

# Regulatory Framework and Statutory Laws for NPOs:

## Part 2

### FCRA (Foreign Contribution Regulation Act)

#### Key Concepts

- *Foreign Contribution* includes donations in cash/kind/securities from foreign sources
- Not considered FC: fees for services, goods in business, education fees from foreign students
- Local interest/rent from FC deposits also treated as FC

**Person Includes:** individual, HUF, association, Sec 8 company

#### Conditions to receive FC:

- Must have definite programme (CEERS)
- Must register with/go through prior permission from central govt
- Must not be prohibited under Section 3

#### Foreign Source Includes:

- Foreign governments/companies/MNCs
- Entities with >50% foreign shareholding
- Trusts, societies, associations outside India

#### FCRA Architecture

- Registration and Prior Permission
- Bank account only at SBI, New Delhi
- Separate books of accounts
- FC4 filing mandatory even for NIL return
- Admin cost ceiling, no transfer of FC to others
- Intimations to be made: change in key info, etc.

### **2020 Amendments Highlights**

- No sub-granting
- Cap on admin expenses
- Aadhaar/Passport mandatory
- SBI account compulsory
- Suspension period extended to 360 days
- No utilisation during inquiry

### **FC Examples**

- Donations from OCI/PIO/foreigners in INR
- Proceeds from sale of FC-created assets
- Interest earned on FC
- Refunds of unutilised FC

### **Other Notes**

- Upload audited accounts within 9 months
- Use reimbursement method for project advances
- Refer to FCRA charter on official portal ([www.fcraonline.nic.in](http://www.fcraonline.nic.in))

# CSR Law (Section 135, Companies Act 2013)

### **Applicability**

- Companies with:

- Net worth  $\geq$  ₹500 Cr, or
- Turnover  $\geq$  ₹1000 Cr, or
- Net profit  $\geq$  ₹5 Cr

## **Key CSR Responsibilities**

- Form CSR committee ( $\geq 3$  directors, 1 independent)
- Draft CSR policy and publish on website
- Ensure spending of at least 2% of avg. profits of last 3 years

## **Unspent CSR Amount**

- Transfer to a Schedule VII fund within 6 months (if no ongoing project)
- If ongoing project, transfer to special bank account within 30 days, spend within 3 FYs
- If still unspent: transfer to Schedule VII fund within 30 days

## **Penalties**

- Company: Lesser of 2x unspent CSR or ₹1 Cr
- Officers: Lesser of 1/10th of unspent or ₹2 Lakh

## **Schedule VII Activities Include**

- Health, education, gender equality, environment
- National heritage, sports, rural/slum development
- COVID-19 related spending (as per 2021 circular)

## **CSR Rules 2021**

- CSR can be done via: own org, sec 8 company, trust, society (with 12A/80G and 3-yr track record)
- Must register via Form CSR-1
- Get CSR Registration Number (URN)

## **Administration**

- Admin overheads capped at 5% of CSR expenditure
- Engage international orgs for monitoring/evaluation

### **CSR Committee (if spend > ₹50 Lakh)**

- Must create action plan
- Include list of projects, execution, monitoring, impact assessment

### **Reporting**

- Annual CSR report in Annexure II from 2020
- Display policy and committee details on website
- CFO certifies CSR fund utilisation

### **Surplus from CSR Projects**

- Must be ploughed back or transferred to CSR fund/account

### **Capital Asset Creation with CSR Funds**

- Must be in name of eligible entity (Sec 8/Trust/Public authority)

### **Impact Assessment**

- If avg CSR obligation  $\geq$  ₹10 Cr in past 3 FYs
- For projects > ₹1 Cr, completed at least 1 year ago
- Budget: 2% of CSR spend or ₹50L (whichever higher)

## **Social Security Laws for NPOs**

### **EPF (Employees' Provident Fund)**

- Mandatory if  $\geq 20$  employees
- 12% from employee & employer
- EPS: 8.33% upto ₹1250/month; EDLI: insurance upto ₹7 Lakh
- Online submissions; separate challans for FC/NFC staff
- eKYC, UAN, Form-11, registers to be maintained

### **ESI (Employee State Insurance)**

- Mandatory if  $\geq 10$  employees

- Applies to those earning  $\leq ₹21,000/\text{month}$
- Employer: 3.25%, Employee: 0.75%
- Benefits: health, maternity, disablement, funeral

### **Gratuity (Payment of Gratuity Act 1972)**

- Applicable if  $\geq 10$  employees
- 5 years of service (or 4 yrs 240 days)
- $15/26 \times \text{last salary} \times \text{no. of years}$
- Ceiling: ₹20 Lakh; 4.81% of basic recommended

### **Maternity Benefit Act**

- 26 weeks (8 prenatal + 18 postnatal) for first 2 kids
- 12 weeks for later kids; 6 weeks miscarriage; 2 weeks tubectomy
- Applicable if  $\geq 10$  employees; creche if  $> 50$  employees

### **Minimum Wages Act**

- Revised every 5 years by state and central govt
- Based on skill category

### **Professional Tax**

- State-based; max ₹2500/year
- Not applicable in Delhi, UP, Rajasthan, Haryana

### **Shops & Establishment Act**

- State law; covers leaves, holidays, work conditions

### **Budgeting Tip**

- Account for:
  - State Minimum Wage +
  - 13% EPF employer share +
  - 3.25% ESI employer share +
  - 15 days salary (for gratuity)

**Example:** ₹8,000 salary → budget ₹9,685/month

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