

¹THE SOCIETIES REGISTRATION ACT, 1860.

(Act XXI of 1860)

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¹THE SOCIETIES REGISTRATION ACT, 1860
(Act XXI of 1860.)

[21st May, 1860]

AN

Act

for the registration of literary, scientific and charitable societies.

WHEREAS it is expedient that provision should be made for improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge,²[the diffusion of political education] or for charitable purposes; it is enacted as follows:-

Preamble.

1. Any seven or more person associated for any literary, scientific or charitable purpose, or for any such purposes as is described in section 20 of this Act, may be subscribing their names to a memorandum of association and filing the same with the Registrar of Joint- stock Companies³[***] form themselves into a society under this Act.

Societies formed by memorandum of association and registration

2. The memorandum of association shall contains the following things (that is to say).----

The name of the society;

The objects of the society;

The names, addresses, and occupation of the governors, council, directors, committee or other governing body to whom, by the rules of the society, the management of its affairs is entrusted.

A copy of the rules and regulation of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

¹ Short title given by Act, No. XIV of 1897.

² Ins: by Act No. XXII of 1927.

³ Repealed vide Act No. (XVI of 1874)

3. Upon such memorandum and certified copy being filed, the registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the registrar for every such registration a fee of fifty rupees, or such smaller fee as¹[the Provincial Government] may, from time to time, direct; and all fees so paid shall be accounted for to²[the Provincial Government]

Registration fees.

4. Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the society is held, or, if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint-stock Companies of the names, addresses and occupations of the governors, council, directors, committee or other governing body then entrusted with the management of the affairs of the society

Annual list of managing body to be filed

5. The property, movable and immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title.

Property of society how vested

6. Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion:

Suits by and against societies.

Provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman or principal secretary or the trustees thereof, if on application to the governing body some other officer or person be not nominated to be the defendant.

¹ Subs. By A.O., 1937, for 'the G.G. of India in C.'

² Subs, ibid for "Government."

7. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name where of he shall have sued or been sued, but the same suit or proceedings shall be continued in the name of or against the successor of such person.

Suits not to abate.

8. If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or officer, but against the property of the society.

Enforcement of Judgment against society

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

9. Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body there of shall deem expedient.

Recovery of penalty accruing under bye-law

10. Any member who may be in arrear of a subscription which, according to the rules of the society he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury or destruction of property in the manner here in before provided.

Members liable to be sued as strangers

But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the latter case shall have process against the property of the said society in the manner above described.

Recovery by successful defendant of costs adjudged

11. Any member of the society who shall steal, purloin or embezzle any money or other property, or willfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner as any person not a member would be subject and liable to in respect of the like offence.

Members guilty of offences punishable as strangers.

12. Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report and may convene a special meeting for the consideration thereof according to the regulations of the society.

Societies enabled to alter, extend or abridge their purposes.

But no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting or convened by the governing body at an interval of one month after the former meeting.

13. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities, according to the rules of the said society applicable thereto, if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate; and the Court shall make such order in the matter as it shall deem requisite:

Provision for dissolution of societies and adjustment of their affairs

Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose:

Assent required

Provided that ¹[whenever any Government] is a member of or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved ²[without the consent of the Government of the Province of registration].

Government consent.

14. If upon the dissolution of any society registered under this Act there shall remain after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid:

Upon a dissolution no member to receive profit.

Provided, however, that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a joint-stock Company.

Clause not to apply to joint stock companies

15. For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations; but in all proceedings under this Act no person shall be entitled to vote or to be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months.

Member defined
Disqualified
Members

16. The governing body of the society shall be the governors, council, directors, committee, trustees or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

Governing body defined.

³[16 (A) Supersession of Governing body of a Society.

(I) Notwithstanding anything contained in the memorandum of association, rules or regulations of a society registered under this Act, if, after such inquiry as may be necessary the Provincial Government is of the opinion that the governing body of the society-

¹Subs by A.O., 1937, for "whenever the Government."

²Subs., ibid for "without the consent of Government"

³ Sub by Khyber Pakhtunkhwa Act No. IV of 1976

- (a) is unable to discharge or persistently fails in discharging its duties, or
- (b) is unable to administer its affairs or meet its financial obligations, or
- (c) generally acts in a manner contrary to public interest or the interests of the members of the society.

The Provincial Government may, by notification in the official Gazette, declare the governing body to be superseded for such period, not exceeding one year, as may be specified in the notification.¹[:]

²[Provided that no order of supersession shall be passed without giving the governing body of the society concerned an opportunity of showing cause]”.

- (2) On the publication of a notification under sub-section (I),---
 - (a) the office-bearers and other members of the governing body shall cease to hold office ; and
 - (b) all sanctions of the governing body shall, during the period of supersession, be performed by a governing body constituted by the Provincial Government or by such authority as the Provincial Government may appoint for the purpose.
- (3) On the expiry of the period of supersession, the governing body of the society shall be reconstituted in accordance with its memorandum of association, rules and regulations.

17. Any company or society established for a literary, scientific or charitable purpose, and registered under ³Act XLIII of 1850, or any such society established and constituted previously to the passing of this Act but not registered under the said ⁴Act XLIII of 1850, may at any time hereafter be registered as a society under this Act; subject to the proviso that no such company or society shall be registered under this Act unless as assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some

Registration of societies formed before Act.

Assent required

¹ Subs by Khyber Pakhtunkhwa Act No. II of 1985 for full stop.

² Ins: by Khyber Pakhtunkhwa Act. No. II of 1985.

³ Rep. by the Indian Companies Act, 1866 (10 of 1866). 5.219

⁴ Rep. by the Indian Companies Act, 1866 (10 of 1866). 5.219

general meeting convened for that purpose by the governing body.

In the case of a company or society registered under ¹Act XLIII of 1850, the directors shall be deemed to be such governing body.

In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thence- forth.

18. In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-stock Companies ²[****] a memorandum showing the name of the society, the objects of the society, and the names, addresses and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in section 2, and a copy of the report of the proceedings of the general meeting which the registration was resolved on.

Such societies to
filed
memorandum
etc., with
Registrar of
joint- stock
companies.

19. Any person may inspect all documents filed with the registrar under this Act on payment of a fee of one rupee for each inspection, and any person may require a copy or extract of any document or any part of any document, to be certified by the registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever

Inspection of
documents.
Certified copies

¹ Rep. by the Indian Companies Act, 1866 (10 of 1866). 5.219

² Rep. by Act No. XVI of 1874

20. The following societies may be registered under this Act:- Charitable societies, ¹[.....] societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, ²[the diffusion of political education], the foundation or maintenance of libraries or reading rooms for general use among the members or open to the public, or public museums and galleries of painting and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

To what societies Act applies.

³["21. (1) All Deeni Madaris by whatsoever name called shall not operate without getting themselves registered as under, namely:

Registration of Deeni Madaris.

- (i) the Deeni Madaris existing before the commencement of the Societies Registration ⁴[(Khyber Pakhtunkhwa)] (Amendment) Act, 2006. If not already registered, shall get themselves registered under this Act; and
- (ii) the Deeni Madaris which are established after the commencement of the Societies Registration ⁵[(Khyber Pakhtunkhwa)] (Amendment) Act, 2006, shall get themselves registered within one year of their establishment.

Explanation.---One Deeni Madrassah having more than one campus shall need only one registration.

(2). Every Deeni Madrassah shall submit annual report of its educational activities to the Registrar.

(3) Every Deeni Madrassah shall cause to be carried out audit of its accounts by an Auditor and submit a copy of its report to the Registrar.

(4) No Deeni Madrassah shall teach or publish any literature which promote militancy or spread sectarian or religious hatred:

¹ Omitted by A.O., 1949

² Ins, by Act No. XXII of 1927.

³Ins: by Khyber Pakhtunkhwa Act No. III of 2006, Section No.3

⁴ Sub vide the Khyber Pakhtunkhwa Act. IV of 2011, dated 02-04-2011.

⁵ Sub vide the Khyber Pakhtunkhwa Act. IV of 2011, dated 02-04-2011

Provided that nothing contained herein shall bar the comparative study of various religions or schools of thought or the study of any other subject covered by the Holy Quran, Sunnah or the Islamic Jurisprudence.

Explanation.---In this section “Deeni Madrassah” means a religious institution primarily for religious education and includes Jamia Dar-ul-uloom, School, College or University, or called by any other name, set up for purposes of primarily imparting religious education and providing boarding and lodging facilities.”.

4. **Repeal.**---The Societies Registration (Khyber Pakhtunkhwa) Amendment) Ordinance, 2005 (Khyber Pakhtunkhwa Ordinance No. VIII of 2005) is hereby repealed.