

Himachal Pradesh Societies Registration Act, 2006

[20 October 2006]

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Himachal Pradesh Societies Registration Act, 2006

[20 October 2006]

An Act to re- enact the law to provide for the registration and working of literary, scientific, educational, religious, charitable or other Societies in the State of Himachal Pradesh and to repeal the Societies Registration Act, 1860 (XXI of 1860) in so far as it is applicable to the State of Himachal Pradesh. BE it enacted by the Legislative Assembly of Himachal Pradesh Legislature in the Fifty-seventh Year of the Republic of India, as follows:-

CHAPTER 1

PRELIMINARY

1. Short Title, Commencement And Application :-

(1) This Act may be called the Himachal Pradesh Societies Registration Act, 2006.

(2) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint in.

(3) This Act shall apply to Societies formed for all or any of the following purposes, namely:-

(i) promotion of science, education, literature or fine arts;

(ii) diffusion of useful knowledge;

(iii) diffusion of political knowledge;

(iv) foundation or maintenance of libraries or reading rooms for general use among the members or open to the public;

(v) establishment and maintenance of galleries of paintings and other works of art;

(vi) establishment and maintenance of public museums;

(vii) collection of natural history, mechanical and philosophical inventions, instruments or designs;

(viii) promotion of social welfare;

(ix) promotion of religious or charitable purpose including establishment of funds for welfare of military orphans, welfare of political sufferers and welfare of the like;

(x) promotion and implementation of different schemes sponsored by the State Government or the Central Government;

(xi) promotion of Commerce, Industries and Khadi; and

(xii) promotion of Rural Development.

2. Definitions :-

In this Act, unless the context otherwise requires ,

- (a) "collector" shall mean the Chief Officer in charge of the revenue administration of a district and shall include a Deputy Commissioner;
- (b) "family" means husband, wife and their unmarried sons and daughters;
- (c) "financial year" shall mean year commencing on the first day of April;
- (d) "general body" means all the member of the Society;
- (e) "general meeting" means meeting of the General body of a Society and includes special general meeting;
- (f) "Governing body" means the Governing body elected under section 15 of this Act and entrusted for the time being with the management of a Society under its regulation;
- (g) "Government" or "State Government" means the Government of Himachal Pradesh;
- (h) "member of the Society" means a person who has been admitted in the Society according to the regulations thereof, continues for the time being to be a member of the Society and,
 - (i) having paid subscription ;
 - (ii) having signed the roll or list of members ; and
 - (iii) having not resigned; in accordance with the regulations of the Society.
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "Registrar" means the Registrar of Cooperative Societies appointed under subsection (1) of section 3 and includes Additional, Joint, Deputy and Assistant Registrars of Societies, appointed under sub section(2) of the said section when exercising or performing all or any of the powers or duties of the Registrar;
- (k) "regulations" or "byelaws" means registered regulations or byelaws of a Society for the time being in force;
- (l) "Society" means a Society registered under section 6 of this Act; and
- (m) " State Aided Society" means a Society which receives or has received aid, grant or loan or has received land, building or both on concessional rates and other facilities from the Central Government or the State Government or any Statutory body or any other agency located in India or abroad.

CHAPTER 2

REGISTRAR AND OTHER OFFICERS OF SOCIETIES

3. Registrar And Other Officers Of Societies :-

(1) The State Government may , by notification, 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.

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

CHAPTER 3 **REGISTRATION**

4. Societies Formed By Memorandum Of Association And Registration :-

Any seven or more persons, being member of different families and competent to contract under section 11 of the Indian Contract Act, 1872, associated for any literary, scientific or charitable purpose as described in subsection (3) of section 1 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with the Registrar, form themselves into a Society under this Act.

5. Requirements Of Memorandum Of Association :-

(1) The memorandum of association of every Society shall state

- (i) the name of the Society;
- (ii) the objects of the Society;
- (iii) the location of the head office of the Society;
- (iv) the names, age, address and occupation of the Governors, Council, Directors or Governing body to whom by the regulation of the Society the management of its affairs is entrusted.

(2) No name shall be proposed in the memorandum of association

- (a) as is identical with or too nearly resembles the name by which a Society in existence has been previously registered anywhere in the State; or
- (b) which has as its component
 - (i) such words as may suggest or may be calculated to suggest the

patronage of the Government of India or the Government of a State; or

(ii) such words of National, International or universal importance or such other words as the State Government may, from time to time, by notification, specify; or

(iii) such words as is, in the opinion of Registrar, likely to mislead the public.

(3) A copy of the 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.

(4) The persons by whom or on whose behalf such memorandum is admitted shall furnish such further information in regard to the Society as the Registrar may require.

6. Registration :-

If the Registrar is satisfied that a Society has complied with the provisions of this Act and the rules made thereunder and that its proposed regulations are not contrary to the said provisions, he shall register the Society and its regulations on payment of such fee as may be prescribed and shall issue a certificate of registration.

7. Evidence Of Registration :-

A certificate of registration signed by the Registrar shall be conclusive evidence that the Society mentioned therein is duly registered unless it is proved that the registration of the Society has been cancelled.

8. Regulations Of Society :-

The regulations of a Society may provide for,

(i) the conditions of admission of members;

(ii) the liability of members to fines and forfeitures under certain circumstances;

(iii) the consequences of nonpayment of any subscription or fine, the resignation and expulsion of members;

(iv) the appointment and removal of staff and officers and their powers;

(v) the manner of electing and removing the Governing body and the powers of such body;

(vi) the time and place of annual General meeting and other meetings of the Society;

(vii) the manner in which notice of such meetings may be given;

(viii) the quorum necessary for the transaction of business at

meetings of the Society;

(ix) the manner of making ,altering and rescinding regulations;

(x) the investment of funds, keeping of accounts and for an annual or periodical audit of accounts;

(xi) the manner of dissolving the Society;

(xii) the condition that the Society will have neither profit motive nor its profit shall be distributed among members.

(xiii) the determination after dissolution that property be utilized by Government according to section 48;

(xiv) matters to be provided by byelaws and the manner in which they shall be made; and

(xv) such other matters as may be considered expedient having regard to the nature and objects of the Society.

9. Amendments Of Memorandum Or Regulations Or Byelaws Of Registered Society :-

(1) No amendment of the memorandum of association or regulations of a registered Society shall be valid until the amendment has been registered under this Act.

(2) Every proposal for such amendment shall be forwarded to the Registrar in such form together with such fee as may be prescribed and if the Registrar is satisfied that the amendment is not contrary to this Act or the rules made thereunder, he may, if thinks fit, register the amendment.

(3) No proposal for amendment in the memorandum of association or regulations of a registered Society shall be entertained if such proposal has not been approved by a majority of threefifth members present in the general meeting called for such purpose.

(4) Where an amendment is registered under subsection (2), the Registrar shall issue to the Society, on payment of such fee as may be prescribed, a copy of the amendment certified by him which shall be conclusive evidence that the same is duly registered.

(5) Every society registered under the Societies Registration Act, 1860 shall bring their byelaws in conformity with the provisions of this Act and the rules made thereunder within a period of ninety days from the date of commencement of this Act. Provided that Registrar may, if satisfied, for the reason to be recorded in writing, allow further period not exceeding ninety days.

10. Change Of Name Of Society :-

Subject to the provisions of section 12, any registered Society may, with the consent of not less than twothirds of the total number of

its members, by a resolution at a general meeting convened for the purpose, change its name.

11. Notice Of Change Of Name :-

(1) A copy of the resolution passed under section 10 shall be sent to the Registrar.

(2) If the Registrar is satisfied that the provisions of this Act in respect of change of name have been complied with and that the proposed name is in conformity with the provisions of subsections(2) and (3) of section 5, he shall enter the new name in the register in place of the former one and issue a certificate of registration with necessary alterations embodied therein, and the change of name shall be complete and effective only on issue of such a certificate.

(3) The Registrar shall also make the necessary alteration in the memorandum of association of the Society.

(4) The Registrar shall charge fee, as may be prescribed, for any copy of certificate issued under sub section(2) and all fees so paid shall be deposited into Government treasury.

12. Effect Of Change Of Name :-

The change in the name of the Society shall not affect any rights or obligations of either the members who were admitted prior to the change of the name of Society or render defective any legal proceeding by or against the Society.

13. Societies Enabled To Alter, Extend Or Abridge Their Purposes :-

Whenever it shall appear to the Governing body of any registered Society which has been established for any particular purpose or purposes that it is advisable to alter, extend or abridge such purpose to or for other purposes within the meaning of this Act, such Governing body may submit the proposition to the members of the Society in a written or printed report and may convene a special general meeting for the consideration thereof according to the regulations of the Society: Provided that no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the Society, ten days previous to the special general meeting convened by the Governing body for the consideration thereof, and unless such proposition shall have been agreed to by the votes of threefifth of the members, delivered in person or by proxy, and confirmed by the

votes of threefifth of the members present at a second special general meeting convened by the Governing body at an interval of one month after the former meeting.

14. Society To Be A Body Corporate :-

Every Society shall be a body corporate by the name under which it is registered having perpetual succession and a common seal, and shall have powers to acquire, hold and dispose of property, both movable and immovable, enter into contract, institute and defend suits and other legal proceedings and to do all other things necessary for the purpose for which it is constituted, and shall by the said name, sue or be sued.

CHAPTER 4

MANAGEMENT OF THE SOCIETY, MEMBER'S RIGHTS AND PRIVILEGES

15. Governing Body Of The Society :-

(1) Every Society shall elect a Governing body, 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 19.

(2) The term of the Governing body or of its members so elected shall be as may be specified in the regulations but not exceeding three years: Provided that a member of the Governing body of a Society shall be eligible for reelection as such, if the byelaws so permit: Provided further that a member of the Governing body may be removed by the General body in a meeting specially convened for such purpose by simple majority of votes of the members present after affording such member an opportunity of being heard.

(3) Every Society shall maintain a register showing the names, addresses and occupations of the persons, who are members of the Governing body and the President or Secretary or any person authorized in this behalf by Governing body, 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 Governing body; and

(ii) a notice of every change in the members of the Governing body within a period of fourteen days from the date of such change.

(4) The management of every Society shall vest in a Governing body elected under subsection (1), which shall exercise such powers and perform such functions as may be conferred or imposed by this Act, the rules or the byelaws.

16. Disqualifications :-

A person shall be disqualified for being a member of the Governing body of a Society under this Act if, on the date of elections, he, -

(a) is disqualified for such appointment by an order of a Court or the Registrar for causing loss to the Society or retaining property of the Society or for any other reasons detrimental to the interest of the Society; or

(b) is in arrears of prescribed subscription fee and a period of 45 days is over after delivering notice to such members to such effect; or

(c) has been convicted of a cognizable offence and sentenced to a term exceeding 3 months; or

(d) has incurred any of the disqualifications, as may be prescribed.

17. Supply Of Copies Of Byelaws :-

Every Society shall, deliver a copy of its byelaws, to each member of the Society at the time of admission.

18. Supply Of Copies Of Balancesheet, Etc :-

Every Society shall supply to every member a copy of the balancesheet or a statement of accounts together with the auditors report at its annual General body meeting, if not supplied in advance.

19. Meetings :-

(1) The byelaws of the Society shall specify the frequency and the manner in which the meetings of the Governing body and general body shall be held, so however that the Governing body shall meet at least once in every three months and General body shall meet at least once in a financial year.

(2) Every Society shall record in the minutes book, the minutes of all proceedings of every General body meeting and also every meeting of its Governing body.

(3) Such minutes shall be communicated to all the members invited for the meeting within thirty days of the said meeting.

20. Annual General Meeting :-

(1) Every Society registered under this Act shall hold the annual general meeting of its members once in a financial year at which the report of management of the Society for the previous financial years together with an audited copy of the balance sheet, income and expenditure account and the auditors report shall be submitted

for approval.

(2) Without prejudice to the generality of the provisions of subsection (1), the general meeting of a Society shall be held at least once in every financial year for the purpose of

(a) approval of the programme of activities of the Society prepared by the Governing body for the ensuing year;

(b) election, if any, in the prescribed manner of the members of the Governing body other than the nominated members;

(c) Consideration of the audit report and the annual report; and

(d) Consideration of any other matter which may be brought before in accordance with the regulations of the Society.

(3) Such meeting shall be held not more than fifteen months after the date of the last preceding meeting held under subsection(1).

(4) The first annual general meeting shall be held by a Society within fifteen months of its registration. The subsequent annual general meeting of the Society shall be held within twelve months after the first annual general meeting: Provided that the Registrar may, for special reasons to be recorded in writing, extend the time within which an annual general meeting shall be held by a further period not exceeding three months.

(5) Quorum for general meeting shall be onehalf of the total members or as provided in the byelaws, whichever is more.

21. Special General Meeting :-

(1) A special general meeting shall be called at any time by the President, or by a simple majority of the members of a Governing body, within one month

(a) on a requisition, containing the proposed agenda and reasons for such meeting, in writing of one fifth of the members of a Society or of members, the number of which is specified in the byelaws for the purpose, whichever is lower, or

(b) at the instance of the Registrar.

(2) If a special general meeting of a Society is not called in accordance with the requisition referred to in subsection (1), the Registrar or any person authorized by him in this behalf, shall call such meeting, and that meeting shall be deemed to be a meeting duly called by the Governing body.

(3) The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub section (2) shall be paid out of the funds of the Society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or

failure to convene the meeting.

(4) Quorum for special general meeting shall be same as provided for annual general meeting under subsection

(5) of section 19.

22. Legal Proceedings :-

(1) The Governing body or any officer of the registered Society authorized in this behalf by its byelaws, may bring or defend cause to be brought or defended any action or other legal proceeding touching or concerning any property, right or claim of the registered Society and may sue or be sued in respect of any such property, right or claim.

(2) Any action or legal proceedings shall not abate or be discontinued by the death; resignation or removal from office of any officer or member of the Society.

23. Register Of Members :-

(1) The subscribers of the memorandum of association shall be the first members of the Society.

(2) Every Society shall maintain at its head office a register of its members and shall enter therein, the following particulars, namely:-

(a) Name, address and signature with date of each member;

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

(c) the date on which the members ceased to be members.

(3) The register of members shall be prima facie evidence of the membership of the Society and of all matters entered therein: Provided that no member whose subscription for the time being is in arrear for a period exceeding six months shall be entitled to vote in any proceedings of the Society under this Act.

(4) If entries are not made in the register of members within thirty days of admission of a member or cessation of membership, every officebearer in default shall be punishable with fine which may extend to five hundred rupees.

(5) Subject to the approval of General body, a member may be expelled by the Governing body if he acts contrary to the interest of the Society.

24. Members Liable To Be Sued As Strangers :-

(1) Any member of a registered Society who may be in arrear of a

subscription which, according to the regulations 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 regulations or shall injure or destroy any property of the Society, may be sued for such arrear or for the damage occurring from such possession, detention, injury or destruction of the property in accordance with the provisions of this Act.

(2) If in any suit or other proceeding brought under subsection (1) at the instance of the Society, the defendant shall be successful 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 or other proceedings shall be brought or from the Society, and in the latter case, shall have process against the property of the said Society in accordance with the provision of this Act.

25. Members Guilty Of Offences Punishable As Strangers :-

Any member of the registered Society, who steal, purloin, embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such Society, or 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 who is not a member, would be subject and liable to in respect of the like offence.

26. Recovery Of Penalty Accruing Under Byelaw :-

Whenever by any byelaw duly made in accordance with the regulations of the Society, any pecuniary penalty is imposed for the breach of any regulations or byeaw of the Society, such penalty, when accrued, may be recovered in any Court, having jurisdiction where the defendant resides, or the office of the Society is situated, as the Governing body thereof shall deem expedient.

CHAPTER 5

PROPERTIES AND FUNDS OF SOCIETIES

27. Property Of Society, How Vested :-

The property, moveable or immoveable, belonging to a Society registered under this Act, shall be deemed to be vested in the General body of such Society and in all proceedings, civil or criminal, may be described as the property of the General body of such Society by their proper title.

28. Restriction On Transfer Of Property :-

No immovable property shall be acquired or transferred by way of

sale, gift or otherwise by the Society without the previous approval of its general body: Provided that information relating to all such transactions of property shall also be passed on and got recorded with the Registrar within a period of fifteen days.

29. Suit By And Against Societies :-

Every Society may sue or be sued in the name of the President or Chairman or the Secretary or the Governing body, as the case may be, as shall be determined by the regulations of the Society and in default of such determination, in the name of such person as may 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 the Secretary or the Governing body, if on application to the Governing body some other officers or person be not nominated to be the defendant.

30. Suit 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 where of he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

31. Enforcement Of Judgment Against Society :-

(1) If any judgment is passed against any officer or member of the registered Society, such judgment shall not be enforced against the property, moveable or immoveable, or against the body, of such officer, but against the property of the registered Society.

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

32. Books Of Accounts To Be Kept By The Society :-

(1) Every Society shall keep at its head office proper books of accounts 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 objects or purposes for which such sums are expended;

- (b) the assets and liabilities of the Society; and
- (c) details of immovable property acquired by the Society.
- (2) The books of accounts shall be open to inspection by the officeearer or members of the Society or the Registrar or the person authorized by the Registrar during the office hours.
- (3) For the purpose of subsection (1), proper books of accounts shall not be deemed to be kept with respect to the matters specified therein, if they do not give a true and fair view of the state of affairs of the Society and explain its transactions.

33. Power Of Registrar To Seize Records, Etc :-

- (1) Where the Registrar is satisfied that-
 - (a) the records, register or the books of accounts of a Society are likely to be tampered with or destroyed and the funds and the property of a Society are likely to be misappropriated or misapplied; or
 - (b) if the Governing body of a Society is reconstituted at a general meeting of the Society and outgoing members of the Governing body refuse to handover charge of the records and property of the Society to those having to or entitled to receive such charge, the Registrar may issue an order directing a person duly authorized by him in writing to seize and take possession of such books and records, funds and property of the Society and the officer or officers of the Society responsible for the custody of such books, records, funds and property shall give delivery thereof to the person so authorized.
- (2) In order to secure compliance of the orders under subsection (1), the Registrar may take or cause to be taken such steps and use or cause to be used such minimum force including police force as may be considered necessary.

CHAPTER 6

ANNUAL RETURNS, AUDIT, INSPECTION AND SUPERVISION

34. Annual List Of Governing Body To Be Filed :-

Once in every year, on or before the fourteenth day succeeding the day on which according to the regulations of the Society the annual general meeting of the Society is held or if the regulations do not provide for an annual general meeting, then within fourteen days of the 31st day of January, a list containing the full names, permanent addresses and chief occupations and others, if any, with signatures of the Governing body, shall be filed with the Registrar

by the President or Secretary, in such form with such documents together with such fee as may be prescribed: Provided that the Registrar may, for reasons to be recorded in writing, grant further time not exceeding fifteen days for compliance: Provided further that if the Society fails to file the list within the specified time limit or within the extended time, it may file the same within such further extended period but not exceeding 30 days and with such late fee as may be prescribed.

35. Audit :-

(1) Every Society shall send to the Registrar a statement of income and expenditure with full particulars in such form as may be prescribed duly audited by its Auditors/Chartered Accountants audit report and balance sheet of the previous year alongwith details of all financial activities together with such fee as may be prescribed within ninety days from the date of annual general meeting of the Society or from 30th day of April, every year where the regulation do not provide for an annual general meeting. If the Society fails to send the aforesaid statements within the stipulated time the Society shall be liable to pay late fee as may be prescribed.

(2) On receipt of such statement, the Registrar shall verify the statements and shall ensure that the registers, account books and other records of the Societies are maintained in the prescribed manner and the funds have been utilized for the promotion of the Society and its objects and he may also issue such instructions in respect of utilization of funds as he may think fit: Provided that accounts of Society having annual transaction exceeding one lac rupees shall be submitted to the Registrar duly audited by Chartered Accountant: Provided further that Society having annual transaction exceeding five lac rupees shall publish, every year, its audited balance sheet including profit/loss account statement in a prominent local daily news paper.

(3) If the Registrar thinks necessary to undertake a special audit, he may audit, or cause to be audited by any person authorized by him by general or special order in writing in this behalf, the accounts of any Society. (4) Any person authorized by general or special order, in writing in this behalf, by the Registrar shall, at all times, have access to all the books of accounts and other papers of a Society and every officer of the Society shall furnish such information in regard to the accounts and working of the Society as the person making such inspection may require.

36. Inspection Of Documents :-

Any person may inspect all or any of the documents filed with the Registrar under this Act, or require copy or extract of any such document to be certified by the Registrar, by filing an application together with such fee as may be prescribed, and such certified copy shall be prima facie evidence of matters therein contained in all legal proceedings whatsoever.

37. Power To Enforce Attendance, Etc :-

The Registrar shall have power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of civil court by the Code of Civil Procedure, 1908.

38. Power Of Registrar To Call For Information :-

(1) Where on perusing any document which a Society is required to submit to him under this Act, the Registrar is of opinion that any information or explanation is necessary in order that such document may afford full particulars of the matters to which it purports to relate, he may, by written order call on the Society submitting the documents to furnish in writing such information or explanation within such time as he may specify in the order.

(2) On receipt of the order by the Society under subsection (1), it shall be duty of the Society and of all persons who are officers of the Society to furnish such information or explanation to the best of their power.

CHAPTER 7

ENQUIRY AND SETTLEMENT OF DISPUTE

39. Enquiry By The Registrar :-

(1) The Registrar may, on his own motion or on an application made under subsection(2), either by himself or by a person authorized by him, by order in writing, hold an enquiry into the constitution, working and financial conditions of a Society.

(2) An enquiry under subsection (1) shall be held on the application supported by an affidavit of-

(a) a majority of the members of the Governing body of the Society; or

(b) not less than onethird of the total number of members of the

Society.

(3) The Registrar or the person authorized by him under subsection (1) shall, for the purpose of an enquiry under this section, have the following powers, namely:-

(a) he shall at all times have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the Society and may summon any person in possession, or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same, if they relate to the head office of the Society at any place at the headquarters thereof and if they relate to any branch of the Society, at any place in the town wherein such branch thereof is located or in his own office;

(b) he may summon any person who, he has reason to believe to have knowledge of any of the affairs of the Society to appear before him at any place at the headquarters of the society or any branch thereof or in his own office and may examine such person on oath;

(c) he may, notwithstanding any regulation or byelaw specifying the period of notice for a General body meeting of the Society, require the officers of the Society to call a General body meeting of the Society at such time at the head office of the Society or any other place at the headquarter of the Society and to determine such matters as may be directed by him and where the officers of the Society refuse or fail to call such a meeting, he shall have power to call it himself; and

(d) any meeting of the Society called under clause(c) shall have all the powers of a General body meeting called under the regulations or byelaws of the Society and its proceedings shall be regulated by such byelaws.

(4) When an enquiry is made under this section, the Registrar shall communicate the outcome of the enquiry to the Society and may issue appropriate directions to the Society, which shall be binding on all parties concerned.

40. Surcharge :-

(1)Where, in the course of Audit under section 35 or an enquiry under section 39,it appears that any person who had taken part in the establishment or management of the Society or any past or present President, Secretary, member or the staff of the Society; has misapplied or retained, or become liable or accountable for any

money or property of the Society, or has been guilty of misfeasance or breach of trust in relation to the Society, the Registrar may, on a report received from the officer or an application received from the Governing body of the Society or his own motion, examine into the conduct of such person and after giving reasonable opportunity to the person concerned to submit his explanation, make an order requiring him to repay or restore the money or property or any part thereof, respectively with interest at such rate as may be prescribed or to contribute such sum to the assets of the Society by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

(2) Any sum ordered under this section to be repaid to a Society or recovered as a contribution to its assets, on a requisition being made in this behalf by the Registrar, shall be recovered as arrears of land revenue under the provision of Himachal Pradesh Land Revenue Act, 1954.

(3) This section shall apply notwithstanding any criminal prosecution launched or proposed to be launched against such person.

41. Supersession Of Governing Body :-

(1) If, in the opinion of the Registrar, Governing body of any Stateaided Society or any other Society engaged in delivering services to public, such as education, health, sanitation etc.,-

(a) persistently makes default or is negligent in the performance of the duties imposed on it by or under this Act, regulations or byelaws of the Society or by any lawful order passed by the State Government or Registrar, or is unwilling to perform such duties; or

(b) commits acts which are prejudicial to the interest of the Society or its members; or

(c) is otherwise not functioning properly; the Registrar may, by order in writing, remove the Governing body and appoint one or more Administrators to manage the affairs of the Society for a specified period not exceeding six months in the first instance: Provided that where it is proposed to remove the Governing body of the Society exclusively on the ground that election to the Governing body were not held in accordance with the provisions of this Act or the regulations or byelaws made thereunder, no action shall be taken under this subsection unless the Registrar or an officer authorized by him in this behalf has convened a meeting of the General body for conducting the election thereto in accordance

with the provisions of this Act, or the regulations or byelaws made thereunder but has failed to get the new Governing body elected.

(2) No order under subsection(1) shall be made unless the Governing body has been given a reasonable opportunity on being heard.

(3) The period specified in the order under subsection(1) may be extended for further period of six months, for the reasons to be recorded in writing, by the Registrar, and thereafter no further period shall be extended:

(4) The Administrator(s) appointed under subsection(1) shall, subject to the control of Registrar and to such instructions as he may, from time to time, give, have power to exercise all or any of the functions of the Governing body or of any officers of the Society, and to take all such actions as may be required in the interest of the Society: Provided that Administrator(s) will enroll no new member and make no appointment.

(5) The Registrar may fix the remuneration payable to the Administrator(s), and the amount of such remuneration and other costs, if any, incurred in the management of the Society shall be payable from the funds of the Society.

(6) The Administrator(s) appointed under subsection(1) shall, at the expiry of the period of appointment, arrange for the constitution of a new Governing body in accordance with the regulations of the Society.

(7) If there is difference of opinion between the General body of the Society and Administrator(s) appointed under subsection(1) in respect of any matter, it shall be referred to the Registrar for decision and his decision thereon shall be final.

(8) During the period between the issuance of notice and the passing of an order removing the Governing body, the Governing body may be required by the Registrar to function under the supervision and with the approval of such authority as the Registrar may specify in this behalf and no order made or resolution passed or any other act performed by the Governing body, shall be effective unless it is approved by such specified authority.

(9) Where the Registrar, while proceeding to take action under subsection(1) is of the opinion that suspension of the Governing body or any member during the period of proceedings is necessary in the interest of the Society, he may suspend, such Governing body or member, as the case may be, and where the Governing body is suspended, make such arrangements as he thinks proper for the proper management of the affairs of the Society till the

proceedings are completed. Provided that if the Governing body or member so suspended is not removed, it or he shall be reinstated and the period of suspension shall count towards its or his term.

42. Dispute Regarding Management :-

(1) In the event of any dispute arising among the governing body or the members of the Society or its employees in respect of any matter relating to affairs of the Society, any member or governing body or employee or exemployee or exmember of the Society may refer the dispute to the Registrar for decision, who may either decide the dispute himself or refer such dispute to any other officer for disposal.

(2) Dispute for the purpose of subsection

(1) shall also include matters relating to claim by or against the Society and any matter arising in connection with the election of governing body.

CHAPTER 8

AMALGAMATION, DIVISION, DISSOLUTION AND WINDING UP OF SOCIETIES

43. 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, and 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 also 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.

44. 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 bylaws, if any of the Society, and if there are no bylaws 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 Governing body 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.

45. Power Of Registrar To Cancel Registration In Certain Circumstances :-

(1) Notwithstanding anything contained in this Act, the Registrar may, by an order in writing, cancel the registration of any Society on any of the following grounds:

(a) that the registered Society has contravened any of the provisions of this Act or the rules made thereunder; or

(b) that the registered Society is insolvent, or must necessarily become so; or

(c) that the business of any such registered Society is conducted fraudulently or not in accordance with the bylaws or the objects specified in the memorandum filed with the Registrar under section 4;

(2) If it appears to the Registrar that any registered Society is carrying on any unlawful activity or allow unlawful activity to be carried on within any premises under the control of the Society, the Registrar may hold an enquiry into the activities of such society and in respect of every such enquiry, the Registrar shall have the same powers as are specified in subsection (3) of section 39.

(3) If on an enquiry under subsection (2), the Registrar is satisfied that any such Society has been carrying on any unlawful activity or has allowed any unlawful activity to be carried on within any premises under the control of the Society, he shall, after giving reasonable notice to the Society to show cause why the registration

of the Society should not be cancelled and after considering the representations, if any, made on behalf of the Society, by order, cancel the registration of the Society and shall communicate the order of cancellation forthwith to the registered Society. Explanation.- For the purpose of this section, an activity shall be deemed to be unlawful if such activity is an offence punishable under any provision of law for the time being force.

46. Upon Dissolution No Member To Receive Profit :-

If upon the dissolution of any Society, there remains after the satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to, or distributed among, the members of the said Society or any of them, but shall be given to some other Society, to be determined by the votes of not less than threefifths of the members present personally at the time of dissolution or in default, thereof, by the court specified in section 44.

47. Enforcement Of Order :-

Orders made under section 44 shall, on application, be enforced as follows:-

- (a) when made by a liquidator, by a 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.

48. Determination After Dissolution That Property Be Utilized By Government :-

(1) It shall be lawful for the members of any Society dissolved under section 44 to determine by majority of votes of the members present or by proxy at the time of dissolution of such Society that any property whatsoever remaining after satisfaction of all its debts and liabilities shall be given to Government to be utilized for any of the purposes referred to in subsection (3) of section 1.

(2) In the event of cancellation of the registration of Society under section 44, all the moveable and immoveable assets of the Society or its institutions or centres shall vest in the State Government to the extent of assistance, grant, aid or donation that the Society may have received from Central or State Government or any of the statutory bodies, and it shall be the duty of the collector of the district where the property is situated to take charge of the same on intimation of cancellation by the Registrar.

49. Penalty :-

If any Society or any person, referred to in sections 35 and 38, entrusted with the management of affairs of a Society, is required to furnish any information or return-

- (i) wilfully refuses or without lawful excuse neglects to furnish such information or return which it knows, to be false; 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 relevant section, shall, on conviction, be punished with fine which may extend to two thousand rupees for each such offence.

50. Cognizance Of Offences :-

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

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint made by the Registrar or any other person authorized in writing by him, by general or special order, in that behalf.

CHAPTER 10

APPEAL

51. Appeal :-

(1) An appeal shall lie,-

(a) if the order is made by the Registrar, appointed under subsection(1) of section 3, either in original case or in appeal under clause (b), to the State Government;

(b) if the order is made by the subordinate officers, appointed under subsection(2) of section 3 or any other person, to the Registrar appointed, under subsection (1) of section 3.

(2) An appeal under subsection(1) shall be filed within sixty days of the date of communication of the order in such form and in such manner accompanied by such fee as may be prescribed: Provided that the appellate authority may admit an appeal after the expiry of said period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within such period.

52. Registrar And Other Officers To Be Public Servants :-

Every officer or person exercising or authorised to exercise powers under this Act or the rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

53. Indemnity :-

No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting under his authority in respect of any thing done by or purporting to have been done by him in good faith under this Act.

54. No Objection Certificate From The Registrar :-

(1) Any Society registered outside the State; but wishes to open its branch(s) in the State, shall obtain No Objection Certificate from the Registrar before opening of such branch and shall pay such fee as may be prescribed: Provided that if such Society does not comply with the direction or order of the Registrar or the Government then No Objection Certificate shall be cancelled.

(2) The branch(s) of such Society shall be governed under the provisions of this Act.

55. Fees :-

(1) The State Government may prescribe the fees chargeable for the following purposes, namely :-

- (a) for registration of Societies;
- (b) for inspection of documents in the custody of the Registrar;
- (c) for making or granting copies of orders, decisions, entries or documents, before or after registration; and
- (d) for such other matters as appear to the Government necessary to give effect to the purposes of this Act.

(2) 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 consolidated fund of the State.

56. Power To Make Rules :-

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions 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 levy of registration fee under section 6;
- (b) form and the procedure to be followed for amendment of memorandum or regulations or byelaws of registered Society and the fee to be charged under section 9;
- (c) the procedure and conditions for change the name of a society and fee to be charged for issue of certificate under section 11;
- (d) the qualification or disqualifications for membership of the Governing body of a Society under section 16;
- (e) procedure for election of the members of the Governing body under section 20;
- (f) the levy of fee and late fee for submission of annual list of Governing body with Registrar and the form and documents to be submitted with the annual list under section 34;
- (g) form of statement of income and expenditure and returns to be furnished by a Society to the Registrar and fee to be charged and late fee for filing such statement and returns and the procedure to be followed under section 35 for maintenance of register, account books and other record by the Societies;
- (h) inspection of documents and the fees to be charged under section 36;
- (i) the rate of interest to be charged under section 40;
- (j) the procedure for appeal under sub section (2) of section 51 and fee for such appeal;
- (k) procedure for granting No Objection Certificate and the levy of fees thereof under section 54;
- (l) the fees to be charged for granting copies of decisions, orders, entries or documents, before or after registration under section 55; and

(m) any other matters which in the opinion of the State Government is required to be prescribed for the purpose of this Act.

(3) Every rules made under this Act shall, be laid as soon as may be after it is made, before the State Legislative Assembly, while it is in session, for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the Legislative Assembly agrees in making any modification in the rule or agrees that the rules 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 or anything previously done under that rule.

57. Power To Exempt :-

State Government may by an order in writing,-

- (a) exempt any Society or class of Societies from the application of any of the provisions of this Act or the rules made thereunder; and
- (b) direct that any such provisions shall apply to such Society or class of Societies to such extent as may be specified in the order.

58. Repeal And Savings :-

(1) The Societies Registration Act 1860 (hereinafter called the said Act) as in force by virtue of section 88 of the Punjab ReOrganization Act, 1966 (Act No. 31 of 1966) in the areas added to Himachal Pradesh under section 5 thereof and as applied to the areas which comprised Himachal Pradesh immediately before the 1st day of November, 1966 by virtue of the Himachal Pradesh (Application of laws) Order, 1948 and the Bilaspur (Application of laws) Order 1949, is hereby repealed in its application to the State of Himachal Pradesh.

(2) Without prejudice to the provisions contained in the Himachal Pradesh General Clauses Act, 1968 with respect to repeals, any notification, rule, order, requirement, registration, certificate, notice, decision, direction, approval, authorization, consent, application, request or thing made, issued, given or done under the said Act, shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

(3) Every Society, existing immediately before the commencement of this Act which has been registered under the said Act or under any other Act relating to Societies in force, shall be deemed to be registered under the corresponding provisions of this Act, and the byelaws of such Society shall, in so far as they are not inconsistent with the provisions of this Act, or the rules, continue to be in force until altered or rescinded.

(4) All appointments, rules and orders made, all notifications and notices issued and all suits and other proceedings instituted under the said Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively made, issued and instituted under this Act.

(5) Save as otherwise provided in this Act, any legal proceeding pending in any court or before the Registrar or any other authority

at the commencement of this Act shall be continued to be in that court or before the Registrar or that authority as if this Act had not been passed.