The DCS Act 2003

Section 34 - The general body meeting of a co-operative society shall constitute a committee as

prescribed and in accordance with the bye-laws and entrust the management of affairs of the co-operative society to such committee.Election and nomination of members of committee.35.(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of elections of the members of the committee of, a co- operative society shall be vested in the committee which shall appoint returning officer who shall not be a member or an employee of the society: Provided that on the request of the committee or one-sixth members of the society, and in case of dispute in a society, the Registrar may appoint the returning officer to conduct the election of a society: Provided further that the Government shall appoint returning officer, not below the rank of a gazetted officer or a retired gazetted officer to conduct the election of a co-operative bank, financial bank, federal co-operative society and such housing society as has been allotted land and draw of lots has not been conducted in accordance with the provisions of section 77 and such housing society as is awaiting allotment of land.(2) The vote at such election shall be by secret ballot.(3) The term of office of the elected members of the committee shall be three years.(4) All co-operative societies shall hold election at the commencement of this Act on the date fixed for holding annual general body meeting as provided in section 31 and on failure to conduct election as aforesaid, the committee shall cease to hold office and its affairs shall be managed by a person (hereinafter referred to as "administrator") appointed by the Registrar who shall also hold election within ninety days of his appointment.(5) Thereafter the committee shall arrange election of the new committee before the expiry of its term and in case the committee fails to do so, the committee shall cease to hold office on the expiry of its term and the affairs of the co-operative society shall be managed by an administrator appointed by the Registrar who shall also hold election within ninety days from the date of his appointment.(6) No person shall be eligible to be elected as a member of the committee of a co-operative society unless he is a shareholder of that co-operative society.(7) Notwithstanding any thing contained in this Act, a person shall be disqualified for election of office in a committee - (a) if he holds any such office on a committee of another co-operative society of the same type; (b) if he holds any such office on the committees of three or more co-operative societies of a different type or types; (c) if he has been held guilty of any of the offences as enumerated in section 118; (d) if he is an officer of a co-operative society which has not got its statutory audit completed within the statutory period prescribed in this Act; or (e) if he fails to give a declaration on oath about his eligibility for contesting election as prescribed.(8) On the committee of a co-operative society or class of co-operative societies where the Government has subscribed to the share capital seats shall be reserved for scheduled castes, other backward classes and women as may be prescribed and two seats for women in all types of co-operative societies.(9) The Government may make rules generally to provide for or to regulate matters in respect of elections of members of the committees.(10) Notwithstanding anything contained in sub-section (1) to sub-section (9), where the Government has subscribed to the share capital of a co-operative society, the Government shall have right to nominate on the committee such number of persons as its members on the following basis, namely - (a) where the total amount of issued equity share capital held by the Government is less than twenty six per cent of the total issued equity share capital, one member on the committee; (b) where total amount of issued share capital held by the Government is twenty six per cent or more, but less than fifty one per cent of the total equity share capital, two members on the committee; (c) where the total amount of issued equity share capital held by the Government is fifty one per cent but less than sixty per cent of the total issued share capital, three members of the committee: Provided that in case of a financing bank, there shall be a Director on the Board from NABARD with or without any share holding with right to vote in the affairs thereof; (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) Provided that the number of such nominated persons shall not exceed one-thirds of the total number of members of the committee or three, whichever is less : Provided further that where the Government has guaranteed repayment of principal and payment of interest on debenture issued by the co-operative society or guaranteed repayment of principal and payment of interest on loans and advances to a co-operative society, the Government shall have the right to nominate a person on the committee of such a co-operative society as may be prescribed: Provided also that in case of a financing bank, there shall be a Director on the Board from NABARD with or without any share holding with the right of vote in the affairs thereof; (cc) where the total amount of issued equity share capital held by the Government is sixty per cent or more of the total issued share capital or the Government has given loan or made advances to the co-operative society or guaranteed the repayment of principal and payment of interest on debentures or bonds issued by the co-operative society or guaranteed the payment of principal and payment of interest on loan and advances to the co-operative society in amount not less than sixty percent in the aggregate of the total amount so borrowed by the co-operative society, ** Members of the Committee including Chairman in the following manner namely:- Percentage held by the Government Percentage of Members of committee to be nominated by the Govt. Sixty to Seventy Percent Seventy Percent Seventy to Eighty percent Eighty Percent Eighty to Ninety Percent Ninety Percent Above Ninety Percent Hundred Percent Provided that the right once accrued under this clause shall continue until the percentage of the amount in respect of share contribution or guaranteed loan goes down to less than Sixty per cent; (Inserted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) (d) where the Industrial Finance Corporation of India or a federal co-operative society or a financing bank or the Delhi Financial Corporation Ltd. or any other financing institution notified in this behalf by the Government has provided finance to a co-operative society, the Industrial Finance Corporation of India or such federal co-operative society or financing bank or the Delhi Financial Corporation Ltd., or such other financing institution, as the case may be, shall have the right to nominate one person on the committee. (11) A person nominated under sub-section (10) shall hold office during the pleasure of the Government or the concerned Corporation or federal co-operative society, or financing bank or other financing institution, as the case may be.Removal of committee or its officer. 36.(1) A motion for expressing lack of confidence in the committee or any of its officer may be made in a special general body meeting convened for the purpose. (2) The requisition for convening the special general body meeting as above shall not be admissible unless moved in writing by not less than one-fifths of the total members of a co-operative society, if the motion of no confidence is carried by a simple majority of the members present and voting, the committee shall be removed and special general body meeting shall also elect an ad-hoc committee to take care of the affairs of the co-operative society which shall also hold elections to the committee within ninety days of the date of the appointment of ad-hoc committee.Supersession of committee. 37.(1) If, in the opinion of the Registrar, the committee of any co-operative society continuously makes default for ninety days (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) or is negligent in the performance of the duties imposed on it by or under this Act or the rules framed thereunder, the bye- laws or commits any act which is prejudicial to the interest of the co-operative society or its members or defies the directions issued by the Registrar under section 42 of this Act or fails to comply with the provisions of section 92 or there is a stalemate in the constitution or function of the committee or fails to initiate recovery of the dues of the financing institution inspite of a notice issued to the co-operative society by the financing institution within a period of ninety days or fails to remit the recovered amount from members, to the financing institution to which the society is indebted within a period of ninety days, (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) the Registrar may after giving the committee an opportunity to state its objections, if any, by order in writing direct - (a) to hold election of the committee within a period of thirty days by calling a special general body meeting; and (b) if in the opinion of the Registrar, the election of committee is not feasible under the prevailing circumstances, the Registrar shall pass an order in writing to remove the committee and appoint one or more administrators to manage the affairs of the co-operative society for a period not exceeding one hundred and eighty days to be specified in the order, which period may, at the discretion of the Registrar be extended from time to time, however, that the aggregate period does not exceed three hundred and sixty five days : (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) Provided that where the co-operative society is a co-operative bank, before issuing of a show-cause notice under sub-section (1), the prior consultation with the Reserve Bank and NABARD shall be necessary; Proviso (Deleted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) (c) Notwithstanding anything contained in this Act, the Registrar in case of the co-operative bank, if so required by the Reserve Bank or the NABARD on requisition from the Reserve Bank to supersede management of a co-operative bank, the Registrar shall supersede the management of such a co-operative bank.(2) The

Registrar may fix such remuneration, if any, for the administrator(s) as he may think fit and such remuneration shall be paid out of the funds of the co-operative society.(3) The administrator shall, subject to the control of the Registrar and to such instructions as he may from time to time give, exercise powers and perform functions of the committee or of any officer of the co-operative society and take all such actions as may be required in the interest of the co-operative society, but shall not be empowered to enroll new members without the prior approval of the Registrar. (Inserted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005)(4) The administrator shall call the general body meeting of the co-operative society to spell out his plan of action.(5) The administrator shall before expiry of his term of office, arrange for the constitution of a new committee in accordance with the rules and the bye-laws of the co-operative society.(6) Before passing any order under clause (b) of sub-section (1) in respect of a co- operative society the Registrar shall, at first, consult the financing bank or the financing institution to which it is indebted :Provided that where the co-operative society is a co-operative bank, before issuing a show cause notice under sub-section (1) prior consultation with the Reserve Bank shall be necessary :Provided further that on a requisition of the Reserve Bank to supersede the Board of a co-operative bank, the Registrar shall supersede the committee of such a co- operative bank. (7) Notwithstanding anything contained in this Act, the Registrar shall in the case of a co-operative bank, if so required in writing by the Reserve Bank or NABARD in the public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of a co-operative bank, pass an order for the supersession of the committee of that co-operative bank and appoint an administrator therefor, for such period or periods not exceeding three hundred and sixty five days (Substituted vide Notification No. F.14(31)/LA-2004/16 dated 17/01/2005) in the aggregate, as may, from time to time be specified by the Reserve Bank.Securing possession of records, etc.