

Lesson 15: Societies Registration Act, 1860

1. Definition of Society

A society is an association of persons united together by mutual consent to deliberate, determine and act jointly for some common purpose. Societies are usually registered for promotion of charitable activities like education, art, religion, culture, music, sports, etc

According to Section 20 of the Societies Registration Act, 1860, societies can be formed for the following purposes:

- Charitable societies,
- The military orphan funds or societies established at the several presidencies of India,
- Societies established for the promotion of science, literature or the fine arts for instruction, the diffusion of useful knowledge,
- The diffusion of political education,
- The foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public,
- Public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments or designs.

2. Formation of Society

- Under Section 1 of the Societies Registration Act, 1860, any seven or more persons who have come together for any legal pursuits, including literary, scientific, charitable or social pursuits may subscribe their names to a memorandum of association and file the same with the Registrar and form themselves into a Society under this Act.
- The memorandum of association filed with the Registrar should contain details such as the name and objectives of the society, names, addresses and occupations of the members of the governing body with which the management of the affairs of the society is entrusted.
- The society could be registered with the Registrar after payment of a fee which will be specified by the State Government from time to time. As per Section 4 of the Act, once in every year, an annual general meeting of the society should be conducted.
- The rules do not provide for an annual general meeting, a list of the names, addresses and occupations of the members of the governing body should be presented to the Registrar every year.
- Registration can be done either at the state level (i.e. in the office of the Registrar of Societies) or at the district level (in the office of the District Magistrate or the local office of the Registrar of Societies).
- The documents needed to be submitted to the Registrar are:
 - Letter requesting registration signed by founding members. This letter will state the purpose of formation of the society and a requisition indicating that the society is registered under the Act.
 - Signature of all members is mandatory.

- Certified copy of the MOA signed by the founding members with duplicate.
- Certified copy of the rules and regulations signed by the founding members along with a duplicate copy.
- Table with the names and address and occupation of all members of the society with their signatures.
- Minutes of the meeting (general body meeting conducted to set the rules and regulations).
- Declaration by the president of the society.
- Address proof of registered office and no-objection certificate from the landlord.
- Sworn affidavit from President or Secretary declaring relationship between the subscribers.

3. Steps for Registering a society In India

For Society registration, the establishing members must agree with name of society and prepare for the Memorandum followed by rules & regulations of the Society.

- **Stage 1: Selection of a Name:**
 - When selecting a name for society registration, it is vital to understand that according to Society Registration Act, 1860, an identical or similar name of a currently registered society will not be allowed.
 - The proposed name shall not suggest any patronage of State Government or Government of India or contravene the provisions of the Emblem & Names Act, 1950.
- **Stage 2: Memorandum of Association:**
 - Memorandum of society along with Rules & Regulations of society must be signed by every establishing member, witnessed by Gazetted Officer/Notary Public/ Chartered Accountant/ Oath Commissioner/ Advocate/ Magistrate first class /Chartered Accountant with their official stamping and complete address.
 - The memorandum must also contain details of members of the society registration along with their names, addresses, designations, and occupations.
 - The following documents have to be prepared, submitted and signed for registration:
 - Requesting society registration by providing covering letter signed by all establishing members.
 - Duplicate copy of memorandum of association of society along with certified copy.
 - Duplicate copy of Rules & Regulations of society along with duplicate copy duly signed by all establishing members.
 - Address proof of registered office of society as well as no-objection certificate (NOC) issued by landlord.
 - Affidavit by secretary or president of society declaring relationship among subscribers.
 - Few minutes of meeting regarding the society registration along with providing some essential documents.

Note(s):

- *A Society can be created by a minimum of seven or more persons. Apart from persons from India, companies, foreigners, as well as other registered societies can also register for the Memorandum of the society.*
- *Society registration is maintained by state governments. The application for society registration must be created to the specific authority of the state where the registered office of society is situated.*

4. Documents required for the Society Registration in India

- PAN Card of all members of the proposed society has to be submitted along with the application.
- Residence Proof of all the members of the society also has to be submitted. The following can be used as a valid residence proof:
 - Bank Statement.
 - Aadhar Card.
 - Utility Bill.
 - Driving License.
 - Passport.
- Memorandum of Association has to be prepared which will contain the following clauses and information: The work and the objectives of the society for which it is being established:
 - details of the members forming the society.
 - containing the address of the registered office of society.
- Articles of Association also have to be prepared which will contain the following information:
 - Rules and regulations by which the working of the society will be governed and the maintenance of day to day activities.
 - Rules for taking the membership of the society.
 - Information about the Auditors.
 - Forms of Arbitration in case of any dispute between the members of the society.
 - Means for dissolution of the society will be mentioned.
 - Details about the meetings of the society and the frequency with which they are going to be held is to be mentioned.
- A covering letter mentioning the objective or the purpose for which the society is being formed will be annexed to the beginning of the application. It will be signed by all the founding members of the society.
- Copy of the proof of address where the registered office of the society located along with a NOC from the landlord if any has to be attached.
- List of all the members of the governing body has to be given along with their signatures.
- Declaration has to be given by the president of the proposed society that he/she is willing and competent to hold the above-mentioned post.

5. Documents have to be prepared, submitted and signed for the sake of Registration

The following documents have to be prepared, submitted and signed for the sake of registration:

- Requesting society registration by providing covering letter signed by all establishing members.
- Duplicate copy of memorandum of association of society along with certified copy.
- Duplicate copy of Rules & Regulations of society along with duplicate copy duly signed by all establishing members.
- Address proof of registered office of society as well as no-objection certificate (NOC) issued by landlord.
- Affidavit by secretary or president of society declaring relationship among subscribers.

6. Advantages and Disadvantages of Society

Advantages	<ul style="list-style-type: none">• The process of formation and registration is simple.• Record-keeping requirements are minimum and compliance with regulations is easy.• Cost of compliance is low.• Least possibility of interference by the regulator.• Exemption from tax due to charitable nature of operations.
Disadvantages	<ul style="list-style-type: none">• Tax exemption extended to societies may apply to public trusts to the extent, the Income Tax Department accepts their activities as being charitable;• Such institutions are of charitable nature, it is an inappropriate form of a commercial venture;• Concept of Equity Investment or Ownership is absent;• Not attractive for commercial investors interested in micro-finance;• Commercial investors regard the investments in such entities as risky on account of their lack of professionalism, managerial practices and political leanings. Therefore, unwilling to provide large scale funding to such bodies.

7. Exemption Benefits of forming a Society

- Under Income Tax Act, and subject to fulfilment of certain conditions, a society can avail of exemption from income tax, if it obtains registration under Section 12A/12AA of the Income Tax, 1961.
- Societies being NGO's receive various grants from government and other agencies. They are eligible to get grants and financial funding from various agencies. These agencies generally make grants to Societies registered under Section 12A.
- Donors to societies may claim a rebate under Income Tax Act for donations made to the Society. However, the society has applied and obtained approval under Section 80G. Registration under Section 12A is one-time registration.
- Once the registration is granted to the trust, it will hold good till cancellation of registration. There is no provision which requires renewal of registration. Thus, the benefits of registration can be claimed for lifetime by NGO.

8. Consequences of Registration / Non-Registration of a Society

Consequences of Registration:

- The registration gives the society a legal status and is essential for:
 - Obtaining registration and approvals under Income Tax Act;
 - Lawful vesting of property in the societies;
 - Provides authenticity and recognition to society before all authorities and the world at large; and
 - Opening bank accounts and transaction of business.
- When Society is registered, it and its members become bound to the same extent as if each member had signed the memorandum.
- Society must restrict its activities to the objects contained in its Memorandum once registered under the Societies Registration Act.

Consequences of Non-registration of Society:

- All the trustees in charge of the fund have alone a legal status and the society has no legal status. Therefore, it cannot sue and be sued.
- If society is not registered, it may exist in fact and theory but not in the eyes of law.
- If benefits are to be claimed, the registration of society under the Act as required.
- An un-registered society cannot claim benefits under the Income-tax Act.
