

RENEWAL OF REGISTRATION UNDER FCRA



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CONTENTS

1.	INTRODUCTION	01
2.	WHAT IS THE PERIOD OF VALIDITY OF FCRA REGISTRATION	02
3.	WILL THE EXISTING ORGANISATIONS HAVE TO APPLY FOR RENEWAL IMMEDIATELY	02
4.	PROCEDURE FOR APPLYING FOR RENEWAL	02
5.	MORE THAN 50% CHANGE IN BOARD MEMBER	03
6.	DIFFERENT TIME LIMIT FOR APPLICATION FOR RENEWAL FOR ORGANISATIONS IMPLEMENTING MULTI-YEAR PROJECT	04
7.	HOW MUCH FEE TO BE SENT WITH RENEWAL OF APPLICATION	04
8.	WHAT HAPPENS IF NO RENEWAL APPLICATION IS MADE	04
9.	WHAT HAPPENS IF THERE IS A DELAY IN MAKING RENEWAL APPLICATION	05
10.	WHAT HAPPENS IF THE REGISTRATION CERTIFICATE LAPSES FOR FAILURE TO APPLY FOR RENEWAL	05
11.	WHAT IS THE TIME LIMIT FOR GRANT OF RENEWAL	05
12.	WHAT ARE THE INFORMATION AND DOCUMENT TO BE FILED WITH FORM FC-5	06

INTRODUCTION

- 1.1.1 The new FCRA 2010 has made a very important change with regard to the validity of the registration certificate of a organisation having FC registration. In the old law the registration was virtually permanent in nature, however, the new law has reduced the validity of the FC certificate to five years. In this article we were discussing the various important issues to be kept in mind, in this regard.

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WHAT IS THE PERIOD OF VALIDITY OF FCRA REGISTRATION

1.2.1 The new FCRA 2010 has limited the validity of the registration certificate for a period of 5 years. It may be noted that in the old law FCRA registration was virtually permanent in nature unless it was revoked. FCRA 2010 provides for renewal of registration of organisations after every 5 years. The provision of section 16 of FCRA 2010 on renewal of registration is as under :

“16.(1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

(2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant.

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.”

WILL THE EXISTING ORGANISATIONS HAVE TO APPLY FOR RENEWAL IMMEDIATELY

1.3.1 No. The Act has provided relief of renewal to all the existing organisations for the first 5 years from the date of FCRA 2010 coming into force. In other words, all existing organisations have to renew their registration at the end of the period of 5 years from the date when of FCRA 2010 came into force, i.e., 1st May, 2011. This implies that the renewal of registration of all the existing organisations will become due on 1st May 2016.

PROCEDURE FOR APPLYING FOR RENEWAL

1.4.1 Rule 12 of FCRR, 2011 provides the procedure for renewal of registration. All organisations have to apply in Form FC-5 six months before the due date. Therefore, all the existing organisations have to file their application in FC-5 form for renewal on or before 1st November 2015. The Rule further provides that organisations

implementing ongoing multi-year projects shall be eligible to apply for renewal twelve months before the date of expiry of the certificate of registration. The prescribed FC-5 form for submission of application for renewal of registration is available at MHA website <http://mha.nic.in/fcra/forms/fc-5.pdf>. The procedure for renewal, as provided in Rule 12 of FCRR, 2011, is as under :

“12. Renewal of registration certificate. -

- (1) Every certificate of registration issued to a person shall be liable to be renewed after the expiry of five years from the date of its issue on proper application.
- (2) Every person shall apply to the Central Government in Form FC-5, six months before the date of expiry of the certificate of registration, for its renewal.
- (3) A person implementing an ongoing multi-year project shall apply for renewal twelve months before the date of expiry of the certificate of registration.
- (4) An application made for renewal of the certificate of registration shall be accompanied by a fee of ₹ 500/- (Five Hundred only).
- (5) The fee for renewal of the certificate of registration shall be remitted by demand draft or banker's cheque in favour of the “Pay and Accounts Officer, Ministry of Home Affairs”, payable at New Delhi.
- (6) In case no application for renewal of registration is received or such application is not accompanied by the requisite fee, the validity of the certificate of registration of such person shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration.

Illustration.- A certificate of registration granted on the 1st January, 2012 shall be valid till the 31st December, 2016. A request for renewal of the registration certificate shall reach the Central Government, accompanied by the requisite fee, by the 30th June, 2016. If no application is received or is not accompanied by the renewal fee, the validity of the registration certificate issued on the 1st January 2012 shall be deemed to have lapsed with effect from the close of the day on 31st December, 2016.

- (7) If the validity of the certificate of registration of a person has ceased in accordance with the provisions of these rules, a fresh request for the grant of a certificate of registration may be made by the person to the Central Government as per the provisions of rule 9.
- (8) In case a person provides sufficient grounds, in writing, explaining the reasons for not submitting the certificate of registration for renewal within the stipulated time, his application may be accepted for consideration along with the requisite fee, but not later than four months after the expiry of the original certificate of registration.”

MORE THAN 50% CHANGE IN BOARD MEMBER

- 1.5.1** Under FCRA, any change in the board members in excess of 50% shall be made with prior permission. This condition is a part of the undertaking provided by the applicant at the time of making application for ‘registration’ or ‘prior permission’. Therefore, even though it is not mentioned in the Act or the Rules, it becomes binding

on all the organisations by virtue of the undertaking given at the time of making application for 'registration' or 'prior permission'. This provision is a part of both the old and new FCRA. Therefore, it is necessary to seek prior approval in case of more than 50% change in board members. **Further, those organisations who have not taken permission, even after such change has occurred, should apply for permission and condonation. This issue becomes even more important keeping in view that FCRA registration is subject to renewal every 5 years.** In other words, such organisations should immediately inform the changes in the board to the FCRA department to avoid any problem at the time of renewal.

DIFFERENT TIME LIMIT FOR APPLICATION FOR RENEWAL FOR ORGANISATIONS IMPLEMENTING MULTI-YEAR PROJECTS

1.6.1 Rule 12(3) provides that a person implementing an ongoing multi-year project shall apply for renewal twelve months before the date of expiry of the certificate of registration. In other words, those organisations which are having incomplete projects shall have to apply for renewal one year prior to the date of expiry of the registration. For example, the certificate of registration granted on the 1st May, 2011 shall be valid till the 30th April, 2016. A request for renewal of the registration certificate shall reach the Ministry of Home Affairs, accompanied by the requisite fee, by the 30th October, 2015 in case of normal organisations and in the case of organisations, which are having multi-year projects, the application for renewal should be submitted on or before 30th April 2015.

HOW MUCH FEE TO BE SENT WITH APPLICATION FOR RENEWAL

1.7.1 An application made for renewal of the certificate of registration shall be accompanied by a fee of `500/- (Five Hundred only). The fee for renewal of the certificate of registration shall be remitted by demand draft or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.

WHAT HAPPENS IF NO RENEWAL APPLICATION IS MADE

1.8.1 Rule 12(6) provides that in case no application for renewal of registration is received or such application is not accompanied by the requisite fee, the validity of the

certificate of registration of such person shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of registration. For example, if no application is received or is not accompanied by the renewal fee, the validity of the registration certificate valid/issued on the 1st May 2011 shall be deemed to have lapsed with effect from the close of the day on 30th April, 2016.

WHAT HAPPENS IF THERE IS A DELAY IN MAKING RENEWAL APPLICATION

1.9.1 In case an organisation fails to apply for renewal within the due date, its registration shall become invalid. However, the Central Government may condone the delay if satisfactory reasons for not submitting the renewal application are provided. Such delay should not be later than 4 months after the expiry of the original certificate of registration.

WHAT HAPPENS IF THE REGISTRATION CERTIFICATE LAPSES FOR FAILURE TO APPLY FOR RENEWAL

1.10.1 In case an organisations fails to apply for renewal within the due date or fails to make a delayed application as discussed above, its registration shall become invalid. In such circumstances the organisation cannot apply for renewal. However, it can apply for normal registration under FCRA 2010 as per Rule 9 of FCRR, 2011.

WHAT IS THE TIME LIMIT FOR GRANT OF RENEWAL

1.11.1 The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of registration subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years. In case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant. Further the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or Rules made thereunder.

WHAT ARE THE INFORMATION AND DOCUMENT TO BE FILED WITH FORM FC-5

1.12.1 Form FC-5 requires, apart from the basic data, the following :

- Details of the names and addresses of the members of the executive committee/ governing council.
- The nature of activity.
- Details of the existing registration and PAN.
- Details of the foreign contribution received during all the years since its registration with yearly break up.
- Details of utilisation of funds.
- Declaration that all the provisions of FCRA 2010 were complied.
- Reasons for seeking renewal.
- Details of information, if any, regarding the organisation if it had been blacklisted/ debarred from receiving any aid and/or assistance by any other Ministry/ Department of Central and/or State Government or any Statutory Authority.
- A copy of the registration certificate.

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