

THE NEW ANNOTATED
Bombay Co-operative Societies
Act, 1925.

(BOM. ACT VII of 1925.)

WITH

**An Elaborate Introduction, Table of Contents, Compa-
rative Table, Explanatory Notes, Exhaustive Com-
mentary, Application Forms and Full Index.**

1926.

Price Re. 1.

THE NEW, ANNOTATED
Bombay Co-operative Societies
Act, 1925.

(BOM. ACT VII of 1925.)

WITH
An Elaborate Introduction, Table of Contents, Compara-
tive Table, Explanatory Notes, Exhaustive Com-
mentary, Application Forms and Full Index.

BY
D. G. KHANDEKAR,
Law Publisher, Poona.

“Every Society *shall keep open to inspection at all rea-
sonable times at the registered address of the Society—*
(a) a copy of this Act.”

* * * * *

Vide Section 21 post.

Printed and published by D. G. Khandekar, at the Law Printing Press,
530 Shanwar Peth, Poona City.

1926.

Price Re. 1.

INTRODUCTION.

—:—

The Co-operative Movement.

Early measures to improve rural credit:—The Bombay Presidency may fairly claim to be the pioneer of the movement in India for improving rural credit by the establishment of Agricultural Banks. In 1883 under the inspiration of Sir William Wedderburn, I. C. S., a committee of capitalists in the Poona District was formed with the object of founding a bank to finance the agriculturists of the Purandhar Taluka. Relying on the grant of powers of recovery through the Revenue Officers, and on a few smaller concessions, they were in a position to raise a capital of 10 lakhs, and intended to begin operations by redeeming all the outstanding debts of the ryots. However Lord Kimberley, who was Secretary of State at the time, was obliged to take objection to the scheme on the ground that the bank would virtually be a Government Institution and that his constitution was faulty on the financial side. In the meantime the Land Improvement Loans Act (XIX of 1883) and the Agriculturists' Loans Act (XII of 1884) were passed, and hopes were entertained that operating in conjunction with the Dekkhan Agriculturists' Relief Act (XVII of 1879) they would go far to meet the needs of the situation. The scheme was therefore allowed to drop.

Introduction of Co-operation into India:—It was some time before the example that had been given began to be taken up elsewhere. In 1892 Lord Wenlock, then Governor of Madras, placed Mr. (now Sir Fredrick) Nicholson on special duty to study the theory and practice of co-operative credit in Europe, and to suggest means by which the movement might be popularised in India. The Madras Presidency afforded a hopeful field for experiment because a number of indigenous societies known as Nidhis, analogous to the Friendly societies and provident Funds of Great Britain, had already sprung into existence there and attained a considerable degree of success. In 1899 Mr. Nicholson issued an exhaustive report in two volumes, copies of which were sent to all local Governments for consideration. At the same time Mr. Duperneux under the instructions of Sir A. P. Macdonell had been making inquiries along similar lines in the United Provinces, and had issued a brief but suggestive study on "People's Banks in Northern India." In the Punjab the District Officers of Multan and Dera Ismailkhan districts had formed few societies on their own initiative

with promising results, and in Bengal similar experiments were being started. All indications pointed to a widespread demand for the amelioration of rural credit and the possibility of the co-operative system proving a royal road to this end.

The first Co-operative Credit Societies Act:—In 1901 a committee under Sir Edward Law was appointed by the Government of India to examine and report upon the whole question. The result of its deliberations was the Co-operative Credit Societies Act (X of 1904). This Act was superseded by the second Co-operative Societies Act (II of 1912), but the classic memorandum of Sir Denzil Ibbetson discussing its underlying principles is as applicable to-day as on the date of its issue. The Act itself was a short one and aimed at maintaining simplicity and elasticity and at imposing no avoidable restrictions on local experiments.

Progress in India.—In all provinces of India Registrars were at once appointed to give effect to the intentions of the Act and in no case did they fail to secure striking results.

Progress in Bombay—In the Bombay Presidency the first Registrar was Mr. J. Mc Neill, I. C. S., and the first Co-operative Credit Society organised by him was at Kangilhal in the Dharwar District and was registered on 8th May 1905. Since that date the progress has been steady and no untoward incidents have occurred.

It is true that progress in Bombay has been relatively slower than in most other parts of India. But for this there are adequate economic causes, and the fact in itself is not necessarily a cause for regret. Sir Robert Carlyle said at Simla "I wish to emphasise the fact that there is a danger in too rapid extension which may endanger the movement itself. Weak societies will in the long run tend to prevent the movement developing as it otherwise would do". It should be remembered that in Germany it took 40 years to create 1,729 Raiffeisen banks, and only 15 years (1890-1905) to increase this total to 13,181. If the movement is on right lines, it will gather its own momentum.

The Second Co-operative Societies Act.—Under Act X of 1904 the problem of credit only was taken up. The success which was attained in dealing with this opened up further horizons and suggested the possibility of extending the principles of co-operation to purchase, sale, manufacture and distribution. The new wine of the expanding movement had already burst the old bottles and was overflowing in directions which had not yet been

fully mapped out. The Government of India met these new needs by passing an entirely new Act, the Co-operative Societies Act (II of 1912). It swept away the old distinction between rural and urban societies, and substituted a more scientific distinction based on the character of the members' liability. The registration of new types of association for the supervision or finance of primary co-operative societies was for the first time legalised. Co-operative organisations with other objects besides that of furnishing credit were allowed. The exact form which these should take was not definitely laid down; and pending fuller experience, Registrars were left a wide discretion in building up the higher storeys of their provincial co-operative structures. In 1914 a committee, presided over by Sir Edward MacLagan, was appointed to review the whole position and to advise the Government of India more particularly on the higher organisation of the co-operative movement and the financial connexion of the various parts of the system. Their report known as "the Report of the Committee on Co-operation in India, 1915" gives full information regarding the systems followed in the various provinces and contains useful criticisms and suggestions on nearly every detail of co-operative organisation.

The third Co-operative Societies Act.—The progress and development of the co-operative movement since 1912 made it necessary to revise the law under which co-operative societies worked. Several points for amendment had been brought to notice by various co-operative conferences and by the Central Co-operative Institute and other co-operative bodies and non-official gentlemen interested in the movement. Co-operation is now a transferred subject and as such falls within the scope of the provincial legislature. To carry out these amendments the Bombay Co-operative Societies Act (Bom. Act VII of 1925) was passed. It has made provision for the following matters:—

(1) A distinct classification of the various societies whose objects, finance, and methods of working are different.

(2) Introduction of a clear cut system of winding up, liquidation and dissolution of societies on the analogy of the Indian Companies' Act, 1913, and

(3) Provisions desired by a majority of co-operators in the Bombay Presidency for the summary recovery of dues in arbitration cases through the revenue authorities.

Comparative Table.

*Chart shewing Distribution in the new Act of the
Sections of the Act Repealed.*

**The Bombay Co-operative Societies Act,
(Bom Act VII of 1925).**

Section of Act II of 1912.	Section of the New Act.	Section of Act. II of 1912.	Section of the New Act.
1	1,2	29	84
2	3	30	85
3	4	31	86
4	5	32	37
5	6	33	39
6	7	34	42
7	8	35	43
8	9	36	44
9	10	37	45
10	11	38	46
11	16	39	47
12	17	41	49
13	18	42	50
14	19	43	71
15	20	43 (1)	54
16	21	44	65
17	22	45	66
18	23	46	67
19	24	47	62
20	25	48	68
21	26	49	72
22	27	50	73
23	28		
24	29		
25	30		
26	31		
27	32		
28	33		

TABLE OF CONTENTS.

SECTIONS.

- Preliminary.*
1. Short title.
 2. Extent.
 3. Definitions.
- Registration.*
4. The Registrar.
 5. Societies which may be registered.
 6. Restrictions on interest of member of society with limited liability and a share capital.
 7. Conditions of registration.
 8. Power of Registrar to decide certain questions.
 9. Application for registration.
 10. Registration.
 11. Evidence of registration.
 12. Annual general meeting.
 13. Special general meeting.
 14. Change of name : its effect.
 15. Amalgamation or transfer of societies.
 16. Amendment of the by-laws of the society.
- Rights and liabilities of members.*
17. No rights of membership to be exercised till due payments are made.
 18. Votes of members.
 19. Restrictions on transfer of share or interest.
- Duties of Societies.*
20. Address of Societies.
 21. Copy of Act, etc., to be open to inspection.
 22. Audit.
- Privileges of Societies.*
23. Societies to be bodies corporate.
 24. Prior claim of Society.

SECTIONS.

25. Charge and set-off in respect of shares or interest of member.
 26. Shares or interest not liable to attachment.
 27. Transfer of interest on death of member.
 28. Liability of past member.
 29. Liability of the estates of deceased members.
 30. Register of members.
 31. Admissibility of copy of entry as evidence.
 32. Exemption from compulsory registration of instruments relating to shares and debentures of Society.
 33. Power to exempt from income-tax, stamp-duty, registration and Court fees.
 - 33A. Government may give loans or guarantee interest.
 34. Restrictions on loans.
 35. Restrictions on borrowing.
 36. Restrictions on other transactions with non-members.
 37. Investment of funds.
 38. Restrictions on dividend.
 39. Reserve fund.
 40. Restrictions on distribution of profits.
 41. Provident Fund.
 42. Contribution to charitable purpose.
- Inspection of affairs.*
43. Inquiry by Registrar.
 44. Inspection of books of indebted Society.
 45. Costs of inquiry.
 46. Recovery of costs.

TABLE OF CONTENTS.

SECTIONS.

Liquidation and Arbitration.

- 47. Winding up.
- 48. Society may be wound up.
- 49. Effect of cancellation of registration.
- 50. Power of a liquidator.
- 50 A. Power of Registrar to assess damages against delinquent promoters.
- 51. Bar of suit in winding up and dissolution matters.
- 52. Disposal of surplus assets.
- 53. Surplus assets of housing Society.
- 54. Arbitration.
- 55. Attachment before award.
- 56. Appeal against award of arbitrator.
- 57. Finality of order.
- 58. Powers to enforce attendance.
- 59. Money how recovered.

Offences.

- 60. Offences—
 - Defaults by a Society, officer or member.
 - Wilful neglect or default by a Society. Wilful furnishing of false information. Disobedience of summons, requisition or order.

SECTIONS.

- 61. Penalty for offences not otherwise provided for.
- 62. Prohibition of the use of the word "Co-operative."
- 63. Cognizance of offences.

Appeals and Revision.

- 64. Appeal.
- 64A. Power of Government and the Registrar to call for proceedings of Subordinate officers and to pass orders thereon.

Miscellaneous.

- 65. Recovery of sums due to Government.
- 66. Power to exempt Societies from conditions as to registration.
- 67. Power to exempt Societies from provisions of Act.
- 68. Indian Companies Act not to apply.
- 69. Branches &c. of Societies outside the presidency.
- 70. Notice necessary in suits.
- 71. Rules.
- 72. Saving of existing Societies
- 73. Repeal.

*Schedule.**Enactments repealed.*

APPENDIX A.

FORM I.

Application for Loan.

Having become a member of the _____
Co-operative Credit Society, I hereby apply for a loan of
Rupees (_____) (in words _____) I wish that
it may be made repayable—

(a) after _____ months, or

(b) in _____ instalments on the following dates:—

(1) _____ (2) _____ (3) _____ (4) _____ (5) _____

The names of the Sureties offered are given below.

The object for which the loan is required is _____

Dated _____ 192 .

Signature _____

Occupation _____

Names of Sureties offered:—

(1) _____

(2) _____

(3) _____

FORM II.

Form of Agreement for a Loan.

I acknowledge to have received from the _____
 Co-operative Credit Society a loan of Rupees (_____) (in words) _____ repayable as under:—

Principal		Interest		Total		Date of Repayment	
Rs.	p.	Rs.	p.	Rs.	p.		
(1)							
(2)							

The loan bears interest at _____ pias per rupee per month I undertake to employ the loan for the following purpose:—

I undertake to repay the loan on the date (or dates) mentioned above and to be bound in all respects by the Societys By-laws

Signature of Borrower _____

Witnesses' Signatures { _____

We _____ and _____

hereby undertake to be jointly and severally liable to the above mentioned Society for the due repayment of this loan on the date or dates shown above or on any dates to which the period may be legally extended by the Managing Committee with interest in accordance with the above conditions and the by-laws of the Society.

Dated _____ 192 .

Signatures of Sureties—

Witnesses' Signatures— (1) _____
 (2) _____
 (3) _____

FORM III.

Form of Agreement for a Loan.

I acknowledge to have received from the _____
 Co-operative Credit Society a loan of Rupees (_____)
 (in words) _____
 repayable as under:—

Principal			Interest			Total			Date of Repay- ment.
Rs.	s.	p.	Rs.	s.	p.	Rs.	s.	p.	
(1)									
(2)									
etc.									

The loan bears interest at _____ pias per rupee per month,
 I undertake to employ the loan for the following purpose:—

As security for the repayment of the loan with all interest

* If the property is surveyed and assessed land, the name of the village, survey number, area and assessment should be here inserted. Other landed property should be described fully. If any previous mortgage has been executed particulars should be given, or the fact that the property is not mortgaged should be stated.

accruing I hereby mortgage without possession the undermentioned property which is now in my ownership and possession:—*

I undertake to repay the loan on the date (or dates) mentioned above and to be bound in all respects by the Society's by-laws.

Signature of Borrower } _____
 or
 Thumb Impression }

Signature of Witnesses { (1) _____
 (2) _____

APPENDIX B.

Form of Loan Application.

1. Name of borrowing Society _____ Unlimited
 Address _____
 Taluka _____
 District _____
 Audit classification _____

2 The total amount of capital which may be raised under by-law 3 is Rs. _____

3. The position of the Society is shown by the following figures:—

- (1) fixed deposits from members Rs. _____
 (2) fixed deposits and loans from non members
 Rs _____
 (3) current deposits Rs. _____
 (4) loans from Government Rs. _____
 (5) loans from other Co-operative Societies or Banks.

Name of Bank.	Amount.

- (6) Reserve fund _____
4. The present number of members of this Society is _____
5. The amount of loans overdue by more than one month during one year prior to this application is Rs _____
6. The number of bad debts written off during the last year is _____

7. The amount of loan wanted by the Society during the next six months is estimated as follows.—

Purpose.	Amount wanted.	Period for repayment (separately for each purpose.)	Date on which advance is required separately for each purpose).
Total...			

8. The Society requests that the above loans may be added together and instalments of repayments fixed as follows:—

Amount of instalment.	Date of repayment.
Total...	

Notes.—Totals in items 7 and 8 must agree.

INDEX.

—:—:—

	Page		Page
Address—		Consumers' Society—	
of society must be regis-		meaning of	3
tered	10	Co-operation—	
object of	1	meaning of	1
Agriculturist—		" Co-operative "	
definition of	6	prohibition of	34
Annual general meeting—		Costs—	
when to be called	7	recovery of	24
Appeal—		Debts—	
against order of Registrar		means debts to third parties	15
may be made by any		Deceased member—	
party	34	liability of	15
Arbitration—		Dispute—	
meaning of	29	what the term includes	30
dispute to be referred to	29	touching the business of a	
Arbitrator—		society	30
appeal against award of	31	Distribution of profits—	
Audit of accounts—		restrictions on	21
power of Registrar to make	11	Dividend—	
Bar of suit—		restrictions on	20
in winding up and dissolu-		Entry—	
tion matters	26	admissibility of copy of, as	
Bonus—		evidence	16
meaning of	13	Funds—	
Books of indebted society—		investment of	20
inspection of	23	General society—	
By-laws—		meaning of	3
meaning of	2	Government—	
correspond to articles of		includes local Government...	4
association of companies..	3	Housing society—	
amendment of	9	meaning of	3
Capital—		Industrial implements—	
meaning of	5	musical instruments are	
Chairman—		not	13
included in officer	2	Inquiry—	
Charitable purpose—		costs of	23
contribution to	22	Interest—	
what does the term include	22	transfer of, on death of mem-	
Charge and set off—		ber	14
in respect of shares or in-		Limited—	
terests of member	13	means limited to the amount	
Committee—		if any	5
meaning of	2	Liquidator—	
Compulsory registration of		powers of	25
instruments—		order passed by, to wind up	
exemption from	17	assets	27

	Page		Page
Loans or guarantee in interest—		power of, to decide certain	
Government to give ...	19	questions ...	6
Local Government—		power of, to assess damages	
definition of ...	4	against delinquent pro-	
Member—		motors ...	27
what does the term include ...	2	Reserve fund—	
votes of ...	9	to be maintained by every	
register of, is evidence of		society ...	21
the date of the entry in		Resource society—	
register ...	16	meaning of ...	2
Member of Committee—		Secretary—	
included in officer ...	2	included in officer ...	2
Membership—		Shares—	
rights of, not to be exercised		restrictions on transfer of ...	10
till due payments made ...	9	Share Capital—	
Non-members—		kinds of ...	5
restrictions on transactions		Shares or interest—	
with ...	20	not liable to attachment ...	14
Officer—		Society—	
includes chairman, secre-		means a society registered	
tary, treasurer, member		under this Act ...	2
of committee, &c. ...	2	which may be registered ...	4
Person—		amalgamation or transfer of	8
includes any company or		to be bodies corporate ...	12
association of body of		prior claim of ...	12
individuals ...	3	power of G. G. to exempt,	
Past Member—		from income tax, stamp	
liability of ...	15	duty, &c. ...	18
meaning of ...	15	not to make loan without	
Proceedings of Subordinate		sanction of Registrar ...	19
officers—		to receive deposits and loans	
power of Government and		as prescribed by by-laws... 19	
the registrar for ...	35	may be wound up if mem-	
Producers' society—		bership is reduced ...	23
meaning of ...	2	addresses of, must be regis-	
Provident Fund—		tered ...	10
to be established by any		wilful neglect or default of... 33	
society ...	21	sums due from, to over-	
Raw material—		ment how to be recover-	
fat is not ...	13	ed ...	35
Registration—		power to exempt, from con-	
effect of cancellation of ...	25	ditions as to registra-	
Registrar—		tion ...	35
means person appointed to		—from provisions of Act ...	36
perform duties of Regis-		Special general meeting—	
trar ...	2	when to be called ...	8
to classify all societies		Surplus assets—	
under one or other heads... 3		disposal of ...	28
duties of ...	4	of housing society ...	28
application for ...	6		