

Mizoram Societies Registration Act, 2005

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Mizoram Societies Registration Act, 2005

An ACT to provide for the registration of literary, cultural, scientific, charitable and other kinds of societies and for matters connected therewith. Be it enacted in the Fifty-Sixth Year of the Republic of India by the Legislative Assembly of Mizoram as follows:--

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Mizoram Societies Registration Act, 2005.
- (2) It shall extend to the whole of Mizoram.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires.--

- (1) "Court" means the principal civil court of original jurisdiction of the district within which the registered office of the Society is situate,
- (2) "Governing Body" means the body, by whatever name called, entrusted for the time being with the management of a society under its regulations;
- (3) "Inspector" means an Inspector appointed under section 23;
- (4) "Member" when used in relation to a society means a person who has been admitted with his consent as a member of the Society according to its regulations
- (5) "Memorandum" means the memorandum of association of the Society;
- (6) "Officer" means a member of the Governing Body, the President, the Secretary or any other office-bearer and includes an employee of the society whose work is not of a purely ministerial nature;
- (7) "Officer in default" means any officer who contravenes, fails or refuses to comply with any requirement under this Act or who authorises or permits such contradictions, failure or refusal;
- (8) "President" means the President, the Chairman or the formal head, by whatever name called, of a society and includes a person who, for the time being, acts as the formal head;
- (9) "Registered office" means the registered office mentioned in the memorandum;
- (10) "Registrar" means a person appointed as Registrar under

section 3 and includes any person empowered as such under that section;

(11) "Regulation" means the regulations made by a Society and, in relation to a society deemed to have been registered under sub-section (2) of section 40 of this Act and include its rules;

(12) "rules" mean rules made by the State Government under section 39;

(13) "Secretary" means the Secretary or the principal executive officer, by whatever name called, of a Society and includes a person who, for the time being, acts as Secretary;

(14) "section" means a section of this Act;

(15) "Societies" means societies registered or deemed to have been registered under this Act;

(16) "State Government" means the State Government of Mizoram;

(17) "votes of three-fourths of the members" mean the votes of at least three-fourths of the total membership in a society given at any general meeting of the Society including votes, by proxy where voting by proxy is allowed under its regulations.

3. Appointment Of Registrars :-

The State Government may appoint a person to be Registrar of Societies for the State of Mizoram and such Additional Registrar, Joint Registrar, Deputy Registrar, or Assistant Registrars as it thinks necessary to assist the Registrar and may, by general or special order, em-power any such person with all or any of the powers and functions of the Registrar under this Act.

4. Societies To Be Formed By Memorandum Of Association :-

Any seven or more individuals associated for any of the objects mentioned in section 7 may subscribe their names to a Memorandum of Association and file them along with a copy of the regulation with the Registrar for registration of the association as society under this Act.

5. Memorandum Of Association :-

(1) The Memorandum shall contain, amongst other things, the following particulars, namely -

(a) the name of the association;

(b) the address of the registered office of the association;

- (c) the object of the association;
 - (d) the names of the first members of the Governing Body; and
 - (e) the names, addresses and occupations of the signatories to the Memorandum.
- (2) After registration, a society shall not change the Memorandum except in accordance with the provisions of this Act.

6. Regulations To Accompany The Memorandum :-

The Registrar shall not, for registration of a society, accept any memorandum unless it is accompanied by a copy of its regulations providing, amongst other things, for the following matters, namely .--

- (1) the composition and the manner of election or appointment and resignation or removal and the term of office of members of the Governing Body, the President, the Secretary and other officers;
- (2) the manner of admission as member and of their resignation or removal;
- (3) the maintenance of the membership register and facilities for inspection of the same;
- (4) the safe custody of the property of the society and in particular, the manner of keeping or investing any money of the society;
- (5) the procedure for holding meetings of the society fixing quorum, period of notice for meetings and the manner of voting including voting by proxy, where such voting is allowed;
- (6) the maintenance and audit of accounts;
- (7) the inspection of accounts and of the proceedings of meetings by the members of the society; and
- (8) any other matters relating to the affairs of the Society

7. To What Societies The Act Applies :-

Societies formed or established for the promotion of literature, arts, science, sports, any charitable purpose including the care or relief of orphans, or of the aged, sick, helpless or indigent persons, the protection and improvement of the natural environment including forests, rivers and wildlife, the diffusion of knowledge, the dissemination of social or economic education, the establishment and maintenance of libraries or reading-rooms, the collection and preservation of manuscripts, printing, sculptures, works of art, antiquities, natural history specimens, mechanical and scientific instruments and designs and any other object as may be notified by the State Government as being beneficial to the public or to a

section thereof.

8. Registration :-

(1) The Registrar upon being satisfied that the Memorandum and the regulations comply with the requirements of this Act and the rules, and upon payment of the fee referred to in sub-section (2), shall certify under his hand and seal that the association is registered as a society under this Act.

(2) There shall be paid to the Registrar, for the registration of an association under this Act, a fee of five hundred rupees, or such sum as the State Government may, from time to time, direct.

(3) An appeal shall lie to the State Government against an order of the Registrar refusing to certify the registration of an association as society under this Act and the decision of the State Government on such appeal shall be final.

9. Alteration Of Memorandum And Regulations :-

(1) A society shall not alter its memorandum except with previous permission of the Registrar in writing. The alteration should then be approved by a majority of three-fourths of its members.

(2) Before granting permission under sub-section (1) the Registrar shall satisfy himself that the alteration does not make the society ineligible for registration under this Act.

(3) Subject to the provisions of this Act, the rules and the memorandum, a society may, by the votes of three-fourths of the members, alter its regulations.

10. Alterations To Be Filed :-

(1) A copy of every alteration of the memorandum and of the regulations shall be filed with the Registrar within thirty days of such alterations.

(2) The Registrar shall, except for special reasons to be recorded by him in writing, within thirty days from the date of such receipt, record the alteration and send an intimation of the fact or communicate to the society his objections to such alteration,

(3) An appeal shall lie to the State Government against any objection made by the Registrar, and the decision of the State Government on such appeal shall be final.

(4) An alteration shall have effect from the date on which the intimation referred to in sub-section (2) is received by the society

or in the event of any objection being raised by the Registrar, from the date on which the State Government allows the alteration on appeal.

11. Identical Name Not To Be Registered :-

No society shall be registered under a name which is identical with or too nearly resembles to that of any other society or any body corporate which has been previously registered or deemed to be registered under this Act or incorporated under any other law for the time being in force.

12. Registrar May Direct Change Of Name :-

(1) If a society registered under a name alters its name to another which, in the opinion of the Registrar, is identical with or too nearly resembles to that of any other Society or body corporate which having been previously registered or deemed to have been registered under this Act or incorporated under any other law for the time being in force, continues to exist, the Registrar may, by an order direct such society to change its name within three months from the date of the order or such longer period as it may allow.

(2) The change of name shall not effect the rights and liabilities of a society or any legal proceedings by or against the society.

(3) In case of non-compliance with an order under section (1), every officer in default shall be punishable with fine which may extend to twenty rupees for each day until the order is complied with.

13. Amalgamation Of Societies :-

(1) Whenever two or more societies desire to amalgamate, the Governing Body of each society shall submit the proposal in writing to the member thereof and such proposal shall be considered in a general meeting of the society convened for the purpose.

(2) No such proposal shall have any effect unless -

(a) it has been delivered or sent by registered post to the members of each of the societies at least ten days before the date of the meeting at which it will be considered;

(b) it has been sent to the Registrar before the meeting and communicated his approval thereto, with or without any modifications;

(c) the proposal, with the modifications, if any, suggested by the

Registrar, is agreed to by three-fourths of the members of each of the societies concerned and confirmed by like votes of members at the subsequent general meeting of the amalgamated society.

(3) An appeal shall lie to the State Government against any order of Registrar refusing to accord his approval to the proposal or to his suggestions for any modification and the decisions for any modification and the decision of the State Government on such appeal shall be final.

(4) On the proposal being confirmed -

(a) the amalgamated society shall be registered under its new name;

(b) the registration of the amalgamating society shall be cancelled; and

(c) the assets and liabilities of the amalgamating societies shall be the assets and liabilities of the amalgamated society.

14. Name Of Society To Be Prominently Displayed :-

(1) Every society shall -

(a) prominently display its name outside its registered office and any place where its business is normally carried on;

(b) have a seal with its name engraved thereon ; and

(c) have its name and registration number mentioned in all documents executed in its favour or on its behalf.

(2) For any contravention of the provision of sub-section (1), every officer in default shall be punishable with fine which may extend to rupees twenty for each day such contravention continues.

15. Register Of Members :-

(1) Every society shall maintain at its registered office, a register of its members and shall enter therein the following particulars, namely -

(a) the name and address of each member,

(b) the date on which the members was admitted; and

(c) the date on which a member ceases to be such.

(2) If entries are not made within fifteen days of the admission of a member or as the case may be, cessation of membership, every officer in default shall be punishable with fine which may extend to rupees twenty for each day the contravention continues.

16. Books Of Accounts And Audit :-

(1) Every society shall keep at its registered office proper books of accounts in which the following shall be entered accurately. -

(a) all sums of money received and the source thereof and all sums of money expended 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 accounts audited once a 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 report shall be certified by the auditor.

Explanation .--

"A duly qualified auditor" means a chartered accountant within the meaning of the Chartered Accountant Act, 1949 or a person approved by the Registrar in this behalf.

(3) For contravention of any of the provisions of this section every officer in default shall, from the date the default is detected, be punishable with fine which may extend to twenty rupees for each day the default continues.

17. Annual General Meeting :-

(1) Every society shall hold an annual general meeting at least once in every year and not more than fifteen months shall elapse between two such successive meetings.

(2) The balance sheet and the auditors report referred to in sub-section (2) of section 16 shall be placed at the annual general meeting of the society,

(3) For contravention of any of the provisions of this section every officer in default shall be punishable with fine which may extend to two hundred and fifty rupees.

18. Annual And Other Returns To Be Forwarded To Registrar :-

(1) Within thirty days after the holding of every annual general meeting, there shall be filed with the Registrar -

(a) a list of names, addresses and occupations of the members of Governing Body, the President, the Secretary and of other office-bearers of the society;

(b) an annual report by the Governing Body on the working of the society for the previous year; and

(c) a copy each of the balance-sheet and the auditors report certified by the auditor under sub-section (2) of section 16.

(2) The list and the annual report referred to in clause (a) and (b) of subsection (1) shall be certified by the President and the Secretary.

(3) If any change occurs in the composition of the Governing Body or in the office of the President or the Secretary at any time and for any reason whatsoever, the change shall, within thirty days be notified to the Registrar.

(4) For contravention of any of the provision of this section, every officer in default shall be punishable with fine which may extend to two hundred and fifty rupees.

19. Property Of A Society :-

All property belonging to a society, if not vested in trustees, shall vest in the Governing Body of the Society but shall be referred to as the property of the Society.

20. Suits And Proceedings By And Against A Society :-

(1) Every society may sue or be sued in the name of the President, the Secretary or any office-bearer authorised by the Governing Body in this behalf.

(2) No suit or proceeding shall abate by reason of any vacancy or change in the holder of the office of the President, the Secretary or any office-bearer authorised under sub-section (1).

(3) Every decree or order against a society in any suit or proceeding shall be executable against the property of the society and not against the person or property of the President, the Secretary or any office-bearer.

(4) Nothing in sub-section (3) shall exempt the President, the Secretary or office-bearer of the society from any criminal liability under this Act or entitle him to claim any contribution from the property of the society in respect of any fine paid by him on conviction by a criminal court.

21. Members Liable To Be Sued Or Prosecuted As Strangers :-

Every member of a society may be sued or prosecuted by the society for any loss or damaged caused to the society or its property or for anything detrimental done by him to the interest of

the society.

22. Power Of Registrar To Call For Information Or Explanation :-

(1) The Registrar may, by order in writing, require a society to furnish in writing such information or explanation within such time, not being less than two weeks from the date of receipt of the order by the society, as he may specify in the order in connection with the affairs of the society or any documents filed under this Act.

(2) On receipt by the society of an order made under sub-section (1), it shall be the duty of the officer concerned to furnish such information or explanation.

(3) For failure to comply with an order under sub-section (1) the officer in default shall be punishable with fine which may extend to rupees twenty for each day the failure continues.

23. Investigation Of Affairs Of A Society :-

(1) Where the State Government is of opinion that the business of a society is being conducted with an intent to defraud its creditors, members or any other person, or that the society is guilty of mismanaging its affairs or of any fraudulent or unlawful act, the State Government may appoint a competent person as Inspector to investigate into the affairs of the society or inspect any institution managed by the society and report on such matters as the State Government may direct.

(2) It shall be the duty of every officer of the society when so required by the Inspector to produce any books and papers of or relating to the society which are in his custody, and otherwise to give to the Inspector all reasonable assistance in connection with the investigation.

(3) An Inspector may call and examine on oath any officer of the society and it shall be the duty of every such officer to appear before and answer all questions put forth by the Inspector.

(4) On the conclusion of the investigation the Inspector shall make a report to the Registrar and the latter shall send the report to the State Government along with his comment.

(5) For failure to comply with the provisions of sub-section (2) or sub-section (3), the officer in default shall be punishable with fine which may extend to two hundred and fifty rupees.

(6) All expenses connected with or incidental shall be defrayed by the State Government.

24. Consideration Of The Report By The State Government

:-

(1) After consideration of the report and comments of the Registrar made under sub-section (4) of section 23 the State Government may give such directions as it may deem necessary to the society for the removal of any defects or irregularities within such time as it may specify and in case the society fails to take action accordingly the State Government may direct the Registrar to move the Court for dissolution of the society.

(2) If it appears to the State Government that any person has in relation to the conduct of the business of the society, been guilty of any offence for which he is criminally liable, the State Government may direct the prosecution of such person in a court of law.

25. Dissolution By Resolution :-

(1) A society may be dissolved if, at a special general meeting convened for the purpose, by the vote of three-fourths of the members, it passes a resolution for dissolution.

(2) Where a resolution for dissolution of a society is passed under sub-section (1), the Governing Body shall take all necessary steps for the disposal and settlement of all claims, assets and liabilities of the society as it may think fit subject to the regulation of the society, if any

(3) After all necessary steps have been taken under sub-section (2), the Governing Body shall send a report to the Registrar mentioning also if there are any surplus assets.

(4) The Registrar shall thereupon issue a notice in the official gazette to the effect that if no objection is received from any claimant creditor or member of the society within three months from the date of the notice, the society shall, subject to the provisions of section 27, be dissolved.

(5) If no objection is received within the period stipulated in sub-section (4) and after the surplus assets, if any, have been disposed of as provided in section 27, the Registrar shall make an order confirming the dissolution of the society and thereupon the society shall stand dissolved. The Registrar shall record the order of dissolution in the Registrar maintained in his office.

(6) If any objection is received from any claimant or creditor within the period of three months as aforesaid the Registrar shall not make an order confirming the dissolution of the society unless he is

satisfied that the relevant claim or liability has been duly settled and the surplus assets, if any, have been disposed of as provided in section 28. If, however, any objection is received from any member the Registrar shall not make an order confirming the dissolution of the society but shall make an application to the court under section 26,

(7) Where any Government has in any manner made any contribution to the funds or assets of a society, such society shall not be dissolved, unless the State Government has given its assent to the dissolution.

26. Dissolution By Court :-

(1) The Court may, on the application of the Registrar or on the application of not less than one-tenth of the members, make an order for the dissolution of a society in the following cases, namely .--

(a) if there is any contravention by the society of the provision of this Act;

(b) if the number of members fall less than seven;

(c) if the society has ceased to function for more than three years;

(d) if the society is unable to pay its debts or meet its liabilities; and

(e) if it is considered proper that the society should be dissolved.

(2) A dissolution under this section shall take place in such manner as the court may direct.

27. Dissolution By The Registrar :-

(1) Where in the opinion of the Registrar there are reasonable grounds to believe that a society is not managing its affairs properly or is not functioning, he shall send to the society at its registered office a notice by registered post calling upon it to show cause within such time as may be specified on the notice why the society should not be dissolved.

(2) If no cause is shown or if the cause shown is considered by the Registrar to be unsatisfactory the Registrar may move the court under section 26 for making an order for the dissolution of the society

28. Member Not To Receive Any Share Upon Dissolution :-

If after the disposal and settlement of the property of a society and

its claims and liabilities, there are any surplus assets, such assets shall not be paid to or distributed amongst the members of the society or any of them but shall be given to some the society to be determined-

(1) in the case of a dissolution under section 25, by the votes of three-fourths of the members, or in default thereof, by the Registrar with the approval of the State Government; and

(2) in the case of a dissolution under section 26, by the court.

29. Restriction On Holding Office :-

No person who is an undischarged insolvent or who has been convicted of any offence in connection with the formation, promotion, management or conduct of the affairs of a society or of a body corporate, or of any offence involving moral turpitude, shall be entitled to be a member of a Governing Body or the President, Secretary, or any office-bearer of a Society.

30. Inspection Of Documents And Supply Of Certified Copies Thereof :-

Any person may inspect any document filed with the Registrar under this Act on payment of a fee of five rupees for every inspection, and any person may obtain a copy of extract of any document or part thereof certified by the Registrar on payment of such fee as may be prescribed. Such certified copy shall be admissible as evidence of the matters therein contained in all legal proceedings.

31. Terms Of Gifts To Be Observed :-

(1) Where a society accepts a gift of any kind from any person for a specific purpose it shall not use the gift or any part thereof for any other purpose without the written consent of the donors or if the donor is dead, without the written consent of the Registrar. The Registrar shall not give such consent unless he is satisfied that the purpose for which the gift was made is capable of execution by the society.

(2) For contravention of the provision of this section every officer in default shall be punishable with fine which may extend to rupees two hundred and fifty.

32. Communication With A Society :-

All communications to a society shall be addressed by its name and sent to its registered office.

33. Prosecution Of Offences :-

(1) No prosecution shall be instituted for any offence under this Act except with the previous sanction of the State Government.

(2) Nothing in sub-section (1) shall apply to any prosecution mentioned in section 21.

34. Indemnity :-

No suit, prosecution or proceeding shall lie in any Civil or Criminal Court against the Registrar or any Inspector and no suit or proceeding shall lie in any Civil Court against the State Government for anything in good faith done or intended to be done under this Act or the rules.

35. Penalties :-

(1) If the President, Secretary or any person authorised in this behalf by a resolution of the Governing Body of the society fails to comply with the provisions of sub-sections (1), (2) and (3) of section 18, he shall on conviction, be punishable with fine which may extend to five hundred rupees and in case of a continuing breach, shall also be punishable with fine not exceeding fifty rupees for each day during the period the breach continues after the first conviction for such offence.

(2) If any person wilfully makes or cause to be made any false entry, or any omission from the list required by clause (a) of sub-section (1) of section 18 or in or from any statement or copy of rules or of alterations or an annual report on the working of the society for the previous year or a copy each of the balance-sheet and the auditor report sent to the Registrar, he shall, on conviction, be punishable with fine which may extend to two thousand rupees.

36. Period Of Limitation :-

(1) All appeals to the State Government under this Act shall be filed within thirty days from the date of the objection or order appealed against.

(2) The provisions of sections 5 and 12 of the Indian Limitations Act, 1963, shall apply to all appeals under this Act.

37. Procedure :-

(1) No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(2) No Court shall take cognizance of an offence punishable under this Act except upon complaint made by the Registrar or any other person, authorised in writing by him, in this behalf.

EXPLANATION :

A Judicial Magistrate of the first class for the purposes of this Act means the Deputy Commissioner and any Assistant to the Deputy Commissioner who has been empowered under the rules for the regulation of the procedure of officers appointed to administer justice in Mizoram.

38. Fees :-

All fees paid under this Act shall be credited under the head "2040-Taxes on Sales, Trade, etc." to the Consolidated Fund of the State of Mizoram.

39. Power To Make Rules :-

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely -

(a) the procedure for any appeal to the State Government under this Act and the fee for such appeal, if any;

(b) the fee, if any, to be paid for filing any document other than the memorandum and the regulations;

(c) the maintenance of the register of societies and other books, if any, by the Registrar;

(d) the fee to be paid for any certified copy of extract of any document;

(e) any other matter which in the opinion of the State Government is related to the implementation of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made before the Mizoram Legislative Assembly for a period of seven days, and if, before the expiry of the session in which the rule is laid, The Mizoram Legislative Assembly agree in making any modification in the rule or the rule should not be made, the rule shall thereafter have effect only in such modified form or

be of no effect as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

40. Repeal And Savings :-

(1) The Societies Registration Act, 1860 in its application to Mizoram, is hereby repealed.

(2) Any society registered in any place within Mizoram under the Societies Registration Act, (Extension to Mizoram) Act, 1976, shall be deemed to have been registered under this Act, and its principal office shall be deemed to be the registered office:

Provided that -

(a) the memorandum and regulations of any society, if they are repugnant to any of the provisions of this Act and the rules, shall be brought in conformity within six months from the commencement of this Act or within such further period as the Registrar may allow, and thereafter, to the extent of such repugnancy, be deemed to avoid and of not effect;

(b) any officer elected or appointed to and holding any office immediately before the commencement of this Act shall continue to hold such office until the expiry of his term of office or until such office is lawfully terminated;

(c) nothing in this section shall affect any right, privilege, obligation, liability or punishment under the Societies Registration Act, 1860 and any investigation, remedy or proceedings, including proceedings for dissolution commenced before the coming into force of this Act, may be continued or enforced as if this Act had not been passed.