PARSI PUBLIC TRUSTS REGISTRATION ACT, 1936

23 of 1936

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An Act to make provision for the registration, publication and inspect ion of Trusts created or existing for a public purpose for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect thereof. Whereas it is expedient to provide for the registration, publication and inspection of Trusts created or existing for a public purpose of a charitable or religious nature for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping auditing, filing, inspection and publication of accounts in respect of the same, and whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 10C of the said Act have been obtained for the passing of this Act (5 and 6 Geo. V, s. 61). It is hereby enacted as follows :-

1. Short title and extent :-

(1) This Act may be called the Parsi Public Trusts Registration Act, 1936.

(2) It extends to the whole of the [1][Bombay area of the State of Gujarat.]

(3) [2][The [3][State] Government] may, by notification in the [5][Official Gazette], direct that this Act shall come into force on such date as may be appointed in the notification.

1. Subs. vide Guj. AO 1960.
2. The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
* This Act was re-enacted by Bom. 5 of 1948, s 3.

2. Application :-

(1) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Parsi community or any section of such community and, having an annual gross income of not less then Rs. 1,000.

(2) [1][The [2][State[Government [may, br notification in the [3][official Gazette] exempt any trust or any class of trusts from all or any of the provisions of this Act.

(3) In the case of a public trust of which the author belongs to the Parsi community and which created or exists not solely for the benefit of the said community, [1][the [2] [State] Government] may, on application of such author, or, if such author is dead, of the

majority of the trustees of such trust by notification in the [Official Gazette] apply all or any of the provisions of this Act to such trust.

(4) The provisions of the Bombay Public Trust Registration Act, 1935 (Bom. XXV of 1935) shall not apply to any public trust to which any of the provisions of this Act apply.

1. The words 'The Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.
2. This word was substituted for the word "Provincial" by the Adapatation of Laws Order, 1950.
3. The words 'Official Gazette" were substituted for the words "Bombay Government Gazette", by the Adaptation of Indian Laws Order in Council.

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

(1) "Manager" means a trustee or any other person who for the time being either alone or in association with some other person or persons administers the property of any public trust

(2) "Prescribed" means prescribed by rules made under this Act.

(3) "Public trust" means an expressive or constructive trust created or existing for public purposes of a religious or charitable nature.

(4) "Registrar" means a person appointed under section 4 to exercise the powers and perform the duties of a Registrar of Parsi Public Trusts under this Act.

(5) "Rules" means rules made under this Act.

(6) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882 (II of 1882), shall have the meanings assigned to them in that Act.

4. Appointment of Registrars :-
[1][The [2] [Stale] Government] may appoint officers belonging to the Judicial Service not below the rank of a Sub-ordinate Judge of the First Class or a Court of Small Causes to be Registrars of Parsi public trusts for the purposes of this Act, and may define the district or area within which each of them shall exercise his powers and perform his duties.

1. The words 'The Provincial Government" were substituted for the

words "Government" by the Adaptation of Indian Laws Order in Council.
2. This word was substituted for the word "Provincial" by the Adapatation of Laws Order, 1950.

5. Obligation to furnish particulars relating to public trusts :-

(1) Every manager of the property of a public trust shall, in the case of-

(i) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act and

(ii) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust, submit to the Registrar within whose jurisdiction on the whole or any substantial portion of the subject matter of such trust or the property or funds of such trust or any substantial portion thereof are for the time being administered a statement in the prescribed form and accompanied by the. prescribed fee, containing the following particulars:-

(a) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee.

(b) the description of the trust property, both movable and immovable, sufficient for the identification thereof, and the approximate value thereof.

(c) the gross average annual income of such property estimated on the income of three years immediately preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust whichever period is shorter,

(d) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (c) relate.

(e) any other particulars as may be prescribed.

(2) A copy of the deed or instrument creating the public trust or such extract thereof as in the opinion of the Registrar sufficiently shows the origin, nature and object of such trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall

contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

(3) Such statement shall be signed by the manager or his agent specially authorized in this behalf.

(4) Every person signing the statement shall verify it in the manner prescribed.

(5) The Registrar may for sufficient cause extend the period for furnishing a statement under this section.

6. Power of Registrar to hold inquiry :-

(1) A Registrar may either on his own motion or upon the motion of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain.-

(i) whether a trust is a public trust,

(ii) whether any property is the property of such trust,

(iii) whether the whole or any substantial portion of the subject matter of the trust is situate, or whether the property or such trust or any substantial portion thereof are for the time being administered; within his jurisdiction,

(iv) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of the trustee of such trust,

(v) the origin, nature and object of such trust,

(vi) the amounts of gross average annual income and expenditure of such trust, and

(vii) any other particulars as may be prescribed under sub-section (1) of section 5,

(2) The portion referred to in sub section (1) shall show in what way the petitioner claims to be interested in the public trust and shall be signed and verified in the manner prescribed for the signing and verification of a statement under section 5.

(3) If it comes to the knowledge of the Registrar that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (1), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Courts' findings or

orders in regard to such matters, until the suit is finally decided in that Court.

(4) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(5) On completion of the enquiry provided for in sub-sections (1) and (4), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matter» as may have been decided in such suit.

(6) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters:-

(a) enforcing the attendance of any person and examining him on oath,

(b) compelling the production of documents and material objects,

(c) issuing commissions for the examination of witness,

(d) proof of facts by affidavits

(7) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

7. Register of Parsi Public Trusts :-
The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6 record entries in such forms as may be prescribed in a register called the Register Parsi Public Trusts and shall file the statement, if any.

8. Amendment of entries in Register :-

(1) When any change occurs in any of particulars recorded in the Register of Parsi Public Trusts, the manager shall, within six months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompained by the prescribed fee. The provisions of sections 3 and 6 shall so far as may be, apply to such statement.

(2) For the purpose of verifying the correctness of the entries in the Register of Parsi Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(3) If the Registrar, after receiving a report under sub-section (1) and holding an enquiry, if necessary under sub-section (2) or merely after an enquiry held under sub-section (2), is satisfied that a change has occurred in any of the particulars recorded in the Register of Parsi Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-s. (1) along with the statement, if any, relating to the said trust filed under sec. 5.

9. Stay of inquiry or entry in Register :-

(1) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public Trust particular of which have been recorded in the Register of Parsi Public Trust by the Registrar of any other district or area.

(2) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [1] [the provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under sec. 6 or 8 or act under section 7 in regard to such trust.

1. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

10. Entries in Register to be final subject to section 11 :-

(1) Entries made by the Registrar in the Register of Post Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

(2) Nothing in this section shall be deemed to bar in any way the right of any person aggrieved by any such entry to institute a suit

in a court of competent jurisdiction in regard to any matter affected by such entry.

11. Amendment of Register by order of Court :-

A Civil Court of competent jurisdiction deciding any question relating to any trust to which this Act applies or in respect of which any entry has been recorded in a Register of Parsi Public Trust shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Parsi Trusts relating to the said trust in accordance with its decision.

12. Maintenance of accounts and their audit :-

(1) Every manager of a public trust in respect of which an entry has been recorded in the Register of Parsi Public Trusts under section 6 shall keep regular accounts of all movable and immovable properties, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust properly and of, all payments and alienations made on the behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(2) The accounts shall be balanced each year on the thirty first day of March, or such other date, as the manager of any particular public trust may at his option choose in regard to such trust; provided that when such date is so choosen manager shall as soon as practicable intimate to the Registrar the date so choosen; provided further that the date so choosen may be altered only with the consent of the Registrar and subject to such conditions as be may think fit to impose. The accounts so balanced shall be examined and audited annually in such manner and [1] [by a chartered Accountant within the meaning of the Chartered Accountants Act, 1949 [XXXIII of 1949), or by a firm whereof all the partners practicising in India are chartered accountants within the meaning of the said Act], or by such persons as may be prescribed,

(3) Every auditor acting under sub-section (2) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(4) Within six months after the thirty-first day of March, of such other date, as may be chosen by the manager in any particular case, under sub-sec. (2) of the year for which the accounts are

balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto:

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note, if any, relating thereto.

(1) to any public trust in respect of which a scheme has been settled Under section 92, Civil Procedure Code, 1908 (V of 1908), and such scheme requires the submission of accounts of such trusts to the court and audit thereof by any person appointed or approved by the court, or

(2) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator General or the Official Trustee.

1. This portion was substituted for the portion beginning with the words "by a person who is the holder" and ending with the words and figures "Indian Companies Act, 1913" by the Adaptation of Laws Order, 1950.

<u>13.</u> Trustees entitled to pay costs of audit, etc. from trust funds :-

Notwithstanding anything contained in the deed or instrument creating any trust, every manager may pay from the income of the trust property any expenses incurred by him for the purpose of enabling him to furnish any particulars documents or copies under section 5 or section 6 or in respect of the preparation or audit of the annual accounts for the purpose of this Act.

<u>14.</u> Inspection and copies :-

Any person who in the opinion of the Registrar has an interest in any public trust snail, on payment of the prescribed fee, be entitled to inspect in the prescribed manner or to obtain a copy of any statement of particulars or any other document furnished to the Registrar under section 5 or section 6 or any statement of accounts furnished to him under section 12(4) or any audit report made on an audit under section 12(2) relating to such trust.

<u>15.</u> Annual contribution from Parsi Public Trusts :-

Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Parsi Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed :

Provided that the contributions prescribed under this section shall be fixed at rates in preparation to the gross income of the public trust but in accordance with a progressively diminishing scale.

Explanation.-Progressively diminishing scale shall; for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

16. Parsi Public Trusts Administration Fund :-
For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Parsi Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area namely:-

(a) any fees which may be levied under section 5, 8 or 14,

(b) contributions under section 15,

(c) any sums received by the Parsi Public Trusts Administration Fund from private sources,

(d) Any sums allotted by [1][the [2][State] Government] or by any local authority to the Parsi Public Trusts Administration Fund. [3] [x x x x

1. The words "the Provincial Government" were substituted for the word "Government" by the adaptation of Indian Laws Order in Council.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. Omitted vide Guj. A.O. 1960.

17. Application of Parsi Public Trusts Administration Fund :-
The Parsi Public Trusts Administration Fund of a district be any area as created under section 16 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

18. **Special audit** :-

It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order cost of such audit to be paid by the trustee or manager from the income of the property of the public trust or out of the Parsi Public Trusts Administration Fund.

19. **Publication of list of Parsi Public Trusts** :-

Every Registrar shall publish annually under his signature, in the [1][Official Gazette] and [2][if the [3][State] Government so directs] in a newspaper published to the principal vernacular of and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Parsi Public Trusts Administration Fund, in such form and on such date as [4][the [3]]State] Government] may prescribed.

1. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.
2. These words were inserted by Bom. 10 of 1944, read with Bom. 25 of 1948, s. 3.
3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
4. The words "the Provincial Government" were substituted for the word "Government" by the adaptation of Indian Laws Order in Council.

20. **Penalty for failure to furnish or for furnishing false statements under sections 5, 6 or 8** :-

(1) If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits a statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

(2) Penalty for failure to furnish statement of accounts or furnishing ' false statements under section 12.-If any mana7ger faih or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

(3) Penally for failure to comply with the order of Registrar-If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act such person shall on conviction be punishable with fine which may extend to Rs. 100.

(4) Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act-Any Court may. in passing an order of conviction and sentence for any of the offences under sub-sections (1), (2) or (3), specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified.

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failure to do so, and applies for extension of the period specified under this section, the Court may, if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

21. Cognizance of offence :-

(1) No prosecution under this Act shall be instituted except on the complaint of the Registrar within whose jurisdiction the whole or a substantial portion of the property of the public trust in respect of which the offence is committed is situate or within whose jurisdiction the property or funds of such trust or any substantial portion thereof are for the time being administered.

(2) No Court inferior to that of [1] [x x x] a Magistrate of the First Class try any offence under this Act.

1. Omitted vide Guj. A.O. 1960.

22. Registrar to be deemed a public servant :-
Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

23. Bar of prosecution of persons acting in good faith :-
No action for damages and no prosecution shall lie against any person for anything which is in good faith done under this Act.

24. Recovery of sums due under this Act :-

All sums due under this Act shall be recoverable as arrears of land revenue.

<u>25.</u> Power of 2[State] Government to make rules :-

(1) [1][The [2][State] Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely:-

(a) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5(1).

(b) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5(1), clause (c).

(c) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5(4).

(d) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(e) Prescribing the form of Register of Parsi Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8(3).

(f) Prescribing form as the statement reporting "a change and the fee payable along with such statement under section 8.

(g) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12(1).

(h) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (2) and 18.

(i) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12(4).

(j) Prescribing the fee payable for the inspection of the Register of Parsi Public Trusts under section 14.

(k) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such Inspection under section 14.

(l) Prescribing the fee payable for obtaining certified copies of entries in the Register of Parsi Public Trusts and of documents filed with the Registrar under section 14.

(m) Prescribing the amount of contribution payable by a Public Trust and the date and the manner of such payment under section 15.

(n) Prescribing the objects in addition to those specified in section 17, to which tie Parsi Public Trusts Administration Fund shall be applied under the said section.

(o) Any other matter not specifically provided for in this Act, but which in the opinion of [3][the [4][State] Government] is necessary for carrying into effect the provisions of this Act:

Provided that the rules made under clauses (a), (f), (j) and (n) shall provide for such adjustment from time to time of the rates of fees payable under sections 5,8 and 14 and the contributions payable under section 15 in respect of the Parsi Public Trusts in any district or area as not ordinarily to leave any surplus in the Parsi Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of [3][the [4][State Government] for payment of the charges and expenses referred to in section 17.

(3) The rules made under this section shall be subject to the condition of previous publication in the [7]]Official Gazette]

(4) Rules made under this section shall be laid [8][before the Legislature of the State] at the session [9][thereof], next following and shall be liable to be modified or rescinded by a statutory motion [6][Carried in the Legislature] and such rules shall, after notification in the [5][Official Gazette], be deemed to have been modified or rescinded accordingly. [12] [xxx]

1. The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
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7. The words was Gazette" were substituted for the words "Bombay Government by the Adaptation of Indian Laws Order in Council.
8. Subs. vide Guj. A.O. 1960.
9. The word "thereof" was substituted for the words "of the said Council" by the Adaptation of the Indian Laws Order in Council.
12. Proviso Omitted vide Guj. A.O. 1960