

# THE SOCIETIES REGISTRATION ACT, 1860

[Act 21 of 1860, dt. 21-5-1860]

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An Act for the registration of literary, scientific and charitable societies

Whereas it is expedient that the 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, <sup>1</sup>[the diffusion of political education], or for charitable purposes;

It is enacted as follows :

## STATE AMENDMENTS

Andhra Pradesh : Insert the following after preamble, namely:—

"CHAPTER I  
General"

[Vide A.P. Act 12 of 1984, w.r.e.f. 2-12-1983]

Delhi : Substitute, the words "Welfare, Literary, Scientific and Charitable Societies" for the words "Literary, Scientific and Charitable Societies".

[Vide Act 26 of 1983, w.e.f. 22-6-1983]

In the preamble, substitute the words "promotion of social welfare activities conducive to the protection and improvement of the natural environment (including forests, lakes, rivers and wild life), compassion for creatures, literature, science, sports, games or the fine arts for the words "promotion of literature, science or the fine arts".

[Vide Act 26 of 1983, w.e.f. 22-6-1983]

Gujarat : In long title, insert the words "and Societies established for such other purposes" after the words "Literary, Scientific and Charitable Societies".

[Vide Gujarat Act 17 of 1978, w.e.f. 1-4-1978]

Substitute the words "literature, science and sports" for the words "literature, science".

[Vide Gujarat Act 17 of 1978, w.e.f. 1-4-1978]

## 1. Societies formed by memorandum of association and registration

Any seven or more persons associated for any literary, scientific, or charitable purpose, or for any such purpose as is described in section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with Registrar of Joint-stock Companies, <sup>2</sup>[\* \* \*] form themselves into a society under this Act.

## COMMENTS

### *Public charity*

Public charity is a charity wherein the benefit is conferred on indefinite persons comprising the public or some part of the public—*Continental Illinois Nat. Bank & Trust Co. v. Harris* 359 Ill. 86, 194 N.E. 250. Under s. 2 of the Charitable Endowments Act, 1890, charitable purpose includes relief of the poor, education, medical relief and advancement of any other object of general public

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<sup>1</sup> Inserted by Act 22 of 1927.

<sup>2</sup> Words and figures "under Act No. 19 of 1857" omitted by Act 16 of 1874.

utility, but does not include a purpose which relates exclusively to religious teaching or worship.—*Md. Yunus v. Inspector General of Registration AIR 1980 Pat 138*

Under s. 2(15) of Income Tax Act, charitable purpose includes relief of the poor, education, medical relief, and advancement of any other object of general public utility not involving the carrying on of any activity for profit.

The expression 'charitable purpose' in the Income Tax Act is wide enough to include religious purposes as well.—*Thangaswami Chettiar v. Commissioner of Income Tax AIR 1966 Mad 103*. A purpose must, in order to be charitable, be directed to the benefit of the community or a section of the community.—*Re Compton, Powell v. Compton 1945 Ch. 123*

Sec. 1 of the Act required that the memorandum of association shall be signed by seven or more persons. It is, therefore, abundantly clear that the Registrar is not expected to register a society unless the provisions of ss. 1 and 2 of the Act have *prima facie* been complied with.—*Shanti Sarup v. R.S. Sabha AIR 1969 All 248*

'Purpose' has been used here in the sense of the main object. It has got nothing to do with the details of the programme of the society or with its activities. The society may draw out a chart of its activities and prepare a programme for its working but that would not be the 'purpose' contemplated by the Act. The word 'purpose' has been used in a very wide sense. If a literary society is established to promote literature it is founded for a literary purpose.—*Ram Charan v. Shridhar AIR 1962 All 610*

#### STATE AMENDMENTS

*Andhra Pradesh* : In section 1,—

- (i) Substitute the words "the Inspector-General of Registration (hereinafter referred to as the Inspector General)" for the words "the Registrar of Joint-Stock Companies";
- (ii) Insert the following Explanation:—

"Explanation : 'Inspector-General of Registration' means the Inspector General of Registration appointed by the State Government under section 3 of the Indian Registration Act, 1908 (XVI of 1908) and includes any officer subordinate to the Inspector-General, not below the rank of District Registrar, or Sub-Registrar holding the charge of the officer of the District Registrar to whom the State Government may delegate the functions of the Inspector-General under this Act."

[*Vide A.P. Act 6 of 1956, w.r.e.f. 1-10-1954*]

*Assam, Manipur, Tripura* :

- (i) In its application to the State of Assam, in section 1, substitute the words "Registrar of Societies appointed by the State Government." for the words, "Registrar of Joint-Stock Companies".
- (ii) The Act has been extended to the States of Manipur and Tripura with necessary modifications in the title and section 2.

[*Vide Assam Act 7 of 1957, w.e.f. 17-7-1957*]

*Bihar* : In section 1, substitute the words "Inspector-General of Registration" for the words "Registrar of Joint-Stock Companies".

[*Vide Bihar Act 19 of 1956, w.r.e.f. 21-12-1955*]

*Gujarat* : Omit words "of Joint-Stock Companies".

[*Vide Bombay Acts 11 of 1956, w.e.f. 1-7-1956; 76 of 1958, w.e.f. 7-10-1958*]

*Himachal Pradesh* :

- (i) In its application to the State of Punjab as it existed immediately before the 1st November, 1956, in section 1, for the words "of Joint-Stock Companies", substitute the words "to be appointed by the State Government by notification in the Official Gazette, for carrying out the purposes of this Act."

*[Vide H.P. Act 23 of 1973, w.e.f. 4-12-1973]*

Maharashtra : Omit words "of Joint-Stock Companies".

*[Vide Bombay Acts 11 of 1956, w.e.f. 1-7-1956 and 76 of 1958, w.e.f. 7-10-1958]*

Orissa : (a) After the Preamble and before the existing section 1, insert the following section, namely:—

"1. *Application of Registrar of Societies*—(1) The State Government may, by notification, appoint a person to be called the Registrar of Societies and he shall exercise such powers and perform such duties and functions as are conferred by or under the provisions of this Act, and shall subject to such general or special order as the State Government may from time to time make, superintend the administration and carry out the provisions of this Act throughout the State of Orissa."

*[Vide Orissa Act 21 of 1958, w.e.f. 1-1-1961]*

[Existing section 1 renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, following sub-sections inserted by the Orissa Act 9 of 1979]

"(2) The State Government may by notification, appoint one or more Additional Registrars with such local jurisdiction as may be assigned to them by the State Government.

(3) The Additional Registrars so appointed shall, subject to the control of the Registrar of Societies, exercise such of the powers and perform such of the functions of the Registrar of Societies as the State Government may authorise in that behalf."

(b) Original section 1 renumbered as section 1A and in this section as so renumbered for the words "Registrar of Joint-Stock Companies", substitute the words "Registrar of Societies".

*[Vide Orissa Act 21 of 1958, w.e.f. 1-1-1961]*

Pondicherry : In section 1, for the words "Registrar of Joint-Stock Companies", substitute the words, "Registrar of Companies".

*[Vide Pondicherry Act 9 of 1969, w.e.f. 1-1-1971]*

Punjab, Haryana, Chandigarh, Delhi :

(i) In its application to the State of Punjab as it existed immediately before the 1st November, 1956, in section 1, for the words "of Joint-Stock Companies", substitute the words "to be appointed by the State Government by notification in the Official Gazette, for carrying out the purposes of this Act."

*[Vide Punjab Act 31 of 1957, Central Act 31 of 1966]*

(ii) The Punjab Act has been applied to the Union territories of Delhi and Himachal Pradesh (now a State) vide G.S.Rs. 83 and 84, dated 16-1-1960.

*[Vide Gazette of India, 1960, Pt. II]*

Tamil Nadu : In section 1,—

(a) for the words "the Registrar of Joint-Stock Companies" , substitute "the Inspector-General of Registration (hereinafter in this Act referred to as the Inspector-General)";

(b) Insert the Explanation as follows:—

"*Explanation* : 'Inspector-General of Registration' means the Inspector-General of Registration appointed by the State Government under section 3 of the Indian Registration Act, 1908 (Central Act XVI of 1908), or any of the District Authorities subordinate to the Inspector-General

of Registration not below the rank of the District Registrar to whom powers may be delegated in respect of this Act."

*[Vide T.N. Act 24 of 1954, w.e.f. 1-9-1954]*

Uttar Pradesh : In section 1, for "Registrar of Joint-Stock Companies", substitute "Registrar".

*[Vide U.P. Act 25 of 1958, w.e.f. 25-8-1958]*

Goa, Daman and Diu : (i) Renumber the existing section 1 as section 1A, insert section 1 before section 1A as so renumbered:

"1. *Definitions*— In this Act, unless the context otherwise requires,—

- (a) "Inspector-General" means the Inspector-General of Registration appointed under section 3 of the Indian Registration Act, 1908 (Central Act 16 of 1908) and includes any of the District Authorities subordinate to the Inspector-General of Registration not below the rank of a District Registrar to whom powers may be delegated in respect of this Act;
- (b) "notification" means notification published in the Official Gazette;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "Registration of Societies Order" means the Registration of Societies Order, issued by the Lieutenant Governor of Goa, Daman and Diu under clause (2) of the Goa, Daman and Diu (Administration Removal of Difficulties) Order, 1962."

- (ii) In section 1A, substitute "the Inspector-General" for "the Registrar of Joint Stock Companies".

*[Vide Goa Act 6 of 1979, w.e.f. 18-10-1979]*

Pondicherry : In section 1, substitute "Registrar of Companies" for "Registrar of Joint-Stock Companies"

*[Vide Pondicherry Act 9 of 1969, w.e.f. 1-1-1971]*

#### Section 1A

Maharashtra : Insert following sections after existing section 1:

"1A. *Interpretation*—In this Act, unless there is anything repugnant to the subject or context, the expression 'Registrar' means the Registrar of Societies appointed under section 1B and includes other officers appointed under the said section to exercise the powers and to perform the duties and functions of the Registrar of Societies.

1B. *Registrar of Societies and Assistant Registrar*—(1) The State Government may, by notification in the Official Gazette, appoint a person, to be called the Registrar of Societies who shall exercise such powers and shall perform such duties and functions as are conferred by or under the provisions of this Act and shall, subject to such general or special orders as the State Government may make, superintend the administration and carry out the provisions of this Act throughout the State of Maharashtra.

(2) The State Government may also by like notification appoint persons to be called 'Assistant Registrars of Societies' for such areas as may be specified in the notification and empower them to exercise powers and to perform duties and functions under all or such provisions of this Act as may be specified in the notification."

*[Vide Bombay Act 76 of 1958, w.e.f. 7-10-1958]*

Orissa : Renumber the existing section 1 as section 1A, and in this renumbered section, substitute "Registrar of Societies" for "Registrar of Joint-Stock Companies".

*[Vide Orissa Act 21 of 1958, w.e.f. 1-1-1961]*

## 2. Memorandum of association

The memorandum of association shall contain the following things, that is to say,—  
 the name of the society;  
 the objects of the society;  
 the names, addresses and occupations 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 regulations 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.

### COMMENTS

Memorandum of Association is a document to be subscribed by seven or more persons associated for a lawful purpose; by subscribing which, and otherwise complying with the requisitions of the company's acts in respect of registration, they may form themselves into an incorporated company, with or without limited liability.—3 *Steph. Comm. 20*

Before registering a society he has to satisfy himself that the memorandum, as required by law, has been filed. In other words, the memorandum must purport to have been signed by at least seven persons and the copy of the rules and regulations of the society must, on the face of it bear the signature of not less than three of the members of the governing body.—*Shanti Sarup v. R.S. Sabha AIR 1969 All 248*. The rules and regulations accompanying in the memorandum amounts a contract amongst the members of the society and are required to be compulsorily registered but they have no statutory character.—*State Bank of India Staff Association v. Mohindra Bhattacharyya AIR 1991 Cal 378*

### STATE AMENDMENTS

Gujarat :

- (a) Renumber existing section 2 as sub-section (1) thereof and after the words "the name of the society", insert the following, namely:—  
 "the place of situation of the registered office of the society;  
 the addresses and occupations of the persons who have subscribed their names to the memorandum of association under section 1;"
- (b) Insert sub-sections (2) and (3) after sub-section (1):—  
 "(2) A society may, by a special resolution passed by a majority of not less than three-fifths of the total membership of the society, after its memorandum of association.  
 (3) The alteration of the memorandum of association shall not take effect until, and except insofar as, it is sanctioned by the Registrar who shall, before granting such sanction, satisfy himself that the alteration is not such as would have the effect of making the society ineligible for registration under this Act."

[Vide Gujarat Act 17 of 1978, w.e.f. 1-4-1978]

## 3. Registration and fees

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 as <sup>1</sup>[the State Government] may from time to time, direct, and all fees so paid shall be accounted for to <sup>1</sup>[the State Government].

<sup>1</sup> Substituted for "Provincial Government" by the Adaptation of Laws order, 1950.

COMMENTS

Normally the application for registration or its renewal is to be disposed of by the Registrar, but where the proposal goes beyond the purview of ss. 1 and 20, it should be decided by the State Government.—*Muzaffar Hussain v. Asst. Registrar 1978 All LJ 728*

Once the society is registered with the registrar, by the filing of the memorandum and certified copy of the rules and regulations and the Registrar, has certified that the society is registered under the Act, it enjoys the status of a legal entity apart from the members constituting the same, and is capable of suing or being sued.

What differentiates a society registered under the Act of 1860 from a company incorporated under the Companies Act is that in the latter case the shareholders of the company hold the properties of the company as their own whereas in the case of society registered under the Act of 1860, the member of the society or the members of the governing body do not have any proprietary or beneficial interest, in the property the society holds.

A 'society' registered under Societies Registration Act has separate juristic existence apart from its members, as society cannot be fluctuating body.—*Sathruppa Naicker v. Ramaswamy 1996 MLJR 501*

## STATE AMENDMENTS

Andhra Pradesh : In section 3, for the words "the Registrar" wherever they occur, substitute "the Inspector-General".

[*Vide President's Act 10 of 1954, w.e.f. 1-10-1954*]

Bihar : In section 3, for the word "Registrar" wherever it occurs, substitute the words "Inspector-General of Registration."

[*Vide Bihar Act 19 of 1956, w.r.e.f. 21-12-1955*]

Goa, Daman and Diu : In section 3,—

- (a) for the words "the Registrar shall certify", substitute the words "the Inspector-General shall subject to the provisions of section 3A, certify";
- (b) for the words "the Registrar for", substitute the words "the Inspector-General for".

[*Vide Goa Act 6 of 1979, w.e.f. 16-8-1979*]

Gujarat : (a) In section 3, insert the following proviso:

"PROVIDED that no such fee shall be payable for the registration of a society formed with the object of running an educational institution in any area in which, the Central Provinces and Berar Vidya Mandir Act, 1939, is in force, if the objects are similar to the objects of a Vidya Mandir Act, 1939, is in force, if the objects are similar to the objects of a Vidya Mandir established under Part I of that Act."

- (b) In section 3, for the words "the Registrar shall certify", substitute "the Registrar shall, subject to the provisions of section 3A, certify".

[*Vide Gujarat Act 17 of 1978, w.e.f. 1-4-1978*]

Himachal Pradesh : In section 3, insert the following proviso:—

"PROVIDED that the State Government may by notification in Official Gazette exempt any particular society or class of societies from the payment of registration fee."

[*Vide H.P Act 8 of 1965, w.e.f. 26-11-1965; Act 23 of 1973, w.e.f. 4-12-1973*]

Maharashtra :

- (a) In section 3, insert the following proviso:—

"PROVIDED that no such fee shall be payable for the registration of a society formed with the object of running an educational institution in any area in

which, the Central Provinces and Berar Vidya Mandir Act, 1939, is in force, if the objects are similar to the objects of a Vidya Mandir Act, 1939, is in force, if the objects are similar to the objects of a Vidya Mandir established under Part I of that Act."

- (b) In section 3, after the words, "the Registrar shall", insert "subject to the provisions of section 3A".

*[Vide Maharashtra Act 11 of 1968, w.e.f. 1-10-1968]*

Orissa : In section 3, for the word "Registrar", substitute "Registrar of Societies".

*[Vide Orissa Act 21 of 1958, w.e.f. 1-1-1961]*

Punjab, Haryana, Chandigarh : In its application to the State of Punjab, in section 3, insert the following proviso:—

"PROVIDED that in the case of society which had prior to the 15th August, 1947 been registered by the Registrar, Joint-Stock Companies at Lahore, the State Government may grant exemption from payment of the whole or any part of the registration fee."

*[Vide E.P. Act 32 of 1948, w.e.f. 12-11-1948; Central Act 31 of 1966]*

Tamil Nadu : In its application to the State of Madras, in section 3, substitute "the Inspector General" for the words "the Registrar".

*[Vide T.N. Act 24 of 1954, w.e.f. 1-9-1954]*

Uttar Pradesh : Substitute the existing section, as under:—

- "3. (1) Upon such memorandum and certified copy being filed along with particulars of the address of the Society as office which shall be in registered address, by the Secretary of the Society on behalf of the persons subscribing to the memorandum, 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 one thousand or such smaller fee as the State Government may notify in respect of any class of societies:

PROVIDED that the Registrar may in his discretion, issue public notice or issue notice to such persons as he thinks fit inviting objections, if any, against the proposed registration and consider all objections that may be received by him before registering the Society.

(2) Notwithstanding anything in sub-section (1), the Registrar shall refuse to register a society, if after giving it an opportunity of showing cause against such refusal, he is satisfied that—

- (a) the name of the society is identical with that of any other society previously registered under this Act;
- (b) the name of the society sought to be registered uses any of the words namely 'Union', 'State', 'Land Mortgage', 'Land Development', 'Co-operative', 'Gandhi', 'Reserve Bank' or any words expressing or implying the sanction, approval or patronage of the Central or any State Government or any word which suggests or is calculated to suggest any connection with any local authority or any corporation or body constituted by or under any law for the time being in force or is such as is otherwise likely to deceive the public or the members of any other society previously registered under this Act;
- (c) any one or more of the objects of the society sought to be registered is not an object mentioned in sections 1 and 20; or

(d) its objects are contrary to any other law for the time being in force:  
 PROVIDED that the State Government may, by notification in the Official Gazette, increase from time to time the fee payable under this sub-section:

PROVIDED FURTHER that the Registrar may, in his discretion, issue public notice or issue notices to such persons as he thinks fit inviting objections, if any, against the proposed registration and consider all objections that may be received by him before registering the society."

[Vide U.P. Acts 52 of 1975 (13 of 1978); (26 of 1979); (23 of 1994) and (8 of 2000), w.e.f. 25-11-1993]

#### Section 3A

Assam : Insert section 3A as under:—

"3A. *Name of Society*—(1) No society shall be registered under a name which is identical with or too nearly resembles, the name of any other society or any body corporate which has been previously registered or incorporated under this Act or any other law for the time being in force, as the case may be.

No society shall use in its nomenclature any of the words, namely:—

'Union', 'State', 'Land Mortgage', 'Gandhi', 'Reserve Bank' or any word expressing or implying the sanction, approval or patronage of Central or any State Government or any word which suggests or is calculated to suggest connection with any local authority or any corporation or body constituted by the Government under any law for the time being in force except when the State Government signifies its consent to the use of such words as part of the name of a society by order in writing."

[Vide Assam Act 13 of 1967, w.e.f. 18-8-1967]

Goa, Daman and Diu : Insert section 3A as under:

"3A. *Prohibition against registration of societies with undesirable names*—No society, shall be registered by a name which, in the opinion of the Inspector-General, is undesirable, being a name which is identical with, or which in the opinion of the Inspector-General so nearly resembles the name by which any other existing society has been previously registered as to be likely to deceive the public or members of either society, or which is being used without the previous permission of the Government concerned, and which suggests or is calculated to suggest the patronage of any Government or connection with any body constituted by any Government or local authority, or which may, subject to any rules made in this behalf, be deemed to be undesirable by the Inspector-General:

PROVIDED that no order shall be passed under section 3A unless the party against whom such order is proposed to be passed is heard on the matter."

[Vide Goa Act 6 of 1979, w.e.f. 18-10-1979]

Gujarat : Insert section 3A, as under:—

"3A. *Prohibition against registration of societies with undesirable names*—No society shall be registered by a name which, in the opinion of the Registrar, is undesirable, being a name which is identical with, or which in the opinion of the Registrar, so nearly resembles the name by which any other existing society has been previously registered, as to be likely to deceive the public or members of either society, or which, without the previous permission of

the Government concerned, suggests or is calculated to suggest the patronage of that Government or connection with any body constituted by that Government or any local authority, or which may, subject to any rules made in this behalf, be deemed to be undesirable by the Registrar."

[Vide Gujarat Act 17 of 1978, w.e.f. 1-4-1978]

Maharashtra : Insert section 3A as under:—

"3A. *Prohibition against registration of societies with undesirable names*—No society shall be registered by a name which, in the opinion of the Registrar is undesirable, being a name which is identical with, or which in the opinion of the Registrar so nearly resembles the name by which any other existing society has been previously registered, as to be likely to deceive the public or members of either society, or which, without the previous permission of the Government concerned, suggests or is calculated to suggest the patronage of that Government or connection with any body constituted by that Government or any local authority, or which may, subject of any rules made in this behalf, be deemed to be undesirable by the Registrar."

[Vide Maharashtra Act 11 of 1968, w.e.f. 1-10-1968]

Uttar Pradesh : Insert section 3A as under:—

"3A. *Renewal of certificate of registration*—(1) Subject to the provision of sub-section (2), a certificate of registration issued under section 3 shall remain in force for a period of two years from the date of issue:

PROVIDED that a certificate issued before the commencement of the Societies Registration (Uttar Pradesh Amendment) Act, 1984 (hereinafter in this section referred to as the said Act), shall remain in force for a period of five years from the date of such commencement on payment of the difference of the fees specified under sub-section (3) and the fees already paid.

(2) A society registered under section 3, whether before or after the commencement of the said Act, shall, on application made to the Registrar within one month of the expiration of the period referred to in sub-section (1) and on payment of fee specified in sub-section (3), be entitled to have its certificate of registration renewed for five years at a time:

PROVIDED that in the case of a society registered before the commencement of the Act, the Registrar shall refuse to renew the certificate of registration if after giving it, an opportunity of showing cause against such refusal, he is satisfied that any of the grounds mentioned in sub-section (2) of section 3 exist in respect thereof.

(3) There shall be paid to the Registrar with every application for renewal of the certificate of registration—

(a) a fee equal to the registration fee payable under section 3 or rupees two hundred, whichever is less, if such application is filed within the period specified in sub-section (2):

PROVIDED that the State Government may, by notification in the Official Gazette, increase from time to time the fee payable under this clause subject to the condition that the fee so increased shall not exceed the registration fee payable under section 3;

(b) an additional fee of forty rupees or such higher fee not exceeding one-fifth of the fee payable under clause (a) as may be notified by the

State Government, if such application is filed within one month of the date of expiration of the period specified in sub-section (2); and

- (c) an additional fee at the rate of twenty rupees per month or part thereof, or such higher additional fee per month not exceeding half of the additional fee payable under clause (b) as may be notified by the State Government, if such application is filed beyond one month of the expiration of the period specified in sub-section (2).

(4) Every application for renewal of the certificate shall be accompanied by a list of members of the managing body elected after the registration of the society or after the renewal of certificate of registration and also the certificate sought to be renewed unless dispensed with by the Registrar on the ground of its loss or destruction or other sufficient cause.

(5) A society which fails to get its certificate of registration renewed in accordance with this section within one year from the expiration of the period for which the certificate was operative shall become an unregistered society:

PROVIDED that the Registrar may, for sufficient cause, allow an application for renewal more than one year after the expiration of the period for which the certificate was operative on payment of a fee of four hundred rupees or such higher fee not exceeding ten times of the additional fee payable under clause (b) of sub-section (3) as may be notified by the State Government from time to time.

(6) Where a certificate of registration is renewed in accordance with sub-section (2) or sub-section (5), such renewal shall operate from the date of expiration of the period for which the certificate was operative."

[Vide U.P. Act 52 of 1975, w.e.f. 10-10-1975; 13 of 1978, w.r.e.f. 27-2-1978; 11 of 1984, w.e.f. 30-11-1984, 23 of 1994 and 8 of 2000, w.r.e.f. 25-11-1999]

#### Section 3B

Insert section 3B as under:—

"3B. *Reference to the State Government*—If any question arises whether any society is entitled to get itself registered in accordance with section 3 or to get its certificate of registration renewed in accordance with section 3A, the matter shall be referred to the State Government and the decision of the State Government thereon shall be final."

[Vide U.P. Act 26 of 1979, w.e.f. 16-7-1979]

#### 4. Annual list of managing body to be filed

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, 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.

#### COMMENTS

The Societies Registration Act, therefore, does not create in the members of the registered society any interest other than, that of bare trustees. What all members are entitled to, is the right of management of the properties of the society subject to certain conditions.—*Pamulapati Buchi Naidu College Committee, Nidubrolu v. Government of AP AIR 1958 AP 773*. The Registrar deals only with such matters as may arise in the context of submission of the annual list of the managing body.—*All India Council v. Asstt. Registrar, Firms, Societies & Chits, Varanasi AIR 1988 All 236*

## STATE AMENDMENTS

## Section 4

Andhra Pradesh : For the words "the Registrar of Joint-Stock Companies", substitute "the Inspector-General of Registration".

*[Vide President's Act 10 of 1954, w.e.f. 1-10-1954]*

Assam, Manipur, Tripura : In its application to the State of Assam, for the words "Registrar of Joint-Stock Companies", substitute "Registrar of Societies".

*[Vide Assam Act 7 of 1957, w.e.f. 17-7-1957 and G.S.Rs. 85 and 86 of 1960]*

Bihar : For the words "Registrar of Joint-Stock Companies", substitute "Inspector-General of Registration".

*[Vide Bihar Act 19 of 1956, w.r.e.f. 21-12-1955]*

Goa, Daman and Diu : For the words "Registrar of Joint-Stock Companies", substitute "the Inspector-General".

*[Vide Goa Act 6 of 1979, w.e.f. 18-10-1979]*

Maharashtra : In its application to the whole of the State of Bombay, omit the words "of Joint-Stock Companies".

*[Vide Bombay Act 11 of 1956, w.e.f. 1-7-1956 and Act 76 of 1958, w.e.f. 7-10-1958]*

Orissa : For the words "Registrar of Joint-Stock Companies", substitute "Registrar of Societies".

*[Vide Orissa Act 21 of 1958, w.e.f. 1-1-1961]*

Punjab, Haryana, Chandigarh, Delhi, Himachal Pradesh : In its application to the State of Punjab—

(a) Insert the following words, namely:—

"If a society makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding fifty rupees."

*[Vide E.P. Act 6 of 1949, w.e.f. 8-2-1949; Central Act 31 of 1966]*

(b) Omit the words "of Joint-Stock Companies".

*[Vide Punjab Act 31 of 1957, Chandigarh Act 31 of 1966 and G.S.Rs. 83 and 84 of 1960]*

Tamil Nadu : For the words "the Registrar of Joint-Stock Companies", substitute "the Inspector-General of Registration".

*[Vide T.N. Act 24 of 1954, w.e.f. 1-9-1954]*

Uttar Pradesh : For the words "Registrar of Joint-Stock Companies", substitute "Registrar".

*[Vide U.P. Act 25 of 1958, w.e.f. 25-8-1958]*

(a) Renumber existing section 4 as sub-section (1) thereof, and after sub-section (1) as so renumbered, insert the following sub-section, namely:—

"(2) Together with list mentioned in sub-section (1), there shall be sent to the Registrar a copy of the memorandum of association including any alteration, extension or abridgement of purposes made under section 12, and of the rules of the society corrected up to date and certified by not less than three of the members of the said governing body to be a correct copy and also a copy of the balance-sheet for the preceding year of account."

*[Vide U.P. Act 52 of 1975, w.e.f. 10-10-1975]*

(b) Insert the following proviso in sub-section (1), as so renumbered:—

"PROVIDED that if the managing body is elected after the last submission of the list, the counter signature of the old members, shall as far as possible,

be obtained on the list. If the old office bearers do not counter-sign the list, the Registrar may at his discretion, issue a public notice to such persons as he thinks fit inviting objections within a specified period and shall decide all objections received within the said period."

*[Vide U.P. Act 11 of 1984, w.e.f. 30-4-1984]*

#### Section 4A

Assam : In its application to the State of Assam, insert section 4A as under:—

"4A. *Changes in managing body and rules to be filed*—(1) Together with the list mentioned in section 4, there shall be sent to the Registrar of Societies a statement showing changes during the year to which the list relates in the personnel of the governors, council, directors, committee or other governing body to whom the management of the affairs of the society is entrusted and also a copy of the rules of the society corrected up-to-date and certified to be a correct copy by not less than three of the members of the governing body.

(2) A copy of every alteration made in the rules of the society, certified to be a correct copy by not less than three members of the governing body, shall be sent to the Registrar of Societies within fifteen days of the making of such alteration."

*[Vide Assam Act 11 of 1952, w.e.f. 15-10-1952, Act 7 of 1957, w.e.f. 17-7-1957]*

Insert section 4B as under:

"4B. *Balance-sheet and auditor's report to be forwarded to Registrar*—(1) Within thirty days after the holding of every annual general meeting there shall be filed with the Registrar of Societies a copy each of the balance-sheet and auditor's report certified by the auditor under sub-section (2) of section 5A.

(2) If the President, Secretary or any other person authorised in this behalf by a resolution of the governing body of the society fails to comply with the provisions of sub-section (1), he shall be punishable with fine which may extend to five hundred rupees."

*[Vide Assam Act 13 of 1967, w.e.f. 18-8-1967]*

Bihar : Insertion of section 4A is the same as that of Assam:—

In section 4A of the Act,—

- (i) for the words "Registrar of Societies", wherever they occur, substitute the word "Inspector-General of Registration";
- (ii) for the words "showing changes" substitute "showing all changes";
- (iii) in sub-section (2), for the words "than three members", substitute "than three of the members".

*[Vide Bihar Act 4 of 1951, w.e.f. 7-3-1951; Act 19 of 1956, w.r.e.f. 21-12-1955]*

Goa, Daman and Diu : Insert section 4A as under:—

"4A. *Power of Inspector-General to call for information or returns from governing body of society and provisions relating thereto*—(1) The Inspector-General may serve or cause to be served, on the governing body entrusted with the management of the affairs of any society registered under this Act, a notice requiring it to furnish in such manner as may be prescribed, information or returns relating to persons employed by the society, their conditions of employment (including their emoluments, any contributions, concessions or other benefits and amenities provided for employees) and such other matters relating thereto, as may be prescribed.

(2) The form in which such information or returns shall be furnished, the particulars which they shall contain and the intervals (if any) in which such information or returns shall be furnished, shall be such as may be prescribed.

(3) The notice referred to in sub-section (1) may be served by post.

(4) No information or returns collected for the purposes of this section, shall, without the previous consent in writing of the society in relation to which the information or returns was given or made, be published in such manner as would enable any particular to be identified as referring to a particular society.

(5) Except for the purposes of a prosecution under section 11A or under the Indian Penal Code (Central Act 45 of 1860), no person other than the Inspector General or any person duly specified by him in this behalf, shall be permitted to see any information or returns furnished as aforesaid.

(6) No suit or other legal proceeding shall lie against the Inspector-General or any person acting under the authority of the Inspector-General in respect of anything in good faith done or intended to be done in pursuance of this section."

*[Vide Goa Act 6 of 1979, w.e.f. 18-10-1979]*

Gujarat : Insert section 4A as under:—

"4A. *Changes in managing body and rules to be filed*—(1) Together with the list mentioned in section 4, there shall be sent to the Registrar a statement showing changes during the year to which the list relates in the personnel, of Governors, Councils, Directors, Committee or other governing body to whom the management of the affairs of the society is entrusted and also a copy of the rules of the society corrected up-to-date and certified to be corrected copy by not less than three of the members of the governing body.

(2) A copy of every alteration made in rules of the society certified to be a correct copy by not less than three members of the governing body shall be sent to the Registrar within thirty days of the making of such alteration."

*[Vide Gujarat Act 14 of 1965, w.e.f. 1-5-1966]*

Insert section 4B after section 4A as under:

"4B. *Power of Registrar to call for information or returns from governing body of society and provisions relating thereto*—(1) The Registrar may serve, or cause to be served, on the authorised officer of any society registered under this Act, a notice requiring him to furnish in such manner as may be prescribed by rules, information or return relating to persons employed by the society, their conditions of employment (including their emoluments, any contributions, concessions or other benefits and amenities provided for employees and matters relating thereto, as may be prescribed by such rules and the authorised officer of the society on whom, such notice is served, shall be bound to comply with the requirement stated therein.

(2) The form in which such information or returns shall be furnished, the particulars which they shall contain and the intervals (if any) at which such information or returns shall be furnished shall be such as may be prescribed by rules.

(3) The notice referred to in sub-section (1) may be served by post.

(4) No information or return collected for the purposes of this section shall, without the previous consent in writing of the society in relation to which the information or return was given or made, be published in such manner

as would enable any particulars to be identified as referring to a particular society.

(5) Except for the purposes of a prosecution for an offence under section 11A or under the Indian Penal Code, no person other than the Registrar or any person duly authorised by him in this behalf, shall be permitted to see or to have access to any information or return furnished as aforesaid.

(6) No suit or other legal proceeding shall lie against the Registrar or any person acting under the authority of the Registrar in respect of anything in good faith done or intended to be done in pursuance of this section.

*Explanation :* In this section, "authorised officer", in relation to any society means, such officer or employee of the society as may be authorised for the purposes of this section, by the rules and regulation of the society and in default of such authorisation by rules and regulation by a resolution in writing by the society, and shall include,—

- (i) where any officer or employee so authorised is unable to perform his duties by reason of absence due to leave or any other cause or any other officer or employee of the society who is in charge of the duties of the officer or employee so authorised during his absence, and
- (ii) where no such officer or employee has been so authorised any member of the governing body of the society."

[Vide Gujarat Act 17 of 1978, w.e.f. 1-4-1978]

Maharashtra : Insert section 4A as under:—

*"4A. Power of Registrar to call for information or return from governing body of society and provisions relating thereto—*(1) The Registrar may serve or cause to be served, on the governing body entrusted with the management of the affairs of any society registered under this Act, a notice requiring to furnish in such manner as may be prescribed by rules, information or returns relating to persons employed by the society, their conditions of employment (including their emoluments, any contribution, concessions or other benefits and amenities provided for employees) and matters relating thereto, as may be prescribed by rules.

(2) The forms in which such information or return should be furnished, the particulars which they should contain and the intervals (if any) in which such information or returns should be furnished, shall be such as may be prescribed by such rules.

(3) The notice referred to in sub-section (1) may be served by post.

(4) No information or return collected for the purposes of this section shall, without the previous consent in writing of the society in relation to which the information or return was given or made, be published in such manner as would enable any particulars to be identified as referring to a particular society.

(5) Except for the purposes of a prosecution under section 11A or under the Indian Penal Code, no person other than the Registrar or any person duly specified by him in this behalf, shall be permitted to see any information or return furnished as aforesaid.

(6) No suit or other legal proceedings shall lie against the Registrar or any person acting under the authority of the Registrar in respect of anything in good faith done or intended to be done in pursuance of this section."

[Vide Maharashtra Act 11 of 1968, w.e.f. 1-1-1968]

Orissa : After section 4, insert the following sections, namely:—

"4A. *Changes in the list mentioned in section 4 and rules to be filed*—(1) Without prejudice to the provisions of section 4 and change in personnel on the list filed under said section occurring during the year to which such list relates shall be intimated to the Registrar of Societies within two months of the making of such changes.

(2) A copy of every alteration made in the rules and regulation of the society, certified to be a correct copy by not less than three of the Governors, Directors or members of governing body, as the case may be, shall be sent to the Registrar of Societies within two months of such alteration.

4B. *Persons by whom lists, etc., are to be sent*—It shall be the duty—

(a) of the Chairman or, as the case may be, the President, the Secretary or any other person authorised in that behalf by the rules and regulations of the society or by a resolution of the governing body of the society; or

(b) of the Chairman, or, as the case may be, the President of the governing body of the society where there is no such authorisation,

to file the list mentioned in section 4 or to send the intimation, or, as the case may be, the copy mentioned in section 4A to the Registrar of Societies.

4C. *Offence*—(1) If any person who is required so to do under the preceding section fails without reasonable cause to comply with the provisions thereof, he shall, on conviction, be punishable with fine which may extend to one hundred rupees.

(2) If any person willfully makes or causes to be made any false entry or alteration in, or any omission from, the list filed under section 4 or any statement or copy of rules and regulations sent to the Registrar of Societies under section 4A, he shall, on conviction, be punishable with fine which may extend to five hundred rupees."

[Vide Orissa Act 8 of 1969, w.e.f. 15-4-1969]

Pondicherry :

(a) In section 4, for the words "Registrar of Joint-Stock Companies", substitute "Registrar of Companies".

(b) Insert section 4A as under:—

"4A. *Filing of Annual Accounts*—(1) A copy of the balance-sheet together with a statement of receipts and expenditure duly certified by at least two members of the governing body and audited by a person who has been granted a certificate by the Government under the Chartered Accountants Act, 1949 or by a special auditor approved by the Government shall also be filed with the Registrar of Companies, at the same time as required by section 4.

(2) A filing fee of Rs. 3 each shall be paid along with the list and the balance-sheet and copy of alteration to rules respectively referred to in section 4 and sub-sections (1) and (6) of section 4A. The said fee may be paid either by cash or crediting the amount to Government Treasury and by attaching the duplicate challan to the documents.

(3) All societies registered under this Act shall hold every year a general meeting at which the report of the management of the institution for the previous year, together with the audited copy of the balance-sheet, receipts and expenditure statement and the auditor's report shall be submitted for approval.

(4) A special meeting may be convened at any time on requisition of the President or the Chairman of the Executive Committee, if any, or on the requisition of not less than three members of the Executive Committee or seven members of the general body of the society, who shall state in writing the business for which they wish the meeting to be convened. The Secretary shall convene a meeting of the society before the lapse at ten days from the date of receipt of the requisition.

(5) If a member has no registered address in the Union territory and has not furnished to the society an address within the Union territory for serving notice to him, a notice advertised in two newspapers (one in English and the other in any of the vernacular languages) circulating in the neighbourhood of registered office of the society shall be deemed to be duly given to him on the day on which the advertisement appears.

(6) A copy of every alteration made in the rules and regulations of the society, certified to be a correct copy in the manner prescribed as aforesaid shall be sent to the Registrar within fifteen days of making of such alterations.

(7) If the society makes default in complying with the requirements of sections 4 and 4A, it shall be liable to a fine not exceeding fifty rupees."

[Vide Pondicherry Act 9 of 1969, w.e.f. 1-1-1970]

Uttar Pradesh : Insert section 4A as under:—

"4A. Changes etc., in rules to be intimated to Registrar—A copy of every change made in rules of the society and intimation of every change of address of the society, certified by not less than three of the members of the governing body shall be sent to the Registrar within thirty days of the change."

[Vide U.P. Act 52 of 1975, w.e.f. 10-10-1975]

##### 5. Property of society how vested

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 for their proper title.

##### COMMENTS

Property which belonged to an unregistered society continues after the change in status of that society on being registered, as belonging to the registered society.—*Hrinarayan v. Gobardhan Das AIR 1953 Cal 140*. On registration of a society, no interest is created in the members thereof other than that of mere trustees.—*Pumulapati Buchi Naidu College Committee, Nidubrolu v. Govt. of Andhra Pradesh AIR 1958 AP 773*

The property, movable and immovable belonging to a society registered under this Act, if any, 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.—*C.E. Goswami v. Panchayat 1986 All LJ 1346*. The right of the members over the property of a registered society is not personal but merely of

management over it in the capacity analogous to that of trustees.—*Pamulapati Buchi Naidu College Committee, Nidubrolu v. Government of Andhra Pradesh AIR 1958 AP 773*

## STATE AMENDMENTS

## Section 5

Bihar : For the words "civil and criminal", substitute "civil, criminal and revenue".

[*Vide Bihar Act 2 of 1960, w.e.f. 8-2-1960*]

## Section 5A

Assam : Insert section 5A as under:—

"5A. *Books of account and audit*—(1) Every society shall keep at its registered office proper books of account in which shall be entered accurately—

- (a) all sums of money received and the source thereof and all sums of money expended by the society and the object or purpose for which such sums are expended,
- (b) the assets and liabilities of the society.

(2) Every society shall have its account audited once every year by a duly qualified auditor and have a balance-sheet prepared by him. The auditor shall also submit a report showing the exact state of the financial affairs of the society. Three copies of the balance-sheet and the auditor's report shall be certified by the auditor.

*Explanation* : A duly qualified auditor means a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 or a person approved by the Registrar of Societies in this behalf.

(3) If the President, Secretary or any other person authorised in this behalf by a resolution of the governing body of the society fails to comply with the provisions of sub-section (1) or sub-section (2), he shall be punishable with fine which may extend to twenty rupees for every day after the detection of the default during which the default continues."

[*Vide Assam Act 13 of 1967, w.e.f. 18-8-1967*]

Uttar Pradesh : Insert section 5A as under:—

"5A. *Restriction on transfer of property*—(1) Notwithstanding anything contained in any law, contract or other instrument to the contrary, it shall not be lawful for the governing body of a society registered under this Act or any of its members to transfer without the previous approval of the court, any immovable property belonging to such society.

(2) Every transfer made in contravention of sub-section (1) shall be void.

*Explanation I* : The word 'court' shall have the meaning assigned to it in section 13.

*Explanation II* : The expression 'transfer' shall, for the purposes of this section mean—

- (a) a mortgage, charge, sale gift, of exchange;
- (b) lease for a term exceeding five years; or
- (c) "irrevocable licence."

[*Vide U.P. Act 26 of 1979, w.e.f. 16-7-1979*]

## 6. Suits by and against societies

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:

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.

#### COMMENTS

A society registered under the Act being a separate legal entity, can sue and be sued in its own name, it can own property and employ its own servants. Therefore, the governing body of a registered society is competent to delegate the power to institute or defend a suit to the office bearers or trustees or any of them.—*K.C. Thomas v. R.L. Gadeock AIR 1970 Pat 163*

Under the proviso to s. 6 if on application to the governing body some other officer or person be not nominated to be the defendant, the president or chairman, or principal secretary or the trustees thereof can be used. These suits are therefore clearly maintainable because admittedly the plaintiffs have given notice to the Managing Committee to nominate a person or persons on its behalf for the suit to be defended, but no reply was given.—*Potti Swami & Bros. v. Govindarajulu, AIR 1960 AP 605*. The position of the members of a registered society is similar to that of shareholders of a company and in regard to a wrong complained of in respect of a society, redress can be sought only on behalf of the society. Therefore, it is not open to a member to lay an action as representing the society, but only an accredited representative of this society can bring such action in its name.—*Neelakanteswera Rao v. Raghavendra Rao AIR 1963 AP 20*

A registered society is not a corporation but is more like a joint stock company or a club.—*Sakharkedra Education Society v. State of Maharashtra AIR 1968 Bom 91*. It can sue or be sued in the name of the president, chairman, or principal secretary, or trustee, 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.—*Potti Swami & Bros. v. Govindarajulu AIR 1960 AP 605*

#### **7. Suits not to abate**

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 whereof 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.

#### COMMENTS

##### *Abatement*

Abatement signifies, in its proper sense, to diminish or take away and so it is said, to abate an account or a man's courage.—*Stroud's Judicial Dictionary*. According to Wharton's Law Lexicon, 'abate' means to prostrate, break down, remove or destroy; also to let down or cheapen the price in buying or selling. In Webster's Ninth New Collegiate Dictionary, "abate" means to put an end to; nullify (as a nuisance); to reduce in degree or intensity; diminish; to reduce in value; deduct, omit. Abate means to throw down, to beat down, destroy, quash. It means to do away with or nullify or lessen or diminish.—*Black's Law Dictionary*. According to Osborne and Grandage's Commercial Dictionary, the act of the abator signifies sometimes the result of the act to the thing abated. It is a proportionate decrease, deduction or allowance, e.g., discount for prompt payment. Where a fund is insufficient to meet all claims, there is a proportionate reduction of payments known as abatement of debts. In regard to purchase money, there is abatement or reduction by way of compensation, when a vendor has misdescribed property and is unable to convey it as described. As used in reference to actions at law, word abate means that action is utterly dead and cannot be revived except by commencing a new action.

Under O. 22, r. 1 of the Code of Civil Procedure, the death of a plaintiff, or defendant shall not cause the suit to abate, if the right to sue survives. Under O. 22, rr. 3 and 4, on the death of one of several plaintiffs or defendants no application for causing the legal representative of the deceased to be made a party is made within the time limited by law, the suit shall abate so far as the deceased plaintiff or defendant is concerned. Rule 6 says that there shall be no abatement by reason of the death of either party between the conclusion of the hearing and the pronouncing of the judgment. Under r. 8, insolvency of a plaintiff shall not cause the suit to abate unless the assignee or receiver declines to continue the suit or (unless for any special reason the court otherwise directs) to give security for the costs thereof within such time as the court may direct. Where a suit abates, no fresh suit shall be brought on the same cause of action.—*Vide r. 9*

*Proceedings*: Proceeding, in a general sense, is the form and manner of conducting judicial business before a court or judicial officer; regular and orderly progress in form of law; including all possible steps in an action from its commencement to the execution of judgment. In a more particular sense, any application to a court of justice, however, made, for aid in the enforcement of rights, for relief, for redress of injuries, for damages, or for any remedial object.—*Black's Law Dictionary*. It is a very wide and a comprehensive term and includes even a part of a suit or a part of an appeal or part of any other action taken in a court of law or before any other authority on whom jurisdiction is conferred by law to dispose of the matter in accordance with justice.—*Ghulam Mohammad Arm v. Gh. Hasan Arm 1979 LJ 354*

#### **8. Enforcement of judgment against society**

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.

The application for execution shall set forth the judgement, 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 judgement enforced against the property of the society.

#### STATE AMENDMENT

##### Section 8

Bihar : Insert the words "or decree" after the word "judgment" wherever it occurs.  
[*Vide Bihar Act 20 of 1960, w.e.f. 3-2-1960*]

#### **9. Recovery of penalty accruing under bye-law**

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-laws 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 thereof shall deem expedient.

#### **10. Members liable to be sued as strangers**

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 the property in the manner hereinbefore provided.

*Recovery by successful defendant of costs adjudged* : 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.

#### 11. Members guilty of offences punishable as strangers

Any member of the society who shall steal, purloin, or embezzle any money or other property, or wilfully, 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.

#### STATE AMENDMENTS

##### Sections 11

Goa, Daman and Diu : After existing section 11, insert sections 11A, 11B and 11C as under:—

"11A. *Penalty for contravening section 4A*—If the governing body entrusted with the management of the affairs of any society registered under this Act required to furnish any information or returns—

- (i) wilfully refuses or without lawful excuse neglects to furnish such information or returns as may be required under section 4A; or
- (ii) wilfully furnishes or causes to be furnished any information or returns which it knows to be false; or
- (iii) refuses to answer or, wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under section 4A,

such governing body shall, for each such offence on conviction, be punished with fine which may extend to fifty rupees.

11B. *Penalty for improper disclosure or information or return*—If the Inspector-General or any person duly authorised by him in connection with the collection of any information or returns under this Act wilfully discloses any information or contents of any returns given or made under this Act otherwise than in the execution of his duties under this Act or for the purpose of prosecution, of an offence under this Act or the Indian Penal Code (Central Act 45 of 1860), he shall, on conviction, be punished for such offence with fine which may extend to two hundred rupees.

11C. *Cognizance of offences*—No prosecution for an offence under section 11A shall be instituted, except by, or with the sanction of, the Inspector-General, and no prosecution for an offence under section 11B shall be instituted except by, or with the consent of, the Government."

[Vide Goa Act 6 of 1979, w.e.f. 18-10-1979]

Gujarat : After existing section 11, insert following sections:—

"11A. *Penalty for contravening section 4B*—If any authorised officer of a society who is required to furnish any information or return under sub-section (1) of section 4B—

- (i) wilfully refuses or without lawful excuse neglects to furnish such information or return as may be required under section 4B; or

- (ii) wilfully furnishes or causes to be furnished any information or returns which he knows to be false; or
- (iii) refuses to answer or, wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under section 4B,

such authorised officer shall, on conviction be punished for each such offence with fine which may extend to two hundred rupees.

11B. *Penalty for improper disclosure of information or return*—If the Registrar or any person duly authorised by him in connection with the collection of any information or returns under this Act wilfully discloses any information or contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or under the Indian Penal Code, he shall, on conviction, be punished for such offence with fine which may extend to two hundred rupees.

11C. *Sanction for prosecution*—No prosecution for an offence under section 11A shall be instituted, except by, or with the sanction of, the Registrar, and no prosecution for an offence under section 11B shall be instituted except by, or with the consent of, the State Government."

[Vide Gujarat Act 17 of 1978, w.e.f. 1-4-1978]

Maharashtra : After existing section 11, insert following sections:—

"11A. *Penalty for contravening section 4A*—If the governing body entrusted with the management of the affairs of any society registered under this Act required to furnish any information or return—

- (i) wilfully refuses or without lawful excuse neglects to furnish such information or returns as may be required under section 4A; or
- (ii) wilfully furnishes or causes to be furnished any information or return which it knows to be false; or
- (iii) refuses to answer or, wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under section 4A,

such governing body shall, for each offence on conviction, be punished with fine which may extend to fifty rupees.

11B. *Penalty for improper disclosure of information or return*—If the Registrar or any person duly authorised by him in connection with the collection of any information or return under this Act wilfully discloses any information or contents of any returns given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of prosecution, of an offence under this Act or the Indian Penal Code, he shall, on conviction, be punished for such offence with fine which may extend to two hundred rupees.

11C. *Cognizance of offences*—No prosecution for an offence under section 11A shall be instituted, except by, or with the sanction of, the Registrar, and prosecution for an offence under section 11B shall be instituted except by, or with the consent of, the State Government."

[Vide Maharashtra Act 11 of 1968, w.e.f. 1-10-1968]

## 12. Societies enabled to alter, extend or abridge their purposes

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