

**Minimum elements to be included  
In the legislation  
Between Red Cross/Red Crescent Societies  
And their public authorities**

The following elements should be referred to when drafting or reviewing a Red Cross/Red Crescent act between the National Society and their public authorities (parliament, government) in order to ensure that such act reflects coherence with the Movement Fundamental Principles, policy and practice.

The National Societies are advised to consult with and notify the International Federation as well as the Joint Statutes Commission prior to the adoption of such an act according to Action 3 objective 1 of the strategy for the Movement, and the resolution 6 of the 22<sup>nd</sup> International Conference, Teheran 1973, and Resolution 20 of the 24<sup>th</sup> International Conference, Manila 1981.

**1. Status of the National Society:**

The relationship between the National Society and the public authorities should be determined very clearly in the Act.

The Act should reflect the specific status of a National Society as “an independent National Society auxiliary to the public authorities in the humanitarian field”.

The Act should also secure the unhindered pursuit of the National Society’s objectives in accordance with the Fundamental Principles. In addition, the obligation of the State to respect the adherence of the National Society to the Fundamental Principles should be established. In addition, the obligation of the State to respect the adherence of the national Society to the Fundamental principles should be reflected as a minimum element.

• **Sample clauses:**

“This Act regulates the legal status of the (name of the Society) (hereinafter called the “the Society”) and may be quoted as “The (name of the Society) Act.

The Society is an independent, voluntary aid society, auxiliary to the public authorities in the humanitarian field.

The Society is the only National Society of the Red Cross and Red Crescent in (name of the country). It carries out its activities on the entire territory of (name of the country).

The Society shall at all times act in conformity with the Geneva Conventions and their Additional Protocols, the laws of (name of the country) and the Fundamental Principles of the International Red Cross and Red Crescent Movement adopted by the International Conference of the Red Cross and Red Crescent.

The public authorities shall at all times respect the adherence by the Society to the Fundamental principles of the International Red Cross and Red Crescent Movement as required by Resolution 55 (I) of the General Assembly of the United Nations”.

## **2. Auxiliary status of a National Society**

The Act should define very clearly the auxiliary relationship between the National Society and its public authorities as a privileged/unique partnership, entailing mutual responsibilities and benefits, based on international and national laws, in which the national public authorities and the National Society supplements or substitute public humanitarian services. The National Society must be able to deliver its humanitarian services at all times in conformity with the Fundamental principles and with its other obligations under the Statutes of the International Red Cross and Red Crescent Conference of the Red Cross and Red Crescent.

The Act should also clearly state that the public authorities have an obligation to establish the necessary provision for covering the cost when it entrust the National Society a service or activity within the scope of the Society’s object and functions. The Act should also mention that the conditions for the implementation of such services or activities shall be laid down in agreements between the Society and the relevant public authority.

- **Sample clauses:**

“ The auxiliary relation between National Societies and Public Authorities is a privileged/unique partnership, entailing mutual responsibilities and benefits, based on international and national laws, in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes public humanitarian services.

The National Society must be able to deliver its humanitarian services at all times in conformity with the Fundamental principles and with its other obligations under the Statutes of the International Red Cross and Red Crescent Movement as agreed by States in the International Conference of the Red Cross and Red Crescent.

The public authorities shall make provision for covering the cost of any service or activity which they may entrust to the Society within the scope of the Society’s objects and functions. The conditions for the implementation of such services or activities shall be laid down in agreements between the Society and the relevant public authorities”.

## **3. Legal nature of the National Society**

The Act should determine the legal nature of the National Society (e.g. private law association, public law institution, etc) depending the local legal system and its tradition upon decision by each national government. The Act may want to determine general principles regarding the branch structure of the

Society as well as the Society's governance (definition of its main governing bodies). However, the Act should be limited to essential principles and leave room for the Society itself to adapt its Statutes; the Statutes being easier to amend than an Act adopted by the public authorities.

- **Sample clauses**

“The Society is a corporate body with legal personality.

The Society shall at all times act in accordance with its statutes (Constitution, bylaws) adopted by the relevant body of the Society”.

#### **4. The objective of the National Society:**

The general objectives and the specific tasks of the National Society must be defined taking into account the definition of “National Red Cross Red Crescent Societies” in Article 3 of the Statutes of the Movement.

According to the federation's Strategic Work plan for the nineties, the challenge for the National Societies is “improving the situation of the most vulnerable i.e. those at greatest risk from situations that threaten their survival or their capacity to live with a minimum of social and economic security and human dignity”.

It is important for the general objectives and the specific tasks described in the Statutes to reflect the needs of the most vulnerable people in the Society (both at the national and international level), and for the activities of the National Societies to focus on these needs.

The objective should be described in a sufficiently concrete manner to justify the National Society's existence. Some countries even require the National Society to list its activities in a specific manner for it to be legally entitled to engage in those activities. Such legal requirements must be born in mind when drafting the statutes. However, if no such legal requirements exist it is advisable that tasks be defined in a general manner, since an overly detailed description may hamper the development of the National Society and its adaptability to unforeseen circumstances.

- **Sample clause**

“In addition to rendering assistance to the medical service of the armed forces in times of armed conflict, the object of the Society is to prevent and alleviate human suffering with complete impartiality, making no discrimination as to nationality, race, gender, religious beliefs, class or political opinions.

In order to achieve its object as defined in the previous paragraph, the Society shall carry out the functions as defined in its statutes, international treaties to which (name of the country) is a party and the resolutions of the International Conference of the Red Cross and Red Crescent.”

## **5. The relationship between the National Society and other components of the Movement**

A National Society becomes a component of the Movement when it is recognised by the International Committee of the Red Cross (ICRC). It may subsequently apply for membership of the International Federation. Both its status as a component of the Movement and as a member of the International Federation entail legal consequences for the National Society. The National Society must comply with the Statutes of the Movement. Its membership of the International Federation entails the legal obligation to comply with the decisions of its General Assembly and Governing Board (Article 5 of the Constitution of the Federation). Compliance with these obligations should be stated in the Act. Therefore, the Act should contain a provision allowing a National Society at all times to respect the decisions taken within the framework of the Movement and the International Federation.

- **Sample clause:**

“The Society shall comply with its duties as a component of the International Red Cross and Red Crescent Movement and as a member of the International Federation of Red Cross and Red Crescent Societies. The Government should respect this duty of the Society”.

## **6. Use of the Red Cross, Red Crescent or Red Crystal emblem:**

The law should require the National Society and all its members and bodies to comply with the regulations on the use of the emblem contained in the Geneva Conventions of 1949 as well as its Additional Protocols, the 1991 Regulations on the use of the emblem of the Red Cross or the Red Crescent by the National Societies and national laws regarding the emblem.

In countries where a separate Act is in force to repress abuse of the emblems and designations of the Red Cross and Red Crescent, the civil defence sign and electronic signals provided for in Additional Protocol I, a reference to that specific law may be included in paragraph 6.1. In the absence of such a law, this clause is to be regarded as the minimum legal protection of the emblem of the Red Cross and Red Crescent. It is recommended, however, that governments enact proper and detailed legislation on the use of the emblems of the Geneva Conventions.

In some countries, the funds resulting from penalties mentioned in paragraph 2, are transmitted to the Society to contribute to its general financial resources.

- **Sample clause:**

“The Society shall be authorised to use as its emblem a Red Cross (Red Crescent or Red Crystal) on a white ground for all the purposes foreseen by the International Conference of the Red Cross and Red Crescent, in conformity with the Geneva Conventions of 1949, the present law and

the Regulations on the Use of the Emblem by National Societies adopted by the International Conference of the Red Cross and Red Crescent.

Any use of the emblem of the Red Cross (red Crescent or Red Crystal) other than foreseen in the Geneva Conventions of 1949 or in paragraph 1, is prohibited and will be punished with penalty) (in conformity with the relevant provision of the penal code or a specific law repressing abuse of the emblem)”.

**7. Administrative provisions:**

The Act may want to specify that all subsidiary bodies of the Society, including those with legal capacity or those set up under the auspices of the Society, shall benefit from all or part of the provisions of this law, in particular those regarding the Society’s fiscal status.

- **Sample clauses:**

“The Society, within the limits laid down by its object and functions, may acquire, own, alienate and administer such property as it deems fit. It may accept any conveyance of real estate to its use or benefit.

The Society may, in accordance with its object and functions, accept unrestricted contributions and assistance in any form from individuals, the public authorities and private or public bodies. It may accept as agent or trustee funds or property in trust or earmarked for particular use, provided that such use is within the general scope of its object and functions.

The Society may constitute and administer any reserve, insurance or other funds for its staff or any of its activities.

The assets of the Society, including its financial resources and real estate as well as the revenue from its income generating activities, shall be exempted from all taxes and duties.

Donations made to the Society by any individual or legal body shall benefit from tax exemption”.