

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)

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 (≥ 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 ≥ 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 ≥ 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 ≥ 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 ≥ 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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