

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION
KARACHI, THE 10TH DECEMBER, 2019

NO.PAS/LEGIS-B-27/2019- The Sindh Charities Registration and Regulation Bill, 2019 having been passed by the Provincial Assembly of Sindh on 22nd November, 2019 and assented to by the Governor of Sindh on 02nd December, 2019 is hereby published as an Act of the Legislature of

Sindh.

THE SINDH CHARITIES REGISTRATION AND REGULATION ACT, 2019.

SINDH ACT NO. XVI OF 2019

AN

ACT

to register and regulate charities and collection and utilization
of charitable funds.

WHEREAS it is expedient to make effective provisions for the registration, administration and regulation of charities, fund-raising and collection and utilization of charitable funds for charities and other institutions or for any other purposes.

1. (1) This Act may be called the Sindh Charities Registration and Regulation Act, 2019.

(2) It extends to whole of the Sindh
(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context -

(a) "charitable fund" means the cash, kind, land, building, animal, animal hides or anything having monetary value and includes donation;

(b) "charitable purpose" means the purpose which is for —

(i) prevention and relief of poverty;
(ii) promotion of education and learning;

(iii) — — provision of health and lifesaving services;

(iv) | community development;

(v) promotion of arts, culture and heritage;

(vi) promotion of human rights, conflict resolution and reconciliation activities;

Short title,
extent and
commencement.

Definitions.

- (vii) promotion of religious and racial harmony;
- (viii) promotion of diversity and tolerance;
- (ix) environmental protection and environmental improvement;

(x) relief of those in need of it by reason of youth, age, ill health, or disability; and

(xi) such other purposes as the Commission may determine from time to time;

(c) "charity" means any non-profit organization or association of persons established for a charitable purpose and includes the following:-

(i) an organization registered under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961 (XLVI of 1961);

(ii) an organization registered under the Societies Registration Act, 1860 (XXI of 1860);

(iii) an organization registered under the Companies Act, 2017 (XIX of 2017) or under any other law for the time being in force;

(iv) an organization registered for charitable purposes under any law for the time being in force; and

(v) a public or private trust;

(vi) local branches of foreign nonprofit organization but excludes such foreign organizations operating in Pakistan to whose charter, Pakistan is a signatory or where a protocol exists with Government of Pakistan;

(d) "charity trustee" means a person or persons having the general administration, control and management of a charity or person nominated by the Commission;

(e) "collection" means appealing for, receiving, collecting or attempting to collect any donations whether in money or in kind on behalf of any charity;

(f) "funds collector" means a person or persons or charity actually engaged in collecting donations for a charitable purpose;

(g) "Commission" means the Commission established under section 3;

(h)

(i)

“declaration” means a declaration made by the charity, person or persons associated with a charity of a charitable fund, stating —

the names and addresses of the charity person or persons associated with a charity;

(ii) the estimated value of the funds collected from person or persons;

(iii) the names and addresses of the funds collector;

(iv) the objects and purposes for which the fund shall be utilized;

(v)

the names of the banks or financial institutions in whose custody the charitable funds shall be kept; and

(vi) any other prescribed information;

(i) “Government” means Government of the Sindh;

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“Governing Body” means the executive council, committee, trustees or other body, by whatever name called, to whom, by the constitution of the charity, its executes functions and the management of its affairs are entrusted;

“Officer” means the Monitoring and Evaluation officer nominated by the Commission under section 14;

“prescribed means prescribed by the rules and regulations made under this Act;

“Government Funds” means any grant in cash or in kind or land allotted on concessional rate by Government,

Federal Government, other Provincial Governments and Local authorities and also includes any subsidy funds saved or gained from tax concessions or reduced utility tariffs specific to the charity.

“promoter” means a person, other than a charity, responsible for collection, custody, administration and accounting of the donations for a charitable fund or a charitable purpose;

“recipient” means an individual, institution, association, society or undertaking benefiting from a charitable fund;

“registering authority” means the registering authority mentioned in section 11; and

(q) "rules and regulations" means the rules and regulations made under this Act.

3. (1) As soon as after commencement of this Act, Government shall, by notification in the official gazette, establish a Commission known as the Charities Registration and Regulation Commission.

(2) The Commission shall consist of the Chairperson including two members of Provincial Assembly nominated by the Speaker and twelve (12) members having seven ex-officio members and five non-official members as Government may notify in the official gazette.

(3) The non-official members shall be the persons who are known for integrity expertise, experience and eminence, on such terms and conditions as may be prescribed and until so prescribed, as the Government may determine.

(4) Subject to the provisions of the Act, the Commission shall discharge its functions, exercise its powers and conduct its proceedings in the prescribed manner and until so prescribed in the manner the Commission may determine.

(5) The term of the office of a non-official member shall be three years and shall not serve for more than two consecutive terms.

(6) A Member shall perform such functions as may be prescribed or assigned by the Commission.

4. (1) The Minister, Advisor or Special Assistant for Social Welfare shall be the Chairperson of the Commission or in his absence any other person nominated by the Chief Minister.

(2) The Chairperson shall perform such functions as assigned under this Act or the mandate of the Commission.

5. (1) Government shall designate one of the Director General in BPS-20 from Social Welfare Department as Director General of the Commission.

(2) The Director General shall also be the Member/Secretary of the Commission and shall be responsible for the administration and implementation of the decisions of the Commission.

(3) The Director General shall also be responsible for day to day affairs of the Commission and shall perform such other functions as may be prescribed or assigned by the Commission.

(4) Head Office of the Director General of the Commission shall be at Karachi and the Director General may establish sub-offices at such place(s) in the Province as Commission may determine.

Commission.

Chairperson of the
Commission.

Director General.

(5) The existing officers and staff of the department shall perform such functions and duties as may be assigned by the Social Welfare department, for the purpose of this Act.

6. (1) The Commission shall perform such functions as may be necessary for accomplishing the purposes of the Act.

(2) Without prejudice to the generality of the foregoing powers, the Commission shall —

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maintain public trust and confidence in charities;

register, regulate and sanction fund raising of the charities;

protect charities and the beneficiaries thereof;

ensure that charities and promoters comply with their legal obligations in exercising control and management of the administration of the charitable funds;

issue necessary regulation for the charities.

ensure effective use of charitable funds;

institute a mechanism including central database for effective monitoring and evaluation;

hold, if necessary , an enquiry into the affairs of a charity or charitable funds;

establish a central database and mention a website of commission.

receive and examine annual audit report of a charity or charitable fund;

conduct or cause to be conducted special audit of a charity or charitable fund;

issue guidelines for administration of charities for proper accounting, management and utilization and all affairs;

issue such directions to any other person, department and agency for carrying out purposes of this Act; and

perform such other related functions as the Government may assign.

(3) The Commission may delegate any of its functions as may deem appropriate in the prescribed manner.

Functions
Commission.

of

the

(4) The meetings of the Commission shall be called by the Chairperson as and when necessary; provided that the Commission shall meet at-least once in three months.

(5) The quorum of meeting shall be seven members, a fraction being counted as one and in case of a tie, the Chairperson shall have a casting vote.

7. The Commission may, for efficient performance of its functions, appoint advisors, consultants and experts possessing requisite professional, technical qualifications and experience on such terms and conditions as may be prescribed by rules and until such rules are framed as determine by the Commission.

8. (1) The Commission shall maintain a Register of Charities in such manner as may be prescribed and until so prescribed as the Commission may determined.

(2) The Register shall contain —

(a) the name of every registered charity; and

(b) such other particulars of, and such other information relating to, every such charity as may be prescribed or as the Commission may determine.

(3) The Commission shall maintain a website and publish on its website such information in the Register as may be necessary to create general awareness about the work and conduct of charities.

9. (1) Irrespective of registration of charity under any law, every charity shall get itself registered with the Commission not later than such date as the Government may, by notification, determine.

(2) A charity shall not collect charitable funds or seek collection of the charitable funds unless it is registered under this Act.

10. (1) Every non-profit organization required to be registered under this Act shall provide to the registering authority the declaration regarding the objectives of the charity, the sources of income of the charity and the nature of its spending, and such other documents or information as may be prescribed.

(2) The registering authority may, for reasons to be recorded in writing, refuse registration of an organization if in its opinion the objects of charity stated in declaration are not in consonance with the charitable purpose or for any other reasonable cause.

Appointment of
Consultants, Advisors
and Experts.

Register of Charities.

Charities to be
registered.

Application for
registration.

11. For the purpose of registration of a charity under this Act, the Commission shall assign the functions of registration to the Director General for the entire Province of Sindh.

12. The Registration Authority may, after affording an opportunity of hearing, suspend or cancel the registration of a charity, if the Registration Authority is satisfied that-

(a) the organization or association of persons is not furthering any charitable purpose; or

(b) the charity has committed a violation of the provisions of the Act or the rules.

13. (1) A promoter shall not make or solicit collection for any charitable fund unless before the start of the collection, he makes a declaration in respect of the intended collection and delivers the declaration to the Commission, in writing.

(2) The Commission may refuse to sanction the collection under this section if it is not satisfied with regard to good faith of the promoter or persons proposing to make the collection, or if the authority is not satisfied with regard to the proper custody of the funds or the due administration of the fund for the purpose for which it is to be collected.

(3) The Commission may sanction the collection subject to such conditions as it may consider necessary for ensuring the proper custody of the fund and its due administration and utilization for the objects and purposes of the charitable fund.

(4) If the Commission sanctions the collection, it shall issue or cause to be issued a certificate for a specified period, to the promoter in such form and manner as the Commission may, by regulations, prescribe, authorizing him to make the collection through identified collectors and for identified recipients.

14. The Commission may request to Chief Secretary/Chief Minister or as the case may be to nominate any officer of the Department of Government who shall be a civil servant of BS-19/20 to carry out the function of monitoring and evaluation.

15. (1) If, after evaluation or audit, the Commission is satisfied that any charity has failed to comply with the obligations envisaged under this Act, the Commission may —

(a) suspend or cancel the registration of that charity under this Act; and

(b) impose fine, not exceeding one million rupees, on the charity or organization.

Registering Authority.

Cancellation of registration.

Prohibition on
collection.

Monitoring and
Evaluation Officer.

Violation.

(2) The Registering Authority shall not take any action under sub-section (1) unless the charity or organization is afforded a reasonable opportunity of hearing and showing cause against the proposed action.

16. The Chairman or the Minister for Parliamentary Affairs or as the case may be, shall lay the annual report before the Provincial

Assembly.

17. (1) The Commission may appoint a charity trustee or any officer or office-bearer of a charity within a period of six months, if such charity fails to remove a trustee or appoint a new trustee or officer where —

(a)

(b)

(c)

a trustee or officer has been convicted of an offence involving moral turpitude, dishonesty or deception; or

trustee has been adjudged bankrupt; or

the conduct of a trustee or officer is detrimental to the cause of the charity owing to mismanagement or other reasons as may be determined by a court or the Commission.

(2) The Commission shall provide an opportunity of defense and hearing to the charity or the person likely to be affected by the decision of the Commission.

18. (1) A charity trustee shall —

(a)

(b)

(c)

comply with the terms and conditions of the governing instrument which envisages the establishment of the charity trustee with the relevant authority;

coordinate with the other charities operating in the respective domain for purposes of consolidated efforts at achieving the objectives and targets under this Act; and

immediately inform the Commission about any change in the constitution document of the charity.

19. (1) A charity trustee shall be responsible for —

(a)

(b)

(c)

(d)

controlling the assets of the charity;

protection, proper investment and utilization of the charitable fund;

ensuring that the charitable funds are not used for any purpose other than the declared purpose;

ensuring that the charitable funds or property is not misused or allowed to go waste as a result of mismanagement or for any other reasons;

Annual Report.

Power to appoint charity trustee.

Obligations of Charity trustees.

Fiduciary responsibilities of charity trustees.

(e) the sale, lease or other disposal of the charity property and insurance of the charity property; and

(f) ensuring that no unnecessary encumbrances are created on the charity property.

(2) A charity trustee shall inform to the commission if any action is done under sub-section (1).

20. (1) The charity trustees shall ensure that accurate accounting records are maintained in respect of the charity.

(2) The accounting records shall mention all the transactions of the charity and shall also reflect on the financial position of the charity.

(3) The accounting records shall in particular contain —

(a) entries pertaining to all sums of money received and expended by the charity each day;

(b) matters in respect of which the receipt and expenditure takes place; and

(c) the details of assets and liabilities of the charity.

(4) The charity trustees shall preserve the accounting records for such period as may be prescribed.

(5) The charity trustee shall prepare annual statement of accounts.

(6) If the amount given to a charity in a calendar month exceeds fifty thousand rupees, the charity shall deposit the amount in a dedicated bank account and shall provide information of the bank account to the Commission.

21. The charity trustees shall ensure that accounting records of a charitable fund are maintained as required under the Act.

22. (1) The Commission may, under exceptional circumstances and in addition to regular annual audit, for reasons to be recorded, direct that the accounts of a charity shall be audited or re-audited by a specified auditor at the expenses of the charity or the person who has applied for the special audit of the charity.

(2) The Commission or any officer authorized by it may inspect or cause to be inspected any accounts maintained under this Act or the rules.

23. (1) A charity, promoter, collector or recipient of a charitable fund shall not use the fund for any purpose or object other than the purpose or object for which it was collected except with the prior permission of the Commission.

Accounting records of
a charity.

Accounting of
charitable funds.

Audit and Inspection.

Misapplication of
funds.

(2) If any part of any donations collected for any charitable fund is used for any purpose or object other than the purpose for which it was collected, or is otherwise misapplied or misappropriated in any manner, every person concerned with the collection or administration of the fund, whether as a promoter, collector or a recipient, shall unless he proves that the misuse, misapplication or misappropriation, shall be deemed to have committed the misuse, misapplication or misappropriation of the charitable fund.

24. (1) Any person who dishonestly or fraudulently tampers with, conceals or destroys any record pertaining to the collection of any charitable fund to which this Act applies shall be deemed to have contravened the provisions of this Act.

(2) A person who contravenes any provision of this Act or the rules or of any order made, direction given or condition imposed under this Act shall be liable to punishment of imprisonment for a term which may extend to one year but which shall not be less than six months and fine which shall not be less than fifty thousand rupees or more than one hundred thousand rupees.

(3) The Commission may appoint an administrator to take over administrative control and management of a charity in a prescribed manner.

Provided that such appointment may not exceed a period of more than six months.

25. (1) An offence under the Act shall be cognizable and bailable.

(2) A Magistrate of the First Class shall conduct the trial of an offence under this Act in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1989 (V of 1898) relating to the summary trials.

Provided that the summary trial under this section shall be concluded within a period of six months.

26. (1) Subject to sub-section (2), the Commission or any person specifically authorized in this behalf by the Commission may, at any stage, compound an offence under this Act subject to the deposit of administrative penalty which shall not be less than fifty thousand rupees.

(2) The offence under this Act shall not be compoundable if the accused had been previously convicted under this Act or his previous offence had been compounded by the Commission or the officer authorized by the Commission or is under trial under this Act.

27. A court trying an offence under this Act may order the confiscation or recovery of any fund wrongfully collected or misapplied by any person in contravention of this Act.

Penalty.

Cognizance and
summary trial.

Compounding
offence.

Confiscation.

of

28. (1) Any person aggrieved by an order or direction of the Registering Authority may, within thirty days of the order, prefer an appeal to the Commission.

(2) Government shall, on the recommendation of the Commission, constitute the committee for the purpose of redressal of grievance in the prescribed manner.

29. The provisions of the Act shall take precedence over other laws for the time being enforce.

30. (1) The Government may, by notification, make rules to carry out the purposes of the Act.

(2) Without prejudice to the generality of the foregoing powers, the rules may provide for —

(a) the form and contents of declarations and _ the verification of statements made in a declaration;

(b) the period for which declarations shall remain in force and the manner in which the period may be extended or terminated;

(c) the form and manner in which receipts for donations

may be given and the maintenance of proper vouchers for purposes of the accounts;

(d) the maintenance of proper books of account and the auditing of the accounts from a reputable accounting firm as per volume of their accounts classified under the rules made thereunder.

(e) the periodical submission of statements of accounts;

(f) the supervision, inspection and examination of accounts; and

(g) the payment of charges for forms of declarations and certificates;

(h) the procedure for proper monitoring and evaluation of functioning of charity;

(i) the procedure for appointment of administrator and arbitrator.

31. Subject to this Act and the rules, the Commission may by

notification, frame regulations to give effect to the provisions of the Act.

Appeal.

Precedence

Rules.

Regulations.

32. No prosecution, suit or other legal proceedings shall be instituted against any person in respect of anything which is, in good faith, done or intended to be done under the Act.

33. Subject to section 28, Government may, at any time, on its own motion or on the application of any aggrieved person, revise any decision or direction of the Commission and pass such order in accordance with the Act as it may deem proper.

34. (1) The provisions of the Charitable Funds (Regulation of Collections) Act, 1953 (XXXI of 1953) to the extent of Province of Sindh, is hereby repealed.

(2) Notwithstanding the repeal of the Charitable funds (Regulation of Collections) Act 1953 (XXXI of 1953) under sub-section (1), anything done or action taken under the repealed Act, shall have the effect as if the thing is done or action is taken under the Act.

Indemnity.

Revision.

Repeal and savings.

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ

SECRETARY

PROVINCIAL ASSEMBLY OF SINDH