I. Introduction
This article deals and is restricted to elections in Co-operative Housing Societies based on the Model Bye-laws.

The management of the affairs of the Co-operative Housing Society vests in the Committee of the Management duly elected by the General Body of the Society as per the provisions of the Maharashtra Co-operative Societies Act, 1960 and the Maharashtra Co-operative Societies Rules, 1961.

1. The MCS Act was amended by an Ordinance of 2013 w.e.f February 14, 2013. The Chapter XIA governing elections viz., sections 144A to 144Y have been deleted. Section 73CB has been inserted by the ordinance and the election powers in a Co-operative Society has been vested in State Election Authority.

2. The Mumbai District Co-operative Housing Federation has made representation to the State Government that such a provision will cause tremendous hardships to small Co-operative Housing societies. Till such time the Model bye laws and the election rules prescribed thereunder will prevail.

3. When the society is registered, the chief promoter /builder promoter has to call the first statutory general meeting of the society within a period of three months from the date of the registration of the society. In that meeting, a provisional committee of some members of the society is constituted until the regular election of the management committee is held.

II. Due date of election to the Committee
Many times elections are held not at the Annual General Meeting, which is supposed to be convened on 14th August every year. They are held sometime later during the year.

The elections have to be conducted on or before completion of 5 years from the date of previous election. The period of 5 years shall commence from the date of the previous election. Thus if an election is held on 1st October 2012 the next election will only be on or before 1st October 1017. A Special General Body Meeting will have to be called for conducting or/and announcing election results.

III. Removal of Restriction on voting rights
The Maharashtra Co-operative Societies Act 1960, Section 27 has been amended thereby removing the waiting period of two years for voting rights. Hence, any eligible member or an associate member with the consent of 1st member can contest the election immediately after seeking
membership and his admission is made as a member of the society.

IV. Whether a member in arrears of the society can contest the election to the committee or propose or second any candidature

1. If a member is in arrears in respect of any dues of the society on the date of scrutiny of nomination papers beyond 90 days as per Bye-law No. 118 he cannot contest the election.

2. However if the proposer and seconder member of the society are in arrears in respect of dues to the society, they can propose and second any candidature.

3. How many times a member can propose or second the candidature? There are no any restrictions in this aspect. The member can any numbers of times propose and second candidature.

V. Election Procedure

1. The Managing Committee has to initiate steps at least three months prior to the date of conducting election. The strength of the managing committee shall be as per the bye-law No.115 (Rule No. 2.1)

2. There are disqualification stated in the Act, Rules and Model bye-laws for any member to be elected on the committee of the management. Thus any member who has interest in respect of services provided to the society, he cannot stand for election

3. All defaulting members in respect of dues of the society, shall be severed within three months from the date of service of notice in writing, demanding the payment of dues and if the dues are not paid before filing of the nomination and the date of scrutiny of nominations the nomination will be treated as invalid.

4. If the associate member does not submit No Objection Certificate of original member then he cannot stand for election.

5. After the elections are over, the Secretary of the previous committee of the society shall hand over the charge to the newly elected committee.

6. As per section of 73 (IAB) of the Maharashtra Co-operative Societies Act, 1960 and Rule 58 A of the Maharasthra Co-operative Societies Rule 1961, every elected committee member shall execute a bond to the effect within 15 days of his/her assuming office in form of M-20 on stamp paper of ₹ 200/-. The expenses shall be born by the society. The member who fails to execute such Bond within the specified period shall be deemed to have been vacated as a member of the committee. The Secretary of the society shall keep them on record of the society and according inform the concerned Registrar of the ward along with copies of the bonds within 15 days from formation of the committee. The execution of the bond has been waived in respect of Co-operative Housing Societies by notification order No. CSL2012/CR-402/15-C dated September 06, 2012.

VI. Bye law No.112. Management of the Society to vest in the Committee.

- The management of the affairs of the society shall vest in the committee duly constituted in accordance with the provisions of the Maharashtra Co-operative Societies Act, 1960, the Maharashtra Co-operative Societies Rules, 1961 and the bye-laws of the society.

- Under bye-law No.115 there is a provision regarding strength of the committee and now it is compulsory to have at least one women in the committee as provided under section 73(BBB) of the Maharashtra Co-op Societies Act 1960. However there is also a provision that in the event of women not being available or not willing to represent in the committee the seats reserved for her may be filled from other. The committee of management of the society as per Model bye-law No.115 depending on numbers of members of the society shall consist as under. The strength includes the reservation
of seats for women members as provided under section 73 BBB of the Act.

<table>
<thead>
<tr>
<th>No. of Members</th>
<th>Strength of the M.C</th>
<th>Quorum in M.C.</th>
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<tr>
<td></td>
<td>General</td>
<td>Women</td>
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<tr>
<td>Up to 50</td>
<td>4</td>
<td>1</td>
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<tr>
<td>51 to 100</td>
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<td>1</td>
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<tr>
<td>101 to 300</td>
<td>8</td>
<td>1</td>
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<tr>
<td>301 and above</td>
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• In case women members are not available or not willing to represent on the committee, the seats reserved for them may be filled from other eligible members.

Strength of the committee
The committee shall consist of 5*/7/9/11 members of the society. This strength includes the reservation of seats for women members as provided under section 73 BBB of the Act, as indicated in the above table

VII. Election of the Managing Committee (MC) under Bye-law No.116

1. Election of all the members of the Managing Committee shall be held once in 5 years in accordance with the Election Regulations. The retiring members of the committee shall be eligible for election. If the paid up share capital is more than ₹ 10,000 then the voting shall be done by secret ballot.

2. Election of all the members of the MC shall be held once in 5 years, accordance with the Election Regulations annexed to the Model bye-laws. The retiring members of the committee shall be eligible for re-election. The period of office of the committee elected shall be for 5 years.

3. As per Model bye-law No. 116(b)

In the event of receipt of inadequate valid nominations, required to constitute the full Committee, the General body at its meeting shall fill in the vacancies by election. On the failure of the general body meeting to elect the required number of members to constitute the Committee, the elected members of the Committee shall be competent to fill in the same by co-option whether they form the quorum or not, notwithstanding the provisions of the bye-law No. 127 regarding the quorum.

VIII. Disqualification for election to the Managing committee. Bye law 118

No person shall be eligible for being elected as a member of the MC or Co-opted on it, if:

a. he has been convicted of the offence, involving moral turpitude, unless the period of six years has elapsed since his conviction,

b. he defaults the payment of dues to the society, within three months from the date of service of notice in writing, served either by hand delivery or by post (under certificate of posting), demanding the payments of dues.

c. he has been held responsible under Section 79 or 88 of the Maharashtra Co-operative Societies Act, 1960 or has been held responsible for the payment of the costs of enquiry under section 85 of the Maharashtra Co-operative Societies Act, 1960.

d. he has without the previous permission of the society, in writing sublet his flat or part thereof or given it on leave and licence and caretaker basis or has parted with its possession in any other manner or has sold his shares and interest in the society.

e. In case of an associate member, non submission of the no-objection certificate and undertaking, as prescribed under these bye-laws, by the member.

f. He is declared as ineligible as per the provisions of the Maharashtra Co-operative societies Act, 1960 and Rules, 1961.
g. A new sub-clause is inserted that no person shall be eligible for being elected as member of the committee or co-opted on it, if he is declared as ineligible as per the provisions of the Maharashtra Co-operative Societies Act, 1960 and Rules 1961.

h. Under Bye-law No.118 provision for disqualification for election to the committee is made. In sub-Bye-law No. 2 when a member defaults the payment of the dues to the society within three months from the date of service of notice in writing served either by hand or by U.P.C demanding the payments of dues and the same has not been compiled with then he shall not be eligible for being elected as a member of the committee or can be opted in to committee. Further now even associate member has been given a membership right can contest election for managing committee only if he has submitted no objection certificate and undertaking as prescribed under the present Bye-law.

IX. Constitution of a member of the committee

- Under Bye-law No.119 a new provision for constitution of committee has been inserted which is in compliance with the provisions of Maharashtra Co-op. Societies Act, 1960 and Maharashtra Co-op. Societies (2nd Amendment) Act,1986 (MAH.XXXVII of 1986).

- In a general election of members of the committee of a society, on the election of two-thirds or more number of members, the returning officer or any other officer or authority conducting such election shall within seven days after the declaration of results of the election of such members, or where such election is held before the date of commencement of the Maharashtra Co-operative Societies (second amendment) Act, 1966 (Mah. XXXVII of 1986), such number of members have been elected but the committee has, for whatever reason, not been so far constituted, forward their names together with their permanent addresses to the registrar, who shall within fifteen days from the date of receipt thereof by him, publish or cause to be published such names and addresses by affixing a notice on the notice board or at any prominent place in his office, and upon such publication, the committee of the society shall be deemed to be duly constituted in determining two thirds of the number of members, a fraction shall be ignored.

Cessation of a member of the committee under Bye-law No.120

A person shall cease to be the member of the committee, if:

He has incurred any of the disqualifications mentioned under the bye-law No. 118 or:

He has failed to attend any three consecutive monthly meetings of the Committee, without the leave of absence.

Intimation of cessation of membership of the committee

If a member of the Committee attracts any of the disqualifications under the bye-law No. 120 (1), the Committee shall record the fact in the minutes of the meeting and the secretary of the society shall inform the member and Registrar accordingly. Such member shall cease to be the member of Managing Committee on the order of the Registrar.

Period of office to the elected Committee

a. Under bye-law No.122 the period of office of the Committee elected under the bye-law No. 116(a) shall be for 5 years.

b. The first meeting of the newly elected committee to be held within 30 days of its election.
c. Under bye-law No. 123(A) a provision is made to hold first meeting of the newly elected and outgoing committee within 30 days from the date of constitution of new Committee as provided in bye-law No. 119.

d. Subject to the provisions of the bye-law No. 123(a) the secretary of the outgoing Committee shall issue notice of the first meeting of the newly elected Committee and the outgoing Committee to the members thereof. On the failure of the secretary of the outgoing Committee to convene the said meeting, the chairman of the outgoing Committee shall call it. On the failure of both, the Registering Authority may call such a meeting.

e. Under bye-law No. 126 the President, Chairman, Secretary, of the society shall hold office for the period of five years from the date of their election to such office. However same shall not be beyond the expiry of the term of the committee.

f. In case of a no confidence motion moved against Chairman, Secretary or Treasurer then such special meeting of the committee called shall be presided by the Registrar or such officer not below the rank of Asst. Registrar. The provision was not present in the old Model bye-laws.

Election of office bearers of the society

- Every Committee, at its first meeting after its election, shall elect a Chairman, Secretary and Treasurer from amongst the members of the Committee.

Period of office of the chairman/secretary and ‘No Confidence’ motion against either

a. The Chairman, Secretary and Treasurer of the society shall hold office for the period of 5 years from the date on which he is elected to be the Chairman or as the case may be the Secretary and Treasurer. But not beyond the expiry of term of the Committee:

b. Provided that he shall cease to be the Chairman, or as the case may be the Secretary and Treasurer of the society if the motion of ‘No Confidence’ is moved in the special meeting of the Committee called, and presided by Registrar or such officer not below the rank of an Assistant Registrar, upon the notice given by 1/3rds members of the Committee and the motion ‘No Confidence’ is passed by 3/4th members present as such meeting, having attendance of at least 2/3rd members of the Committee, who are entitled to vote at election of such Chairman, Secretary and Treasurer.

c. Provided further that another motion of ‘No Confidence’ shall not be brought against the Chairman or as the case may be the Secretary or Treasurer of the society unless the period of 6 months has elapsed from the date of the preceding motion of the ‘No Confidence’.

d. Numbers of Committee Meetings to be held in a month.

- Under Bye law No.128 the Committee shall meet as often as necessary but as least once in a month.
- In case of emergency, the committee may place a resolution and get the same passed by the committee members. However the same be placed before the next immediate meeting.

To fill in vacancies of the committee

a. Under bye-law No.129 in the event of vacancies in the committee, caused an account of the death, resignation, disqualification or removal of any members of the Committee, by the Registrar the Committee may fill in such vacancies by co-option on the Committee of any other members eligible to be on the Committee, irrespective of the fact whether there is the quorum or not, not withstanding anything contained in the bye law No. 127. Such vacancies by co-option shall not be more than two.

b. Bye-law No. 129 provides that in case of vacancy caused due to any reason of
disqualification, death, resignation or removal, the vacancy by co-option shall not be more than two.

The period of office of the member co-opted on the Committee.

• Under Bye-law No. 130: The period of office of the co-opted member of the Committee shall be co-terminus with tenure of office of the Committee.

Resignation by a member of the Committee
i. Under Bye-law No. 131: A member of the Committee may, by a letter, addressed to the Chairman of the society, resign his membership of the Committee. The resignation shall be effective from the date it is accepted by the Committee or an expiry of the period of one month from the date of the receipt of the letter of the resignation by the Chairman or the Secretary of the society, whichever is earlier.

ii) Under Bye-law No. 132 (E) a provision is made that in the event entire committee is desirous to resign then the resignation of such committee shall be placed before the general body and such resignations shall be effective from the date of acceptance of such resignations by the general body till alternative arrangement is made for the management of the society outgoing committee continues in office.

Resignation of office-bearership of the society
a. The Chairman of the Society may resign his office as Chairman by a letter addressed to the Secretary of the Society;

b. The Secretary or Treasurer of the society may resign his office as Secretary or Treasurer, by a letter addressed to the Chairman of the society;

c. Chairman/Secretary/Treasurer’s resignation will be effective only after its acceptance and handling over the charge to the newly elected Chairman/Secretary/Treasurer, as the case may be.

d. The Committee may accept the resignation of the office of the Chairman/Secretary/Treasurer only after it is satisfied that the Chairman or as the case may be the Secretary or Treasurer of the society has brought up to date the work entrusted to him and has produced the entire papers and property of the society, in his possession before the Committee.

e. In case entire Committee intends to resign, the resignations of the Committee shall be placed before the general body and such resignations shall be effective from the date of acceptance of such resignations by the General Body. The Committee shall continue in office till alternate arrangement is made for the management of the society.

Who can become a Returning Officer –
A returning officer has be appointed from amongst the members if the society provided he is not intending to contest the election or propose or second any candidature. If no member is willing to work as returning officer, the registering authority shall appoint a returning officer. The society will have to pay honorarium to the said returning officer for working as a returning officer. The amount will be related to the number of members of the society and numbers of candidates to be elected.

X. Duties of Returning Officer
Duties of returning are spelled out in the Election Rules

a. He has to function as per Election Programme and Rules.

b. If number of nomination papers are equivalent to number of seats on the Committee.

c. If numbers of nomination papers are less than number of seats on the Committee.
d. After scrutiny of nomination papers and date of withdrawal, the Returning Officer will have to report the valid number of nominations and invalid number of nominations. If valid numbers of nominations are equivalent to the number of seats on the Committee, no election will be held. The Chairman has to declare in the General Body that they are elected.

e. However, if number of nomination papers or number of valid nomination papers are less than the number of seats on the Committee, after scrutiny and withdrawal of nominations the Returning Officer has to report accordingly to the Chairman who will declare them as elected in the General Body and request the members to fill up the remaining number of seats on the Committee.

f. If the General Body does not elect the members for the remaining seats, the newly elected members at their first Committee meeting can co-opt the members for the remaining seats on the committee as per bye-law No. 116.

XI. Election Rules

1. These Rules shall be called the Rules of Election of a member of the Managing Committee of the ……………… Co-operative Housing Society Ltd. They shall be deemed to have come into force from the date of their approval by the Registering Authority.

2. Every Managing Committee shall hold elections before expiry of its term.

3. If the recovered share capital is more than ₹ 10,000 then, voting shall be secret voting.

4. The members of the society on the Register of Members as on 31st December, if the election is due during subsequent period between 1st January to 30th June, and as on 30th June if election is due during subsequent period between 1st July and 31st December, only be eligible to vote in the election to Managing Committee of the Society.

5. The retired members, if not disqualified, shall be eligible for re-election.

6. The provisional list shall be prepared by the Managing Committee as per (3) above and shall be notified on the Notice Board of the society, 60 (sixty) days before the date of election, inviting suggestions and objections in respect of the names of the members, within a period of 8 (eight) days, from the publication of such list.

7. After considering the suggestions and objections, if any, received, the Managing Committee shall publish final list of members eligible to vote, within two days of the last date as mentioned at 4 above.

8. The provisional and final list of members referred to above shall be in the Appendix ‘A’ appended to these Rules.

9. After the final list, the Managing Committee shall appoint from amongst the members who are not candidates for election or who have neither proposed nor seconded candidature of any member, or any other person, as Returning Officer. However in case of member being appointed as Returning Officer, the Managing Committee shall obtain an undertaking from such member that he will not contest the election nor propose or second any candidate. The Returning Officer shall have authority to appoint such polling staff as he deems necessary.

10. Where the Managing Committee has failed to appoint a Returning Officer, the Registering Officer shall appoint a Returning Officer and polling staff shall be borne by the Society.

11. The Returning Officer shall draw and declare a programme of various stages of election, on the Notice Board of the society, as indicated herein below, not later than seven days of the date of publication of final list of voters of the Society.
a. The Returning Officer shall submit copy of such Programme to the register and the concerned Housing Federation.

i. Last date from making nominations. 7 days from the date of declaration election programme.

ii. The date of publication of list of nominations received. On the last date and after the expiry of the time for nomination.

iii. Date of scrutiny of Nominations. Next day of the date making nomination.

iv. Date of publication list of valid Nominations. Next day after the date of completion of scrutiny.

v. Date of which candidature may be withdrawn. After clear 15 days form the date of scrutiny.

vi. Date of Publication of final list of contesting candidates. The day next succeeding the last date fixed for withdrawal of candidature.

b. Date and time during which and the place at which the poll shall be taken

i. Minimum 5 days after the date of withdrawal (time & place to be fixed by Returning Officer)

c. Date time and place for counting votes

i. Immediately after polling is over.

d. Date of declaration of results of voting

i. Immediately after counting of votes.

**Explanation:** If the last date in reckoning dates as specified in the above cases is a public holiday, the next succeeding working day shall be fixed for the respective events.

The functions of the Returning Officer shall be as under.

1. To draw up a detailed programme of election to the Managing Committee of the society, after taking into consideration the various stages of election process, as enumerated in 9 above.

2. To invite nominations, to receive and scrutinise them, to exhibit list of valid nominations and list of final nominations remaining after withdrawal of nominations, if any.

3. To arrange for election by ballot in accordance with the provisions of the Election Rules.

4. To furnish the result of election to the Chairman of the society for being declared at the General Body meeting/special general body meeting of the society.

5. To take such other actions as are necessary for and incidental to the election to Managing Committee of the society.

The nominations from members shall be in form at Appendix ‘B’ appended to the Rules.

6. No members of the society shall be eligible to participate in the election of the society, If

i. He is in arrears in respect of any charges and any other amounts due to the society, as on the date of scrutiny of nomination papers.

ii. He has incurred any of the disqualification as mentioned in the Maharashtra Co-operative Societies Rules, 1960 and Maharashtra Co-op Societies Rules,1961 and the bye-laws of the society.

7. The nominations received till the last date and hour fixed for receiving nominations shall be scrutinised by the Returning Officer on the date fixed for scrutiny of nominations, in the presence of the candidates or their duly authorised representatives and the list of the valid nominations shall be published on the Notice Board of the society as per election programme. The candidates whose nominations are rejected shall be informed by the Returning Officer in writing of the reasons for rejection of their nominations.
nominations on the same day, in form at Appendix 'B-2'.

8. The candidates, whose nominations have been declared valid shall be allowed time of 15 days (as required u/s 152 A of the M.C.S. Act 1960) from the date of publication of the list of valid nominations, to withdraw their candidature by means of a letter handed over to the Returning Officer.

9. Immediately after the expiry of period allowed for withdrawal of candidature a final list of the candidates contesting the election shall be notified on the notice board of the society.

10. The voting at the election shall be secret Ballot.

11. The ballot paper shall be in the form of Appendix C appended to these Rules. It shall bear the seal of the society and the counterfoil thereof shall bear the initials of the Returning Officer.

12. The names of the candidates in the ballot paper shall be arranged in alphabetical order with surname appearing first.

13. The date, time and place of voting shall be as declared in the election programme.

14. The ballot box shall be so constructed that ballot papers could be conveniently put into it but could not be taken out, without the box being unlocked.

15. On the date of the polling, the empty ballot box shall be shown to the candidates or their authorised agents, if any and present 15 minutes before the time fixed for commencement of the poll and shall be locked and sealed in their presence.

16. Each member voter shall be supplied with an authenticated ballot paper after satisfying his identity and obtaining his signature on the counterfoil of the ballot paper.

17. Member-Voter coming to the polling station after expiry of the time allowed for voting shall not be allowed to vote.

18. Immediately after the completion of voting, the ballot box shall be sealed in the presence of the candidates or their authorized representative if present.

19. The counting of votes shall be done immediately after the polling is over.

20. The Returning Officer shall submit to the Chairman of the Society a report indicating the numbers of voters who voted, number of valid and invalid votes, and the votes polled by each of them shall be put on the Notice Board of the society at the conclusion of the counting of votes.

21. The names of the candidates with votes polled by each of them shall put on the Notice Board of the society at the conclusion of the counting of votes.

22. The final result of the election shall be declared in the ensuing Annual General Body Meeting or Special General Body Meeting as the case may be.

23. All the records pertaining to the election shall be carefully preserved in box duly locked and sealed by the Secretary of the society for a period of 3 months and destroyed thereafter. However, if the result of the election is disputed, the records pertaining to election shall be preserved until the final decision of the dispute.

24. The Committee shall be constituted as enumerated under section 73(3) of the M.C.S. Act 1960.

25. If for any reasons beyond the control of the society, it is not possible to observe the time schedule under these Rules, the Returning Officer of the society may revise the same with due notice to members and with due consent of the concerned Housing Federation. The Returning Officer shall inform such revision of schedule to the Registrar.