

FAQ's on Societies Registration Act 1860

Q1. What are the things to be kept in mind while proposing a name of the society?

Ans: The things to be kept in mind while proposing a name for the society are:

- The name of the society proposed should not attract the provisions of The Names and Emblems (Prevention of Improper Use) Act 1950 i.e the name proposed should not imply any connection with Government of India, or Government of State or any connection with legal authority
- The name proposed for the registration of the society should not be identical to name of any other society which has already been registered or resembles such name likely to deceive the public or the members of the society.
- There is prohibition of use of any name, emblems, official seals specified under the Names and Emblems Act without permission of the appropriate authority.
- There is prohibition of the use of the name of the national heroes or other names mentioned in the Names and Emblem Act, 1950 .
- The registrar of Societies can be approached with alternative names to ascertain whether the same are not undesirable and are not being used by any other existing societies.
- The name of the Society should not suggest obscenity or be against decency and decorum. It should not be undesirable in the opinion of the Registrar

Q2. Who all can form a society?

Ans: A society can be formed by “Any Seven or more persons associated for any literary, scientific or charitable purpose, or for any such purpose as described in Section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with registrar of Joint Stock Companies (The word Joint Stock Companies has been replaced by respective state acts as either Registrar of Societies or Inspector General of registration or as the respective State Act may specify) form themselves into a society under this Act”.

Q3. What is the eligibility to form a society?

Ans: Apart from individuals the following persons are also eligible for subscribing to the Memorandum of the society:

- **Foreigners:** foreigners can subscribe to the memorandum of the society.
- **Partnership firm:** The position of Partnership firm regarding its eligibility to subscribe to the memorandum of the society is not clear from provisions of

the Partnership Act 1932, Societies Registration Act 1860 or any other judicial decision. However simple analogy can be drawn by keeping in view the provisions of Sec 25(4) of Companies Act, 1956 which permits a partnership firm to become a member of a Section 25 company and provides that the firm may be a member of any association or company registered under the provisions of the Companies Act 1956. However on dissolution of the firm, the membership of the firm to such an association or company will lapse. Therefore drawing a parallel from the above, we may deduce that a partnership firm may subscribe to the memorandum of society.

- **Limited company:** Company can subscribe to the memorandum of society
- **Registered society:** A registered society can subscribe to memorandum of association of proposed society.

Q4. What is the purpose for which a society can be formed?

Ans: According to Section 20 of the Societies registration Act 1860 the society may be registered for the following purpose:

- Grant of charitable assistance
- Creation of military orphan funds
- Societies established at the general presidencies of India
- Promotion of science, literature, fine arts, instructions or diffusion of useful knowledge, diffusion of political education, foundation or maintenance of libraries, public museum and galleries of paintings, works of art, collection of natural history, mechanical and philosophical inventions, instruments , designs

Q5. What is a memorandum of Association of a society?

Ans: The memorandum is the charter of the society. It contain the:

- Name of the Society
- The objects of the Society
- The names, addresses and occupation of the members of the governing body
- The place of the registered office of the Society

The memorandum also contains the names, addresses and full signatures of the seven and more persons subscribing their name to the memorandum of association

Q6. What are the Rules and regulations of a society?

Ans: The rules and regulations of the society are a guide to the members of the governing body or the persons entrusted with management of the society to regulate the functions of the society and for its internal management. These rules and regulations help in achieving the objects of the society and are binding on its members.

Q7. Who can be the members of a society?

Ans: Member(s) as given in the memorandum shall be a person(s) who has been admitted according to the rules and regulations of the society and have paid the subscription and signed the list of members. A person shall not be entitled to vote or be counted as a member in any of the proceedings of the society whose subscription is in arrears (The time limit for receiving the subscription should generally be specified in the rules and regulations of the society).

Q8. What are the rights of a member of the society?

Ans: Rights of a member of a society are:

- Right to receive notices
- Right to vote
- Right to receive copies of the bye laws
- Right to receive statement of accounts
- Right to attend general meetings

Q9. What are the duties of the members of a society?

Ans: Duties of a member of a society are:

- To work towards attainment of the objectives of the society
- To attend the meetings regularly and exercise their democratic right as and when necessary.
- A society may act against the members for:
 - recovery of arrears of membership subscription
 - recovery of any retained property or damages to the property caused by the members
 - for mis-utilisation / mis-appropriation of funds of the society
 - Forging any deed, document, money receipt etc. causing loss of fund or loss of credibility of the society.

Q10. What is a Governing Body?

Ans: Governing Body under the Societies Registration Act, 1860 can be said to be consisting of the Governor's council, Committee, trustees or some other body by whatever name called to whom or to which by the rules and regulations of the society the management of its affairs is entrusted.

Q11. What is a General Body of a Society?

Ans: General Body of a society comprises of all the members who have subscribed to the memorandum of the society

Q12. What is the notice to be given for a meeting of the society?

Ans: A notice for every meeting is to be given to all the members of the society according to the time limit as mentioned in the bye laws. The notice for the meetings has to be given in writing.

Generally a 21 days notice should be given for a general meeting and 7 days notice for a governing body meeting.

Q13. What is the quorum required for a meeting of a society?

Ans: 'Quorum' implies the minimum number of members who must be present in the meeting to make the proceedings of the meeting valid.

The bye laws of the organisation specify the quorum required for different meetings.

If the required quorum is not present then the meeting is generally adjourned to the same day of the next week, at the same time and the same place. In case the quorum is still not present in the adjourned meeting then the meeting can be taken as a valid meeting. However proxies are not considered as part of the quorum.

Q14. How are the minutes of a society's meeting to be maintained?

Ans: The minutes of a meeting of a society are recorded on loose sheets chronologically prepared and bound together or a bound register. The pages of the minutes should be serially numbered.

The minutes of the previous meeting are to be read and confirmed at the beginning of a meeting. These minutes are then signed by the chairman and subsequently they cannot be altered or corrected.

Q15. In whom is the property of a society vested?

Ans: The members of the governing body are the **Trustees** of the Property of the Society.

The property whether movable or immovable vests with the society's trustees.

Q16. Who is the signing authority of a society?

Ans: In general all the documents of the society to be filed with the registrar of the societies should be signed by the President or the Chairman or the Secretary of the Society or by any other person specifically authorized in this behalf.

Q17. What are the disqualifications for being a member of the society?

Ans: A person is disqualified for being chosen as or being a member of the governing body:

- If a person is an undercharged insolvent
- is convicted of any offence in connection with the formation, promotion, management or conduct of the affairs of a society or a body corporate, or of any offence involving moral turpitude.

Q18. Are the Governing Board members same as the desirous persons in the Memorandum of the Association?

Ans: At the time of filing the Memorandum of Association with the registrar of Societies it should be ensured that the name of the members given as the Governing Body in the Memorandum of Association should necessarily form part of the persons who have signed in the memorandum as the desirous persons to form the society.

Q19. What are the documents required for registration of a society?

Ans: Documents required for registration of a society are:

- Request letter to register a society under Societies Registration Act 1860
- Two sets of Memorandum of association including list of proposed Governing Body and list of desirous persons
- Two sets of Rules and regulations framed for the functioning of the organization
- Affidavits (on Rs.2/- stamp paper from p[resident/Secretary of the Society regarding the name/title of the society
- Copy of residence proof of all desirous persons
- Proof of ownership of the registered office of the society and no objection certificate(on rs.2/- stamp paper)

Q20. What is the contact address for registrar of society in Delhi?

Ans: Contact Address:

Registrar of Societies
Office of the Registrar of Societies
Office of the Commissioner of Industries
Govt.of NCT of Delhi
C.P.O Building
Kashmere Gate
Delhi

Phone Nos. 22960173

Visiting Hours: 10.30A.M to 1.00 P.M

Website: <http://delhigovt.nic.in/dept/industries/service1.asp>

Q21. What are the things to remember while filing for registration of a society?

Ans: Things to remember while registering a Society in Delhi under the Societies Registration Act 1860

Q22. What are the steps for alteration, extension or abridgement of the aims and objectives of a society?

Ans. Section 12 of the Societies Registration Act 1860 has laid down the following steps for alteration, extension or abridgement of the aims and objectives of a society which have to be followed:

- Submission of the proposal by the governing body to the members of the society
- 10 days notice to members about holding of a special meeting,
- convening a special meeting for the consideration of the proposal,
- Approval of the proposal by 3/5th of members,
- Convening second special meeting after a month, and
- Confirmation by 3/5th of members present at the second special meeting

Q23. What is the procedure for change of the name of the society?

Ans. In general, various state acts under section 12,12A,12B give the following procedure for change of the name of the society:

- Convene a general meeting for the purpose of the change of the name
- A resolution should be passed by a majority
- The notice in writing of the change of name, which has to be signed by the Secretary of the society along with seven members(as in case of the registration of the memorandum of association), should be submitted to the registrar.

Q24. What are the books of accounts to be maintained by a society?

Ans: Generally the following books of account to be maintained by the society on Single Entry/Double Entry basis are:

- Cash Book/Bank Book giving the daily receipts
- Voucher files

- Ledgers
- Receipt books

Q25. Should a society get the books of accounts audited by a society?

Ans: There are various provisions under the specific State Societies Registration Act(s) wherein provisions for Audit and filing of annual returns are specified. In general these Acts specify the check and audit of the accounts to be done by a duly qualified Chartered accountant within the meaning of the Chartered Accountants Act 1949 or a person approved by the Registrar of Societies in this behalf.

Q26. In which form should a society maintain its books of accounts?

Ans. Section 145 of the Income tax Act provides that either cash or mercantile system of Accounting should be followed. However it has been held in various court cases that Section 14 i.e income of charitable organizations need not be computed under various heads of income, therefore there is no clarity whether a charitable organization also come under the purview of Section 145 or not. Therefore in absence of any clarifications, a charitable organization can maintain books of accounts from the following three methods of accounting:

- Cash Basis of Accounting
- Accrual Basis of accounting
- Hybrid/Mixed basis of Accounting

Q27. What are the specific rules for Accounting and Audit of Foreign Contribution received by a registered society under the FC(R)A?

Ans. For organizations which are receiving the grants or funds from international agencies, it is also important to follow the rules and the guidelines of the Foreign Contribution Regulation Act. Under the FC(R) A, Section 13 states that:

“Recipients of foreign contribution to maintain accounts, etc.”

Every association, referred to in section 6, shall maintain, in such form and in such manner as may be prescribed-

- (a) an account of any foreign contribution received by it, and
- (b) a record as to the manner in which such contribution has been utilized by it.”

Rule 8 of the Foreign Contribution Regulation (FCR) Rules 1976 states that:

(1) A separate set of accounts and records shall be maintained, exclusively for foreign contribution received and utilized-

(a) in Form FC-6, where the foreign contribution relates only to articles as referred to in item (1) of sub-clause (c) of clause (1) of section 2;

(b) in the cash book and ledger account on double entry basis, where the foreign contribution relates to currency received and utilized, and a separate bank account shall be maintained in respect of such contribution;

(c) in Form FC-7, where the foreign contribution relates to foreign securities.

(2) Every account specified in sub-rule (1) shall be maintained on yearly basis, commencing on the 1st day of April each year and every such yearly account, duly certified by a chartered accountant in Form FC-3 along with a balance sheet and statement of receipt and payment shall be furnished in duplicate, to the Secretary to the Government of India, in the Ministry of Home Affairs, New Delhi, within four months of the closure of the year.

Q28. What do you mean by 'Forthwith' Under Section 13 for dissolution of a society under the Societies Registration Act 1860?

Ans. 'Forthwith' according to the dictionary means, 'immediately, at once, without delay or interval'. In *Bidya Deb Burma Vs District Magistrate Tripura, Agartala AIR 1969*, the court interpreted from the case of *Keshav Nilakanth Joglekar Vs Commissioner of Police Greater Bombay, (the Constitution Bench of Supreme Court)* that "When a Statute requires that something shall be done 'forthwith' or 'immediately' or even 'instantly', it should probably be understood as allowing a reasonable time for doing it".

Therefore 'Forthwith' does not mean a precise time but should be within a reasonable time without avoidable and unreasonable delay.

Q29. What do you mean by 'Principal Court of Original Civil Jurisdiction' Under Section 13 for dissolution of a society under the Societies Registration Act 1860?

Ans. 'Principal Court of Original Civil Jurisdiction' under Section 13 of the Act means the Principal Court of Civil Jurisdiction of the District where the Registered Office of the society is situated. In case of any dispute relating to adjustment of affairs of a society in case of dissolution, the matter has to be referred to the Principal Court of Civil Jurisdiction of the District where the Registered Office of the society is situated.

Q30. How can a society be dissolved?

Ans. A Society can be dissolved by:

- its members,
- the Registrar,
- the Court or
- by the Government.

Q31. Under what circumstances can a registrar dissolve a society?

Ans. The registrar of societies (as per the respective state acts) can dissolve a society. These circumstances may be:

- The society has done unlawful activities
- According to the memorandum of association governing the society:
 - Society's object clause has not been fulfilled
 - Office of the society has ceased to be in state of registration
 - Members of the society are below the required number of seven
 - Society has ceased to function for a particular period of time
 - Society has been declared insolvent(not able to pay its liabilities)
- Society's activities are against the Governmental or the state policy
- Society has become insolvent
- Society has contravened any law or the provisions of the Societies Registration Act 1860

Q32. When can a court dissolve a society?

Ans. Section 25 of West Bengal Act gives the provisions for dissolution by Court where the court may on an application of the registrar or on the application of not less than one tenth of the members, make an order for the dissolution of a society in the following cases:

- If there is a contravention of the provisions of the Societies Act by the society.
- If the number of members are below seven.
- If the society has ceased to function for more than three years.
- Society is unable to pay its debts or meet its liabilities.
- If it is proper that the society should be dissolved.

Q33. Can a member of the society receive profits?

Ans. It is specifically stated under Section 14 of the Societies Registration Act (corresponding to the Section 30 of the Literary and Scientific Institutions Act 1854 (English)) that members are not to receive profit.