovered. If it proved that the allegations were false, vexatious or malicious, the Registrar may likewise direct that such cost shall be recovered from the applicant. Where the result of the inquiry shows that the allegations were not false, vexatious or malicious, but could not be proved, such cost may be borne by the State Government.

(3) (a) All officers, members and past members of the society in respect of which an inquiry is held, and any other person who, in the opinion of the officer holding the inquiry is in possession of information, books and papers relating to the society which are in their custody or power, and otherwise give to the officer holding an inquiry all assistance in connection with the inquiry which they can reasonably give.

(b) If any such person refuses to produce to the Registrar or any person authorized by him under sub-section (1), any book or papers which it is his duty under clause (a) to produce or to answer any question which is put to him by the Registrar may certify the refusal and the Registrar, after hearing any statement which may be offered in defense, punish the defaulter with a penalty not exceeding five hundred rupees. Any sum imposed as penalty under this section shall, on the application by the registrar or the person authorized by him, to a Magistrate having jurisdiction, be recoverable by the Magistrate as if it were a fine imposed by him self.

(4) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.
(5) It shall be competent for the Registrar to withdraw any inquiry from the officer to whom it is entrusted, to hold the inquiry himself or entrust it to any other person as he deems fit.

Section 82 (1) On the application of a creditor of a society who Satisfies the Registrar that the debt is a sum then due, and that he has, demanded payment thereof and has not received satisfaction within reasonable time, and Deposits with the Registrar such sum as the Registrar may require as security for the costs of any inspection of the books of the society, the Registrar may, if he thinks it necessary, inspect or direct some person authorized by him by order in writing in this behalf to inspect, the books of society.

(2) The Registrar shall communicate the result of any such inspection to the applicant, and to the society whose books have been inspected.

(3) It shall be competent for the Registrar to withdraw any order of inspection from the officer to whom it is entrusted, and to inspect himself or entrust it to any other person as he deems fit.

(4) The powers of inspection conferred on the Registrar by this section may be exercised by him of his own motion in respect of any society, which is indebted to Government or for which share capital (wholly or partly) is provided by Government or where any financial interest of Government is otherwise involved.

Section 83. (1) Where an inquiry is held under section 83 or an inspection is made, under the last preceding section, the Registrar may apportion the costs, or such part of the costs, as he may think just, between the society, the members or creditors demanding the inquiry or inspection the officers or former officers and the members or past members or the estates of the deceased members of the society:
Provided that, no order of apportionment of the costs shall be made under this section, unless the society or persons, or the legal representative of the deceased person liable to pay the costs there-under has or have been heard, or has or have had a reasonable opportunity of being heard;

The Registrar shall state in writing the grounds on which the costs are apportioned.

(2) No expenditure from the funds of a society shall be incurred, for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order made under the foregoing sub-section.

Section 83 Any sum awarded by way of costs under the last preceding section, may be recovered, on an application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable resides or carries on business, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Section 89A (1) It shall be competent for the Registrar to inspect or cause to be inspected the working of any society to ensure that,

The provisions of the Act, rules and byelaws of the society are being properly followed by the society;

The records and books of accounts are kept in proper forms;

The business of the society is being run on sound business principles; The society is following the co-operative principles and the directives or direction given by the State Government in accordance with the provisions of this Act and the rules made there-under: Provided that, inspection of the societies specified under section 73G shall be undertaken by the Registrar or by the officer not below the rank of Deputy Registrar of Co-operative Societies authorizes by him in this behalf.
(2) For the purpose of supervision over the societies. The Registrar shall have the power,

1. to inspect the records and books of the accounts of any society and for that purpose he shall have, at all times, access to all the records and books of accounts of the society; and

2. to summon any officer or employee who has the custody of the records or books of accounts of the society to produce them before him.

(5) The State Government may, having regard to the financial position of any society or class of societies, by general or special order published in the official Gazette, exempt such society or class of societies from payment of such fees for such period as may be specified in such order, or reduce or remit in whole or in part such fees.

Section 90 (1) The State Government may constitute or recognize one or more co-operative federal authorities, in such manner as may be prescribed and subject to such conditions as the State Government may impose, for the supervision of a society or a class of society or a class of societies and may frame rules for making grants to such and authority.

(2) The State Government may, by general or special order, require of a society or a class of societies to make contribution of such sum every year as may be fixed by the Registrar towards the recoupment of expenditure which the State Government or any person authorized in that behalf has incurred or is likely to incur, in respect of supervision of societies.

(3) A society to which sub-section (2) is applicable shall pay to such authority such fee as may be prescribed within a reasonable time and, if it fails to pay such fee within a reasonable time; authority may recover it as if it were an arrear of land revenue. Thus it can be seen that The Co-operative Act has made exhaustive provisions form the Audit and inspection of co-operative societies in general, which are also applicable to the Employees’ Co-operative Credit Societies.
5.21 AUDIT CLASSIFICATION AND SCALE OF AUDIT FEES:

A. Audit Classification:

Recently in September 2002, The Commissioner of Co-operation of Maharashtra State has issued a circular, which shows description of 200 marks for allotment of audit class to cooperative credit society including ECCS.

In the said marking system, certain marks have been given to factual aspects viz. loan to priority sector, loan to weaker section etc. but these aspects are not applicable to ECCS, so it would affect on ECCS in near feature adversely by grading down of audit class. Hence, the new audit class norms are not suitable to the ECCS to some extent. MIS system is applicable to those ECCS which having share capital more than ten lakhs. In this system, these societies have to submit their monthly information related to CD ratio, percentage of overdue and Profit earned or loss suffered. MIS system awarded the audit class every month to the respective ECCS. In this system 100 marks are allotted as 40 marks for CD ratio, 30 marks each for percentage of overdue and Profit earned.


The Scale of audit fees is fixed under the order No. CC/ADT/Scale of Audit fees/1992 dated 15th May, 1992. The Audit scale for annual statutory Audit of ECCS is as under;

1. Upto 5 lakhs @ 25 Paisa %
2. Upto next 5 lakhs @ 15 Paisa %
3. Upto next 90 lakhs @ 10 Paisa %
4. Upto next over one Crore @ 5 Paisa %

The above audit fees are calculated on the basis of working Capital of the ECCS.
5.22 PROFESSIONAL TAX AND ECCS AND STAMP DUTY AND ECCS:

a) Professional Tax:

The professional tax is applicable to the person who is engaged in a trade, business, profession and vocation and those societies are registered under The MCS Act, 1960 and those engaged for business or trade have to pay the professional tax as per the schedule 16 of Professional Tax Act, 1975.

The Co-operative societies are charged the Profession tax as per schedule prescribed on 1st April 2000.

a) State level Co-operative Society - Rs.2500 p.a.

b) Co-operative sugar factory and spinning mills Rs.2500 p.a.

c) District level co-operative society Rs.500 p.a.

d) Other co-operative society including ECCS Rs.500 p.a.

b) Stamp Duty and ECCS:

Every ECCS has to pay stamp duty on their loan transaction. The stamp duty is applicable according to the type of instrument. The stamp duty is charged on amount of loan issue to the member. Each loanee has to pay the stamp duty as per the prescribed schedule given in the Bombay Stamp Duty Act.

(Circular No. 2A/ Govt. revenue/ nagari Bank /patsansth/a/stamp duty/vasuli/2001 Dated 23rd April, 2001 Commissioner for Co-operation & Registrar of Co-operative Societies Maharashtra State, Pune-1).

In this chapter, the researcher has presented an overview of the control management and supervision of the Employees' Co-operatives Credit Societies in general. The researcher has also highlighted various sections and rules of the respective acts for the smooth working of the Employees' Co-operatives.
Societies. The structure of machinery for control and supervision of the societies and the legal provisions regarding the same have also been preset. The researcher has observed in general financial management and supervision of the Employees’ Co-operatives Credit Societies. These ECCS follow the preset sections and rules of the respective acts in order to smooth their working. Some of these ECCS are not conscious of these rules and regulations.

References:


