

SOCIETIES ACT, 1972

No. 19



of 1972

ARRANGEMENT OF SECTIONS

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AN ACT TO PROVIDE FOR THE REGISTRATION OF SOCIETIES.

Date of Assent: 30.5.1972

Date of Commencement:

ENACTED by the Parliament of Botswana.

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| Short title | 1. This Act may be cited as the Societies Act, 1972. |
| Act not to apply to certain societies
Law 2 of 1964 | 2. The provisions of this Act shall not apply to or in respect of any society which is, and shall cease to apply to or in respect of any society if and when such society becomes, an unlawful society within the meaning of section 65 (2) of the Penal Code. |
| Inter-pretation | <p>3. (1) In this Act, except where the context otherwise requires —</p> <p>“declared objects” in relation to any society, means the objects for which it exists declared by such society at the time of, and contained in, the application of such society for registration, or any subsequent variation of such objects made in accordance with regulations made under this Act;</p> <p>“exempted society” means any society for the time being exempted from registration under this Act;</p> <p>“local society” means any society established in Botswana, or having its headquarters or chief place of business in Botswana, and any branch of such a society, and any society deemed to be established in Botswana by virtue of section 5 and any branch of such a society;</p> <p>“office-bearer” of a society means any person who is the president, vice-president, chairman, deputy-chairman, secretary or treasurer of such society, or who is a member of the committee or governing body thereof, or who holds in such society any office or position analogous to any of those mentioned above;</p> |

“registered society” means any society for the time being registered under this Act;

“Registrar” means the officer appointed as Registrar of Societies under section 4 (1) and includes any Deputy Registrar of Societies or Assistant Registrar of Societies who has been authorised by the Registrar of Societies to exercise functions on his behalf;

“society” includes any club, company, partnership or association of ten or more persons, whatever its nature or objects, but does not include —

- (a) any company as defined by the Companies Proclamation, 71 of 1959, 1959, or any company to which Part VI of that Proclamation applies which has complied with the requirements of section 286 of that Proclamation;
- (b) any company or association constituted under any written law for the time being in force in Botswana;
- (c) any trade union registered under the Trade Unions Act, 24 of 1969, 1969;
- (d) any company, association or partnership consisting of not more than twenty persons, formed for the sole purpose of carrying on any lawful business;
- (e) any co-operative society, registered under the Co-operative Societies Law, 1962; 41 of 1962
- (f) any Board of Governors, Local Education Authority, school committee or similar organisation established under the Education Law, 1966; 40 of 1966
- (g) any Building Society registered under the Building Societies Proclamation, 1961; 36 of 1961
- (h) any political party listed in the Schedule; or
- (i) any society or class of society which the Minister may by Order published in the Gazette, declare not to be a society for the purposes of this Act.

(2) Where any body of persons, whether corporate or unincorporate is a member of an association, all members of such body shall be deemed to be members of such association.

4. (1) The Minister shall appoint a Registrar of Societies, and such number of Deputy Registrars of Societies and Assistant Registrars of Societies as he may consider necessary for the purposes of this Act.

Appointment
of Registrar
of Societies

(2) No suit shall lie against any person appointed under subsection (1) for anything done or omitted to be done by him in good faith without negligence and in intended exercise of any power or performance of any duty conferred or imposed on him by this Act.

Societies
deemed to be
established in
Botswana

5. A society shall be deemed to be established in Botswana although it is organised and has its headquarters or chief place of business outside Botswana, if any of its office-bearers or members resides in Botswana or is present therein, or if any person in Botswana manages or assists in the management of such society or solicits or collects money or subscriptions on its behalf:

Provided that no society shall be deemed to be so established; if and so long as —

- (i) it is organised and is operating wholly outside Botswana;
- (ii) no office, place of business or place of meeting is maintained or used in Botswana by such society or by any person in its behalf;
- (iii) no register of all or any of the members of such society is kept in Botswana; and
- (iv) no subscriptions are collected or solicited in Botswana by the society or by any person on its behalf.

Registration
of societies

6. (1) Every local society shall, in the manner prescribed and within twenty-eight days of the formation thereof or of the adoption thereby of a constitution or of rules, regulations or bye-laws, make application to the Registrar for registration or for exemption from registration under this Act.

- (2) (a) Subject to subsections (3), (4) and (9), upon application being made for registration, the Registrar shall register any local society.
- (b) Upon application being made for exemption from registration, the Registrar shall either grant or refuse such exemption, as he may think fit, but exemption shall only be granted with the approval of the Minister; and, if exemption is not granted, the Registrar shall treat the application as an application for registration and shall, subject to subsections (3), (4) and (9), register the society.
- (c) On registering or exempting from registration a local society, the Registrar shall issue to the society, a certificate in the prescribed form, which shall be *prima facie* evidence of registration or exemption, as the case may be.

(3) The Registrar may refuse to register, and shall not exempt from registration, a local society where he is satisfied that such local society is a branch of, or is affiliated to or connected with, any organization or group of a political nature established outside Botswana.

(4) The Registrar shall refuse to register and shall not exempt from registration a local society where —

- (a) it appears to him that such local society has among its objects, is being used for or is likely to pursue or to be used for, any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare or good order in Botswana, or that the interests of peace, welfare or good order in Botswana would otherwise be likely to suffer prejudice by reason of the registration of such local society;
- (b) it appears to him that the terms of the constitution, rules, regulations or bye-laws of such local society are in any respect repugnant to or inconsistent with any written law;
- (c) he is satisfied that the application does not comply with this Act or any regulations made thereunder;
- (d) he is satisfied that the society does not exist; or
- (e) the name under which the society is to be registered or exempted —
 - (i) is identical to that of any other existing local society;
 - (ii) so nearly resembles the name of such other local society as, in the opinion of the Registrar, to be likely to deceive the public or the members of either society; or
 - (iii) is, in the opinion of the Registrar, repugnant to or inconsistent with any written law or otherwise undesirable.

(5) (a) The Registrar shall effect registration of a local society by entering in a register kept for the purpose the particulars given in the application form and the date of such entry.

(b) On application being made to the Registrar, and subject to the payment of the prescribed fee, the register may be searched and examined by any person during the usual office hours.

(c) Any document purporting to be an extract of any entry in the register kept under paragraph (a) and to be certified

under the hand of the Registrar shall be received in evidence as to the matters stated therein in any proceedings under this Act.

(6) The Registrar may, with the approval of the Minister, rescind at any time any exemption granted by him under subsection (2) (b):

Provided that the society concerned may within twenty-one days from the date of the receipt of notification of such rescission apply for registration under this Act, and where the society does so it shall not, pending a refusal of such application, be deemed to be an illegal society notwithstanding section 15.

(7) Where the Registrar rescinds the exemption of a society under subsection (6), such society shall, within twenty-eight days from the date of the receipt of notification of such rescission, surrender to the Registrar the certificate of exemption issued to it under section 6 (2) (c), and if such certificate is not so surrendered, every office-bearer of the society shall be guilty of an offence and liable to a fine of R50 and to a further fine of R10 for every day, after the expiration of the said period of twenty-one days, upon which such certificate remains unsurrendered.

(8) The Registrar may, in his discretion, cancel at any time the registration of any local society effected under this section if he is satisfied that it is expedient so to do on the ground that —

- (a) the society concerned is, or has become, a branch of or affiliated to or connected with any organisation or group of a political nature established outside Botswana;
- (b) the society has become one which he would have, under section 6 (4) (a) and (b), been entitled to refuse to register;
- (c) the society concerned has, in contravention of section 7, altered its objects or pursues objects other than its declared objects; or
- (d) the society concerned has failed to comply with an order made under sections 11 or 12 within the time stated in such order:

Provided that, before cancelling any registration, the Registrar shall notify his intention to the society concerned and shall specify a period of not less than twenty-one days within which the society may submit reasons (if any) why the registration should not be cancelled.

(9) Subject to any decision by the Minister on an appeal made to him under subsection (10), a society which has had its registration

cancelled under subsection (8) (d) or any society which, in the opinion of the Registrar, is a successor of such a society, shall not be entitled to apply for re-registration until the order so made has been complied with.

(10) Any society which is aggrieved by the refusal of the Registrar to register such society or the decision of the Registrar to cancel the registration thereof may, within twenty-eight days, from the date of such refusal or cancellation, appeal against such refusal or decision to the Minister. Where a society has so appealed it shall not, notwithstanding section 15, pending the decision of the Minister on the appeal, be deemed to be an illegal society.

7. (1) No registered society shall —

(a) change —

(i) its name;

(ii) any provisions of its constitution or any of its rules, regulations or bye-laws; or

(iii) any of its objects; or

(b) become a branch of, or affiliated to or connected with, any organisation or group of a political nature established outside Botswana,

without prior consent in writing of the Registrar obtained upon application to him made in writing.

(2) It shall be the duty of the office-bearers of every registered society to ensure —

(a) that no change is made in the society's name, in its constitution, rules, regulations or bye-laws, or in any of its objects; and

(b) that the society does not become a branch of, or affiliated to or connected with, any organisation or group of a political nature established outside Botswana,

in contravention of this section.

(3) Notice that any of the matters mentioned in subsection (1) has been effected in accordance with the constitution, rules, regulations or bye-laws of the registered society shall be given to the Registrar within fourteen days of the day on which the same was so effected, and the Registrar shall register the same.

(4) If any registered society fails to comply with, or acts in contravention of this section, such society and every office-bearer thereof shall be guilty of an offence and liable to a fine of R200.

Registered societies to obtain consent of Registrar before changing name, constitution, etc.

Exempted societies to inform Registrar of change of name, etc.

- 8.** (1) Every exempted society which —
- (a) changes —
 - (i) its name;
 - (ii) any provisions of its constitution or any of its rules, regulations or bye-laws; or
 - (iii) any of its objects; or
 - (b) becomes a branch of, or affiliated to or connected with any organisation or group of a political nature established outside Botswana,

shall within fourteen days from the date of such change or of becoming a branch or affiliated or connected as aforesaid give notice thereof in writing to the Registrar.

(2) If any exempted society fails to comply with, or acts in contravention of this section, such society and every office-bearer thereof shall be guilty of an offence and liable to a fine of R200.

Publication of registration, etc.

- 9.** (1) The Registrar shall notify in the Gazette —
- (a) every registration;
 - (b) every exemption from registration;
 - (c) every rescission of exemption from registration; and
 - (d) every cancellation of registration, effected or granted under section 6.

(2) The Registrar shall cause to be published in the Gazette in April of each year a list of all registered societies existing on the thirty-first day of March in that year and a list of all exempted societies existing on the thirty-first day of March in that year.

Cessation of existence of a society

10. (1) If the Registrar has reason to believe that any registered or exempted society has ceased to exist or has ceased to be a society to which this Act applies, he may publish in the Gazette a notification calling upon such society to furnish him with proof of its existence within three months from the date of such notification.

(2) If at the expiration of such three months the Registrar is satisfied that the society has ceased to exist or has ceased to be a society to which this Act applies, a notification to that effect shall be published in the Gazette, and the society shall thereupon cease to be a registered or exempted society, as the case may be.

(3) Notwithstanding subsections (1) and (2), where a society ceases, by reason of section 2 of this Act, to be a society to which this Act applies, such society shall thereupon cease to be a registered society or exempted society, as the case may be.

11. (1) The Registrar may, at any time, by notice under his hand, order any exempted society or registered society to furnish him with —

Information to be furnished by societies

- (a) a true and complete copy of the constitution and rules of any such society in force at the date of such order;
- (b) a true and complete list of office-bearers and members of any such society residing in Botswana or present therein at the date of such order;
- (c) a true and complete return of the number of meetings held by such society in Botswana within the period of six months immediately preceding such order, stating the place or places at which such meetings were held; and
- (d) such accounts, returns and other information as may be prescribed.

(2) An order given under subsection (1) shall specify the time (not being less than twenty-one days) within which the information shall be supplied:

Provided that the Registrar may, on application made to him and on good cause being shown, grant an extension of time at his discretion.

12. (1) The Registrar may, at any time, by notice under his hand, order any exempted society or registered society to furnish him, within a time to be stated in such order (not being less than one month), with duly audited accounts of such society.

Registrar may call for audited accounts

(2) For the purposes of this section, “duly audited” means audited by an auditor approved by the Registrar, and such approval may be given either generally or for any particular audit.

13. (1) Any order made by the Registrar in relation to any exempted society or registered society under section 11 or 12 shall be binding upon every office-bearer and upon every person managing or assisting in the management of any such society in Botswana:

Persons responsible for supplying information

Provided that any such office-bearer or other person as aforesaid shall not be so bound unless he has been served with the order given by the Registrar.

(2) If any exempted society or registered society fails to comply with any order given under section 11 or 12, each of the persons mentioned in subsection (1) who has been served as aforementioned shall be guilty of an offence and liable to a fine of R200, unless he establishes to the satisfaction of the court that he has exercised due diligence and has failed to comply with the order for reasons beyond his control.

(3) If any information supplied to the Registrar in compliance with an order given under section 11 or 12 is false, incorrect or incomplete in any material particular, the person who has supplied such information shall be guilty of an offence and liable to a fine of R200, unless he establishes to the satisfaction of the court that he had good reason to believe that the information was true, correct and complete.

Discretion to publish information for benefit of members

14. The Registrar, where it appears to him to be in the interests of the members of a society so to do, may, with the approval of the Minister, take such steps as may be necessary to publish to such members, by advertisement in the Gazette or in any newspaper or in such other manner as he may think fit, any matter furnished by or on behalf of such society to the Registrar under section 11 or 12.

Illegal societies

15. Every local society, not being a registered society or an exempted society, shall be deemed to be an illegal society:

Provided that where a society has made an application for exemption or registration under this Act it shall not be deemed to be an illegal society pending a refusal of such application.

Penalties on office-bearer, etc., of illegal society

16. Any office-bearer, any person managing or assisting in the management, and any person soliciting or collecting money or subscriptions on behalf of any illegal society shall be guilty of an offence and liable to a fine of R1,000 and to imprisonment for seven years.

Penalties on member of illegal society

17. Any person who is or acts as a member of an illegal society or attends a meeting of an illegal society shall be guilty of an offence and liable to a fine of R500 and to imprisonment for three years.

Person allowing illegal society on premises

18. Any person who knowingly allows a meeting of an illegal society or of members of an illegal society for the purposes of the illegal society to be held in any house, building or place belonging to or occupied by him, or over which he has control, shall be guilty of an offence and liable to a fine of R500 and to imprisonment for three years.

19. In any proceedings under this Act or any regulations made thereunder — Presumptions

- (a) where it is proved that a club, company, partnership or association is in existence, it shall be presumed that such club, company, partnership or association is a society within the meaning of this Act unless the contrary is proved;
- (b) it shall not be necessary for the prosecution to prove that a society possesses a name, or that it has been constituted or is usually known under a particular name;
- (c) where it is alleged that a society is an illegal society, the burden of proving that it is a registered society or an exempted society, or that it is not a local society, shall lie on the person charged.

20. (1) Where any books, accounts, writings, lists of members, seals, banners or insignia of, or relating to, or purporting to relate to, any society are found in possession of any person, it shall be presumed, until the contrary is proved, that such person is a member of such society, and such society shall be presumed, until the contrary is proved, to be in existence at the time such books, accounts, writings, lists of members, seals, banners or insignia are so found. Presumption of membership, etc., of society

(2) Where any books, accounts, writings, lists of members, seals, banners or insignia of, or relating to, any society are found in the possession of any person, it shall be further presumed, until the contrary is proved, that such person assists in the management of such society.

21. (1) The Minister may order that the property, movable and immovable, of an illegal society, or of a society in respect of which a notification has been published in the Gazette under section 10 (2), shall vest in a person specified in such order, and thereupon such person shall proceed to wind up the affairs of the society, and, after satisfying and providing for all debts and liabilities of the society and the cost of winding up, if there are then any surplus assets shall prepare and submit to the Minister a scheme for the application of such surplus assets. Order for winding up affairs of illegal society and distribution of surplus assets

(2) An order made under subsection (1) shall be registered by the public officer concerned with the registration of the title to any immovable property affected by the order, without payment of any registration fee, and no stamp duty shall be payable on any such order.

(3) Where it is necessary that any entry be made in or on any book, register, title deed or other document in order to vest any property in any officer in pursuance of an order made under subsection (1), such entry shall, on production of such order, be made by the person whose duty it is to make such entry, without the payment of any fee or duty in respect thereof.

(4) A scheme submitted to the Minister under subsection (1) may be amended by the Minister in such way as he thinks proper in the circumstances of the case, and the approval of the Minister to such scheme shall be denoted by the endorsement thereon of a memorandum of such approval signed by the Minister, and, upon this being done, the surplus assets the subject of the scheme shall be held by such officer upon the terms and to the purposes thereby prescribed.

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(5) For the purpose of the winding-up of the affairs of a society under this section, the person specified in the order shall have all the powers vested by the Insolvency Proclamation in the trustee of an insolvent estate for the purpose of the discovering of the property of a debtor and the realisation thereof.

(6) The Minister may, for the purpose of enabling a society to wind up its own affairs, suspend the operation of any order made under this section for such period as to him seems expedient.

(7) This section shall not apply to any property ordered to be forfeited under section 25.

Search
warrants

22. (1) Whenever it is represented on oath, affirmation or affidavit to a judicial officer that there are reasonable grounds for suspecting that any registered society or exempted society is being or has been used for purposes prejudicial to public peace, or to welfare or good order in Botswana, such judicial officer may by warrant (hereinafter called a search warrant) authorise any police officer of or above the rank of Inspector to search any place which is so represented to be or have been used as a place of meeting or place of business of such society and any person found therein or escaping therefrom, for evidence that such society is being used for such purposes as aforesaid.

(2) Whenever it is represented on oath, affirmation or affidavit to a judicial officer that there are reasonable grounds for suspecting that any dwelling-house or other building or any place is or is about to be used as a place of meeting of any illegal society, or of persons who are members of any illegal society, or for the concealment, custody or deposit of any books, accounts, writings, lists of members, banners, seals, insignia, arms or other articles belonging to any

illegal society, such judicial officer may by warrant (hereinafter called a search warrant) authorise any police officer of or above the rank of Inspector to search such dwelling-house, building or place and seize or cause to be seized all books, accounts, writings, banners, lists of members, seals, insignia, arms and other articles which he has reasonable cause to believe to belong to any illegal society or to be in any way connected therewith, and to arrest or cause to be arrested any person found in such dwelling-house, building or place or escaping therefrom whom such officer has reason to believe is a member of any illegal society.

23. (1) Every search warrant issued under section 22 shall be under the hand of the judicial officer issuing the same and shall bear the seal of the court.

Provisions regarding search warrants

(2) A search warrant shall remain in force until it is executed or until it is cancelled by the court which issued it.

(3) A search warrant may be issued on any day (including Sundays and public holidays) but may be executed only between the hours of sunrise and sunset unless the judicial officer by the warrant specially authorises it to be executed at any other times, in which case it may be so executed.

(4) Any magistrate issuing a search warrant under section 22 shall be deemed to have jurisdiction throughout Botswana.

24. (1) The Registrar may, in writing, summon before him any person who he believes is able to give any information as to the existence or operations of any illegal society or suspected illegal society, or as to the operations of any registered society or exempted society.

Powers of Registrar to summon witnesses

(2) The person so summoned shall attend at the hour and place in the summons so specified, and produce all documents in his custody, possession or power relating to such society or suspected society, and answer truthfully all questions which the Registrar may put to him; and any person who fails to comply with this subsection shall be guilty of an offence and liable to a fine of R100.

(3) Any person who refuses to comply with such order or who obstructs compliance with such order may be arrested and detained in custody, and shall be guilty of offence and liable to a fine of R100.

(4) No statement made by a person summoned before the Registrar under this section shall subject him to any arrest or criminal prosecution, or be proved against him in any criminal proceedings, except a prosecution for failing to answer truthfully under this section.

Forfeiture	<p>25. Any books, accounts, writings, banners, insignia or other property belonging to any illegal society shall, upon the order of a judicial officer be forfeited and given to the Registrar for disposal in such manner as he may see fit.</p>
Registered office	<p>26. (1) Every registered society or exempted society shall have an office registered under this section, called a registered office, and a postal address to which all communications and notices may be addressed.</p> <p>(2) Notice of the situation of the registered office and of a change in its situation or of change of the postal address of the society shall be given to the Registrar and shall be registered by him.</p> <p>(3) Until notice has been given under subsection (2), the registered society or the exempted society shall not be deemed to have complied with this Act.</p> <p>(4) Where a registered society or an exempted society —</p> <p>(a) operates without having a registered office, or without having given notice of the situation of its registered office as required by this section;</p> <p>(b) without having given the Registrar notice of the change in its situation, operates at a place to which its registered office may have been removed; or</p> <p>(c) fails to give notice of a change of its postal address,</p> <p>then every office-bearer of the registered society or exempted society shall be guilty of an offence and liable to a fine of R10 for every day during which the society so operates.</p>
Notification of change of officers	<p>27. (1) Notification of any change of officers, or of the title of any office, of a registered society or an exempted society shall be given to the Registrar within fourteen days of such change.</p> <p>(2) If any registered society or exempted society fails to give notice of any change of officers or of the title of any office, such registered society or exempted society and every office-bearer thereof shall be guilty of an offence and liable to a fine of R200.</p>
Service of documents	<p>28. (1) Every order, notice, summons or other document issued under this Act, or under any regulations made hereunder, shall be deemed to have been validly and effectually served on the person to whom it is addressed if it is personally served on him or is left with him, or is sent to him by pre-paid registered post addressed to him at the registered office of the society with which he is concerned.</p>

(2) Every order, notice or other document issued under this Act, or under any regulations made hereunder, shall be deemed to have been validly served on a society if it is sent by pre-paid registered post addressed to the society at its registered office.

(3) Any document served by being sent by registered post shall be deemed to have reached the person or society to whom or to which it is addressed within ninety-six hours of posting.

29. In any prosecution under this Act, it shall be no objection to the admissibility of evidence as to the constitution, objects or activities of any society that the witness tendering such evidence is not or has not been a member of any illegal society. Evidence

30. On payment of the prescribed fees, any person may inspect at the office of the Registrar the register and the documents relating to any society and required to be lodged with the Registrar in accordance with this Act, and may obtain from the Registrar a copy or extract of or from the register or any such document, on payment of such fees as may be prescribed. Inspection of documents

31. (1) Every local society in existence at the commencement of this Act shall make application for registration or exemption in accordance with section 6, within sixty days of the commencement of this Act, or such extended period as the Registrar may allow, and, subject to subsection (2) such a society shall not be deemed to be an illegal society until that period, or extended period, has elapsed. Transitional provisions

(2) Where application for registration or exemption has been made by a local society within the period or extended period referred to in subsection (1), the society shall, notwithstanding section 15, not be deemed to be an illegal society until registration, or exemption therefrom, has been refused.

32. The Minister may by notice in the Gazette amend the Schedule: Power of Minister to amend Schedules

Provided that no deletion of any political party listed in the Schedule may be made other than by Act of Parliament:

33. (1) The Minister may make regulations generally for the better carrying into effect of this Act, and in particular and without prejudice to the generality of the foregoing, may make regulations for the following purposes or any of them — Regulations

- (a) prescribing the manner of exemption and registration of societies under this Act;
- (b) regulating or restricting changes of the name or objects of exempted societies or of registered societies;

- (c) prescribing the forms which may be used for carrying out the provisions of this Act;
 - (d) for securing the submission to the Registrar of accounts relating to the assets and liabilities, and the income and expenditure, of exempted societies and registered societies, in such form and at such time or times and in respect of such period or periods as may be prescribed;
 - (e) prescribing the fees which may be levied under this Act;
 - (f) securing the submission to the Registrar of annual or other periodical returns relating to the constitution, objects, membership and management of exempted societies and registered societies in such form as may be prescribed; and
 - (g) prescribing anything to be prescribed under this Act.
- (2) Any regulation made under this section may provide that any person who contravenes any provision of such regulations shall be guilty of an offence and liable to a fine of R250 and to imprisonment for six months.

Fees

34. There shall be payable upon the registration or exemption from the registration of a society under section 6 the sum of R5.

SCHEDULE

Botswana Democratic Party
 Botswana Independence Party
 Botswana National Front
 Botswana Peoples Party

Passed by the National Assembly this day, the _____, 1971.

G.T. MATENGE,
Clerk of the National Assembly.