

DRAFT BILL ENTITLED

LAW TO CONSOLIDATE, AMEND AND REPEAL THE EXISTING LEGISLATION ON SOCIETIES, INSTITUTIONS AND CLUBS AND TO PROVIDE FOR OTHER RELATED MATTERS

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RELATED MATTERS**

PART I:- PRELIMINARY PROVISIONS

Short title 1. This Law shall be cited as the Societies and Institutions Law of 2014.

Interpretation 2. In this Law, unless the context otherwise requires:

“Registrar General” means the Permanent Secretary of the Ministry of Interior, who, under this Law, is responsible for monitoring the implementation of the provisions of the Law and the coordination of the Registrars, such as to ensure uniformity of interpretation and implementation.

“Court” means the competent district court within the limits of the

territorial jurisdiction of which the registered office of the society or institution is situated, as the case may be.

“Registrar” means the Registrar of the District who, under this Law, is responsible for the registration and operation of societies and institutions having their seat in such District.

“Institution” means the aggregate of property destined to serve a particular not-for-profit purpose and in respect of the incorporation thereof the allocated property may not be less than 1,000 euro.

“not-for-profit”, in relation to a society or institution, means a society or institution which, even though authorised by its articles of association to carry out financial or other profit-making activities related to its objects, which may aim at the broader social benefit, does not allow, in any case, the distribution, whether directly or indirectly, of any profit or income to its members, officers, its founder or administrators.

“Register” means the book kept by the Registrar in which societies or institutions, as the case may be, are registered under this Law and which is kept updated, in electronic form, whilst some of its updated information is posted on the website of the District Administration concerned, in relation to societies and institutions registered and subject thereunder.

“society” means a self-governed union, organised based on a voluntary initiative, comprising not less than fifteen persons, with the aim of attaining a not-for-profit object and does not include political parties or trade unions.

“Person” means a natural or legal person.

“society premises” means a house or part of a house or room or shop or other building used for the purposes of the society.

Right to
establish and
participate in a
society or

3. Subject to the provisions of this Law and, in particular, article 4, every person who legally resides in the Republic has the right to establish a society or institution and participate therein.

institution

Unlawful object or operation of society or institution, etc.

4.–(1) A society or institution which constitutes an unlawful association within the meaning of article 63 of the Criminal Code or whose object or operation consists in undermining the security of the Republic or public order or public safety or public health or public morals or the fundamental rights and freedoms of the individual, has no legal existence and cannot be registered or, if already registered, may be dissolved by order of the Court, to which any person having a legitimate interest may apply.

- Cap. 154
- 3 of 1962
- 43 of 1963
- 41 of 1964
- 69 of 1964
- 70 of 1965
- 5 of 1967
- 58 of 1967
- 44 of 1972
- 92 of 1972
- 29 of 1973
- 59 of 1974
- 3 of 1975
- 3 of 1979
- 10 of 1981
- 46 of 1982
- 186 of 1986
- 111 of 1989
- 236 of 1991
- 6(l) of 1994
- 3(l) of 1996
- 99(l) of 1996
- 36(l) of 1997
- 40(l) of 1998
- 45(l) of 1998
- 15(l) of 1999
- 37(l) of 1999
- 38(l) of 1999
- 129(l) of 1999
- 30(l) of 2000
- 43(l) of 2000
- 77(l) of 2000
- 162(l) of 2000
- 169(l) of 2000

181(l) of 2000
27(l) of 2001
12(l) of 2002
85(l) of 2002
144(l) of 2002
145(l) of 2002
25(l) of 2003
48(l) of 2003
164(l) of 2003
124(l) of 2004
31(l) of 2005
18(l) of 2006
130(l) of 2006
126(l) of 2007
127(l) of 2007
70(l) of 2008
83(l) of 2008

(2) Any person who is a member or takes part in the administration of an unlawful society or institution under the provisions of clause (1) is guilty of an offence for criminal infringement, fraud or financial irregularities and is liable to imprisonment not exceeding three years or to a pecuniary fine not exceeding three thousand euro or to both such penalties:

Provided that the Registrar General may, in lieu of any other sanction, alternatively impose an administrative fine not exceeding the amount of €2000 on a person found guilty of committing an offence under clause (1) and in such case, the person concerned has the right to appeal to the Supreme Court against the validity of the decision of the Registrar General within 75 days from the notification of such decision.

Further provided that in case the provision for administrative fine is applied, no court proceedings shall be initiated for the same offence.

Legal
personality of a
society or
institution and

5.—(1) A society or institution only acquires a legal personality upon being registered in a Register in accordance with the provisions of this Law.

scope thereof

(2) The capacity of a society or institution which has acquired a legal personality does not extend to legal relationships requiring the attributes of a natural person.

Power to refuse registration

6.-(1) The Registrar may refuse to register any society or institution whose object or operation is found to be unlawful under the provisions of clause (1) of article 4, or in case founding members or members of the administration have been convicted of any abuse in the context of their engagement in the operation of a not-for-profit organisation or for an offence involving lack of honesty or moral obscenity.

Provided that the Registrar, in the exercise of his/her duties, may request and, if so, the applicants (founding members and members of the administration) for the incorporation of a society or institution, shall be obliged to submit to the Registrar a Criminal Record Certificate issued within the last three months prior to such submission.

(2) Subject to the provisions of clause (3), the Registrar may refuse to register any society or institution whose name is, in the opinion of the Registrar, identical or similar with the name of another association, company or organisation, or may cause confusion or mislead the public, or is contrary to public order or public interest, as established under, *inter alia*, the principle of legality, or good morals, with due consideration of prevailing social perceptions:

Provided that a negative reply by the Registrar must be accompanied by the necessary justification.

(3) In case the proposed name of the society or institution to be registered is identical with that by which any other society or institution or company has already been registered, and/or other existing organisation, and/or medical or other specialty, which in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive or mislead the public or the members of either society, institution or company or other organisation, the Registrar may require the persons who have applied for the registration of the society or institution, to change the name stated in the application

and refuse to register the same until such change is made.

PART II:-SOCIETIES

A. Acquisition and loss of legal personality

Acquisition of legal personality 7.-(1) Every society registered under the provisions of article 8, acquires a legal personality as of the date of issue of its certificate of registration.

(2) Subject to the provisions of clause (1) of article 26, the legal personality is lost upon the dissolution of the society.

Registration of society 8.-(1) For the purpose of registering a society, the Registrar keeps a Register of Societies in the prescribed form, in which he/she records the prescribed particulars, as set forth in clause (2) and the Register is always kept updated and may be inspected, during working hours, by all persons concerned; the inspection thereof is made in the presence of a competent officer and without payment of any fee and an updated list of operating societies and institutions with their addresses is also posted on the website of the District Administration concerned.

(2) For the purpose of registration of a society in the Register, an application in writing is made to the Registrar by the founders or the administration of such society, to which are attached the act of incorporation, the names and addresses of the members of the administration, as well as their contact details, the articles of association signed by the members and dated, the emblem of the society and a description of its movable or immovable property or both, in the possession of or belonging to the society at the time of submission of the application.

(3) The application for registration must compulsorily specify the precise postal address of the society, even if such address is temporary.

(4) The Registrar examines the application at the earliest and, upon being satisfied that the terms and requirements prescribed in this Law and the Regulations are complied with, approves the application and registers the society in the Register, upon payment

of the fixed fee and issues the relevant certificate of registration in the prescribed form:

Provided that the formalities relating to the approval of the registration under the provisions of this Law, are examined without delay and, in any case, within a deadline of three months, starting from the receipt of all required and duly completed documents.

Further provided that, in case the time required to examine the application, starting from the receipt of all required and duly completed documents, is expected to exceed three months from the date of submission, the Registrar must forthwith inform accordingly the applicants, stating the reasons for such delay and specifying the additional time required to examine the application and which must not exceed one month, after the lapse of which permission shall be deemed to have been granted.

(5) The registration certificate which is issued under the provisions of clause (4) is published in the Official Gazette of the Republic and is conclusive proof of the date of registration and of compliance with all the requirements of the Law, whilst the articles of association ratified by the Registrar are kept in his/her records.

(6) In case the request for issue of a registration certificate is rejected, the Registrar states the reasons for such refusal and informs the applicants of the means of legal protection at their disposal.

Articles of
association of
society

9. In order to be valid and acceptable for registration, the articles of association of a society must specify or contain:

- (a) the object, name and seat of the society (specifying the Municipality or Community, in the areas controlled by the Republic of Cyprus), which must be within the Republic of Cyprus;
- (b) the terms of admission, resignation and expulsion of members as well as their rights and obligations;
- (c) the resources of the society;

- (d) the mode/agent of representation of the society both in and out of court;
- (e) the administrative bodies of the society and the terms for the formation, operation, frequency of meetings and dismissal of such bodies, as well as a provision stating that no remuneration of any kind shall be paid to any member or officer of the administration thereof for services provided;
- (f) the terms under which the meeting of members is convened, meetings are held and decisions are taken, including the term that a general meeting of the society shall be convened and held at least once a year;
- (g) the terms pertaining to the amendment of the articles of association;
- (h) the mode in which the society's accounts are audited, subject to the principles of transparency;
- (i) the terms pertaining to the dissolution of the society or its merger with another society and the fate of the property of the society in the event of dissolution or its merger with another society and which shall, in no case, be distributed among the members.

Entry of amendments to the articles of association

10.-(1) An amendment to the articles of association of a registered society takes effect only from the entry thereof in the Register of Societies upon application submitted in accordance with clause (2).

(2) The administration of the society has the obligation, upon the voting of any amendment to the articles of association, to apply to the Registrar in writing, without undue delay and, in any event, no later than thirty days from the date on which such amendment was voted, requesting the entry thereof in the Register.

(3) The Registrar may refuse to enter any amendment to the articles of association if he/she deems that such amendment is contrary to the provisions of this Law:

Provided that the submission of an application after the above deadline has elapsed does not constitute *per se* a reason for refusing the registration of the specific amendment in the Register of Societies, if the Registrar is satisfied that reasons of *force majeure* have not allowed the submission of the amendment within the prescribed deadline.

Mandatory notifications to the Registrar

11.–(1) Within the first quarter of every year, the administration or the Secretary of a registered society have the obligation to notify the Registrar in writing of the following:

- (a) in the case of change of address of the society's premises, the current address thereof;
- (b) if any, the registrations of new members and the members removed from the Register in the previous year;
- (c) the current members of the society's administrative council with their respective offices and contact details; and
- (d) whether, in the past year, the minimum number of annual general meetings provided for in the articles of association has been held.

(2) In case of non compliance with the obligation under clause (1), the Registrar, by registered letter, calls upon the persons responsible, to do so within thirty days. In case of no response, the Registrar may apply to the Court for the dissolution of the society under the provisions of paragraph (c) of article 25 and, at the same time, publish the relevant application made to the Court in the Official Gazette of the Republic.

Note of dissolution of society in the Register of Societies

12.–(1) The dissolution of the society effected in any manner whatsoever, as well as the names of the liquidators thereof, are noted in the Register of Societies, next to the registration.

(2) The note of the dissolution is entered upon a written report to the Registrar by the administration of the society or the person or authority having caused the dissolution, as the case may be, and must be submitted without undue delay and, in any event, no later

than thirty days from the date of the specific event of the dissolution of the society.

B. Members

Admission, resignation and expulsion of members

13.–(1) Unless otherwise provided in the articles of association, the admission of new members is allowed at all times.

(2) Members are at all times entitled to retire from the society but, unless otherwise provided in the articles of association, a retiring member is bound to pay his/her subscriptions until the end of the financial year.

(3) The expulsion of members is allowed in the cases prescribed by the articles of association, as well as in cases in which the member, with his/her overall behaviour, acts or omissions, brings about or causes the humiliation or diminution of the credibility or prestige of the society, or other prejudice to the interests thereof and is decided by the General Meeting of the Members.

Equality of members

14. Unless otherwise provided in the articles of association, all members of the society have equal rights.

Rights and obligations of retiring members

15. Members of the society who have retired have no right on the property thereof and they are liable to pay subscriptions having regard to the time of their membership.

Provided that members who have not fulfilled their financial obligations to the society are deprived of the right to vote at the General Meeting of the Members which decides whether they shall be expelled or not, with due consideration of the fact that if they are included in the members of the society they shall be counted in establishing the required quorums.

Non-transferable membership

16. Subject to the provisions of article 22, unless otherwise provided in the articles of association, membership cannot be represented, transferred or inherited.

C. Administration of society

Administration of society 17.–(1) Societies are administered by a multi-member administrative council consisting of five or more persons who, unless otherwise provided in the articles of association, are members of the society and, unless otherwise provided in the articles of association, decisions are taken by majority of the members present.

(2) Notwithstanding the provisions of the articles of association of the society, in case a member of its administration is convicted of a criminal offence involving lack of honesty or moral obscenity, any member of the society or the Registrar, with the approval of the Registrar General, may call the administrative council to convene the soonest possible an extraordinary general meeting for the purpose of replacing the said member of the administration.

Cases in which a member of the administration is not entitled to vote 18.–(1) A member of the administration is not entitled to take part in the discussion or vote where the decision relates to a legal transaction or the bringing or discontinuance or an action between the society and such member, or the member's spouse or a relative by blood or by marriage up to the third degree or a legal transaction between the society and a company, whether a single person company or a company limited by shares, in which or in the administration of which the member or the member's spouse or a relative by blood or by marriage up to the third degree, takes part.

(2) Without prejudice to the right of the society to bring an action against the member liable for any damages further to the violation of a legal duty, every decision taken in violation of clause (1) is null and void in accordance with the provisions of article 24.

Duties and powers of the administration and liability of members of administration and of society 19.–(1) The administrative council must attend to the affairs of the society with due care and represent the same in court and out of court, through its President, and unless otherwise provided in the act of incorporation or the articles of association, substitution is prohibited.

(2) The scope of authority of the body in charge of the administration is laid down in the articles of association and is also valid in respect of third persons. Under the articles of association, certain powers

may be entrusted to the same body and, in case of doubt, the authority thereof also extends to all related acts.

(3) Any legal acts undertaken by the administrative body of the society within the scope of its powers are binding on the society.

(4) The society is liable against third parties for the unlawful acts or omissions of its representative bodies or employees and which entail an obligation for compensation, provided the prejudicial act or omission has taken place during the exercise of the duties entrusted to them:

Provided that if the said prejudicial act or omission was made deliberately, fraudulently, in bad faith or gross negligence, the person or persons liable are jointly and severally liable towards the society for restoring such damage.

Meetings of members of the society and powers thereof

20.–(1) The meeting of the members is the supreme body of the society and decides on all matters pertaining thereto and which do not fall within the competence of another body.

(2) Unless otherwise provided in the articles of association, the meeting itself elects the members of its administration, appoints the auditors of the accounts of the society, decides on the admission or expulsion of a member, on the approval of the balance sheet, on the change of the object of the society, on the modification of the articles of association and on the dissolution of the society.

(3) The meeting of the members exercises supervision and control over the members of the administrative board and is entitled to dismiss same in accordance with the provisions of the articles of association.

Calling of meetings

21.–(1) The meeting of the members is called by the administration in the cases specified in the articles of association or where this is necessary in the interest of the society.

(2) The meeting is also held upon request of a number of members specified in the articles of association and where this is not so specified, one fifth of the members may convene a meeting upon a

written requisition setting out the agenda.

(3) In case the requisition is not accepted, the Registrar may, upon written request of the members concerned, authorise the requisitionists to convene the meeting of the members and the Registrar shall regulate the question of its chairmanship with relevant instructions.

Decisions of the meetings

22.-(1) Decisions at the meeting of the members are taken by majority of the members present, taking into consideration also written authorisations and/or members participating via teleconference, provided the articles of association contain relevant provisions that permit so. Unless otherwise provided in the articles of association, a decision of the meeting on a matter not contained in the invitation is null and void.

Provided that each member may not be authorised to represent more than one absent member.

(2) Subject to the provisions of article 23, a decision may be taken without a meeting of the members if, at least two thirds thereof, give their consent in writing to a specific proposal.

(3) No member is entitled to participate in the discussion or vote where the decision relates to a legal transaction or the bringing or discontinuance of an action between the society and the said member or the member's spouse or a relative by blood or by marriage up to the third degree or a legal transaction between the society and a company, whether a single member company or a company limited by shares, in which or in the administration of which the member or the member's spouse or a relative by blood or by marriage up to the third degree, takes part.

Decisions on amendments to the articles of association, on the dissolution or change of the object of the society

23.-(1) Unless otherwise provided in the articles of association, the taking of a decision to amend the articles of association requires the presence of at least one half of the members plus one and a majority of three quarters of those present.

(2) Notwithstanding the provisions of clause (1), the taking of a decision to change the object of the society or dissolve such society requires the consent of three quarters of the members of the society.

Invalidation of decisions of meetings or the administration and suspension of execution of same

24.-(1) A decision of the meeting or of the administration of the society which is contrary to the law or the articles of association is null and void and the invalidation is declared by the Court on an action brought by any member or any person having a legitimate interest. No action can be brought if six months have elapsed from the taking of the said decision.

(2) The Court may, in the context of hearing an action under clause (1), upon application by any party, suspend the execution of the disputed decision on such terms and conditions as the Court deems fit.

D. Dissolution of societies

Dissolution of a society

25. A society is dissolved:-

- (a) at any time, by decision of the meeting of the members in accordance with the provisions of article 23 of this Law;
- (b) if the number of the members is reduced below fifteen:

Provided the society is not put under liquidation *ipso jure* for this reason unless six months have elapsed from the reduction of the number of members and no new names have been notified to the Registrar to achieve the minimum required number of members.

Provided that the administrative council of the society is obliged, at the latest within one month from establishing that the number of members has been reduced below 15, to notify accordingly the Registrar, indicating the date on which such event occurred.

- (c) by decision of the Court upon application by the administration of the society or one fifth of the members or the Registrar with the approval of the Registrar General, if-

- (i) due to other reasons, the election of an administration is impossible or it is generally impossible for the society to carry on its operation in accordance with the articles of association, and/or
- (ii) the object of the society has been fulfilled and/or
- (iii) the society is pursuing an object which is profit-making or different than the one prescribed in the articles of association or the object or operation of the society have proven to be unlawful as provided in article 4 of this Law:

Provided that the Registrar, with the approval of the Registrar General, in accordance with the provisions of articles 11, 46 and 47, may strike off from the Register, *ex officio*, a society if, due to inactivity for a period exceeding two years, including the non-convening or non-holding of the general meetings of the members as provided in the articles of association and/or the non-submission of audited annual accounts, its object is deemed to have been abandoned.

Further provided that such act by the Registrar may be appealed against before the Supreme Court; if not, it shall take effect as soon as the prescribed deadline of 75 days from the notification of his/her decision has elapsed and no such appeal has been made.

Liquidation of a dissolved society

26.-(1) Once its dissolution has been decided, the society is *ipso jure* under liquidation and until the completion of such liquidation and for the requirements thereof, the society is deemed to be in existence.

(2) Unless otherwise provided in the Law or the articles of association, or unless the competent body otherwise decides, the liquidation is carried out by the persons in charge of the administration of the society and, in their absence, the liquidator, one or more, is appointed by the Court, to which may apply the Registrar with the assistance of the Attorney General of the Republic.

(3) The liquidator has the status of administrator of the society.

His/her authority is limited to the requirements of the liquidation.

(4) During liquidation, the property of the society which forms part of its assets is transferred to another agency specified in the articles of association of the society under liquidation, whilst, subject to the provisions of any law pertaining to matters of justice, in case the dissolution is not voluntary, the Court shall also take into consideration the views of the Registrar for the better distribution of the property of the association for public benefit.

(5) The liquidator is liable to pay damages for any infringement of his/her obligations due to his/her fault. In the case of more than one liquidators, they are each liable for the entire damage.

PART III:– INSTITUTIONS

A. Incorporation, registration and organisation

Incorporation of an institution 27.–(1) An institution is incorporated by registration of its act of incorporation in the Register of Institutions, which is kept at the Registrar, and the issue by the Registrar of the institution's certificate of registration provided in clause (2).

(2) The registration is made upon written application in the prescribed form by the founders or the trustees or the executors of a will, to which its act of incorporation is attached, as well as the corresponding Articles of Association, which lay down in detail the mode of operation of the institution and states the names and addresses of the members of its administration and the mode of succession thereof, and the Registrar examines the application at the earliest and, if satisfied that the object of the institution is not unlawful as provided in article 3 above, that the Articles of Association are complete and the property allocated thereto is sufficient to achieve the objects of the institution, enters the registration in the Register of Institutions and issues a certificate of registration bearing the Registrar's signature in the prescribed form.

Objects of the Institution (3) An institution may be registered when its main purpose is to achieve one or more of the following objects:

- (a) deter or relieve poverty,
- (b) promote education,
- (c) promote religion,
- (d) promote health or the saving of lives,
- (e) promote the development of citizens and the community,
- (f) promote art, civilisation, cultural heritage or science,
- (g) promote amateur sports,
- (h) promote human rights, conflict resolution or reconciliation or promote religious or national harmony or equality and specificities,
- (i) promote the protection or improvement of the environment,
- (j) cater for needs resulting from young or old age, health problems, disability, economic difficulties or other disadvantage,
- (k) promote the welfare and protection of animals,
- (l) for any other reason to the benefit of the public in general, or considered to be related to paragraphs (a) – (k) above.

Provided that the pursuit or objects of the institution need not necessarily be to the benefit of the public, but may benefit part of the public or may specifically benefit one or more persons or objects or persons within a group of persons;

(4) The formalities relating to the approval of the application under the provisions of this Law, are examined without delay and, in any

case, within a deadline of three months, starting from the receipt of all required and duly completed documents. A confirmation of receipt of the application shall also be provided:

Provided that, in case the time required to examine the application, starting from the receipt of all required and duly completed documents, is expected to exceed three months from the date of submission, the Registrar must forthwith inform accordingly the applicants, founders or executors of the will, stating the reasons for such delay and specifying the additional time required to examine the application and which must not exceed one month, after the lapse of which permission shall be deemed to have been granted.

(4) The certificate which is issued under clause (2) is published in the Official Gazette of the Republic and is conclusive proof of the date of registration and of compliance with the requirements of the Law.

(5) In case the request for issue of a registration certificate is rejected, the Registrar states the reasons for such refusal and informs the applicant of the means of legal protection at his/her disposal.

(6) Upon the issue of its certificate of registration the institution acquires a legal personality.

Act of
incorporation
and content
thereof

28.-(1) The act of incorporation is effected either by an instrument *inter vivos* or by will.

(2) The act of incorporation must state the name and object of the institution, its seat, its emblem, the property allocated thereto, the names, addresses and contact details of the founders and the members of its administration, as well as the mode of succession thereof and its articles of association.

The term “act of incorporation” used in Part III of this Law, includes all contracts, wills or other instruments by which an institution is incorporated.

Change in the articles of association	29. The articles of association of the institution may be specified or supplemented or amended by decision of the Court, subject to the will of the founder and any completion or change to the articles of association may also be made on the same conditions by subsequent decision of the Court, to which the administrative council of the institution or the Registrar, with the assistance of the Attorney General of the Republic, may apply.
Revocation of the act of incorporation	30.-(1) Upon application by the founder, the Court may allow the revocation of the act of incorporation on grounds of the destitution of the founder, which has occurred after the incorporation, or for significant reasons justifying such revocation. (2) No application for revocation can be made following the registration of the institution.
Obligations of the founder	31. As from the incorporation of the institution, the founder is bound to transfer thereto the property so promised and rights transferred by simple assignment, in the absence of contrary will of the founder, are transferred <i>ipso jure</i> with the incorporation of the institution.
Donations made to the institution prior to its incorporation continue to produce the same effect subsequently	32. Following the incorporation of any institution under this Law, every contribution, donation and disposal of movable or immovable property made up to that time to or in favour of such institution or the members of its administration or otherwise for the purposes thereof, are as valid as if they had been made to or in favour of the incorporated institution.

B. Administration of institutions

Administration of institutions	33.-(1) The registered institutions are administered by an administrative council consisting of five or more persons and in case the administration consists of several members, unless otherwise provided in the act of incorporation, decisions are taken by absolute majority of the members present. (2) In case a member of the administration of the institution is convicted of any criminal offence involving lack of honesty or moral obscenity, the Registrar General, with the assistance of the Attorney
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General of the Republic, or the Attorney General of the Republic himself acting *ex officio*, by virtue of the powers entrusted to him/her under paragraph (a) of clause (1) of article 39, takes forthwith all necessary judicial measures for the immediate removal of the said member from his/her duties and his/her replacement for the purpose of achieving the prescribed number of members of the administration of the institution:

Provided that even if any such procedure may be pending under this clause, the remaining members are not hindered from acting and exercising the current administration of the institution and taking valid and binding decisions on behalf thereof.

Cases in which a member of the administration is not entitled to vote

34.-(1) A member of the administration is not entitled to take part in the discussion or vote where the decision relates to a legal transaction or the bringing or discontinuance of an action between the institution and such member, or the member's spouse or a relative by blood or by marriage up to the third degree or a legal transaction between the institution and a company, whether a single person company or a company limited by shares, in which or in the administration of which the member or the member's spouse or a relative by blood up to the third degree, takes part.

(2) Without prejudice to the right of the institution to bring an action against the member of the administration who is liable for damages due to violation of a legal duty, a decision taken in violation of clause (1) is null and void and such nullity also applies to the act attempted to be effected under such decision.

Duties and powers of the administration

35.-(1) The administrative council of the institution must attend to the affairs of the institution with due care and represent the same in court and out of court, through its president. Unless otherwise provided in the act of incorporation, substitution to the aforementioned duties and responsibilities is prohibited.

(2) The scope of authority of the body in charge of the administration is laid down in the act of incorporation and the articles of association of the institution and is also valid in respect of third persons; under the act of incorporation, certain duties may be entrusted to the same person and, in case of doubt, the authority thereof also extends to all related acts.

Possibility of representation of the members of the administration

36.-(1) The members of the administration may, instead of acting personally, employ and pay an agent, whether an advocate, banker, stockbroker or other person, to transact any business or do any act required to be transacted or done in the framework of the institution, or in the management of the property allocated to it, including the receipt and payment of money, and shall be entitled to be allowed and paid all charges and expenses so incurred, and shall not be responsible for the default of any such agent if employed in good faith.

(2) The members of the administration may appoint any person to act as their agent or attorney for the purpose of administering any property, movable or immovable, subject to the institution, in any place outside the Republic or executing or exercising any discretion or trust or power vested in them in relation to any such property, with such related powers, and subject to such provisions and restrictions as they may think fit, including a power to appoint substitutes, and shall not, by reason only of their having made such appointment, be responsible for any loss arising thereby

(3) Without prejudice to such general power of appointing agents as aforesaid -

Provided that nothing in this clause shall exempt the members of the administration from any liability which they would have incurred if this Law and any Law replaced by this Law had not been passed in case they permit any such money, valuable consideration, or property to remain in the hands or under the control of the banker or advocate for a period longer than is reasonably necessary to enable the banker or advocate, as the case may be, to pay or transfer the same to the institution.

This clause applies whether the money or valuable consideration or property was or is received before or after the entry into force of this Law.

Absence of members of the administration

37.-(1) A member of the administration intending to remain outside the Republic for a period exceeding fourteen days may, notwithstanding any rule of law or equity to the contrary, by power of

outside the
Republic

attorney, delegate to any person (including a trust corporation), the execution or exercise during his absence from the Republic, of all or any powers vested in him as such trustee, either alone or jointly with any other person or persons.

(2) The donor of a power of attorney given under this article shall be liable for the acts and defaults of the donee as if they were the acts or defaults of the donor.

(3) The power of attorney shall not come into operation unless and until the donor is out of the Republic and shall be revoked by his/her return or entry into the Republic.

(4) The power of attorney shall be certified in the manner provided by the Certifying Officers Law and a true copy thereof shall be deposited in the office of the Registrar, with a sworn declaration by the donor that he intends to remain out of the Republic for a period exceeding fourteen days from the date of such declaration, or from the date therein mentioned.

(5) The declaration aforesaid and a sworn declaration by the donee of the power of the attorney that the power has come into operation and has not been revoked by the return or entry into the Republic of the donor shall be conclusive evidence of the facts stated in favour of any person dealing with the donee.

(6) In favour of a person dealing with the donee, any act done or instrument executed by the donee shall, notwithstanding that the power has never come into operation or has become revoked by the act of the donor or by his/her death or otherwise, be as valid and effectual as if the donor were alive and of full capacity, and had himself/herself done such act or executed such instrument, unless such person had actual notice that the power had never come into operation or of the revocation of the power before such act was done or instrument executed.

(7) For the purpose of executing or exercising the powers delegated to him/her, the donee may exercise any of the powers conferred on the donor as trustee by law or by the instrument creating the trust, including power, for the purpose of the transfer of any inscribed stock, himself/herself to an attorney power to transfer but not

including the power of delegation conferred by this article.

(8) The fact that it appears from any power of attorney given under this article, or from any evidence required for the purposes of any such power of attorney or otherwise, that in dealing with any stock the donee of the power is acting in the execution of a trust shall not be deemed for any purpose to affect any person in whose books the stock is inscribed or registered with any notice of the trust.

(9) No power of attorney shall be valid for the purposes of this article for a period exceeding three years after the date of execution thereof.

(10) Where a member of the administration has passed away or remains outside the Republic for a period exceeding twelve months or desires to be discharged from the duties or powers entrusted to or conferred on him/her or refuses or is unfit to act therein, or is a minor, then subject to the restrictions imposed by this Law on the number of members of the administrative council-

(a) the person or persons named in the articles of association of the institution for the purpose of appointing new members to the administrative council, or

(b) in the absence of such person or in the absence of such person able and willing to act, then the surviving members for the time being,

may, by writing, appoint one or more other persons to be members in the place of the member so deceased, remaining out of the Republic, desiring to be discharged, refusing or being unfit or incapable or a minor, as aforesaid.

(11) Where a member has been removed under a power contained in the articles of association, a new member or new members may be appointed in the place of the member who is removed, as if he had passed away or, in the case of a legal person, as if the legal person desired to be discharged from the trust, and the provisions of this article shall apply accordingly, but subject to the restrictions imposed by this Law on the number of members.

(12) The Court, to which the Registrar may apply, with the

assistance of the Attorney General, may make an order appointing a new member of the administration in substitution for a trustee who is sentenced to a term of imprisonment or is mentally disordered or is a person of unsound mind or is bankrupt or is a legal person which is in liquidation or has been dissolved.

Power of Court to authorise dealings with property of the institution

38.-(1) Where in the management or administration of any property vested in an institution, any sale, lease, mortgage, surrender, release or other disposal, or any purchase, investment, acquisition, expenditure, or other transactions, is in the opinion of the Court expedient, but the same cannot be effected by reason of the absence of any power for that purpose vested in the administration of the institution by the act of incorporation or the articles of association or by law, the Court may by order confer upon the administrative council of the institution, either generally or in any particular instance, the necessary power for the purpose, on such terms, and subject to such provisions and conditions, if any, as the Court may think fit, and may direct in what manner any money authorised to be expended, and the cost of any transaction, are to be paid or borne as between capital and income.

(2) In amplification and not in derogation of the generality of the foregoing powers, the Court may by order under clause(1)

(a) authorise the administrative council to make any investments in or upon titles to immovable property;

(b) authorise the administrative council which is a mortgagee of immovable property on behalf of the institution to buy such immovable property at any auction thereof held under an order of Court or under the provisions of the Sale of Mortgaged Property Law or in exercise of a power of sale vested in such administrative council;

(c) authorise the administrative council to raise any funds for the improvement of immovable property which is vested in or belongs to the institution;

(d) authorise the doing by the administrative council of any act which appears to the Court to be beneficial to the

institution estate or the beneficiaries.

(3) The Court may, from time to time, rescind or vary any order under this article, or may make any new or further order.

(4) An application to the Court under this article may be made by the administrative council, or by any of the members or by any person beneficially interested under the Articles of Association or the act of incorporation of the institution.

Power to relieve a member of the administration from personal liability

39. If it appears to the Court that a member of the administration, whether appointed by the act of incorporation, or the articles of association or the Court, is or may be personally liable for any breach of power, whether the transaction alleged to be a breach of power occurred before or after the entry into force of this Law, but has acted honestly and reasonably and ought fairly to be excused for the breach of power and for omitting to obtain the directions of the Court in the matter in which he/she committed such breach, then the Court may relieve him/her either wholly or partly from personal liability for the same.

Power to make beneficiary indemnify for breach of power

40.-(1) Where the administrative council commits a breach of power at the instigation or request or with the consent in writing of a beneficiary, the Court may, if it thinks fit, make such order as the Court seems just, for seizing all or any part of the interest of the beneficiary in the institution estate by way of indemnity to the institution or persons claiming through it.

(2) This article applies to breaches of trust committed both before and after the entry into force of this Law.

Liability of the institution

41.-(1) Legal transactions undertaken or agreed to by the administrative body of the institution and which are within the limits of its authority are binding on the institution.

(2) The institution is liable towards third parties for the unlawful acts or omissions of its representative bodies or employees and which entail an obligation for compensation, provided the prejudicial act or omission has taken place during the exercise of the powers or duties

entrusted to them:

Provided that if the said prejudicial act or omission was made deliberately, fraudulently, in bad faith or gross negligence, the natural person or persons liable are jointly and severally liable towards the institution for restoring such damage.

Appointment of provisional administration 42. In the absence of any of the persons who make up the administration of the institution or where there is a conflict between their interests and those of the institution, upon request of the Registrar General or any person having a legitimate interest, the Court appoints a provisional administration until such obstacle is removed.

Special powers of the Registrar General 43.-(1) The Registrar General has power to:-

- (a) take all judicial measures required, with the assistance of the Attorney General of the Republic, for the keeping and execution of any trust incorporated in favour of an institution, either by instrument *inter vivos* or by will;
- (b) approve the sale or other disposal or alienation of immovable property belonging to an institution, if convinced that such sale, disposal or alienation is for the benefit of the institution;
- (c) suspend the procedures effected under this Law, with the consent of the Attorney General of the Republic; and
- (d) compromise or authorise the compromise on any disputed matters.

(2) In order to be valid, a decision of the administration of an institution on the sale or other disposal or alienation of immovable property belonging to the institution or on a compromise on any disputed matters requires the approval or authorisation of the Registrar General.

(3) All proceedings under paragraph (a) of clause (1) are initiated exclusively by the Attorney General of the Republic whilst all proceedings under paragraphs (b) or (c) of clause (1) may be initiated either by the Registrar General or the administrative council

of the institution, upon the Registrar General’s authorisation in writing.

(4) The Registrar General, represented by the Attorney General of the Republic is a party to all the proceedings pertaining to institutions.

Amendment to the articles of association against the will of the founder
Change of object

44. Upon application of the administration of the institution, the Court may order the articles of association to be amended even against the will of the founder, if such amendment is necessary in order to preserve the property of the institution or fulfill its object.

45.-(1) In the case where the object of the institution has become unattainable, upon application of the administration of the institution or the Registrar General, with the assistance of the Attorney General of the Republic, the Court may give the institution a related object according to the most probable will of the founder.

(2) Any modification of the contents or conditions of the act of incorporation contrary to the provisions pertaining to its public or public utility cause is prohibited:

Provided that in exceptional cases, by special decision of the Court, when the will of the founder cannot be fulfilled, the property may be disposed of for another related object.

C . Dissolution of Institution

End of institution

46.-(1) The institution ceases to exist in the cases specified in its act of incorporation or its articles of association.

(2) The institution is dissolved by decision of the Court if:

(a) its object has been fulfilled or has become unattainable;

(b) subject to the provisions of articles 11, 51 and 52, if due to inactivity over a period of more than two years, including the non convening or non holding of meetings of the administrative council required under the articles of association, and/or the *non submission of audited annual accounts*, the object of the institution is deemed to be abandoned;

(c) it has deviated from its object or its object or operation have proven to be profit-making or unlawful as provided in article 3 of this Law.

Liquidation of a dissolved institution 47.-(1) When the institution ceases to exist or is dissolved in accordance with the provisions of article 42, it is *ipso jure* under liquidation and Until the liquidation has been completed/ended and for the requirements thereof, it is deemed to be in existence.

(2) Unless otherwise provided in the act of incorporation or unless otherwise decided by the administrative council of the institution, or unless otherwise decided by the Registrar, the liquidation is carried out by the persons in charge of the administration of the institution and in their absence, the Court appoints one or more liquidators.

(3) The liquidator has the status of administrator of the institution and his authority is limited to the requirements of the liquidation.

(4) The liquidator is liable to pay damages to the institution or the successors thereof for any infringement of his/her duties and where there is more than one liquidator, they are jointly and/or severally liable.

Property of a dissolved institution 48. Unless otherwise provided in the act of incorporation, or unless otherwise decided by the administrative council of the institution, or unless otherwise decided by the Registrar, the property of a dissolved institution comes under the possession of the Republic, which must use such property to serve the object of the institution or any other related object.

PART V:– FEDERATIONS OR UNIONS OF SOCIETIES AND OTHER SIMILAR LEGAL ENTITIES

Incorporation and registration of a federation or union of societies, etc. 49.-(1) Two or more societies or other similar legal entities, whether foreign or domestic, two or more institutions which share common values, ideals and objects may, subject to the provisions of the law that governs the same, establish federations or unions and be registered as such in a special register kept by the Registrar.

Provided that, subject to the provisions of the European Convention on the Recognition of the Legal Personality of International Non Governmental Organisations, such federations or unions may also be established with respective foreign organisations, on condition that their articles of association specify that the applicable law which governs their action shall be the law which applies in the Republic.

(2) Every federation or union which is established and registered in accordance with clause (1), acquires, upon the issue of the relevant certificate of registration, its own legal personality and its own administrative bodies, other than those of its component entities:

Provided that any policy matters are decided at the level of the federation, under relevant provisions in its articles of association, and bind the societies subject thereto, to make the necessary modifications, if any, in their articles of association.

(3) Regulations which may be made under this Law shall regulate specifically the matters relating to the establishment, registration, administration, organisation and operation of such unions.

Establishment of subsidiary branches of societies and institutions

50.-(1) A society or institution registered under the provisions of this Law may establish subsidiary local branches, provided a relevant provision in respect of their mode of operation is contained in its articles of association.

Provided that subsidiary branches are bound by the articles of association and follow the policy established and decided by the parent entity.

(2) Regulations which may be made under this Law shall regulate specifically the matters relating to the establishment, registration, administration, organisation and operation of such branches in relation to the parent organisations.

PART V: MISCELLANEOUS PROVISIONS

Penal consequences

51.-(1) Every time the service or submission of any application, notification, communication, report or other information to the

of failure to
serve
notifications,
etc.

Registrar is required to be made under this Law within a specified deadline, the service or submission after such deadline has elapsed or omission thereof, in addition to the consequences explicitly provided in this Law, constitutes a violation of legal duty by the person in charge who is liable, on conviction, to a pecuniary fine not exceeding five hundred euro.

Provided that the Registrar may, alternatively, in lieu of other sanction, impose an administrative fine not exceeding €300 on the liable person, and in such case, the person concerned has the right to appeal to the Supreme Court against the validity of the decision of the Registrar, within 75 days from the notification of such decision.

(2) Criminal charges for the offence under clause (1) cannot be filed after six months have elapsed from the commitment thereof while, pending the criminal charges of any nature against the chairman, member of the administrative council or member of a society or Institution and/or member of staff, the Registrar has authority to decide that the person accused must retire from his/her duties at the society or institution until the completion of the criminal proceedings and in such case, the person concerned has the right to appeal to the Supreme Court against the validity of the decision of the Registrar, within 75 days from the notification of such decision.

Keeping of
books of
account and
audit of
accounts

52.–(1) The members of the administration of societies and institutions are bound to keep precise and detailed books of account, according to the International Financial Reporting Standards, in which are entered all the acts relating to all transactions, as the case may be, of the society or institution and, at the end of every year, are bound to prepare the following audited accounts:

- (a) A gross income account of the institution for the year ended 31st December;
- (b) An account of the working balances/cash holdings at the beginning of the year and all monies collected on behalf of the society or institution during the year;
- (c) An account of all amounts due to or by the institution and the payments made during the same period.

(2) Subject to the provisions of the proviso of clause 3(b), the accounts of the society or institution are checked against the expenses, as the case may be, of the society or institution, by a Certified Auditor.

(3) The members of the administration of each institution have the obligation to forward to the Registrar, at the latest within seven months from the end of the financial year:

(a) the accounts stated in clause (1) no later than one month from the date they are prepared and approved by the society or institution and, in any case, no later than July of the following year, and

(b) the report of the Certified Auditor stated in clause (2):

Provided that societies with an annual income of less than €20.000 are not required to submit accounts by a Certified Auditor.

Power of the Court to order the audit of the accounts of a society or institution

53.-(1) With the approval of the Registrar General, and upon request submitted by the Registrar, to whom may apply for this purpose any person who can establish a legitimate interest, with the assistance of the Attorney General of the Republic, the Court may, at any time, order the audit of the accounts of every society or institution which is registered under the provisions of this Law.

(2) Such audit is carried out by the Auditor General of the Republic or any other person or persons authorised by the Court for this purpose;

Provided that, in case the results of the audit confirm that such audit was justified, the society or institution has the obligation to pay the audit fees as may be determined. If not, such fees are paid by the Republic.

Regulations

54.-(1) The Council of Ministers may make Regulations to specify or regulate every matter which, under this Law, is required to be or may be prescribed and generally for the better implementation thereof.

(2) Specifically and without prejudice to the generality of clause (1), such Regulations may:

- (a) regulate all matters which, under the provisions of this Law, may be or are required to be prescribed;
- (b) provide for the registration of societies, institutions, the amendment to their articles of association and the dissolution or liquidation of societies or institutions;
- (c) provide for the determination of admission and admission renewal fees to a society or institution;
- (d) provide for penalties not exceeding one year of imprisonment or a pecuniary fine of two thousand euro or both such penalties for any violation of the Regulations.

(3) The Supreme Court may make Procedural Regulations to regulate the pleadings, practice and proceedings to be followed by the Court during the hearing of cases arising from the implementation of this Law.

Policy setting
and
implementation

55. The Registrar General and the Registrar, in the exercise of their duties, under the provisions of this Law, apply, subject to the provisions of this Law, the policy established from time to time on the various related matters by the Council of Ministers, upon consultation with the then appointed Commissioner for Volunteerism and Non Governmental Organisations, or other bodies, whether institutional or not, with noteworthy activity in connection with the action, operation and coordination of societies and institutions, in a specific or broader field of their activities.

Obligation of
administrative
bodies of
societies and
institutions

56. The administrative bodies of societies and institutions are obliged to comply with and apply the provisions of the Law on the Prevention and Suppression of the Legalisation of Proceeds from Illegal Activities.

L. 20(I)/2012
Unions
governed by

57. The provisions of this Law neither apply to nor affect in any manner whatsoever unions of persons or institutions which are

special laws not regulated by another special law, the provisions of which shall
affected continue to apply to the said unions or institutions.

Repeals and 58.—(1) Subject to the provisions of clause (2), upon the entry into
reservations force of this Law, the Charitable Institutions Law, the Societies and
Cap. 41 Institutions Law of 1972 until 1997 and the Registration of Clubs
86(I) of 1997 Law are repealed.

57 of 1972
85(I) of 1997 Provided that the authorisations for the operation of clubs
Cap. 112 granted under the repealed Law remain in effect until the expiry of
3 of 1972 the same.

12 of 1984
122(I) of 1999

(2) Notwithstanding the repeal of the laws stated in clause (1):-

- (a) the regulations made under the repealed laws, which were in effect immediately before the entry into force of this Law, shall be deemed to have been made under this Law and shall continue to be in force and apply, to the extent that they are not contrary to the provisions of this Law, until they are amended or replaced with new Regulations under this Law;
- (b) every society, institution, charitable institution, together with their articles of association and any amendments thereto, which have been registered and entered in the corresponding registers under the provisions of the repealed laws, shall be deemed to have been registered and entered, without the payment of any fee, in the corresponding Registers provided to be kept under the provisions of this Law;
- (c) every register kept under the repealed laws shall be deemed to form an integral part of the corresponding Register provided to be kept under this Law;
- (d) every form, with the particulars required for its completion, used for the purposes of any of the repealed laws, shall continue to be used as if it were prescribed under this Law, until new forms are prescribed.

Any reference contained in any law, regulation or legal document to any provision of the repealed laws shall be construed as reference

to a corresponding provision of this Law.

Transitional provisions

59.—(1) Applications and procedures for the registration of societies or institutions, which had commenced under the repealed laws and have not been completed upon the entry into force of this Law, shall be carried out and completed under the corresponding provisions of this Law.

(2) Deadlines for the carrying out of any act or for the service or submission of any notification or report, which commenced under the repealed laws, shall continue and elapse under the corresponding provisions of this Law, but shall in no case elapse within a period of less than fifteen days from the date of entry into force of this Law.

(3) In the cases where, under the provisions of this Law, for the purposes of compliance, existing societies, institutions or clubs are required to make any amendments to their articles of association or undertake any other action, a one year period is provided to this end from the date of entry into force of this Law.

Societies, institutions and clubs approved under the repealed Laws

60. Societies, institutions and clubs approved under the repealed Laws shall be deemed to have been approved under the provisions of this Law, provided they shall make the necessary modifications and amendments to their articles of association within the deadline prescribed in article 54(3).