

Law relating to Societies (Societies Registration Act, 1860)

1. BASIC

Constitution	Societies Registration Act, 1860 is covered under Article 372 of Constitution.		
Features of Society	- Registered Society is legal entity but not body corporate. - It is separate from its members. - It can own properties. - It can sue and be sued by others. - Governing body of society manages activities of society.		
Distinguish between Company and Co-operative Society	Subject matter	Company	Co-operative Society
	Registration	Company is registered under the Companies Act, 2013.	Co-operative Society is registered under the Co-operative Societies Act.
	Voting rights	Member has voting right in proportion to number of shares held and paid up value.	Every member has one vote.
	Objective	Company has objective of earning profit.	Co-operative society has objective of providing service to members rather than making profits.
	Exemption	No concession is available in respect of taxes, duties etc.	Number of concessions are available to societies in respect of taxes, stamp duty etc.

2. REGISTRATION OF SOCIETIES – SECTION 1-3 & 23

Eligibility for registration	Who can register?	- Society can be registered by minimum 7 individuals. Foreigner is also eligible for registering society.
	Object	- Society can be registered for following purpose or objectives: - Promotion of literature, science or fine arts - Education or charitable purposes - Promotion and maintenance of libraries or reading rooms, public museum and galleries of paintings - Various states have included several other objectives.
Procedure for registration	Following documents are filed with Registrar of Societies: Covering letter attached with various documents signed by all subscribers of Memorandum.	

	▪ Memorandum of Association in duplicate containing: • name of the society • the objects of the society • the names, addresses and occupation of the members of the governing body • the place of registered office of the Society • the names, addresses and full signatures of the seven or more persons subscribing their names to the Memorandum of Association ▪ Rules and regulation in duplicate signed by at least three members of Governing Body. ▪ Affidavit on non-judicial stamp paper by President or Secretary of society duly attested by Notary Public. ▪ Documentary proof on registered office. ▪ Registering authority will check documents and register society. ▪ Requirement of documents for registration of society is differs from state to state.
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3. RULES AND REGULATION

Purpose of rules and regulations	▪ The Rules & Regulations guide the members and management of the society in carrying out its objectives. ▪ They also bind members of the society.
Rules and regulations provide for	▪ The Rules & Regulations of a society may provide for: • The conditions of admissions of members. • The liability of members for fines, forfeitures under certain circumstances. • The consequence of non-payment of any subscription. • The appointment and removal of trustees and their powers. • The manner of appointing and removing the governing body. • The manner in which the notice of meetings may be given. • The quorum necessary for meetings. • The investment of funds, keeping of accounts and for annual or periodical audit of account. • The manner of dissolving the society. • Matters to be provided in bye-laws.

4. MEMBERS OF SOCIETY

Rights of members	▪ The Members of a society have rights to : • Receive notice of all special and annual general meetings. • Vote at all meetings. • Resolve all disputes among members and society or inter se. • Receive copies of the rules and regulations and bye-laws.
Liabilities of members	▪ The Members of society have following liabilities : • A member may be sued as a stranger by the society. • Member, guilty of an offence to the society, is punishable as a stranger. • Member is liable to pay penalty for breach of any rule or regulation or

	bye-law of the society. Member is liable to make good loss created to society where he is guilty of misfeasance or breach of trust or misapplication of funds of society.
When member treated as stranger? (Section 10-11)	- A Member of society is liable to be sued as stranger in following situation: - When he is in an arrear of subscription which he is liable to pay. - When he has detained property of society. - When he has wilfully destroyed property of society. - When he steals or embezzles money or property of society. - When he forges any documents, money or receipt in relation of fund of society.

5. ALTERATION OR AMENDMENT

Steps or procedure for alteration or amendment in object of society- Section 12	- To alter object of society following steps should be taken: - Submission of proposal by Governing Body to the members of society. 10 days' notice is served to Members for holding meeting. - Convey special meeting and pass proposal by 3/5th of Members present and voted. Convey second special meeting after month and confirm the proposal by 3/5th of members present and voted. - Alteration is registered with registrar as per rules and regulation of society. - Above steps or procedure is similarly applicable for: - Alteration or amendment of rules and regulation of society. - Alteration or amendment of bye laws society. - Change in name of society. - Change in registered office of society. - Amalgamation or division of society with any other society.
Amalgamation or division of society – Section 12	- Society may be amalgamated with any other society for the better utilisation of the properties, resources or any other purpose. - The Government may order division or amalgamation of a society after giving the society an opportunity to represent against such proposal.

6. DISSOLUTION OF SOCIETY

When society can be dissolved? - Section 13	- Society can be dissolved where: - objects have been fulfilled or have become irrelevant, invalid or inoperative or 3/5th majority of the Members present at a meeting agree to dissolve the society for utilisation of its assets for some other better uses.
Steps for dissolution	- Following steps should be taken: - Decision or resolution is passed by Governing Body. - Submission of proposal by governing body to the members of society. 10 days' notice is served to members for holding meeting. - Convey special meeting and pass proposal by 3/5th of members present at meeting and voted. - Decision is taken for disposal of properties and settlement of claims and

	liabilities as per the rules and regulations of the society. • Delegate authority to the person(s) of the governing body to comply with the decisions accordingly. ▪ If government is Member of society or has contributed fund, prior permission of government is obtained. ▪ Any dispute relating to dissolution of society is referred to District Court of area where chief building of society is situated.
Dissolution by Registrar	▪ Society Registration Act, 1860 does not provide provision for dissolution by Registrar. ▪ Various states through its Registrar provide detail provisions for dissolution of society by Registrar. Registrar can dissolve society in following situation: • Where the office of the society has ceased to be in the State of registration. • Where the society has shifted its office from the State of registration to some other State. • Where the activities of the society are considered subversive. • Where it is carrying on any unlawful activity or allowed unlawful activities to be carried on with in any premises. • Where the registered society has contravened any of the provisions of the Act or the rules. • Where the registered society is insolvent. • Where the business of such registered society is conducted fraudulently or not in accordance with the bye-laws or the objects specified in the memorandum of the society. • Where the number of members of the society is reduced below seven. • Where the society has ceased to function for more than 3 years. • Where the society is unable to pay its debts or meet its liability. • Where the registration of the society has been cancelled on the ground that its activities proposed activities have been or will be opposed to public policy. ▪ The Registrar will inquire or investigate into the activities of the society and call upon the society to show-cause why it should not be dissolved. ▪ The Registrar may move the Court for making an order for dissolution of the society, if the cause shown by the society is not satisfactory.
Dissolution by Court	▪ Act does not provide for dissolution by the Court. But in some States, the Court may order for dissolution of a society on application by 10% of its members or the Registrar on having been satisfied that any one or more of the following circumstances exist: • If there is any contravention by the society of the provisions of the Act. • If the number of members is less than seven. • If the society has ceased to function for more than three years. • If the society is unable to pay its debts or meet its liabilities. • If it is proper that the society has to be cancelled on the ground of its activities. • If proposed activities have been or will be opposed to the public policy. • If the activities of the society constitute a public nuisance or against public policy.

	▪ Opportunity of being heard is given. ▪ Written order for dissolution is passed.
Effects of dissolution	▪ Dissolution of a society results in cessation of its activities. ▪ Its liabilities are to be settled. ▪ If there is any surplus asset, it is given to another society or the Government as per its rules and regulations. If the rules do not provide in the matter, the Governing Body of the society shall take appropriate steps: • With requisite majority vote or • As directed by the Registrar or • As directed by the Court. ▪ But surplus assets of the dissolved society can't be paid or distributed amongst its members.

7. POWERS AND DUTIES OF REGISTRAR

Powers and duties of Registrar	Following are powers and duties of Registrar: ▪ Allow inspection of documents by any person and provide certified copy thereof on payment of fees. ▪ Call information, explanation or returns from the societies relating to the affairs, employees, documents filed, accounts etc. ▪ Hold inquiries and settle disputes suo moto or at the request of the members of the governing body or other members. ▪ Investigate into the affairs of the society. ▪ Cancel registration on happening of certain events. ▪ Refuse registration, if the name is undesirable or identical or the objects are contrary to any other law etc. ▪ Order amendment of Memorandum of Association, rules and regulations, bye-laws of society. ▪ Seize and take possession of the books and records, funds and property of the society. ▪ Summon and enforce attendance of witness including the parties interested for giving evidence and producing documents. ▪ Order for auditing of the accounts of the society. ▪ Compounding offences on application with fee. ▪ Settle disputes regarding election of the office bearers. ▪ Restoration of the property or money of the society. ▪ Removal of the defunct society from the register of societies. ▪ Condonation of delay in filing of documents. ▪ Appointing liquidator.
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8. SUIT BY SOCIETY – SECTION 6-7

Suit	▪ Registered Society is legal entity. ▪ It can sue and be sued in the name of President, Chairman or Principal Secretary of the Society. ▪ If there is no specific law in this regard, then person authorised by the general body may sue on behalf of Society.
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Continuation of suit	On the death or retirement of defendant or plaintiff from office of governing body, suit will continue in name of successor of such person.
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PAST EXAMINATION QUESTIONS

Q-1	Distinguish between- 'Company' and 'Co-operative Society' (CS June 2008)
Ans.	Refer paragraph no. 1
Q-2	State the procedure for dissolution of a society under the Societies Registration Act, 1860. (CS December 2013) Or Detail the legal provisions for and consequences of dissolution of a society under the Societies Registration Act, 1860. (CS June 2014)
Ans.	Refer paragraph no. 6
Q-3	State the powers and duties of the Registrar of Societies under the Societies Registration Act, 1860. (CS December 2014)
Ans.	Refer paragraph no. 7
Q-4	Alka Society was registered by seven individuals comprising relatives and close friends in 2010 for diffusing of political knowledge among the youth. It has now assets amounting to over five crore rupees. In whom does the property vest? Refer to relevant provisions and case law, if any, under the Societies Registration Act, 1860. (CS June 2014)
Ans.	As per Section 5 of the Act, the property, both movable and immovable, belonging to the Society, vests in trustees. However, if it is not vested in trustees, Section 6 provides that then it shall be deemed to be vested in the Governing Body of such Society for the time being.



PRACTICE QUESTIONS

Q-1	What are the requirements for registration of society?
Ans.	Refer paragraph no. 2. Point related to of eligibility.
Q-2	What is the procedure for registration of society?
Ans.	Refer paragraph no. 2
Q-3	What matters should be included in rules of regulation of society?
Ans.	Refer paragraph no. 3
Q-4	What rights are available to members of society?
Ans.	Refer paragraph no. 4
Q-5	What are the duties of members of society?
Ans.	Refer paragraph no. 4
Q-6	When any member of society is treated as stranger?
Ans.	Refer paragraph no. 4
Q-7	What is the procedure for alteration in object of society?
Ans.	Refer paragraph no. 5

Q-8	When can society be dissolved by court?
Ans.	Refer paragraph no. 6

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