CHAPTER III
CHAPTER III  
LEGAL PROVISIONS RELATING TO MANAGEMENT  
AND FUNCTIONS OF ECS  

Introduction  
Cooperative Institutions are different from other forms of Business Organizations. Cooperatives become ineffective without the adoption of democratic principles in its management and functioning. The members of the cooperatives only bring cooperation into existence and extend their support for the conduct of the business. The Cooperatives must satisfy the needs of its members by consulting them as a body and enabling them to express their wishes. The administrators and managers are accountable to maximize the resources of the members and to submit the periodical returns regularly. They should also closely examine the problems of the members and take appropriate decisions to resolve their problems. Therefore, an attempt has been made to explain briefly the legal formalities relating to the formation of ECS, their functioning and workings. Certain terms connected with the formation of the ECS have also been briefly explained in the following paragraphs.  

3.1 Credit Society  
Credit Society means a registered Society, which has its principal object of raising the funds. This is meant to its members to meet the purposes of agriculture, animal husbandry, fisciculture (including fish catching), apiculture, sericulture, petty trade, cottage and small scale industries including farm based industries, purchase of implements or raw materials,
construction, purchase or repair of dwelling houses, discharge of prior debts, meeting ceremonial or educational expenses, purchase of domestic and other requirements or for such other purposes as the Government may, by notification, specify in this behalf.

3.2 Member of a Society

Member means a person who submits his application for the registration in a society and a person who is admitted to the membership after registration in accordance with the provisions of this Act, the rules and the by-laws.

3.3 Registration

A Society is registered subject to the provisions of this Act. A society's objective is to promote the economic interests or general welfare of its members in accordance with cooperative principles, or a society established with the object of facilitating the operations of such a society. It is registered under-the-Act-with-limited-or-unlimited-liability.

Conditions of Registration

No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least 25 independent persons qualified to be admitted as members under this Act and residing or owning immovable property in the area of operation of the society.

Application for Registration

An application for registration shall be made to the Registrar in the prescribed form. The application shall be duly signed.
In the case of a society of which no member is a registered society, by at least 25 persons qualified in accordance with the requirements in subsection (1) of section (6) and subsection (1) of section (21) of this Act and who are not disqualified for admission as members under this Act.

In the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and, where all the members of the society are not registered societies, by 25 other members or, when there are less than 25 other members, by all of them.

The application shall be duly accompanied by a copy of the proposed bye-laws of the society and the chief promoter shall furnish such information in regard to the society as the Registrar may require.

**Registrar-of-a-Society**

Registrar means an officer of the government appointed to perform the duties of a registrar of cooperative societies under this Act, and includes any other officer of the Government or any officer of any body corporate owned or controlled by the Government on whom all or any of the powers of a Registrar under this Act have been conferred under Sec (3).

**Effect of Registration**

If the Registrar is satisfied that

a) The application for registration of the proposed society complies with the provisions of this Act and the rules;
b) The objects of the proposed society are in accordance with the provisions of section (4);
c) The proposed society complies with the requirements of sound business and has reasonable chances of success,
d) The area of operation of the proposed society does not overlap the area of operation of another registered society of the same class or category as permitted by the Registrar; and
e) The proposed bye-laws of the society are not contrary to the provisions of this Act or the rules or to the cooperative principles or to any other law applicable to the society, he may, within a period of 120 days from the date of receipt by him of the application for registration, register the society and its bye-laws.

Powers of the Registrar

If the Registrar refuses to register a society and its bye-laws, he shall communicate within a period of 120 days, the order of refusal to the chief promoter.

Where no order of refusal is communicated under section 2 within 120 days, it shall be deemed that the Registrar has registered the society and its bye-laws on the 120th day from the date of receipt by the Registrar of the application for registration.

The Registrar shall review within such period and satisfy himself whether such society complies with the provisions of this Act and in case such society does not comply with the provisions of this Act, the Registrar shall direct the winding up of such society and shall apply to
such society which has been ordered to be wound up under this section.

Evidence of registration

Where a society is registered or deemed to have been registered, the Registrar shall issue to the chief promoter a certificate of registration signed by him, which shall be a conclusive evidence that the society is duly registered unless it is proved that the registration of the society has been cancelled.

3.4 Amendment of the byelaws of registered society

No amendment of any bylaw of a registered society shall be valid until the same has been registered under this Act.

3.5 Management

The supreme control of the Society vests with the General Body. For day-to-day management, there is a managing committee or a Board of Directors whose strength is raised from 5-12 depending upon the total membership. In some institutions, the Head is the Ex-officio President of the managing committee. In some states on the request of the Society, the Registrar of cooperative Societies nominates persons for the management.

Board of Management - Role and Responsibility

Subject to such resolutions by the General Body meeting from time-to-time, executive management of the affairs of the Society shall vest with the Board of Directors. The General Body shall elect the Board of Directors for a period of three years from among the members. Members shall have the right to only one vote, so far electing six directors, who are eligible to cast six voluntary votes. The General Body meeting and the General Audit are conducted once in a year.
3.6 The Functions, Powers and Duties of General Body

The General Body is the mouthpiece of Cooperative Management. It is the spokesman between the Society and the members of the ECS. It exercises the power on behalf of their members in order to act for the sake of its members.

a) The ultimate authority in all matters relating to the administration of the society shall be the General Body of the members who shall meet from time to time and at least once in a year to conduct the work of the society.

b) The General Body shall not, however, interface with the action of the Board of Directors done in the exercise of the powers conferred on them by the byelaws.

c) The General Body shall be convened by a resolution of the Board of Directors.

d) The General Body shall have the authority to affiliate the society to any cooperative union with suitable jurisdiction that is working in the neighbourhood of the society or where there is no such suitable union to the District Central Bank.

Powers of the General Body

a. The election and removal of the Board of Directors.

b. The approval of the annual budget, to determine the income and expenditure.

c. The Annual Report due to the Registrar of cooperative societies.

d. The Registrar’s Annual Audit Certificate.

e. The amendment (or) repeal of any existing bye-law or the enactment of a new bye-law.
f. The expulsion of a member

g. The consideration of any complaint which any individual member may prefer against the Board of Directors and

h. The returns that may be prescribed by the State Government and disposable of net-profit.

3.7 Functions of the Board

The main functions of the Board are to frame policies and review the results. The Board must maintain good relationship between the paid management and the members.

Framing policies

As the cooperatives are expanding their activities, they must improve the quality of their working and must be competent with other agencies. The Directors must be competent enough to frame pragmatic policies to satisfy the needs of their members. The policies must be explainable in nature and the paid management must be able to carry on such policies. Policies may have to cover the entire functional aspects of the society. It should lay down major policies to ensure achievement of the objectives of the ECS, set up goal to be achieved and change the operational policies from time to time in the light of changing situations. The policy should cover the main business such as finance, personnel and investment. The policies should be made on sound lines, based on the study and analysis of the available facts and reflects the will of membership.

Reviewing the Results

After the policies are framed, the Directors must entrust the responsibility of implementing them to their paid management. Powers must be delegated to them to achieve the results. In the
meanwhile the Board must review the progress of the ECS. The Board should delegate responsibility and authority to the chief executives. Each assignment of responsibility requires corresponding delegation of authority.

This forms an important stage in evaluating the growth of the ECS. Once a line of policy is decided, the committee will need frequent report and the manager has to supervise how it is worked out, what difficulties are being encountered, and whether unexpected costs or losses are arising. If the policy is apparently not a success, the Board must decide after weighing all the evidences whether to extend the ‘trial period’ even to an end. Even if it is the ‘pet scheme’ of the Manager or an influential Director, a full report must be produced.

3.8 Appointment of Special Officer

The Registrar may, of his own motion or on application of any member of the registered society, and in the case of a new board which has failed to enter, or prevented from entering upon office, making their representations, by order, appoint a Government servant or an employee of any body corporate owned or controlled by the Government as the special officer for a specified period not exceeding six months to manage the affairs of the registered society pending the constitution of a new board, or as the case may be, for the entering upon office by the new board:

Provided that the period specified in such order may, for special reasons to be recorded in writing by Registrar, be extended from time to time but such order shall not remain in force for more than one year in the aggregate.
3.9 Byelaws of the ECS

Membership

The liability of the members of the society shall be limited to the share capital subscribed by them.

Thrift Deposit

Every member shall subscribe to thrift deposit so long as he continues to be a member of the society Rs. 100/- per month. These subscriptions shall be collected along with the installments of loan, etc. due by the member every month. At the end of the every cooperative year the accumulated amount shall be converted into a thrift deposit and held to the credit of member until he ceases to be a member. Interest shall be allowed on such subscriptions and on the thrift deposit at the rate not exceeding 12% per annum. The interest accrued on the monthly subscriptions shall be calculated and paid each time, they are converted in a thrift deposit and that on the thrift deposit shall be calculated on the lowest credit balance on any date of each month. For these deposits the society will pay interest of 12% per annum to the depositor subject to the maintenance of a margin of not less than 2% between average borrowing rate and average lending rate.

The rate of monthly subscriptions laid down above is the minimum. A member may increase the rate of monthly subscription subject to the condition that it shall not exceed 25% of his substantive pay. The rate of subscription shall not be so increased than twice in a year subject to the condition that not less than three months elapsed after the last increase without the consent of the Board of Directors.
Deposits other than thrift deposit

Deposits may at the discretion of the Board of Directors be received at any time from members only.

Fixed deposit

A fixed deposit is the deposit of a fixed amount of money for a fixed period of time. No fixed deposit shall be received for a sum less than Rs. 1000/- or an exact multiple thereof or for a period less than one year and interest shall ordinarily be calculated on fixed deposit at such rate as and when it is fixed by the Registrar of Cooperative Societies from time to time for the particular period of deposit. Interest on fixed deposits shall be paid yearly or such shorter intervals as may have been agreed upon at the time of deposits. The interest must be calculated at quarterly basis.

Savings Deposits

The Board of Directors may permit any member to open a Savings Deposit Account with the society.

Other Borrowings

It shall be competent to the Board of Directors to borrow funds otherwise than by way of deposits from members or from other cooperative institutions either within the area of operation of this society or outside, provided that the interest payable on the borrowed amount shall not in any case exceed the interest charged by the Salem District Central Cooperative Bank Limited, Salem.

Maximum Borrowing limit

The total borrowing of the society both by way of deposit or otherwise and whether from members or from institutions
registered under the Cooperative Societies Act shall not at any time exceed ten times the paid up share capital plus the reserve fund.

**Loans**

Loans shall be given only to members. No member can claim loan as a matter of right. The Board of Directors shall dispose off the applications for the loan in the order of the receipt. However the Board will consider the application and sanction loans taking into account the availability of fund. The Board will determine the manner in which the grant of loan shall be made from time to time. All applications for loans shall be made to the Secretary in the form if any prescribed for the purpose that shall place them before the Board of Directors. Loans shall be given only for useful or necessary purpose. No loans shall be granted for purpose of trade, religious purposes except as provided for below;

- Any purpose which in the opinion of the Board of Directors is not the distinct advantage of the borrowers.
- Liquidation of the prior debts or for the redemption of jewelry in lease, unless he has given a full statement of his liabilities on his admission to the society and not applied for a loan to pay there of within the first year of his admission.

The purposes for which loans are permissible from the society are

- For building a house or purchasing land and of a house for personal use of the borrowing member.
- Education of members’ children, dependents or relatives.
Liquidation of debts incurred before admission to the society provided that no member rejoining after having resigned should be eligible for a loan for this purpose.

Illness of the borrowing member or any of his family or dependents.

Marriage, funerals or other ceremonies on the scale suitable to the borrowing members' income and position in life.

Obligatory religious rites.

3.10 Grouping of ECS establishment structure and cadre strength

The ECS need to be grouped under 3 grades namely A grade, B grade and C grade on the basis of member's loan outstanding.

ECS may be grouped as follows:

1) ECS having members loan outstanding exceeding Rs.1 crore (less overdue loan) — A Grade
2) ECS having Members' loan outstanding exceeding Rs.50 lakhs and upto Rs. 1 crore (less overdue loan) — B Grade
3) ECS having Members' loan outstanding exceeds Rs. 50 lakhs (less overdue loan) — C Grade.

In the event of a society achieving the norms prescribed to a higher grade, such society shall be deemed to have achieved that higher status only if the norms prescribed to such higher grade is maintained at least for a period of one full cooperative year.
3.11 Relationship between Board of Management and the members.

It is the duty of the Board to see that cordial relationship exists between the members and the management. They are the 'relationship bridge' between these two groups. Board members are men of authority and they are elected by the ordinary members and share their interest in a way to paid staff. The Directors are in a particularly good position to explain the policy to the ordinary members at the general meeting, or individually in the encounters of daily life. The Directors also represent their ECS to the public including those who may later be persuaded to become members.

The knowledgeable and the most respected men in the district are the Directors of the Cooperatives who add their reputations and motivate the societies to attract new membership. Directors have a part to play in membership relation and public relation.

3.12 Additional Functions of the Board
In addition to the above functions the following functions are also added to the Board:

1) The Board should assume responsibility for all operations. The Board as an elected representative body is accountable to the membership for the success or the failure of operations.

2) The Board as trustee for members should safeguard and manage the assets to the cooperative in the interest of all the members and on its own behalf.
3) The Board should interpret the objective of the Society to the management.

4) The Board should select competent chief officials and determine their salaries and condition of service. This decisive power guarantees democratic control. The efficiency of the ECS depends on how judiciously this power is exercised. The Board, however, should not appoint officials below the top level; it is a function of executive management to select subordinate personnel.

5) The Board should take steps to keep the membership fully informed of the ECS activities and problems.

6) The Board should approve budgets; receive reports, accounts and operational statements from the executives. It also scrutinizes them carefully to make certain that plans of action have been carried out as intended and appraise the progress made by the ECS in achieving the set goals.

3.13 Educational Qualifications of the staff members in ECS

Generally, the ECS consists of one Secretary, two Assistant Secretaries and two Junior Assistants. The Educational qualifications of these members are explained below:

**Secretary and Assistant Secretary**

The Secretary and the Assistant Secretary must have finished a degree in the authorized postal university along with the co-operative certificate (or) post-graduation in the co-operative and village economics or must have finished a post-graduation in Pune's Vaigundha Metha National Co-operative Management Training Trust or cooperative certificate.
Junior assistant

Junior Assistant should have completed higher secondary course and have the Certificate on cooperative studies.

Age limit for the staff members in ECS

The age limit of the staff members at the time of recruitment should not be less than 30 years and not more than 35 years for scheduled caste and schedule tribes.

Duties of the staff members

Secretary

➢ To handle the liability position of the society.
➢ To verify the profit and loss account in society.
➢ Service related to co-operative department.
➢ To verify the loan application form and submit to the management committee.
➢ All the other functions relating to the management committee.
➢ Audit service.
➢ Maintained workers duty records.

Assistant Secretary

➢ Managing the cash in hand.
➢ Maintain daily records.
➢ Preparing the list of loan amount and share capital of members.
➢ List of balance of share dividend.

Junior assistant-1

➢ Introducing new member.
➢ Verifying the loan applications.
➢ Duties regarding the sanction of loan.
➢ Receiving the amount of fixed deposits.
➢ Giving loans for the fixed deposits.
➢ Maintenance of fixed deposit records.
➢ Maintenance of share capital records.

Junior Assistant-2
➢ Producing and preparing loan receipts.
➢ Maintenance of separated daily records.
➢ Member loan and thrift deposit, liabilities, maintenance of records.
➢ Verifying the bank accounts.
➢ To preparing a list for missed installments people.

3.14 Winding—up of Registered Societies
1) If the Registrar in the course of an audit or after an enquiry has been held or an inspection of investigation has been made or an inspection of books has been made or on receipt of an application made by not less than 3/4th of the members of a registered society or on receipt of a resolution of general body of a registered society is of opinion that the society ought to be wound up, he may issue a notice to the society calling upon it to make its representations to the registrar within one month from the date of receipt of such notice and the society shall follow such procedure as may be prescribed in this regard. The Registrar may, after considering the representations, if any, received from the society or from any member and on being satisfied that the society ought to to be wound up, issue an order to that effect and shall communicate such order to the society by registered post.
2) The Registrar may of his own motion and after giving a registered society an opportunity of making representation by order in writing direct for the winding up of a registered society-

a) where it is a condition of the registration of the society that the society shall consist of at least 25 members and the number of members has been reduced to less than 25; or

b) where the society has not commenced working within the prescribed period or has ceased to work.

3) A copy of an order shall be communicated by registered post to the society and to the financing bank, if any, of which the society is a member.

**Liquidator**

1. Where the Registrar has made an order for the winding up of a registered society, he may appoint a liquidator for the purpose and fix his remuneration.

2. A liquidator shall on appointment take into his custody or under his control all the property, effects and actionable claims to which the society is entitled and shall take such steps as he may deem it necessary or expedient to prevent loss or deterioration of or damage to property, effects and claims.

3. Where an appeal is preferred an order of winding up of a registered society shall not operate thereafter until the order is confirmed in appeal.
4. Where an order of winding up of a registered society is set aside in appeal, the property, the effects and the actionable claims of the society. When the affairs of a registered society have been wound up, the liquidator shall make a report to the Registrar and deposit the record of the society in such place as the Registrar may direct.

3.15 Cancellation of Registration

a. Where the affairs of a registered society have been completely wound up, the Registrar shall make an order canceling the registration of the society. On the cancellation of its registration the society shall cease to exist as a corporate body from the date of such order of cancellation.

b. An order made under sub-section (1) shall be communicated by registered post to the society and to the financing bank, if any, of which the society was a member.

3.16 Conclusion

The intention of instituting the cooperative societies is to alleviate the sufferings of the poor and the down trodden. The administrators of the societies need to safeguard the interest of the members of the society by implementing the rules and regulations and the terms connected with the functions of the ECS. The legal formalities relating to the working modalities of the ECS have been chalked out according to the rules and regulations. A detailed account of the governing bodies, their
duties, the eligibility of the members and the pros and cons of the applicants who derive benefits from the societies are outlined in this Chapter. The way in which the interests of the borrowers need to be protected through the proper execution of the byelaws of the ECS has been stressed in detail.