

CNK & Associates LLP

News Flash

Charitable Institutions

Trusts and Societies registered under Maharashtra Public Trust Act, required to contribute to the new 'Epidemic Disease Relief Fund & Disaster Relief Fund' as per the Amendment Ordinance, 2020 issued by State Government

On 30th March, 2020 the Charity Commissioner of Maharashtra State made an appeal to all charitable trusts to contribute funds to face the challenge and threat posed by the growing pandemic of COVID-19 virus. Soon thereafter, Maharashtra State Government issued the Maharashtra Public Trust (Amendment) Ordinance, 2020 (the Ordinance) which requires the Charitable Trusts and Societies registered under the Maharashtra Public Trust Act, 1950 (the Act) to contribute to a new fund as the State is facing financial crisis due to the outbreak of this epidemic disease. This Contribution would be ultimately transferred to Chief Ministers Relief Fund.

By the Ordinance, a new Section 57A has been inserted under the Act in order to enable the establishment of a dedicated fund - "**Epidemic Disease Relief Fund & Disaster Relief Fund**". This new fund shall vest in the office of the Charity Commissioner and all Public Charitable Trusts (except those exempted by the State Government by a General or Special Order) shall contribute to this Fund such percentage of their Gross Annual Income as may be prescribed. This Fund is in addition to the existing fund called 'Public Trusts Administration Fund' which also vests in the office of the Charity Commissioner and comprises of registration fees, annual contributions charged by the Charity Commissioner under section 58 (on the collection of which, currently there is a stay granted by the Mumbai High Court), fines, penalties levied etc.

Further a new section 84(2)(v-2) has been inserted to empower the State Government to determine the percentage to be contributed towards the Epidemic Disease Relief Fund & Disaster Relief Fund and for the transfer of the said Fund by the Charity Commissioner to the Chief Ministers Relief Fund.

CNK Comments:

Currently, the percentage of contribution, the timelines, inclusions and exclusions to determine Gross Annual Income, exemptions from applicability of these provisions, etc. have not been prescribed. The State Government will soon notify the Rules in this respect which will bring clarity on the new provisions.

These provisions would not apply to Not for Profit Companies registered under Section 8 of the Companies Act, 2013 (erstwhile section 25 of the Companies Act 1956) which are not registered under the Maharashtra Public Trusts Act, 1950.

Ministry of Home Affairs seeks assistance from FCRA registered Associations to supplement the efforts of Government and local administration to fight the pandemic and request to provide information of their COVID -19 activities

A request letter dated 1st April, 2020 was sent by Additional Secretary (Ministry of Home Affairs) addressing chief functionaries of some associations registered under FCRA seeking their outreach and assistance in society to complement the government's endeavors such as, supporting the local administration in setting up community kitchens, particularly for the migrant and homeless population, provide shelter to homeless daily wage workers and poor families without jobs, etc. The letter suggested that NGOs should contact local authorities and offer their (NGOs) support to them. It also asked to provide the information of their assistance provided till date via email.

Thereafter on 7th April, 2020 Director (Ministry of Home Affairs) requested these associations to provide the information of their activities related to COVID-19, online in the 'COVID – 19 response format' available at the FCRA login portal under the 'Services under FCRA' tab. It is to be submitted by 15th April, 2020; and needs to be updated thereafter by 15th of every month.

CNK Comments:

Not all the FCRA registered non-profit entities seem to have received the email or the notification. Therefore, there is uncertainty among organizations with FCRA registration on whether they need to undertake these activities and upload this data or not. We recommend that if your organization has received the letter, please file your response online by the 15th of each month, starting with the month of April. If you have already emailed the form as requested earlier, then also you are required to fill up the online form and submit the same before the due date specified. If you get a popup message stating: "You are not required to fill this form", do nothing further. Take a screenshot and keep it for the record.

While it is not clear whether NGOs should report only for FCRA funds or also the local funds, the intention seems to be to encourage such NGOs to take up COVID-19 relief activities, and therefore activities from local funds should also be reported.

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This e-publication is published by CNK & Associates, LLP, Chartered Accountants, India, solely for the purposes of providing necessary information to employees, clients and other business associates. This publication summarizes the provisions of Maharashtra Public Trust (Amendment) Ordinance, 2020 and requirements of FCRA registered entities to report on their COVID-19 activities. Whilst every care has been taken in the preparation of this publication, it may contain inadvertent errors for which we shall not be held responsible.

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