

Andhra Pradesh Societies Registration Act, 2001

ANDHRA PRADESH

India

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Act 35 of 2001

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Andhra Pradesh Societies Registration Act, 2001(Act No. 35 of 2001)Statement of objects and reasons.-At present, the law relating to the Societies and their registration, is governed by the Societies Registration Act, 1860 (Central Act 21 of 1860) in the Andhra Area of the State of Andhra Pradesh and by the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 Fasli (Act 1 of 1350 Fasli) in the Telangana Area of the State of Andhra Pradesh. The said Acts are found to be not exhaustive in certain material aspects. In order to have comprehensive law and to secure uniformity in the laws applicable throughout the State, it is proposed to have single and comprehensive legislation in this behalf applicable to the entire State by repealing the Societies Registration Act, 1860 in its application to the Andhra Area of the State of Andhra Pradesh and the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350F.The Andhra Pradesh Societies Registration Bill, 1999 has been introduced in the Legislative Assembly of the State on 23rd March, 1999 as L.A. Bill No. 4 of 1999 and the same has lapsed due to dissolution of the Tenth Legislative Assembly. It is, therefore, decided to reintroduce the same Legislation.This Bill seeks to give effect to the above decisionsBe it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-second Year of the Republic of India as follows:Received the assent of the Governor on the 9th October, 2001 and the said assent is hereby first published on the 10th October, 2001 in the Andhra Pradesh Gazette, Part IV-B (Ext.).An Act to consolidate and Amend the law relating to the registration of Societies situated in Andhra Pradesh promoting Art, Fine Arts, Charity, Crafts, Religion, Sport, Literature, Culture, Science, Philosophy, Political Education or any public purpose and for matters connected therewith or incidental thereto.

Chapter I Preliminary

1. Short title, extent and commencement:

(1)This Act may be called the Andhra Pradesh Societies Registration Act, 2001.(2)It extends to the

whole of the State of Andhra Pradesh.(3)It shall come into force on such date [as the Government may, by notification, in the Andhra Pradesh Gazette, appoint] [10 December, 2001, vide G.O.Ms. No. 742, Revenue (R and M), Dated 10.12.2001.].

2. Definitions:

- In this Act, unless the context otherwise requires, (a)'Alter' and 'alteration' shall include the making of additions and supplying of Commissions;(b)'Bye-laws' means the bye-laws of a society;(c)'Committee' means the executive committee appointed under Section 14 or any person or body of persons to whom the management of the affairs of a society is entrusted by its bye-laws;(d)'Court' means in the cities of Hyderabad and Secunderabad, the City Civil Court, and elsewhere, the Principal Civil Court of original jurisdiction;(e)'Document' includes summons, notice, requisition, order, or other legal process, and registers, whether issued, sent or kept in pursuance of the provisions of this Act or of any other laws or otherwise;(f)'Financial Year' means the period of twelve months for which the accounts of a society are required to be made up by the bye-laws and if the bye-laws do not so provide, the period of twelve months ending with the 31st March of each year;(g)'Government' means the State Government of Andhra Pradesh;(h)'Member' means a person, individual or body corporate, who/ which, having been admitted to membership in any society has not resigned or ceased to be a member, or been removed from membership, in accordance with the bye-laws of that society;(i)'Memorandum' means the memorandum of association of a society as originally framed or as altered, from time to time, in pursuance of the provisions of this Act or the Societies Registration Act, 1860 (Central Act 21 of 1860) or the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350 Fasli (Act 1 of 1350F) as the case may be;(j)'Notification' means a notification published in the Andhra Pradesh Gazette and the word notified shall be construed accordingly;(k)'Officer' includes any director, manager, treasurer, trustee, secretary, member of the Committee, or any person appointed by a society to sue and be sued on its behalf and any other person empowered under the rules or the bye-laws to give directions in regard to the business of a society;(l)'Registrar' means an officer of the Registration Department, not below the rank of Sub-Registrar as may be specifically empowered by the Government to exercise the powers of a Registrar under this Act;(m)'Registrar General' means the Inspector General of Registration, appointed by the Government under Section 3 of the Registration Act, 1908 (Central Act 16 of 1908) ;(n)'Society' means a society registered or deemed to be registered under this Act; and(o)'Special Resolution' means, resolution passed by a majority of the total members of the society and not less than three-fifths of the members present and voting in a meeting, of which not less than fourteen clear days notice, exclusive of the date of dispatch of the notice and the date of meeting, specifying the intention to propose the resolution as special resolution, has been duly given.

Chapter II

Registration of Societies

3. Societies which may be registered under this Act:

(1) Any seven or more persons forming a society which has for its object the promotion of art, fine art, charity, crafts, religion, sports (excluding games of chance), literature, culture, science, political education, philosophy or diffusion of any knowledge or any public purpose may be registered under this Act. (2) No society of which a firm, whether registered or not or an unincorporated association of individuals is a member shall be registered under this Act. (3) Nothing contained in sub-section (2) shall preclude the registration under this Act of a society on the ground that a partner as defined in Section 4 of the Indian Partnership Act, 1932, (Central Act 9 of 1932) or a member of an unincorporated Association of individuals is, in his individual capacity, a member of the society.

4. Memorandum of Association of society, and Bye-laws to be filed with Registrar:

- (I) For the purposes of registration of a society there shall be filed with the Registrar of the district in which the registered office of the society is to be situated, (a) a memorandum of association of the society which shall state, (i) the name of the society; (ii) the aims and objects of the society; (iii) the names, addresses and occupations of the members of the committee; and (b) the bye-laws of the society. (2) The memorandum of association shall be signed by at least seven members who are majors and who shall add their addresses, description and occupation if any, in the presence of at least two witnesses who shall also be majors and who shall attest with their signatures and add their addresses, description and occupation, if any and the bye-laws shall be signed by the signatories to the memorandum of association.

5. Contents of bye-laws of societies:

- The bye-laws of a society shall contain provisions in respect of following matters: (i) identity of the society which includes name and address particulars of the society; (ii) activities of the society; (iii) membership of the society i.e., eligibility, admission, withdrawal and termination etc.; (iv) General body which contains the manner of meetings to be held or convened, quorum, functions and responsibilities etc.; (v) office bearers and their appointment/election/removal/recall and their responsibilities etc.; (vi) finances which includes types of funds to be raised, appointment of auditors, liability of members for discharge of debts etc.; and (vii) other matters which cover the internal matters of settlement of internal disputes, dissolution of the society etc.

6. Societies not to be registered with undesirable names:

(1) No society shall be registered by a name which contravenes the provisions of the Emblems and Names (Prevention of the Improper use) Act, 1950 (Central Act 12 of 1950). (2) (a) No society shall be registered in a District by a name, which is identical with that of another registered society in existence in the same District or so nearly resembling it so as to mislead except where the registered society in existence is in the course of being dissolved and signifies in writing its consent to such registration. (b) Except with the previous sanction in writing of the Government, no society shall be

registered by a name which contains any of the following words, namely: (i)"Co-operative" or "Land Development";(ii)"Reserve Bank";(iii)"Union" or "State" or any word expressing or implying the sanction, approval or patronage of the Central Government or any State Government; and(iv)"Municipal" or "Chartered" or any word which suggest or is calculated to suggest connection with any municipality or other local authority :Provided that nothing in this section shall apply to the societies registered before the date of commencement of this Act.(3)A society may, by a special resolution change it's name, with a previous intimation to the Registrar in writing.(4)The change of name shall not affect any right or obligation of the society or any member thereof or render defective any action or other legal proceedings by or against it and any of the members, and any action or other legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by or against the society by its new name.

7. Registration of Societies:

(1)Where a society has complied with the provisions of the Act as to registration and on payment of such fees as may be notified under Section 29, the Registrar shall issue to that society a certificate of registration and such certificate shall be conclusive evidence that the society therein mentioned is duly registered.(2)The Registrar shall, after the issue of a certificate of registration to a society enter in a register which may include a register maintained through an electronic device like computer, the particulars specified in the memorandum, of that society filed and such other particulars as may be notified.(3)If the Registrar refuses to register a society, an appeal shall lie to the Registrar General within sixty days from the date of communication of the order of the Registrar refusing to register the society. Every such appeal shall be accompanied by a fee as may be notified by the Government from time to time.(4)If an application for registration of a society is presented before the Registrar complying with all the provisions of this Act is not disposed of within sixty days the society is deemed to have been registered and the Registrar shall issue a certificate to that effect.

8. Amendment of memorandum and Bye-laws:

(1)By a "Special Resolution" a society may alter the provisions of the memorandum with respect to, (a)change of objectives of the society;(b)to amalgamate itself with any other society; or(c)to divide itself into two or more societies.(2)Subject to the provisions of this Act, and the conditions contained in its memorandum, a society may, by an ordinary resolution passed by not less than 1 /2 (half) of the members present and voting alter its bye-laws.(3)Any alteration of the memorandum of the society shall not be valid unless such alteration is registered under this Act.(4)If any alteration of the memorandum is filed with the Registrar and if they are not contrary to the provisions of this Act, he shall register the same and shall certify the registration of such alteration under his hand and seal within thirty days from the date of receipt of the resolution. The certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the certification thereof have been complied with and henceforth the memorandum as so altered shall be the memorandum of the society.(5)Every alteration in the bye-laws of the society should be sent to the Registrar and he shall take it on record if it is not contrary to the provisions of this Act.

9. Filing of annual list:

- Every year the society shall, within fifteen days from the date on which the General Body meeting was held, furnish a list to the Registrar of Societies which shall contain the names and addresses of the members of the Managing Committee and Officers entrusted with the management of the affairs of the Society.

Chapter III

Management and Administration

10. Registered Office of Society:

(1)A society shall, as from the day on which it begins functioning or as from the twenty-eighth day after the date of its registration whichever is earlier have a registered office at any place in the district in which it is registered and to which all communications and notices may be addressed. Notice of the location of the registered office and of every change therein shall be given within twenty-eight days after the date of its registration or after, the date of the change, as the case may be, to the Registrar, who shall record the same in the certificate of registration.(2)Any change of its registered office to a place outside the district in which it is registered, shall be intimated to the Registrars of both the Districts.(3)Every society shall display its name outside its office premises in a conspicuous position in legible characters of the language in general use in that place.(4)Every society shall have its name engraved in legible characters on its seal.

11. Register of Members:

- Every society shall keep a register of members and enter therein the following particulars, namely: (a)the name and address and the occupation, if any, of each member,(b)the date on which the name of each person was entered in the register as member;(c)the date on which any person ceased to be a member; and(d)the specimen signatures of the members.

12. Accounts and Records:

- Every society shall keep at its office, the following accounts, records, and documents; namely: (a)a copy of this Act with up-to-date amendments incorporated;(b)a copy of it's registered memorandum along with up-to-date bye-laws with amendments made from time to time;(c)the minutes book;(d)accounts of all sums of money received and expended by the society and their respective purposes;(e)accounts of all purchases and sales of goods by the society;(f)accounts of all assets and liabilities of the society;(g)an up-to-date register and a list of all members with voting rights for the current year prepared within thirty days of the closure of the society's financial year;(h)copies of the audit reports, and if any, and compliance reports thereon; and(i)all such other accounts, records and documents as may be required by this Act.

13. Inspection of Register of Members of a Society:

- The Register of members shall be kept open during the business hours subject to such reasonable restrictions as the bye-laws of the society may specify.

14. Committee of the Society:

- (I) Every society shall elect a Committee, consisting of not less than three members of the society, by a resolution passed by a majority of the members present and entitled to vote at an annual general body meeting of the society held under Section 20.(2)The term of the Committee or of its members so elected shall be a period not exceeding six years as may be specified in the bye-laws:Provided that a member who has completed a term as an elected member is eligible for re-election as a member of Committee, if the bye-laws so permit.(3)Every society shall maintain a register showing the names, addresses and occupations of the persons, who are members of the Committee and shall file with the Registrar, (i)a copy of the register within a period of fourteen days from the date of election of the members of the first Committee; and(ii)a notice of every change in the members of the Committee within a period of fourteen days from the date of such change.

15. Disqualification of members of the Committee:

- A person shall be disqualified for appointment as a member of the Committee of a society under this Act if, on the date of such appointment, he is, (a)not a major;(b)of unsound mind and stands so declared by a competent Court;(c)an applicant to be adjudicated as an insolvent or is an undischarged insolvent;(d)convicted of an offence involving moral turpitude or sentenced by a criminal court to a fine of not less than rupees one thousand or to imprisonment for a period of not less than six months; and(e)disqualified for such appointment by an order of a Court.

16. Supply of copies of Bye-laws:

- Every Society shall, deliver a copy of its Bye-laws, to each member of the society at the time of admission.

17. Supply of copies of balance sheet etc.:

- Every society shall supply to every member a copy of the balance sheet or a statement of accounts together with the auditor's report at its annual general body meeting, if not supplied in advance.

18. Society to be a body corporate:

- The registration of society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal. The society shall be entitled to acquire, hold and dispose of property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all other things necessary for the furtherance of the aim for which it was constituted.

19. Legal Proceedings:

(1)The Committee or any officer of the society authorised in this behalf by its bye-laws, may bring or defend any action or other legal proceeding touching or concerning any property or any right or claim of the society and may sue and to be sued in its name.(2)Any action or legal proceeding shall not abate or be discontinued by the death; resignation or removal from office of any member of the society after the commencement of the proceeding.

20. Meetings:

(1)The bye-laws of the society shall specify the frequency and the manner in which the meetings of the Committee and General Body shall be held, so however that the Committee shall meet at least once in every three months and the General Body shall meet at least once in a year.(2)The Committee shall convene a General Body meeting within thirty days of receipt of a requisition for convening a meeting signed by at least one third of the members of the society or as provided in the bye-laws and any such requisition shall contain the proposed agenda and the reasons for such meeting.(3)Every society shall record in the minutes book, the minutes of all proceedings of every General Body meeting and also every meeting of its Committee.(4)Such minutes shall be communicated to all the members invited for the meeting within thirty days of the conclusion of the meeting.(5)The minutes so recorded shall be signed by the person who chaired the said meeting.

21. Amalgamation and division of Societies:

(1)Any two or more societies may, by a special resolution of both or all such societies, and confirmed by a like resolution at a second meeting of both or all such societies, convened after an interval of one month after the first meeting, get amalgamated into one society with or without any dissolution or division of the funds of any of the societies with intimation to the Registrar.(2)Any society may, by a special resolution divide itself into two or more societies. Such resolution shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide itself and may specify the area of operation of and the members, who will constitute each of the new societies.(3)An amalgamation or division in pursuance of this section shall not prejudice any right of a creditor of any society which was a party to such amalgamation or division.

22. Register of mortgages and charges:

(1)Every society shall keep at its registered office, a register of mortgages and charges and enter therein all mortgages or charges affecting the property of the society and such other particulars of the mortgages or charges as may be specified in the bye-laws.(2)The register of mortgages and charges kept in pursuance of sub-section (1) and copies of instruments creating mortgages or charges shall, subject to such reasonable restrictions as the society may impose, be kept at the registered office of the society and be open during business hours to the inspection of any members or creditor of the society without payment of any fee therefor.

Chapter IV

Disputes, Dissolution and Winding-up

23. Dispute regarding management:

- In the event of any dispute arising among the Committee or the members of the society, in respect of any matter relating to the affairs of the society, any member of the society may proceed with the dispute under the provisions of the Arbitration and Conciliation Act, 1996, (Central Act 26 of 1996) or may file an application in the District Court concerned and the said Court shall after necessary inquiry pass such order as it may deem fit.

24. Dissolution of Society and adjustment of its affairs:

(1)A society may, by passing a special resolution, determine that it shall be dissolved of and thereupon, with prior intimation to the Registrar, it shall be dissolved at the time specified in the resolution and all the necessary steps shall be taken for the disposal and settlement of the property of the society, and its claims and liabilities according to the bye-laws, if any, of the society, and if there are no bye-laws to this effect in the manner as the General Body may find it expedient:Provided that in the event of any dispute arising among the members of the Committee or the members of the society, the adjustment of its affairs shall be referred to the Court and the Court shall make such order in the matter including appointment of liquidator as it deems fit:Provided further that if the Central Government or any State Government is a member of, or a contributory to any society registered under this Act, such society shall not be dissolved without the consent of the Government concerned.(2)A society dissolved under this section shall file with the Registrar a full report showing as to how the property has been disposed of.

25. Property of dissolved society:

- If upon the dissolution of any society, there remains, after the satisfaction of all its debts and liabilities, any property, the same shall not be delivered to or distributed among the members of the said society or any of them, but shall be delivered to some other society, with a similar objective to be named by a special resolution, or in default thereof, by the Court:Provided that this section shall not apply to any society which is founded or established by the contribution of shareholders in the nature of a Company.

26. Liquidators to make an account after winding-up of a Society:

(1)As soon as the affairs Of a society are fully wound-up, the liquidator shall make an account of the winding-up showing how the winding-up has been conducted and the property of the society has been disposed of and call a general body meeting of the society for the purpose of placing before it the account and giving any explanation in respect thereof.(2)Within one week after the meeting convened under sub-section (1), the liquidator shall be sent to the Registrar, a copy of the account

and shall make a return to him of the holding of the meeting and of its date.

27. Enforcement of orders:

- Orders made under Section 24 shall, on application, be enforced as follows: (a)when made by a liquidator, by any civil court having local jurisdiction in the same manner as a decree of such Court; and(b)when made by the Court on appeal, in the same manner as a decree of that Court.

Chapter V Miscellaneous

28. Societies financed by the Government:

- Where a Government is a member or is wholly or substantially financing a society it may place such terms and conditions on the society as are mutually agreed upon or through specific public policy notified by the Government for this purpose.

29. Fees to be fixed by the Government:

(1)The Government shall, from time to time, prepare a table of fees payable:(a)for registration of Societies, which may include Mahila Mandals and Youth Associations;(b)for filing or recording or registering any document required by this Act to be filed or recorded;(c)for inspection of documents in the custody of the Registrar;(d)for making or granting copies of reasons, entries or documents, before or after registration; and(e)for such other matters appear to the Government necessary to give effect to the purposes of this Act.(2)The table of fees so prepared shall be notified.(3)All fees, charges and other sums paid to the Registrar or any officer of the Government in pursuance of this Act, shall be credited to the Government.

30. Superintendence and control over Registrars:

- The Registrar General shall have superintendence and control over all other Registrars functioning under this Act.

31. Power to remove difficulties:

- If any difficulty arises in giving effect to the provisions of this Act, in the first five years from the date of commencement of this Act, the Government after previous publication, by order make such provisions not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing of the difficulty.

32. Repeals and Savings:

(1)The Societies Registration Act, 1860, (Central Act 21 of 1860) in its application to the Andhra area of the State of Andhra Pradesh and the Andhra Pradesh (Telangana Area) Public Societies Registration Act, 1350F (Act 1 of 1350F) are hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Acts (including any order, rule, form regulation, certificate or bye-laws) in the exercise of any power conferred by or under the said Acts shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the date on which such a thing was done or action taken.