



Societies Act

CHAPTER 435

OF THE

REVISED STATUTES, 1989

amended 1993, c. 42

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An Act to Provide for the Incorporation of Non-profit Societies

Short title

1 This Act may be cited as the *Societies Act*. R.S., c. 435, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

- (a) "director" includes trustee, officer, member of an executive committee and any other person occupying such a position by whatever name called;
- (b) "memorandum" means the memorandum of association for incorporation of a society incorporated under this Act;
- (c) "Registrar" means the Registrar of Joint Stock Companies appointed under the *Companies Act*, and includes the Deputy Registrar and a person authorized under that Act to perform the duties of the Registrar in his absence;
- (d) "society" means a society incorporated under this Act;

(e) "special resolution" means a resolution passed by not less than three fourths of such members entitled to vote as are present in person or by proxy, where proxies are allowed, at a general meeting of which notice specifying the intention to propose the resolution as a special resolution has been duly given. R.S., c. 435, s. 2.

INCORPORATION

Purposes for incorporation of society

3 (1) A society may be incorporated under this Act to promote any benevolent, philanthropic, patriotic, religious, charitable, artistic, literary, educational, social, professional, recreational or sporting or any other useful object, but not for the purpose of carrying on any trade, industry or business.

Restriction if special legislation

(2) Where any Act, other than the *Companies Act*, provides for the incorporation of a society for a particular object, no society shall be incorporated under this Act for that object. R.S., c. 435, s. 3.

No share capital or dividend or transferable interest

4 No society shall have a capital divided into shares or declare any dividend or distribute its property among its members during the existence of the society and the interest of a member in a society shall not be transferable. R.S., c. 435, s. 4.

Procedure for incorporation

5 Any five or more persons, desiring to incorporate a society, may make and subscribe a memorandum in the form in Schedule A, and shall transmit it, with the by-laws of the society agreed upon by them for the administration of the society, and the proper fees to the Registrar, together with a list of the persons appointed by the subscribers to act as first directors, stating their full names, addresses and occupations and the period for which they will so act, the address of the registered office of the society and the place where its activities will be chiefly carried on. R.S., c. 435, s. 5.

Registration and issue of certificate of incorporation

6 (1) Where the Registrar is satisfied that the memorandum and by-laws comply with this Act and that the objects of the society are within the scope of this Act and are sufficiently set forth, he shall register the memorandum and by-laws and issue a certificate that the society is incorporated.

Non-conformity with Act

(2) Where the Registrar is not satisfied that the memorandum and by-laws comply with this Act and that the objects of the society are within the scope of this Act and sufficiently set out, he may require that the memorandum and by-laws be altered so as to conform with this Act and may refuse to register them until they are so altered.

Identical or objectionable name

(3) The Registrar may refuse to register the memorandum of a society under a name that is identical with that of any subsisting company, society or association, incorporated or unincorporated, or so nearly resembles such a name as to be calculated to deceive or is in the opinion of the Registrar objectionable for any other reason. R.S., c. 435, s. 6.

Recognized agent

7 Every society incorporated pursuant to this Act shall appoint and have a recognized agent resident within the Province, service upon whom of any originating notice, summons, process, notice or document is sufficient service upon the society. R.S., c. 435, s. 7.

Certificate as evidence

8 A certificate of incorporation of a society issued by the Registrar shall be conclusive evidence that the requirements of this Act in respect of incorporation have been complied with and that the society is duly incorporated according to this Act. R.S., c. 435, s. 8.

Body corporate

9 From the date of the certificate of incorporation the subscribers to the memorandum, and such other persons as may from time to time become members of the society, shall be a body corporate by the name contained in the memorandum, having perpetual succession and the right to a common seal. R.S., c. 435, s. 9.

POWERS

Powers

10 In addition to the powers by law vested in a corporation or body corporate and politic, a society may

(a) acquire and take by purchase, donation, devise, bequest or otherwise real estate and personal property, and hold, enjoy, sell, exchange, lease, let, improve and develop the same, and erect and maintain buildings and structures;

(b) contract and be contracted with and sue or be sued in its corporate name;

(c) use its funds and property for the attainment of its objects and purposes;

(d) borrow, raise and secure the payment of money in such manner as it thinks fit and, with the sanction of a special resolution, issue debentures or mortgage its real property to secure the payment of money borrowed by it;

(e) subject to its by-laws, draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;

(f) by special resolution and subject to Section 11, change its name or alter its objects so as to add to or restrict or abandon any of its objects or the locality in which its activities are chiefly carried on;

(g) if authorized by special resolution, subscribe to or become a member of any other society or association, whether incorporated or not, whose objects are in whole or in part similar to its own objects;

(h) do all such other acts and things as are incidental or conducive to or consequential upon the exercise of its powers or the attainment of its objects. R.S., c. 435, s. 10.

Approval of clause 10(f) resolution

11 (1) No resolution pursuant to clause (f) of Section 10 shall take effect until the Registrar approves it.

Issue of certificate upon approval

(2) When the Registrar has given his approval to the resolution, he shall issue a certificate setting forth the

particulars of the change, but, where a society is in default in respect of any requirement of this Act, the Registrar may refuse to issue a certificate under this Section.

Publication of notice of alteration

(3) A notice of any alteration referred to in this Section shall, if the Registrar thinks it advisable, be published in the Royal Gazette by the Registrar at the cost of the society. R.S., c. 435, s. 11.

No power to grant certain degrees

12 No society shall have the power to grant or confer any degree or diploma of literary, technical or scientific character. R.S., c. 435, s. 12.

ADMINISTRATION

By-laws

13 (1) A society may by special resolution make, amend or repeal by-laws, not inconsistent with this Act or with its memorandum, for the conduct and management of its activities and affairs.

Content of by-laws

(2) The by-laws of every society shall contain provisions in respect of the several matters mentioned in Schedule B.

Effective upon approval

(3) No by-law or amendment to by-laws shall take effect until the Registrar approves of it. R.S., c. 435, s. 13.

Fine for contravention of by-law

14 (1) A society may by its by-laws impose a fine not exceeding five dollars on any member who contravenes any by-law of the society.

Recovery of fine

(2) Any such fine may be recovered as a debt due from the member of the society and all fines so recovered shall belong to the society. R.S., c. 435, s. 14.

Members

15 (1) The members of a society shall be the subscribers to the memorandum and those persons admitted to membership of the society according to the by-laws.

Voting and proxy voting and minor member

(2) Subject to the by-laws,

(a) a person under the age of nineteen years may be admitted as a member of a society, or appointed to any office therein, and shall be liable for the payment of any dues or subscription as if he were of full age;

(b) every member of a society shall have a vote;

(c) proxies entitling any person or member of the society to vote at other than one meeting or any adjournment

thereof shall be void. R.S., c. 435, s. 15.

Directors

16 (1) Subject to the by-laws, the members of a society may nominate, elect or appoint any of its members as directors for conducting the business, discipline and management of the society and its affairs.

Powers of directors

(2) The directors of a society may exercise any powers of the society not required by this Act or the by-laws to be exercised by the members of the society at a general meeting. R.S., c. 435, s. 16.

RECORDS AND RETURNS

Registered office

17 Every society shall have a registered office in the Province to which all communications and notices may be sent and at which process may be served on the society, and shall file with the Registrar notice of every change of situation of that office within fourteen days of the change. R.S., c. 435, s. 17.

Register of members

18 Every society shall maintain a register of its members and shall enter therein the full names of the subscribers to the memorandum and the full name of every other person who is admitted as a member of the society, together with

- (a) the address and occupation of every such subscriber and person;
- (b) the date on which each person is admitted as a member; and
- (c) the date on which any person ceases to be a member. R.S., c. 435, s. 18.

Annual general meeting and financial statement

19 Every society shall hold an annual general meeting in the Province and fourteen days thereafter shall file with the Registrar a statement in the form of a balance sheet showing general particulars of its liabilities and assets and a statement of its income and expenditure in the preceding year audited and signed by its auditor or, if there is no auditor, by two directors. R.S., c. 435, s. 19.

List of directors

20 Every society shall file with the Registrar with its annual statement a list of its directors, with their addresses, occupations and dates of appointment or election, and shall within fourteen days of a change of directors notify the Registrar of the change. R.S., c. 435, s. 20.

Filing of special resolution

21 Every society shall file with the Registrar a copy of every special resolution within fourteen days after the resolution is passed. R.S., c. 435, s. 21.

Authentication of filed documents

22 Every notice, return or resolution required to be filed with the Registrar shall be authenticated by a director, secretary or other authorized officer of the society. R.S., c. 435, s. 22.

Availability of memorandum and by-laws

23 Every society shall furnish to a member at his request, and on payment of such fee, not exceeding fifty cents, as is fixed by its by-laws, a copy of its memorandum and by-laws. R.S., c. 435, s. 23.

DISSOLUTION

Companies Winding Up Act

24 The provisions of the *Companies Winding Up Act* apply to a society incorporated under this Act. R.S., c. 435, s. 24.

Section 136 of Companies Act

25 The provisions of Section 136 of the *Companies Act*, relating to the removal from the register of companies that are not carrying on business, apply *mutatis mutandis* to a society that has failed for two consecutive years to send or file any return, notice or document required to be made or filed with the Registrar pursuant to this Act, that is more than two years in arrears in the payment of fees required pursuant to this Act or where the Registrar has reasonable cause to believe that a society is not in operation. R.S., c. 435, s. 25; 1993, c. 42, s. 1.

Surrender of certificate of incorporation

26 A society may, by special resolution, surrender its certificate of incorporation and the Registrar, if satisfied that sufficient notice of the societys decision to dissolve has been given and that no debts or liabilities of the society are outstanding, may accept the surrender of the certificate, and cancel it, and fix a date from which the society shall be dissolved and its name removed from the register. R.S., c. 435, s. 26.

GENERAL

Liability of member

27 No member of a society shall, in his individual capacity, be liable for any debt or liability of the society beyond the amount of any subscription, dues or fees payable by him to the society. R.S., c. 435, s. 27.

Contracts by society

28 Contracts on behalf of a society may be made as follows:

- (a) any contract, which, if made between private persons, would be by law required to be in writing and to be under seal, may be made on behalf of the society in writing under the common seal of the society, and may in the same manner be varied or discharged;
- (b) any contract, which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made on behalf of the society in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;
- (c) any contract, which, if made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the society and by any person acting under its authority, express or implied, and may in the same manner be varied or discharged. R.S., c. 435, s. 28.

Appeal from Registrar

29 Any society or person aggrieved by a decision or order of the Registrar under this Act may, within one

month of the date of the decision or order, appeal from it to the Governor in Council who may confirm, modify or reverse the decision or order and direct the Registrar accordingly. R.S., c. 435, s. 29.

Penalty for contravention of Act

30 (1) Every society that contravenes or fails to observe any provision of this Act is liable on summary conviction to a penalty of not more than one hundred dollars.

Penalty on director

(2) A director or officer of a society who knowingly authorizes or permits a contravention or failure to observe any provision of this Act by a society is liable on summary conviction to a penalty of not more than one hundred dollars, whether or not the society has been prosecuted or convicted. R.S., c. 435, s. 30.

Registration fees

31 (1) There shall be paid to the Registrar for filing and registering a memorandum and by-laws and issuing a certificate of incorporation of a society a fee in the amount determined by the Governor in Council.

Annual registration fee

(2) Every society shall, in each year in the month in which the anniversary of its incorporation occurs, pay to the Registrar an annual registration fee in the amount determined by the Governor in Council.

Additional fees

(3) There shall be paid to the Registrar for other services under this Act such fees, and in such amounts, as determined by the Governor in Council.

Regulations Act

(4) The exercise by the Governor in Council of the authority contained in this Section shall be regulations within the meaning of the *Regulations Act*. 1993, c. 42, s. 2.

SCHEDULE A

(Section 5)

MEMORANDUM OF ASSOCIATION

- 1. The name of the society is (*state name*).
- 2. The object of the society is (*state particulars*).
- 3. The activities of the society are to be carried on in (*state locality*).
- 4. The registered office of the society is (*state address*).

We, the several persons whose names, addresses and occupations are subscribed, desire to be formed into a society in pursuance of this memorandum of association.

Names Addresses and Occupations of Subscribers

- 1. *A.B.*, of, in the County of

2. *C.D.*, of, in the County of

3. *E.F.*, of, in the County of

Witness to the above signatures.

G.H., of, in the County of

R.S., c. 435, Sch. A.

SCHEDULE B

(Section 13)

- (1) Terms of admission of members and their rights and obligations.
- (2) Conditions under which membership ceases and manner (if any) in which a member may be expelled.
- (3) Mode and time of calling general and special meetings of the society, number constituting a quorum at such meeting and rights of voting.
- (4) Appointment and removal of directors and other officers and their duties, powers, and remuneration.
- (5) Exercise of borrowing powers.
- (6) Audit of accounts.
- (7) Custody and use of the seal of the society.
- (8) Manner of making, altering and rescinding by-laws.
- (9) Preparation and custody of minutes of proceedings of meetings of the society and of the directors and other books and records of the society.
- (10) Time and place at which the books and records of the society may be inspected by members.
- (11) Execution of contracts, deeds, bills of exchange and other instruments and documents on behalf of the society.

R.S., c. 435, Sch. B.

