

Formation of Charitable Trust

1. Introduction

A public charitable or religious institution can be formed either as a Trust or as a Society or as a Company registered u/s 25 of the Companies Act.

It generally takes the form of a trust when it is formed primarily by one or more persons.

To form a Society at least seven persons are required. Institutions engaged in promotion of art, culture, commerce etc. are often registered as non-profit companies.

These forms are enumerated as under :

1. Charitable Trust settled by a settlor by a Trust Deed or under a Will.
2. Charitable or religious institution / association can be formed as a society.
3. Charitable institution can be formed by registering as a company u/s. 25 of the Companies Act, 1956, as non profit company (without addition to their name, the word "Limited" or "Private Limited").

2. Who can form a Charitable or Religious Trust

As per section 7 of the Indian Trusts Act, a trust can be formed –

1. by every person competent to contract, and
2. by or on behalf of a minor, with the permission of a principal civil court of original jurisdiction.

but subject in each case to the law for the time being in force as to the circumstances and extent in and to which the Author of the Trust may dispose of the Trust property.

A person competent to contract is defined in section 11 of the Indian Contract Act as a person who is of the age of majority according to the law to which he is subject and who is of sound mind and is not disqualified from contracting by any law to which he is subject. Thus, generally speaking, any person competent to contract and competent to deal with property can form a trust.

Besides individuals, a body of individuals or an artificial person such as an association of persons, an institution, a limited company, a Hindu undivided family through its karta, can also form a trust.

It may, however, be noted that the Indian Trusts Act does not apply to public trusts which can be formed by any person under general law. Under the Hindu Law, any Hindu can create a Hindu endowment and under the Muslim law, any Muslim can create a public wakf. Public Trusts are essentially of charitable or religious nature, and can be constituted by any person.

3. Capacity to create a Trust

As a general rule, any person, who has power of disposition over a property, has capacity to create a trust of such property. According to section 7 of the Transfer of Property Act, 1882, a person who is competent to contract and entitled to transfer the property or authorized to dispose of transferable property not his own, either wholly or in part and either absolutely or conditionally, has 'power of disposition of property'.

Thus, two basic things are required for being capable of forming a trust –

1. power of disposition over property; and

2. competence to contract.

4. Who can be a Trustee

Every person capable of holding property can become a trustee. However, where the trust involves the exercise of discretion, he can accept or act as a trustee only if he is competent to contract. No one is bound to accept trusteeship. Any number of persons may be appointed as trustees. However, no trust is defeated for want of a trustee. Where there is no trustee in existence, an official trustee may be appointed by the court and the trust can be administered. An executor of a Will may become a trustee by his dealing with the assets under the provisions of the Will. When an executor is functus officio to any of the assets and yet retains them, he becomes a trustee in respect of those assets.

5. Who can be a Beneficiary

In a private trust the beneficiaries are one or more ascertainable individuals. In a public trust the beneficiaries are a body of uncertain or fluctuating individuals and may consist of a class of the public or the whole public. Generally, a private trust is not a permanent one. But a public trust is of a permanent nature. If properties are dedicated to temples and mosques or gifts are made to religious or charitable institutions they create a trust.

6. Subject matter of Trust

Any property capable of being transferred can be a subject matter of a trust.

Section 8 of the Indian Trust Act, however, provides that mere beneficial interest under a subsisting trust cannot be made the subject matter of another trust.

In the case of J.K. Trust vs. CIT (1957) 32 ITR 535 (S.C.), the Supreme Court had held that the word "property" under the Trusts Act is of the widest import and a business undertaking will undoubtedly be a property so that a running business can be made a subject matter of trust. This view has been followed in the case of CIT vs. P. Krishna Warriar (1964) 53 ITR 176 (SC).

Business may be a taboo for charitable institution from the point of view of exemption for income tax purposes. From time to time, the law has undergone a change as to what business is permitted and under what circumstances. The present law permits only such business which is incidental to attainment of the objects of the trust or the institution, subject to the condition that separate account books are maintained for such business as prescribed under sub-section 4A of section 11 of I.T. Act.

7. Requisites of a Trust

1. The existence of the author/settlor of the trust or someone at whose instance the trust comes into existence.

2. Clear intention of the author/settlor to create a trust.

3. Purpose of the Trust.

4. The Trust property

5. Beneficiaries of the Trust.

6. There must be divesting of the ownership by the author / settlor of the trust in favour of the beneficiary or the trustee.

Unless all these requisites are fulfilled a trust cannot be said to have come into existence.

8. Essentials of a valid Charitable or Religious Trust

There are four essential elements of a valid charitable or religious trust –

1. Charitable or Religious Object : The object or purpose of the trust must be a valid religious or charitable purpose according to law ;
2. Capacity to create Trust : The founder or settlor should be capable of creating a trust and dedicating his property to that trust;
3. Certainty of Object and Dedication thereto : The settlor should indicate precisely the object of the trust and the property in respect of which it is made. The property should be dedicated to the trust and the owner must divest himself of the ownership of that property.
4. Concurrence with the law : The trust or its objects must not be opposed to the provisions of any law for the time being in force.

10. Instrument of trust – i.e., trust deed

The instrument by which the trust is declared is called instrument of Trust, and is generally known as Trust Deed.

It is well settled that no formal document is necessary to create a Trust as held in Radha Soami Satsung vs. CIT- (1992) 193 ITR 321 (SC). But for many practical purposes a written instrument becomes necessary under following cases –

1. When the trust is created by a will irrespective of whether the trust is public or private or it relates to movable or immovable property. This is because as per Indian Succession Act, a will has to be in writing
2. When the trust is created in relation to an immovable property of the value of Rs.100 and upwards, in case of a private trust. In case of public trusts, a written trust deed is not mandatory, even in respect of immovable property, but is optional.
3. Where the trust/association is being formed as a society or company, the instrument of trust; i.e., the memorandum of association, and Rules and Regulations has to be in writing.

A written trust-deed is always desirable, even if not required statutorily, due to following benefits :

1. a written trust deed is a prima facie evidence of existence of a trust ;
2. it facilitates devolution of trust property to the trust;
3. it clearly specifies the trust-objectives which enables one to ascertain whether the trust is charitable or otherwise;
4. it is essential for registration of conveyance of immovable property in name of the Trust;
5. it is essential for obtaining registration under the Income-tax Act and claiming exemption from tax;
6. it helps to control, regulate and manage the working and operations of the trust;
7. it lays down the procedure for appointment and removal of the trustee(s), his/their powers, rights and duties; and
8. it prescribes the course of action to be followed under any eventuality including dissolution of the trust.

11. Types of Instrument of Trust

1. Trust deed, where a trust is declared *inter vivos*; i.e., by settling property under Trust.
2. A will, where a trust is declared under a will;
3. A memorandum of association along with rules and regulations, when the association/institution is being formed as a society under the Societies Registration Act, 1860.
4. A memorandum and articles of association where the association /institution is desired to be formed as a Company.

12. Trust Deed-Clauses

A person drafting the deed of a public charitable trust has to bear in mind several enactments, particularly the Indian Trusts Act, any local enactment relating to trusts, like the Bombay Public Trusts Act for the State of Maharashtra and the Income tax Act. Such a person has also to keep in mind the relevant judicial pronouncements dealing with the scope of "charitable purpose" and accordingly decide whether a particular purpose is charitable or not. An instrument of Trust

or association/institution created or established should contain *inter alia* the following clauses:

1. Nothing contained in this deed shall be deemed to authorise the trustees to do any act which may in any way be construed as statutory modifications thereof and all activities of the trust shall be carried out with a view to benefit the public at large, without any profit motive and in accordance with the provisions of the Income-tax Act, 1961 or any statutory modification thereof.
2. The trust is hereby expressly declared to be a public charitable trust and all the provisions of this deed are to be construed accordingly.

The Trust Deed, generally contains the following clauses :

1. Preamble
2. Trust name by which Trust shall be known
3. Place where its office shall be situated
4. Author or settlor of the trust
5. Names of the Trustees
6. Beneficiaries
7. The property settled, for Trust – In case of immovable property, it should contain full description of the property sufficient to identify it
8. An express intention to direct the trust property from the trustees
9. The objects of the Trust
10. Minimum and maximum number of Trustees
11. The procedure for appointment, removal, replacement of trustees
12. Trustees rights, duties and powers
13. Administration of trust
14. Provision for maintenance of accounts, auditing etc.
15. Clause enabling, spending and utilization of the Trust funds or corpus.

16. Bank Account operations
17. Borrowing money on security for the purpose of the Trust
18. Investment of the Trust funds and dealing with Trust properties
19. Alienation of immovable property of the Trust
20. Amalgamation clause
21. Dissolution of Trust
22. Irrevocable nature of the trust.

13. Registration of Charitable Trust

1. Registration of Public Trust (Sec. 18 of Bombay Public Trust Act)

1.

It shall be the duty of the trustee of a public trust to which this Act has been applied to make an application for the registration of the public trust.

2.

Such application shall be made to the Deputy or Assistant Charity Commissioner of the region or sub-region within the limits of which the trust has an office for the administration of the trust or the trust property or substantial portion of the trust property is situated, as the case may be.

3.

Such application shall be in writing, shall be in such form and accompanied by such fee as may be prescribed.

4.

The application shall be made within 3 months of creation of the Public Trust.

5.

The application shall inter alia contain the full detail as prescribed in the form of Schedule II – (under Rule-6).

6.

Every application made under sub-section (1) shall be signed and verified in the prescribed manner by the trustee or his agent specially authorized by him in this behalf. It shall be accompanied by a copy of an instrument of trust, if such instrument has been executed and is in existence.

6A.

Where on receipt of such application, it is noticed that the application is incomplete in respect of any particulars, or does not disclose full particulars of the public trust, the Deputy or Assistant Charity Commissioner may return the application to the trustee, and direct the trustee to complete the application in all respects or disclose therein the full particulars of the trust, and resubmit it within the period specified in such direction; and it shall be the duty of the trustee to comply with the direction.

7.

It shall also be the duty of the trustee of the public trust to send memorandum in the prescribed form containing the particulars, including the name and description of the public trust, relating to the immovable property of such public trust, to the Sub-Registrar of the sub-district appointed under the Indian Registration Act, 1908, in which such immoveable property is situated for the purpose of filing in Book No.I under section 89 of that Act.

Such memorandum shall be sent within three months from the date of creation of the public trust and shall be signed and verified in the prescribed manner by the trustee or his agent specially authorized by him in this behalf.

When the Registering Officer is satisfied that the provisions of the Act as applicable to the document presented for registration have been complied with, he shall endorse thereon a certificate containing the word "registered", together with the number and page of the book in which the document has been copied. Such certificate shall be signed, sealed and dated by the Registering Officer, and shall then be the conclusive evidence that the Trust has been duly registered. A registered trust deed shall become operative (retrospectively) from the date of its execution.

2. Procedure for registration

The following documents are required to be filed for registration of a Charitable Trust.

1. Covering Letter
2. Application Form in Form –Schedule II under rule 6 duly notarised
3. Court fee stamp of Rs. 2/- to be affixed on application form
4. Certified copy of the Trust Deed
5. Consent letter of Trustees. (Blank Form enclosed)

The office of the Charity Commissioner maintains a register containing all details of the Trust; viz., Reg.No., name and address of the Trust, names of all the Trustees (Past & Present), mode of succession of Trusteeship objects of the Trust, particulars of documents creating a Trust, description of movable and immovable properties, particulars of encumbrances on trust property etc. This register is known as P.T.Register. A certified copy of the P.T. Registrar in Schedule-I (vide Rule 5) can be obtained by applying in simple application with Rs.10/- Court fee stamp by paying prescribed fees for the same. It is advisable for all the trusts to have a certified copy of P.T. Register entry.

14. Registration under the Societies Registration Act

Society as a form of charitable institution will be suitable, where a large number of contributors making regular contributions would require some kind of indirect controls by the office bearers. The best examples are professional organizations.

The Charity Commissioner is also an authority to register such organizations as a society. When a trust is constituted as a society, it is required to be registered under the Societies Registration Act, 1860.

After the Memorandum and Rules and Regulations of the Society have been drafted, signed and witnessed in the prescribed manner, the members should obtain the registration of the society. For the purpose of registration as society, following documents are required to be filed :

1. Letter requesting for registration stating in the body of the letter various documents annexed to it. The letter is to be signed by all the subscribers to the Memorandum or by a person duly authorised by all of them to sign on their behalf.
2. Memorandum of Association, in duplicate, neatly typed and pages serially numbered.
3. Rules and Regulations in duplicate.
4. Where there is a reference to any particular existing places of worship like temple, mosque, church, etc., sufficient documentary proof establishing legal competence and control of applicant society over such places should be filed.
5. An affidavit of the President or Secretary of the society, on a non-judicial stamp paper of prescribed value, stating the relationship between the subscribers, duly attested by an Oath Commissioner, Notary Public or First Class Magistrate.
6. Documentary proof of address such as House Tax receipt, rent receipt in respect of premises shown as Registered Office of the society or no objection certificate from the landlord of the premises.

If the Registrar is satisfied with the documents filed, he then requires the applicant society to deposit the registration fee. Normally, registration fee is Rs. 50, payable in cash or by demand draft. After the registration formalities have been completed and the Registrar is satisfied that the provisions of the Act have been complied with, he issues a certificate of Registration. Certified copies of the Rules and Regulations and Memorandum can be obtained by making simple application.

An entity registered under the Societies Act also gets registration under the local Public Trusts Act; i.e., Bombay Public Trusts Act by making an application simultaneously as mentioned above in case of trust deed. This is so because the definition of a Public Trust in Bombay Public Trusts Act includes a " Society " which is registered under the Societies Registration Act.

15. Registration under Companies Act

A charitable institution/association can be registered as a non-profit company and obtain a licence u/s 25 of the Companies Act. For obtaining a licence, the association has to first apply for availability of name to the Registrar of Companies of the State in which it wants to get itself registered. The application should be made in Form 1-A and the guidelines issued in this regard should be followed. As soon as the letter of approval of name is received from the Registrar, proceed for incorporation, as follows :

The institution/associations should apply to Regional Director, Registrar of Companies of the region by a letter along with following documents.

1. Three typewritten copies of draft Memorandum and Articles of Association of the proposed company. No stamp duty is payable.
2. List of names, addresses, description and occupation of the promoters in triplicate.
3. List of companies, associations and other institutions in which promoters are directors or hold responsible positions, with description of positions held.
4. List of members of the proposed board of Directors.
5. Declaration in the prescribed form by an Advocate, Attorney, Pleader, Chartered Accountant or a whole time practising Company Secretary, on a non-judicial stamp paper of appropriate value.
6. Copies of accounts, balance sheet and reports on working of association for last two financial years (for one year only if the association has functioned for less than two years), in triplicate.
7. Statement of assets and liabilities.
8. Sources of income and estimate of annual income and expenditure.
9. A note on work already done and proposed to be done by the association.
10. Grounds in brief for making application u/s. 25.
11. Declaration signed by each of the applicant.
12. Certified copy of notice published in newspaper .
13. A draft or paid treasury challan for requisite fees for registration.

A copy of the application with all enclosures and accompanying papers should be sent to the Registrar of Companies of the State where the association proposes to situate its Registered Office.

After the draft Memorandum and Articles have been approved by the Regional Director, the association should apply to the Registrar of Companies, for its registration as a company, in Form No.1 along with printed copies of Memorandum and Articles and other documents necessary for registration along with a registration fee of Rs. 500/-. The Registrar then issues a certificate of incorporation.

16. Registration under Income-tax Act

1. Charitable or religious trusts, societies and companies claiming exemption under sections 11 and 12 of the Income-tax Act are required to obtain registration under the Act. Private/family trusts are neither allowed such exemption nor required to seek registration under the Income-tax Act. The detailed procedure is as under :

2. Registration of Trust under Income-tax Act procedure for registration u/s. 12AA of I.T. Act.

1. Application for registration in Form No.10A in duplicate.
2. List of Name and Address of the Trustees
3. Copy of Registration Certificate with Charity Commissioner or copy of application to him.
4. Certified True Copy of the Trust Deed.
5. PAN No. or Copy of application of the Trust.
6. PAN of the trustees.

3. Procedure for registration (Sec 12AA)

The Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) of section 12A, shall –

1. call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

2. after satisfying himself about the objects of the trust or institution and the genuineness of its activities he –
1. shall pass an order in writing registering the trust or institution;

2. shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

and a copy of such order shall be sent to the applicant.

Provided that no order under sub-clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

17. Registration under Foreign Contribution (Regulation) Act, 1976 (FCRA)

1. Any Charitable Trust, Society, Company, desirous of receiving any foreign contribution from a foreign source, is required to obtain registration under section 6(1) of FCRA Any such association which is not registered or which has been denied registration, can receive foreign contribution only after obtaining prior permission from home ministry of the Central Government under section 6(1A) of the Act.

In order to obtain registration under the Foreign Contribution (Regulation) Act, (FCRA), the applicant association should preferably be incorporated as a legal entity, that is, as a Charitable Trust, Society, or a Company (u/s. 25) and should have been working for a period of at least three years. The association must not have received any foreign contribution earlier without prior permission of the Government.

2. Application for obtaining permission to accept foreign contribution or hospitality

1. Every individual, association, organization or other person, who is required by or under this Act to obtain the prior permission of the Central Government to accept any foreign contribution, or foreign hospitality, shall before the acceptance of any such contribution or hospitality, make an application for such permission to the Central Government in such form and in such manner as may prescribed.

2. If an application referred to in sub-section (1) is not disposed of within ninety days from the date of receipt of such application, the permission prayed for in such application shall, on the expiry of the said period of ninety days, be deemed to have been granted by the Central Government :

PROVIDED that, where in relation to an application, the Central Government has informed the applicant the special difficulties by reason of which his application cannot be disposed of within the said period of ninety days, such application shall not, until the expiry of a further period of thirty days, be deemed to have been granted by the Central Government.

An application for obtaining prior permission of the Central Government to –

a)

receive foreign contribution under sub-section (1) of section 5, or clause (a) of sub-section (2) of that section, shall be made in Form FC-1;

aa)

receive foreign contribution under proviso to sub-section (1) of section 6, or under sub-section (1A) of that section or clause (b) of section 10, shall be made in Form FC-1A.

b)

accept foreign hospitality under section 9 or clause (d) of section 10, shall be made in Form FC-2.

3. Application for registration

An application for registration of an association referred to in sub-section (1) of section 6 for acceptance of foreign contribution shall be made in Form FC-8.

18. Transfer of Movable Property to Trust

A trust in relation to movable property, can be formed also by mere transfer of ownership of the property to the trustee, with a direction that the property be held under trust for the benefit of the beneficiaries. The ownership of a movable property can be transferred by physical act of handing over the possession of the property. The transfer of any symbol of ownership will be deemed sufficient, such as the key of the godown where the property is stored, or the deposit certificate of a Bank wherein the securities are lodged.

Where the author himself is the trustee, transfer of possession is neither necessary nor possible; and a mere declaration of the author that he holds the property under trust would be sufficient to constitute a trust.

19. Transfer of Immovable Property to Trust

An immovable property can be transferred to the Trust, either by way of settling the property through a Will or Deed or by way of donating the same to the existing Trust. In all the cases the instrument should be in writing and it should contain complete description of the property so as to clearly identify the property. The title of property should be clear to be transferable to the Trust. It should be free from mortgage and litigation. The instrument by which the immovable property is desired to be introduced to Trust is required to be registered, then only the property can be conveyed in favour of the Trust.

An intimation in the form of change report is required to be sent to the Charity Commissioner so as to record an entry in the P.T.Register. The entry in this record is conclusive evidence that the particular immovable property belongs to the Trust. This record contains description and location of the property and the area of the property. This entry in the P.T. Register is necessary for the reason that if in future the said property is desired to be alienated (sold) by the Trust, such an entry is a prerequisite.

A model Trust deed and various forms for registration are enclosed herewith for ready reference.

MODEL TRUST DEED OF A PUBLIC CHARITABLE TRUST

THIS DEED OF TRUST executed on this _____ day of _____ year
20____, _____ BETWEEN _____ (Party of the first
part) hereinafter called " _____ SETTLOR OF THE TRUST"

_____ AND _____ .

1. SHRI. S/O. SHRI _____ , of _____ &

2. SHRI. S/O. SHRI. _____ , of _____ &

3. SMT. W/O SHRI. _____ , of _____

(Hereinafter called " The Trustees" which expression shall unless repugnant to the context or meaning thereof be deemed to include the survivors or survivor of them and the trustees or trustee for the time being of these presents and their heirs, executors and administrators of the last surviving trustee, their or his assignees) of the other part;

WHEREAS the party hereto of the first part is possessed of the sum of Rs. _____/- (Rs. _____ Only) as his absolute property and he is desirous of creating a Religious/ Charitable/Educational Trust for the benefit of the humanity at large.

AND WHEREAS each of the parties hereto of the "Other Part" has individually and jointly has agreed to act as Trustees of the Trust, proposed by the party of the first part.

AND WHEREAS nothing contained in this deed shall be deemed to authorize the trustees to do any act which may in any way be construed statutory modifications thereof and all activities of the trust shall be carried out with a view to benefit the public at large, without any profit motive and in accordance with the provisions of the Income-tax Act, 1961 or any statutory modification thereof.

AND WHEREAS the trust is hereby expressly declared to be a public charitable trust and all the provisions of this deed are to be constituted accordingly.

NOW THIS INDENTURE WITNESSTH AS FOLLOWS :

1. SETTLEMENT

The party of the first part, the settlor, does hereby settle the sum of Rs. _____/- (Rs. _____ only) in Trust, with the name and for the objects hereinafter stated, by delivering the said amount in cash which the party of the other part, the Trustees, have accepted the receipt of which they do hereby acknowledge, to hold the same in and to the Trustees with the powers and obligations as provided hereinafter.

2. NAME

The name of the Trust shall be " _____ " .

3. PLACE

The principal office of the Trust shall be situated at _____ or such other place as the Trustees may from time to time decide. The Trust may also carry on its work at any other place or places, as decided by the Trustees.

4. OBJECTS

1. Educational – to run, maintain or assist any educational or other institution for coaching, guidance, counselling or vocational training or to grant individual scholarships for poor, deserving and needy students for elementary and higher education.

2. Medical – to run, maintain or assist any medical institution, nursing home or clinics or to grant assistance to needy and indigent persons for meeting the cost of medical treatment.

3. Relief of the poor – to give financial or other assistance in kind by way of distribution of books, notebooks, cloths, uniforms, or meals for the poor and indigent and to the persons suffer due to natural calamities.

4. Other objects of general public utility –

1. to acquire property for the sole use for public good by making it available for public purposes as for example, housing a library clinic, crèche and/or as a community hall to be available for public use as training classes, seminars, discourses and other public functions for benefit of the community in general.

2. to undertake any other activity incidental to the above activities but which are not inconsistent with the above objects.

PROVIDED the Trust may assist/donate the other TRUST to carry out the various objects mentioned in the objects clause in such manner and to the extent the Trustees may decide upon from time to time.

5. FUNDS

The Trustees may accept donations, grants, subscriptions, aids or contributions from any person, Government, Local authorities or any other charitable institutions, in cash or in kind including immovable property without any incumbrance, but the Trustees shall not accept any receipt with any condition or terms inconsistent with the objects of the Trusts. While applying such receipts to the objects, the Trustees shall respect the directions, if any, by the granter. Any receipt with specific direction to treat the same as part of the corpus of the Trust or separate fund shall be funded accordingly.

6. INVESTMENTS

1. All monies, which shall not immediately required for current needs shall be invested by the Trustees in eligible securities and investments, or in banks. Such investments shall be in the name of Trust or Trustees.

2. That the trustees shall invest the trust fund, carry on any business with the trust fund and/or enter into partnership on behalf of the trust, as they may deem fit.

3. That the trustees shall manage the trust fund and investments thereof as a prudent man would do the same. They shall recover all outstandings and meet all recurring and other expenses incurred in the upkeep or management thereof.

4. That the trustees shall receive and hold the income of the trust on behalf and for the benefit of the beneficiaries under the trust.

7. POWER OF TRUSTEES

That the trustees shall have the following powers :

1. to manage all the assets and/or properties of the trust including the conduct of business;

2. to appoint employees and to settle the terms of their service, remuneration and termination;

3. to look into the management of the trust;

4. to invest the funds of the trust, in bank or in the purchase of company shares or securities or other movable and movable and immovable properties;

5. to sell, alter, vary, transpose or otherwise dispose or alienate the trust properties or any investment representing the same for consideration and to reinvest the same;

6. to pledge or mortgage the trust properties for raising loans;

7. to open the bank accounts in the name and on behalf of the trust and to operate the same;

8. To enter into a partnership on behalf of the trust with any other party or parties;

9. To pay all charges, impositions and other outgoings payable in respect of the trust properties and also to pay all cost of the incidental to the administration and management of the trust properties;

10. To file suit on behalf of the trust and to refer to arbitration all actions proceedings and disputes touching the trust properties and to compromise and compound the suits filed;

11. To accept any gift, donation or contribution in cash or in kind from anyone for the objects of the trust;

12. To seek legal opinion of lawyers and/or Chartered Accountants as and when required;

13. To nominate their representatives for any of the aforesaid purposes.

8. The number of the trustees shall not be less than two but not more than five.

9. In case of any difference between the trustees, the opinion of the minority shall prevail.

10. Every trustee will be at liberty to nominate or appoint attorneys or agents and to delegate all or any of the duties and powers vested in him to such attorney or agent, and to remove such attorney or agent and reappoint other or others in his place.

11. No trustee shall be responsible or liable for any loss or any act of omission or commission by his constituted attorney or agent or employees or other trustees unless occasioned by his wilful neglect or default.

12. Any of the trustees may retire on giving one month's notice in writing to the other trustee(s).

13. If any trustee dies or retires or becomes incapable or unfit to act, the continuing or surviving trustee or trustees shall appoint a successor in the place of such trustee.

14. If at any time the number of the trustees is less than two, the existing trustee shall appoint one or more trustees.

15. Upon the appointment of a new trustee the trust properties shall vest in the new trustee jointly with the continuing or surviving trustees, with the duties and power of the trustees set out hereinabove in this deed.

16. If the trust is determined by efflux of time, the corpus of the trust shall be divided amongst the beneficiaries in the shares as fixed by the trustees.

17. BANKING ACCOUNT

All income, subscription and pecuniary donations for the general purposes of the Trust and the income, investments and all other moneys from time to time forming part of the general revenue of the Trust shall on the same being received be paid into a banking account with any scheduled bank for the purpose of the Trust. The bank accounts shall be operated by the Managing Trustee along with any one of the remaining Trustees.

18. ACCOUNTS AND AUDIT

1. The Trustee shall keep proper books of account of all the assets, liabilities and income and expenditure of the Trust and shall prepare an Income and Expenditure Account and Balance Sheet for every year as on the last day of March.

2. The accounts of every year shall be audited by a Chartered Accountant or a firm of Chartered Accountants who shall be appointed for that purpose by the Trustees and the audited accounts shall be placed at a meeting of the Trustees, which shall be held before the end of the succeeding year.

19. IRREVOCABLE

This Trust is irrevocable.

20. AMALGAMATION

The trustees may amalgamate the trust with another Charitable Trust or Institution having similar objects with prior permission of the Charity Commissioner/Court/any other law as may be applicable for the time being.

21. WINDING UP

In the event of dissolution or winding up of the Trust the assets remaining as on the date of dissolution shall under no circumstances be distributed amongst the Trustees but the same shall be transferred to some other similar Trust/Organisation whose objects are similar to those of this Trust with the permission of the Charity Commissioner / Court / any other law as may be applicable for the time being.

The Trustees shall be indemnified against all losses and liabilities incurred by them in the execution of the Trust and shall have a lien over the funds and properties of the Trust for such indemnity.

IN WITNESS WHEREOF, The Parties hereunto have signed and delivered the presents on the day and year first hereinabove written.

SETTLOR

WITNESS :

1. TRUSTEE _____

1.

2. TRUSTEE _____

2.

3. TRUSTEE _____

Form of Application for Registration of a Public Trust

Schedule II (Vide Rule 6)

Court Fee Stamp

of Rs. 2/-

To

The Deputy/Assistant Charity Commissioner,

..... Region/Sub-Region

In the matter of Public Trust<http://www.citcindia.org/itr/sept03/vp_batavia.htm#1>*

.....

.....

I trustee of the above named public trust, hereby apply under section 18 of the Bombay Public Trust Act, 1950 for the Registration of the said public trust.

2. I submit the following necessary particulars:-

- (ai) The designation by which the public trust is or shall be known.
(Name of the Public Trust)
- (i) Names of the trustees and managers with their addresses
- (ii) Mode of succession to the trusteeship and managership
- (iii) Objects of the trust :
- (iv) (a) Particulars of documents creating the trust
(attach copies)
- (b) Particulars other than documents about the origin or creation of the trust.
- (v) Particulars of the scheme, if any, relating to the trust
(attach copy).
- (vi) Movable property with estimated value of each class of such property.
(Note:- Entries should be made by board description of classes of such property, e.g., furniture, books, etc., rather than of each individual article. Entry regarding cash should be made only if such cash forms part of the capital of the trust. In the case of scripts give particulars of each security, stock, share and debenture including the number which it bears).
- (vii) (a) Details of immovable properties showing the
village or town where situate, along with C. S.,
Municipal or Survey No., area, assessment or Judi
and description of the tenure on which held (attach
certified copies of the entries in the Record of Rights,
city survey record or municipal record relating to
the properties).
1.
2.
3.
(b) Estimated value of each immovable property:-
1.
2.
3.
- (viii) Sources of income of the trust.

(ix) Average gross annual income:–

1. From Movable:–

2. From Immovable:–

(x) Average annual expenditure

(xi) Amount of average annual expenditure:–

(a) on remuneration to trustees and manager ..

(b) on establishment and staff ..

(c) on religious objects ..

(d) on charitable objects ..

(e) on miscellaneous items ..

(xii) Particulars of encumbrances, if any on trust Property –

(xiii) Particulars of title deeds pertaining to trust property and the names of trustees in possession thereof –

(xiv) Remarks, if any –

3. Fees of Rs...../- (.....) accompanies

4. Any communication to the trustee or manager in connection with the trust, may be sent to the following address :–

Name

Address

.....

Date

Signature of Applicant.....

I, the above named inhabitant residing at do solemnly affirm and say that what is stated in the above application is true to the best of my information and belief.

Solemnly affirmed at

]

aforesaid this day of]

200...]

Signature

Before me.

* Give full name and address of the trust.

* If the Wakf or Trust is registered under the old Acts, no fees under 3 are payable.

CONSENT LETTER

To

Deputy Charity Commissioner/Assistant Charity Commissioner

..... Region

Sir,

Shri

(Name of Applicant)

For Charitable Institution/Association/Trust have applied for registration under B.P.T. Act, 1950, on The information provided in the application are true, we have not to say anything more than that. We state that a separate notice for the details of the said application is no more necessary. We have no objection for the issue of Registration Certificate in the name of applicant. Please note that.

Name of other trustees

(including the applicant)

Signature

1.

.....

2.

.....

3.

.....

4.

.....

5.

.....

6.

.....

7.

.....

I know all the above said signatories.

(Applicant Sign.)

Date:

To

The Asst. Registrar of Societies

Greater Bombay, Bombay

Sub: Registration of Society under Societies Registration Act, 1860

Name of the Society

Dear Sir,

I request you to kindly register the aforesaid society under the Societies Registration Act, 1860. I forward herewith to you the following documents.

1. Memorandum of Association
2. True copy of Rules and Regulations
3. Consent letters of all the members of Managing Committee
4. Authority letter duly signed by all the members of Managing Committee

5. An Affidavit of the President or Secretary in respect of the address and property of the society duly stamped together with the Court Fee Stamp of Rs. 1.25

6. A declaration given by Managing Committee assuring the use of the fund of the society for the purpose for which they are collected

I further declare that the object, of the captioned society are in consonance with Section 20 of the Societies Registration Act, 1860 and that no other society exists, having the same or similar name to the name of the captioned society. I also declare that the captioned society is not registered under any other law and that I am agreeable to pay the registration charges of Rs. 50/-.

In view of aforesaid, I request you to register the aforesaid society immediately under the captioned Act.

Yours faithfully,

(Name & Address)

Encls: As aforesaid.

Rules and Regulations of Society

1. Definition of terms used in Bye-laws.
2. Area of Operation.
3. Accounting Year.
4. Membership and procedure for enrolment.
5. Kinds of membership.
6. Termination of membership.
7. General Body Meeting, its powers and functions.
8. Notice of General Body Meeting and quorum.
9. Extraordinary General Body Meeting and its functions.
10. Managing Committee, Office Bearers.
11. Term of Managing Committee and procedure of election of office bearers.
12. Office-bearers of Managing Committee and their duties.
13. Meeting of the Managing Committee and meeting on requisition.
14. Notice of Meeting of Managing Committee and quorum.
15. Rules of election of Managing Committee.
16. Filling of vacancies in Managing Committee.
17. Powers and duties of Managing Committee.
18. Funds and income of the society or its utilisation.
19. Objectives based provision for expenditure (Percentage).
20. Provision for loans and deposits.
21. Provision regarding purchase and sale of immovable property
22. Operation of bank accounts and other financial matters (who is empowered to operate the bank account)
23. Maintenance of register of members.

The applicant should sign the format of application as mentioned in schedules 1, 2 and 6 to the Registration of Societies (Maharashtra) Rule, 1971 and the bye-laws should provide for the same.

24. Provision for amendment in Rules and Regulations.

25. Provision for change in the name and] Implementation will be according to Ss.12 object of the society] and 12A of the S. R. Act, 1960

26. Desiption of the society will be according to Ss. 13 and 14 of the S. R. Act, 1960.

MEMORANDUM OF ASSOCIATION

1. Name of the Society :
2. Office Address :
3. Objects of the Society :
4. The names, addresses, designations, ages, occupations and nationalities of all the members of the first Managing Committee of the Society to whom the management and business of the society is entrusted.

Every page of this Memorandum must be signed by minimum 3 members	Sr. No.	Name	Address	Designation	Age	Nationality
	1.					
	2.					
	3.					
	4.					
	5.	(For registration, the minimum requirement is seven)				
	6.					
	7.					

5. We the following member signatories of the society desire to form our society under the Societies Registration Act, 1860 and accordingly we have formed the said society, today; i.e., and we have signed the Memorandum for the purpose of the registration of the society under the Societies Registration Act, 1860.

Sr.No.	Member Full Name and Address	Signature
		(If the member of the Managing Committee is more than seven, then name, address of all should be given and all should sign)

Place :
Date :

I know the aforesaid persons who have signed this Memorandum in my presence.

Date : Sign/S.E.M./Advocate/C.A./Notary
Full Name & Address with seal.

CERTIFICATE

Certified to be the true copy of the bye-laws of the society.

Name & Designation of Office Bearers	Signature
1.	
2.	
3.	

Place :
Date :

Note: Minimum three office bearers should certify.

CONSENT LETTER

To

The Asst. Registrar of Societies
Bombay.

Dear Sir,

Sub: Registration of Society under Societies
Registration Act, 1860.

We the undersigned being the members of the first Managing Committee of Society do hereby consent to Act according to the aims, objects and bye-laws of the society. We have signed this letter in token of our consent towards the registration of the aforesaid society under the Societies Registration Act, 1860.

Yours faithfully,

Sr. No.	Name	Signature
1.		
2.		
3.		
4.		
5.		
6.		
7.		

(to be signed by the office bearers of the Managing Committee)

Place :

Date :

I know the persons who have signed as aforesaid, signed in my presence.

Signature with Date

(S.E.M./Advocate/C.A./Notary)
Full Name, Address & Seal.

To

The Asst. Registrar of Societies
Bombay

Dear Sir,

We the undersigned members of the Managing Committee
Society do hereby authorise Shri(Name and
Designation) to carryout any changes/amendments in the papers necessary for registration of
the Society. We further assure that the funds raised for the society will only be utilised to
achieve the objectives of the society,

Sr.No.	Name	Signature
1.		
2.		
3.		

- 4.
- 5.
- 6.
- 7.

Place :	Accepted
Date :	(One who accepts the Signature with Date)

Form No. 10A

[See Rule 17A]

**Application for registration of charitable or religious trust or institution
under section 12A(a) of the Income-tax Act, 1961**

To
The Chief Commissioner or Commissioner of Income-tax,
.....

Sir,

I, on behalf of
.....

(Name of the trust or institution)

hereby apply for the registration of the said trust/institution under section 12A of the Income-tax Act, 1961. The following particulars are furnished herewith:-

1. Name of the *trust/institution in full (In Block letters)
2. Address
3. Name(s) and address(es) of author(s)/founder(s)
4. Date of creation of the trust or establishment of the institution.
5. Name(s) and address(es) of trustee(s)/manager(s).

I also enclose the following documents:

- (1) (a)*Original/certified copy of the instrument under which the trust/institution was created/established, together with a copy thereof.
(b)*Original/certified copy of the document evidencing the creation of the trust or the establishment of the institution, together with a copy thereof.
(The originals if enclosed will be returned)
- (2) Two copies of the accounts of the *trust/institution for the latest *one/two/three years

I undertake to communicate forthwith any alteration in the terms of the trust, or in the rules governing the institution, made at any time hereafter.

Date

Signature.....
Designation.....
Address.....

* *Strike out whichever is not applicable*

Form FC-1

**Application for seeking prior permission of the Central Government for
accepting foreign contribution by or on behalf of an organisation of
political nature not being a political party**

[See rule 3(a)]

[Sections 5(1) and 5(2)(a) of the Foreign Contribution (Regulation) Act, 1976]

1. a. Particulars of the organisation (Full name in block letters, and address)
b. Address of the principal/head office of the organisation
2. Full particulars of the person applying on behalf of the organisation:
 - b. Name in full (in block letters)
 - c. Name of father
 - d. Occupation
 - e. Residential address
 - f. If an office bearer, the office held in the organisation
3. Reference of the order published by the Central Government in the Official Gazette specifying the organisation as an "organisation of political nature, not being a political party".
4. Nature and full details of contribution including value, to be received.
5. The mode/channel of receipt.
6. Purpose for which foreign contribution is proposed to be received.
7. Particulars of the foreign source from which contribution to be received:

. If an individual, his personal particulars including name, present address, permanent address, nationality, profession

a. If an organisation/institution/association/trust/foundation/trade union, etc., full particulars thereof including:—

- i. Full name and complete address
 - ii. Address of head office/principal office
 - iii. Aims and objects
 - iv. Particulars of important office bearers
2. Nature of connection/dealings with the foreign source
 3. Any other information of significance which the applicant may like to furnish

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place

Date

Signature of the applicant

Note : In case of application by an organisation, it should be signed by the chief functionary.

Form FC-1A

**Application for seeking prior permission from the Central Government under the
Foreign Contribution (Regulation) Act, 1976 (Hereinafter referred to as the Act)
for the acceptance of foreign contribution by an Association having definite cultural, economic,
educational, religious or social programme**

No.

Date

To

The Secretary of the Government of India,
Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market,
New Delhi - 110 003

**Subject: Application for seeking the prior permission of the Central Government under the Foreign
Contribution (Regulation) Act, 1976 for acceptance of foreign contribution.**

Sir,

I,, on behalf of the Association named hereafter, apply for seeking prior permission of the Central Government for the acceptance of foreign contribution under proviso to sub-section (1) of section 6 or under sub-section (1A) of that section or clause (b) of section 10 of the Act.

1. i. Name of the Association and its complete postal address:
Name
Address
Town/City
State
District
Pin Code
- ii. If the Association is a registered trust or Society please indicate its-
 - a. registration number,
 - b. place of registration,
 - c. date of registration, (certified copy of the registration certificate to be attached.)
- iii. Nature of Association:
(a) religious (b) cultural (c) economic (d) educational (e) social.

Note: If a religious Association, then state whether (a) Hindu (b) Sikh (C) Muslim (d) Christian (e) Buddhist (f) Others.

- iv. Please indicate the main aims(s) and object(s) of the Association (enclose copy of the Memorandum of Association and/or the Articles of Association, if applicable).
- v. Please furnish the names and addresses of the members of the Executive Committee/Governing Council etc. of the Association including the Chief Functionary, in the following manner:

Sl.No.	Name	Name of Father/ Husband	Nationality	Occupation	Office held in the Association, if any	Relation with other office bearers, if any	Address
1	2	3	4	5	6	7	8

2. Please indicate whether any member of the Executive Committee/Governing Council etc. of the Association, including the Chief Functionary has, in the discharge of his/her official functions—

- b. been convicted by any court of law;
- c. a prosecution for any offence pending against him/her;
- d. been found guilty of diversion or misutilisation of funds of the Association or any other Association in the past.

2. Please indicate whether the applicant/Association—

. is a branch/unit/associate of foreign based organisation or another Association already registered under the Act. If so, name and address of the parent organisation should be furnished;

a. has been directed by the Central Government in terms of the proviso to sub-section (1) of section 6 of the Act to seek prior permission. If so, the number and date of the relevant order should be furnished;

b. has been directed by the Central Government in terms of section 10 of the Act to seek prior permission. If so, the number and date of the relevant order should be furnished.

3. Please indicate—

. whether the Association ever applied for registration under the Act in the past, if so,

a. the date of submission of application for registration;

b. the number and date of last reference, if any, received from the Ministry;

c. whether registration was refused;

d. whether the application for registration is still pending;

i. whether the Association has close links with another Association, or its unit or branch which has been

a. refused registration under the Act,

b. prohibited from accepting foreign contribution.

2. Please indicate,—

. whether the Association was,—

a. granted prior permission to receive foreign contribution under the Act in the past. If so, the number and date of the letter granting prior permission should be furnished;

b. whether the account of the receipt and utilisation of the foreign contribution received above was sent to the Central Government in the prescribed form. If so, the date of submission of the accounts should be furnished;

c. If the prior permission was granted in the current year, details of the foreign contribution received and utilised, purposewise, showing the unspent balance should be annexed.

i. whether the Association has received foreign contribution without the prior permission of the Central Government, in the past. If so, —

a. full particulars of the foreign contribution received, address of the branch of the bank and account number in which deposited should be furnished;

b. whether the said violation has been condoned by the Central Government;

c. whether the Association has been prohibited from accepting foreign contribution under the Act.

3. Please indicate whether the Association is owner/printer/publisher, editor of a publication which is a "registered newspaper" under the Press and Registration of Books Act, 1867.

4. Please furnish—

. details of the activities of the Association during the past three – years;

i. Copies of the audited statement of accounts of the Association for the past three years.

5. i. Please indicate the—

a. nature and value of the foreign contribution to be received (a copy of the latest commitment letter from the donor should be furnished);

b. the purpose for which the foreign contribution is proposed to be received and utilised indicating also the geographical area(s) to be covered

- ii. a copy of the proposal/project which has been approved by the foreign source for funding, including projected outlays/budget breakup, should be enclosed.
 - iii. a copy of the proposal/project which has been approved for funding out of the foreign contribution should be enclosed (This column applies only to subsequent recipients)
- 6. Please indicate—
 - ii. the name of the bank and address of the branch through which the foreign contribution is proposed to be received;
 - iii. the account number in the said branch of the bank.
- 7. Please indicate the particulars of the foreign source or the sources from which, the foreign contribution is proposed to be received:—
 - . If an individual, his personal particulars including name, present address, permanent address, nationality, profession;
 - a. If an organisation/institution/association/trust/trade union etc. full particulars thereof, including—
 - i. Full name and complete address.
 - ii. Address of the Head office/principal office.
 - iii. Particulars of Chief Functionary and important office bearers.
 - b. Please indicate whether the foreign source is a Government of a foreign country or agency thereof.

10A. Whether a recommendation certificate from the competent authority is attached (Yes/No).

11. Any other information which the Association may like to furnish.

Yours faithfully,

Signature of the Applicant
[Name of the Chief Functionary or
authorised office bearer (with seal of the Association)]

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place:

Date :

Signature of the applicant
[Name of the Chief Functionary or
authorised office bearer (with seal of the Association)]

* If the foreign contribution, whether currency or articles is to be received from any person or Association who has received the same as first, second or subsequent recipient, particulars of such person or Associations should be given against column 10 above.

Note: 1. An incomplete application i.e., without necessary documents/details/explanations is likely to be rejected summarily.

2. In case the space against any column is insufficient, separate annexure should be attached.

3. Please use Capital letters

4. The application should be signed by the Chief Functionary or authorised office bearer of the Association.

Form FC-1A

**Application for seeking prior permission from the Central Government under the
Foreign Contribution (Regulation) Act, 1976 (Hereinafter referred to as the Act)
for the acceptance of foreign contribution by an Association having definite cultural, economic,
educational, religious or social programme**

No.

Date

To

The Secretary of the Government of India,
Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market,
New Delhi - 110 003

**Subject: Application for seeking the prior permission of the Central Government under the Foreign
Contribution (Regulation) Act, 1976 for acceptance of foreign contribution.**

Sir,

I,, on behalf of the Association named hereafter, apply for seeking prior permission of the
Central Government for the acceptance of foreign contribution under proviso to sub-section (1) of section 6
or under sub-section (1A) of that section or clause (b) of section 10 of the Act.

1. i. Name of the Association and its complete postal address:
Name
Address
Town/City
State
District
Pin Code
- ii. If the Association is a registered trust or Society please indicate its-
 - a. registration number,
 - b. place of registration,
 - c. date of registration, (certified copy of the registration certificate to be attached.)
- iii. Nature of Association:
(a) religious (b) cultural (c) economic (d) educational (e) social.

Note: If a religious Association, then state whether (a) Hindu (b) Sikh (C) Muslim (d)
Christian (e) Buddhist (f) Others.

- iv. Please indicate the main aims(s) and object(s) of the Association (enclose copy of the
Memorandum of Association and/or the Articles of Association, if applicable).
- v. Please furnish the names and addresses of the members of the Executive
Committee/Governing Council etc. of the Association including the Chief Functionary, in
the following manner:

Sl.No.	Name	Name of Father/ Husband	Nationality	Occupation	Office held in the Association, if any	Relation with other office bearers, if any	Address
1	2	3	4	5	6	7	8

2. Please indicate whether any member of the Executive Committee/Governing Council
etc. of the Association, including the Chief Functionary has, in the discharge of his/her
official functions—

- b. been convicted by any court of law;
- c. a prosecution for any offence pending against him/her;
- d. been found guilty of diversion or misutilisation of funds of the Association or any other Association in the past.

2. Please indicate whether the applicant/Association—

. is a branch/unit/associate of foreign based organisation or another Association already registered under the Act. If so, name and address of the parent organisation should be furnished;

a. has been directed by the Central Government in terms of the proviso to sub-section (1) of section 6 of the Act to seek prior permission. If so, the number and date of the relevant order should be furnished;

b. has been directed by the Central Government in terms of section 10 of the Act to seek prior permission. If so, the number and date of the relevant order should be furnished.

3. Please indicate—

. whether the Association ever applied for registration under the Act in the past, if so,

- a. the date of submission of application for registration;
- b. the number and date of last reference, if any, received from the Ministry;
- c. whether registration was refused;
- d. whether the application for registration is still pending;

i. whether the Association has close links with another Association, or its unit or branch which has been

- a. refused registration under the Act,
- b. prohibited from accepting foreign contribution.

2. Please indicate,—

. whether the Association was,—

- a. granted prior permission to receive foreign contribution under the Act in the past. If so, the number and date of the letter granting prior permission should be furnished;
- b. whether the account of the receipt and utilisation of the foreign contribution received above was sent to the Central Government in the prescribed form. If so, the date of submission of the accounts should be furnished;
- c. If the prior permission was granted in the current year, details of the foreign contribution received and utilised, purposewise, showing the unspent balance should be annexed.

i. whether the Association has received foreign contribution without the prior permission of the Central Government, in the past. If so, –

- a. full particulars of the foreign contribution received, address of the branch of the bank and account number in which deposited should be furnished;
- b. whether the said violation has been condoned by the Central Government;
- c. whether the Association has been prohibited from accepting foreign contribution under the Act.

3. Please indicate whether the Association is owner/printer/publisher, editor of a publication which is a "registered newspaper" under the Press and Registration of Books Act, 1867.

4. Please furnish—

. details of the activities of the Association during the past three – years;

i. Copies of the audited statement of accounts of the Association for the past three years.

5. i. Please indicate the—

a. nature and value of the foreign contribution to be received (a copy of the latest commitment letter from the donor should be furnished);

b. the purpose for which the foreign contribution is proposed to be received and utilised indicating also the geographical area(s) to be covered

- ii. a copy of the proposal/project which has been approved by the foreign source for funding, including projected outlays/budget breakup, should be enclosed.
 - iii. a copy of the proposal/project which has been approved for funding out of the foreign contribution should be enclosed (This column applies only to subsequent recipients)
- 6. Please indicate—
 - ii. the name of the bank and address of the branch through which the foreign contribution is proposed to be received;
 - iii. the account number in the said branch of the bank.
- 7. Please indicate the particulars of the foreign source or the sources from which, the foreign contribution is proposed to be received:—
 - . If an individual, his personal particulars including name, present address, permanent address, nationality, profession;
 - a. If an organisation/institution/association/trust/trade union etc. full particulars thereof, including—
 - i. Full name and complete address.
 - ii. Address of the Head office/principal office.
 - iii. Particulars of Chief Functionary and important office bearers.
 - b. Please indicate whether the foreign source is a Government of a foreign country or agency thereof.

10A. Whether a recommendation certificate from the competent authority is attached (Yes/No).

11. Any other information which the Association may like to furnish.

Yours faithfully,

Signature of the Applicant
[Name of the Chief Functionary or
authorised office bearer (with seal of the Association)]

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place:

Date :

Signature of the applicant
[Name of the Chief Functionary or
authorised office bearer (with seal of the Association)]

* If the foreign contribution, whether currency or articles is to be received from any person or Association who has received the same as first, second or subsequent recipient, particulars of such person or Associations should be given against column 10 above.

Note: 1. An incomplete application i.e., without necessary documents/details/explanations is likely to be rejected summarily.

2. In case the space against any column is insufficient, separate annexure should be attached.

3. Please use Capital letters

4. The application should be signed by the Chief Functionary or authorised office bearer of the Association.

[Certificate

1. This is to certify that the (name of the Association having its registered office at (Address) has been formed for undertaking welfare activities in its chosen (Economic, Educational, Cultural, Religious and Social) field of activity. The

antecedents of the organisation have been verified and there is nothing adverse against them.

2. Its proposed project would be undertaken in the (District) of (State).

The said project is likely to prove beneficial to the people living in the area.

3. Grant of prior permission to the aforementioned association to accept foreign contribution amounting to (Currency/Amount) from (Name and address foreign donor) under the Foreign Contribution (Regulation) Act, 1976 for the said project is recommended.

(Recommending Authority)**

(With Seal)

* Strike out whichever is not applicable.

** Any concerned.

(1) Collector of District.

(2) Department of the State Government.

(3) Ministry/Department of the Government of India]

(To be submitted in triplicate)

1. Substituted by GSR 8 (E), dt. 4-1-1999, w.e.f. 17-4-2000.

1. Substituted by GSR 755(E), dt. 5-11-1984, w.e.f. 5-11-1984.

**Application for seeking prior permission of the Central Government
to accept foreign hospitality**

[See rule 3(b)]

[Section 9, read with sections 10(d) and 11(1) of the Foreign Contribution (Regulation) Act, 1976]

1. Name in full (in block letters)
2. Date of birth
3. Name of father/husband
4. Present address
5. Permanent address
6. Passport particulars (if already in possession)
7. Status:
 - a. Member of Legislature
 - b. Office-bearers of a political party
 - c. Judge of Supreme Court/High Court
 - d. Government servant
 - e. Employee of a company/corporation
 - f. Any person or class of persons not specified in section 9
8. Names of countries/places to be visited with duration of stay
9. The countries and places where foreign hospitality is to be accepted
10. Duration and purpose of visit to the country(ies)/place(s) mentioned in Column 9 with specific dates
11. Particulars of host(s):—
 - a. If an individual, his personal particulars including name, present address, permanent address, nationality, profession
 - b. If an organisation/institution/Association/Trust/Foundation/Trade Union, etc., full particulars thereof including,—
 - i. Full name and complete address
 - ii. Address of head Office/Principal Office
 - iii. Aims and objects
 - iv. Particulars of important office-bearers
12. *Full particulars as in serials II(a) and (b) of the foreign source in case the actual source extending the hospitality is located in a country other than actually proposed to be visited.
13. Nature and duration of #foreign hospitality proposed to be accepted with specific dates and with specific details
14. Nature of connection/dealings with the host and/or foreign source extending the hospitality
15. Approximate expenditure to be incurred on hospitality
16. Any other information of significance which the applicant may like to furnish.

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place

Signature of the applicant

Date

**Delete if not applicable*

"Foreign Hospitality" means any offer, not being a purely casual one, made by a foreign source for providing a person with the cost of travel to any foreign country or territory or with free board, lodging, transport or medical treatment.

Form FC -8

Application for seeking registration with the Central Government Under the Foreign Contribution (Regulation) Act, 1976 (Hereinafter referred to as the Act) for the acceptance of foreign contribution by an association having a definite cultural, economic, educational, religious or social programme

[Rule 3A)

No.....

Date.....

To

The Secretary to the Government of India,
Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market,
New Delhi - 110 003

Subject: Application for registration under the Foreign Contribution (Regulation) Act, 1976 for the acceptance of foreign contribution.

I on behalf of the Association named hereafter apply for registration of the Association under clause (a) of sub-section (1) of section 6 of the Act for the acceptance of foreign contribution.

1. i. Name of the Association and its complete postal address:
Name:
Address:
Town/City:
District:
State:
Pin Code:
- ii. If the Association is a registered trust or Society please indicate its:—
 - a. registration number:
 - b. place of registration:
 - c. date of registration:

(certified copy of the registration certificate to be attached).

- iii. Nature of Association
(a) religious (b) cultural (c) economic (d) educational (e) social.
Note: If a religious Association, state whether (a) Hindu (b) Sikh (c) Muslim (d) Christian (E) Buddhist (f) Others.
- iv. Please indicate—
 - b. the main aim(s) and object(s) of the Association (enclose a copy of the Memorandum of Association and/or the Articles of Association, if applicable);
 - c. the main object(s) and definite programme(s) for which the foreign contribution is to be accepted/utilised.
- v. Please furnish the names and addresses of the members of the Executive Committee/Governing Council etc. of the Association, including the Chief Functionary in the following manner:

Sl. No.	Name	Name of Father/Husband	Nationality	Occupation	Office held in the Association, if any	Relationship with other office-bearers, if any	Address
1	2	3	4	5	6	7	8

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2. Please indicate whether any member of the Executive Committee/Governing Council etc. of the Association, including the Chief Functionary has in the discharge of his/her official functions—
 - b. been convicted by any court of law;
 - c. a prosecution for any offence pending against him/her;
 - d. been found guilty of diversion or misutilisation of funds of the Association or any other association in the past.
2. Please indicate whether the applicant Association is a brand/unit/associate of foreign based organisation or another associations already registered under the Act. If so, the name and address of the parent organisation.
3. Please indicate,—
 - ii. whether the Association was,—
 - a. granted prior permission to receive foreign contribution under the Act in the past. If so, the number and date of the letter granting prior permission should be furnished;
 - b. whether the account of the receipt and utilisation of the foreign contribution received above was sent to the Central Government in the prescribed form. If so, the date of submission of the accounts should be furnished;
 - iii. whether the, —
 - a. Association has received foreign contribution without the prior permission under Act in the past. If so, full particulars of the foreign contribution received along with complete address of the bank branch and bank account number in which deposited should be furnished;
 - b. said violation has been condoned by the Central Government;
 - c. Association has been prohibited from accepting foreign contribution under the Act.
2. Please indicate whether the Association is functioning as editor, owner, printer or publisher of a publication required to be registered as "newspaper" under the Press and Registration of Books Act, 1867. If so, the details thereof.
3. Please indicate.—
 - ii. Whether the Association ever applied for registration under the Foreign Contribution (Regulation) Act, 1976, if so, —
 - a. the date of submission of application for registration;
 - b. the number and date of the last communication, if any, received from the Ministry;
 - c. whether registration was refused;
 - d. whether application for registration is till pending
 - iii. whether the Association has close links with another association, or its unit or branch which has been —
 - a. refused registration under the Act;
 - b. prohibited from accepting foreign contribution
4. Please furnish,—
 - i. details of the activities of the Association during the past three years,
 - i. copies of the audited statement of accounts of the Association for the past three years.
 - ii. details of the area(s) of operation.
5. Please indicate whether the Association has been specified as an organisation of a political nature, not being a political party, under section 5 of the Act. If so, the details of the notification should be furnished.
6. Please indicate,—
 - i. the name and address of the branch of the bank through which the foreign contribution shall be received;
 - i. Please specify the account number in the said branch of the bank.

9A. Whether a recommendation certificate from the competent authority is attached (Yes/No).

10. Any other information which the Association may like to furnish.

Yours faithfully,
Chief Functionary for and on behalf of the Association (Name of Association)

DECLARATION AND UNDERTAKING

The Association named hereinabove affirms that the information furnished above is correct and undertakes:—

- i. to inform the Central Government (Ministry of Home Affairs) within thirty days, if any, change takes place in regard to the name of the Association, its address, its registration, its nature, its aims and objects with documentary evidence effecting the change;
- ii. to obtain prior permission for change of office bearer(s), if, at any point of time such change causes replacement of 50% or more of the office bearers as were mentioned in the application for registration under the Foreign Contribution (Regulation) Act, 1976 and undertakes further not to accept any foreign contributions except with prior permission till the permission to replace the office-bearer(s) has been granted;
- iii. not to change the bank or branch of the bank without prior permission of the Central Government. The reasons for change of bank or branch of the bank shall have to be relevant and justifiable; and
- iv. not to accept any foreign contribution unless it has obtained either the registration number, as applied for hereinabove, or prior permission of the Central Government under sub-section (1A) of section 6 of the Foreign Contribution (Regulation) Act, 1976.

(Chief Functionary)
for and on behalf of the Association (Name of the Association)

Note :

- i. The receipt of application for registration is not a commitment for grant of registration by the Central Government.
- ii. An incomplete application; i.e., without the required documents/details/explanations is likely to be rejected summarily;
- iii. In case the space provided against any column is insufficient separate sheets should be attached; and

Please use Capital letters.

1[Certificate

1. This is to certify that the (Name of the Association) having its registered office at (Address) has been engaged in economic, educational, cultural, religious, social activities in the (District) of (State) for the last years.
2. It has undertaken commendable welfare activities in the area and has incurred substantial expenditure (excluding administrative expenditure) amounting to (Amount in rupees) during the last three years on its chosen (Economic, Education, Cultural, Religious and Social) field of activity.
3. The antecedents of the organisation have been verified and there is nothing adverse against them
4. Grant of registration to the aforesaid Association to accept foreign contribution under the Foreign Contribution (Regulation) Act, 1976 is recommended.

** (Recommending Authority)

(With Seal)

- * Strike out whatever is not applicable.
- ** Any concerned
- (1) Collector of District
- (2) Department of the State Government
- (3) Ministry/Department of the Government of India]

(To be submitted in triplicate) (This form has been last modified on 24-1-2000)

**CHARITABLE INSTITUTIONS FORMED BY REGISTERING AS A COMPANY U/S. 25 OF
THE COMPANIES ACT**

**POINTS TO BE COVERED UNDER MEMORANDUM OF ASSOCIATION
AND ARTICLE OF ASSOCIATION**

I. Memorandum of Association is

1. Name of the Company is _____
2. The Registered office of the Co. will be situated in the state of _____
3. Objects
 - a. Main objects of the Co. to be perused on incorporation.
 - b. Objects incidental or ancillary to the attainment of the main objects
 - c. Other objects if any.
4. The objects of the Co. extend to the whole of India and all other countries of the world.
5. Distribution of Income and Property of Company.
6. Alteration of MOA & AOA.
7. Liability of the members is limited.
8. Contribution of members in the event of winding up.
9. Accounts and Audit.
10. Distribution of surplus amount on winding up.

We, the several persons whose names, addresses, descriptions and occupations are hereupto subscribed are desirous of being formed into a company not for profit, in pursuance of this M.O.A.

<i>Name, Address Description & Occupation of the Subscribers</i>	<i>Signature of Subscribers</i>	<i>Signature, Name, Address, Description & occupation of witness.</i>

Place :
Date :

II. Article of Association :

- a. Interpretation
- b. Members including appointment and cessation
- c. Annual Budget and Subscription
- d. Copies of Memorandum & Articles to be sent to members
- e. Borrowing powers
- f. Meeting of members
- g. Meeting of Board of Directors
- h. Minutes
- i. Registers
- j. Powers of Board of Directors

- k. Remuneration to Directors
- l. Administration
- m. The Seal
- n. Books and Documents
- o. Accounts and Balance Sheets
- p. Audit
- q. Documents and Notices
- r. Indemnity
- s. Winding up.

We, the several persons whose names, addresses, descriptions and occupations are hereupto subscribed are desirous of being formed into a company not for profit, in pursuance of this M.O.A.

<i>Name, Address Description & Occupation of the Subscribers</i>	<i>Signature of Subscribers</i>	<i>Signature, Name, Address, Description & occupation of witness.</i>

Place :

Date :