

Report of the Expert Group on Societies Registration Act, 1860.

**Ministry of Corporate affairs
Government of India
June 2012**

CHAPTER-I

Introduction

1.1 During the last two decades, changes have taken place in the Indian Economy in the fields of communication, transportation, infrastructure, as well as in the methods of commerce, banking and trade. Liberalization of the economy has not only changed the way in which business operate in the global economy but also in the manner in which they are treated by the legal regime, whether it be by way of regulation, licensing or taxation.

1.2 Today, individuals setting up business ventures have found out that the traditional corporate form is just one amongst the several ways in which business can be structured. Further, it is increasingly common for not-for-profit entities to venture beyond the traditional charitable models to meet commercial self-sufficiency and attain organizational goals. For example, registered societies or trusts that were originally envisaged as non-business entities, have, in recent years, acquired economic significance by involvement in social welfare activities that may involve commercial transactions. It is also not uncommon for societies or trusts to be operating in multiple state jurisdiction across India and also outside India.

1.3 In spite of these developments on the ground, not-for-profit entities in India continue to be regulated by pre-independence era statutes (i.e. Societies Registration Act, 1860; Indian Trust act, 1882; and Indian Partnership Act, 1932) at the central level. These statutes have been subjected to multiple state amendments and heterogeneous state level enforcement/registration mechanism over the years. which are unsuitable to meet the practical needs of such entities in the light of changed economic realities. From a governance perspective too, it is important to usher transparency and accountability by adopting new technologies and innovative mechanism in order to enable non-corporate business entities to further the developmental growth of the nation.

1.4 As a step in this direction, this expert group was constituted to study the legislative and regulatory framework of registered societies in India under the Societies Registration act, 1860 (“act”). The expert group was also tasked with evaluating the practical consideration involved in the enforcement of the act in order to recommend the most appropriate regulatory mechanism for registered societies in the light of changed economic realities.

Chapter II

Background to society's registration Act, 1860

2.1 **The** concept of societies is not new to India. In ancient times, societies were breeding grounds for like-minded intellectuals to discuss important developments in the field of Arts, sciences, geology, astronomy etc or even established solely for recreational purposes. In India, societies existed in the form of religious or charitable conventions dispensing relief to the needy. However, like other social systems in India before the coming of the British, most of these societies were recognized and operated in a haphazard manner. The Societies Registration Act, 1860 brought changes in the same and tried to consolidate the activities of a society in an organized manner.

2.2 With a view to effectively govern such societies, the act provided for the registration of literary, scientific and charitable societies. The object of this act, as enunciated in its preamble, was to make provisions for improving the legal conditions of societies established for the promotion of literature, science or the fine art, or for the diffusion of useful knowledge, the diffusion of political, educational or for charitable purposes. The act was a central legislation.

2.3 Although not specifically stated within the act, the tenor of the Act was oriented towards regulating charitable societies keeping in mind that during those times, societies were mainly established for altruistic purposes. In this respect, Section 20 of the Act specifically listed the type of societies to which the act applies, such as charitable societies, military orphan funds or societies established for the diffusion of useful knowledge, diffusion of political education, societies established for public museums and galleries for paintings or other works of art, collection of natural history, mechanical and philosophical inventions, instruments or design.

2.4 Untill 1947, the act did not undergo any major changes; registration remained largely a voluntary effort. Most of the societies constituted during those periods had a poor financial standing and were driven primarily by the strong intent and tenacity of the founding members. Post – independence, as a consequences of Article 372 – 1 of the Constitution, the act remained in force, but legislative competence to enact law of ‘societies’ was passed on to the state Legislature by virtue of Entry 32 of list II of Seventh Schedule to constitution, i.e. ‘unincorporated literacy, scientific, religious and other Societies and associations. This provision enabled a number of States to repeal the said Act or introducing multiple amendments to the Act in a short time.

2.5 The said Act was amended in its application by almost all the states and some of the Union Territories, e.g. the long title and the preamble were amended in its application to the National Capital Territory of Delhi and the state of Gujarat, provisions were inserted by the state Amendments Acts for the appointment of Registrar of societies by the State Legislatures of Orissa, Punjab and Haryana, U.P., Gujarat and Maharashtra. Section 3 of the Act dealing with the registration of societies was amended comprehensively in Uttar Pradesh, Asam, Maharashtra, Goa and in Union Territory of Daman and Diu. Penal provisions have been inserted in the Act in its application to the states of Gujarat, Maharashtra, Goa and Union territory of Daman and Diu. Some states replaced the entire Act with cognate legislations, e.g. in Madhya Pradesh, Manipur, Karnataka, Rajasthan, Tamil Nadu and West Bengal.

2.6 The number of registered societies has also increased manifold in the last Twenty years. A recent report on Non-profit institution in India (March 2012) by the National accounts Division, Central Statistics Office, Ministry of Statistics and Programme Implementation, Government of India (“MOSPI Report”) found that there were only 1.44 lakh societies registered till the year 1970, 5.52 Lakh registration in the period 1981 to 1990, 11.22 Lakh registration in the period 1991 to 2000. and as many as 11.35 Lakh societies were registered till the year 1970, followed by the 1.79Lakh registrations in the period 1991 to 2000, and as many as 11.34Lakh societies were registered after 2000.

2.7 Another development was that societies started acquiring economic significance by way of their multi-state operations. since inception, societies predominantly restricted themselves to charitable objects within the state and were organized for community based objectives. As a result, societies started operating across several states spanning multiple legal jurisdiction across India and, in certain cases, even outside the country. The act had not envisaged this development. on the contrary, the entire basis of regulation under the act was premised on the assumption that activities carried out by societies would be local in nature.

2.8 As per the MOSPI Report, the estimated total value of output of the 31.7Lakh societies registered in India is Rs. 41292 Crore, which is sum of salary, wages and allowances, honorarium paid, interest paid, rent paid, other operating expenses (goods and service purchased for current activities of institution), provision for depreciation, taxes paid, consumption of stocks. Results from the MOSPI Report also states that 54% of the funding for these societies comes from grants while 16% is from donations and offering and 16% from incomes/receipts from operations.

2.9 In most of the states, the provision of submitting financial statement is not enforced. Many of the NPIs traced had poor employment and financial records and, even if they did, often refused to furnish their audited accounts, especially if they did not receive funds from statutory bodies. Even if the societies file their financial statements with registrar office, there is no mechanism to maintain this database, a sad commentary on the quality of statistics at the state level. A uniform country wide approach is essential. since NPIs need to apply to the income tax authorities for exemption of income (12-A) and 80-G (for donors to get exemption), this could be made conditional on filing returns, somewhat on the lines required for non-profit companies-perhaps leveraging the electronic platform used by the Ministry of Corporate Affairs. (As per MOSPI Report)

2.10 In view of the above, and considering all aspects involved in the matter the Expert group proposes to prepare first legislation to regulate the activities of the Multi State Societies Registration Bill, 2012 and thereafter would take up the exercise to prepare Model Law after wide consultation with all the states to be titled as “ Societies Registration Bill” which would be replace the Societies Registration Act, 1860.

Chapter III

Need for a New Legislation for Multi State Societies

3.1 As discussed in Chapter II, while the volume and complexity of economic functions performed by the societies in India has increased tremendously in the past few decades, the legislative framework has not kept pace with these developments. In terms of regulation, while businesses organized in the form of a company or a limited Liability partnership (“**LLP**”) have ushered in an era of transparency, mutuality, accountability and protection of stakeholders, the regulatory framework for societies remains inadequate in spite of widespread public interest in their functioning.

3.2 The expert group recognizes the need for a new and comprehensive regulatory framework for registered societies in the light of the following developments.

1. The activities undertaken by societies have acquired economic significance and larger public interest.
2. The activities of societies have become multi-jurisdictional in nature and in some cases, also in foreign jurisdiction.
3. The present regulatory framework does not contain a centralized oversight or reporting mechanism for societies operating in multi jurisdiction.

4. there is an urgent need to align the societies to the governance requirements akin to companies/LLP, including consequent reporting/disclosure requirements in a manner similar to the MCA 21 e- governance platform for companies and LLP's in India.
5. the present regulatory framework does not provide for an enabling framework to ensure transparency and accountability in governance of societies; and
6. the present regulatory framework does not provide for universally acceptable self-regulatory standards which are critical for the governance of societies operating in the new economic environment.

3.3 Some of the additional concerns highlighted by the MOSPI Report were as follows.

- 1) most of the states do not have computerized records of the registered societies.
- 2) in most states submitting of financial statements is not enforced strictly.
- 3) shifting of societies from its registered offices, registered societies have different popular names or have changed their names later; and
- 4) no provisions have laid down under the present act for renewal or deregistration of societies.

3.4 The new regulatory framework should aim at providing an enhanced support framework which would bring a new approach to governance of registered societies.

In particular, it should be able:

■ **TO CREATE AN ENABLING ENVIRONMENT** towards the functioning of societies by-

- ◆ recognizing the enhanced economic significance of societies in the modern economic environment.

- ◆ providing them the necessary regulatory support to attain financial sustainability.
- ◆ maximizing their capacity to innovate and venture into new projects. and
- ◆ enhancing their potential to harmonise individual enterprise and collective goals.

■ **TO INSTILL TRANSPERANCY** in the functioning of societies and the decision – making process thereto, both internally as well as towards third parties, by :

- ◆ allowing access of all non-confidential/sensitive information regarding the society to its members.
- ◆ ensuring participation by the members in all critical matters affecting the society.
- ◆ requiring certain societies to upload their organizational information on the internet; and
- ◆ reserving certain matters for a decision by the members only.

■ **TO ESTABLISH ACCOUNTABILITY** for the action of societies, which would also include a broad based social audit of the society's activities, by:

- ◆ identifying and allocating liability to the Governing Body as well as other key functionaries/officers for actions of the society.
- ◆ providing for a review mechanism of the decision of the Board of Governors on an identified number of members objecting to such decision.
- ◆ formulating and prescribing accounting standards for large societies and
- ◆ implementing oversight mechanism to measure the actual social impact of the activities of the society.

■ **TO PROMOTE SELF-REGULATION** of Societies by adopting a regulator with light – touch approach, by:

- ◆ mandating submission of records/details/filings to the regulator and encouraging digital submission for maintenance of an online system such as MCA – 21.
- ◆ requiring periodical submission/updation of records.

- ◆ providing for corporate governance standards for management/functioning of the society.
- ◆ establishing efficient reportage and notification mechanism; and

■ **TO MODERNISE REGULATORY FRAMEWORK** in order to present Societies as a viable business/non-business corporate entity, by:

- ◆ recognizing Society as a Corporate entity.
- ◆ categorizing Societies that need to be registered with the state or at the Central level;
- ◆ providing the regulator with a power to collect information.
- ◆ enabling search, seizure and summon of information by the authorities from any society.
- ◆ regulating the membership size and number of societies established by a single person or group of persons.
- ◆ expanding the ambit of activities that can be performed by a society; and
- ◆ providing the administrative rule-making in order to provide flexibility to update the subjective legal requirements with the passage of time.
- ◆ shifting from traditional penalties to a graded – offence/default model, with the regulator issuing improvement notices, warnings, suspensions/fines and cancellation of license or imprisonment being used as a last resort.

Chapter IV

Legislative competence of the parliament

4.1 The expert Group undertook a detailed analysis of the legislative competence of the parliament to enact such a statute in order to understand the scope and ambit of the proposed legislation. Under the scheme of distribution of powers outlined in Schedule VII of the constitution of India, the powers of legislation is distributed between the Parliament and state Legislatures.

4.2 As per the Entries 42,43 and 44 of the Union List (“List I”) of Schedule VII, the parliament’s power is as under:-

a. Inter state trade and commerce (Entry – 42)

b. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not confined to one State, but not including co-operative societies (Entry 43); and

c. Incorporation, regulation and winding up of corporations, whether trading or not, with objects/activities not confined to one state, but not including universities (Entry 44)

4.3 As per Entry 32 of List II, the States have legislative competence on matter relating to incorporation, regulation and winding up of co-operative societies within the state. In this context it is pertinent to note that Parliament has enacted an Act titled the “Multi-state Co-operative Societies Act, 2002” (MCS Act). **The Ambit of this Act extends to all co-operative societies which serve the interest of members in more than one state.**

4.4 Further, as per Entry 28 of the Concurrent List, (“**List III**”) of the constitution, parliament has overriding power over the State Legislature to enact legislations relating to ‘**charities and charitable institutions, charitable and religious endowments and religious institutions.**’

4.5 The legislative field covered by the societies Registration Act, 1860 falls under Entry 32 of the state List (“List”) of schedule VII provided the activities of a society is restricted to one state only.

Entry 32 reads under;

“Incorporation, regulation and winding up of corporations, other than those specified in list I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co operative societies’

In the preceding paragraphs, it has been stated that the multi-state Co-operative Societies Act, 2002 was enacted by invoking legislative competence under entry 44 of List I of the Seventh Schedule of the constitution. It is a settled law that the parliament’s power to enact a law extends on all subjects except those which are specifically enumerated in the State List i.e. List –II of the Seventh schedule of the Constitution.

4.6 As a general principle, it has been held in various judgments of the supreme Court of India that the ‘pith and substance’ of the impugned statute should be considered with a view to determine whether it is within the legislative competence of a particular Legislature. Once the ‘pith and substance’ of a statute is considered, the Constitution exhibits federal supremacy in matters of law making. Therefore, if any matter could be brought within the ambit of an Entry of List I as well as an Entry of List II and List III, the power of the Parliament shall be exclusive in so far as the matter is covered by the Entry in list I (India Cement vs. State of Tamil Nadu, AIR 1990 SC 85).

4.7 Based on the above decision of the Apex Court, it is submitted that matters governing multi-state societies in their conduct of inter state activities would fall within the competence of the Central Government vide Entry 44 of List I.

4.8 A view that emerged in the meetings of the Group was that the economic activities of a society could be regulated by the Parliament by enacting a law under Entry 42 of the List I of the Seventh Schedule of the Constitution. In Bengal Immunity Company Vs. State of Bihar (AIR 1955 SC 661), it was held that the expression ‘inter state trade and commerce’ could be interpreted to mean/include any economic activity where the movement of goods (or services) has occasioned under a contract from one state to another. It

was further held that the situs of a sale is immaterial for determining the inter state nature; there must be an inextricable link between movements from one State to another.

The expression “commerce” has also been used in American constitution. “Commerce” is described as the commercial intercourse between nation and parts of nation in all its branches, the commerce power cannot be limited to the regulation of buying and selling, but instead must encompass all aspects of economic activity.

4.9 Therefore, the above interpretation ‘inter state trade and commerce’ would cover societies that have objectives which are multi state in nature or carry out activities in more than one state. Additionally, it was also argued that matters governing charitable entities fall within the exclusive domain of entry 28 of List III.

4.10 The parliament of India has got the competence to enact any law or act to regulate the activities of Foreign Societies. In the matters where there is involvement of a foreign company/society/state or country is concerned, it is only the Parliament which is competent to frame the laws. As such in the matters where the activities of Indian societies are spread/functioning in foreign countries or societies registered in foreign countries and their activities are in India then the activities of such societies has to be governed by laws to be enacted by the Parliament.

4.11 Accordingly, the Expert Group is of the view that the parliament of India has the legislative competence under Entry 44 of list I to enact a legislation to regulate multi state societies whose activities are spread in more than one state across India. In an effort to catalyze modernization of the various state amendments to the current Act in a homogenous manner.

Chapter – V

Salient features of the Bill.

5. The draft of the Multi-State Societies Registration Bill, 2012 (Hereinafter referred to as “proposed Bill”) as prepared by Expert Group has the following salient features.

5.1 The proposed Bill propose to provide an enabling framework for the registration and functioning of the multi-state societies. The definition of what constitutes a ‘multi-state society’ would be determined by the objective and nature of their activities as per the provision of the Proposed Bill. The term ‘inter-state activity’ has been defined under the Proposed Bill as ‘any activity carried on by a society...outside its place of origin, including territories outside India.’ The definition further specifies that certain activities shall on their own give rise to a presumption of ‘inter state activity’ irrespective of whether the society concerned carries out its activity outside its place of origin/incorporation.

5.2 Such societies have been categorized as follow.

- a. Societies receiving foreign contribution exceeding such an amount as may be prescribed, as defined under the Foreign Contributions (Regulation) Act, 2010, or applying to receive such foreign contribution;
- b. Societies receiving grants/funds/donations in excess of amount as may be prescribed by the Central Government from a Non-Resident Indian.
- c. Societies receiving grants/funds/donations in excess of amount as may be prescribed by the Central Government.

- d. Societies receiving immovable property in excess of the value as may be prescribed directly from the Central Government or state government or any agency thereof. .
- e. Societies funding another society or obtaining membership of another society outside the place of origin by any society.
- f. Societies admitting persons who are not citizens of India or Non-Resident Indians as members.

5.3 As per Clause 2 (1) (n) the definition of ‘inter state activity’ also encompasses ‘receipt of foreign contribution’, as defined under the Foreign Contribution (Regulation) Act, 2010 (‘FCRA’). An important point to consider is whether a society whose operations are limited only to its place of origin be deemed a multi-state society by virtue of the fact that it receives foreign grants. This issue has been examined in great depth and it is pertinent to point out that granting approval for receiving foreign grants under the FCRA is purely in the domain of the central government. The Ministry of Home affairs under Section 11 of the FCRA grants a ‘certificate of registration’ and subsequently gives ‘prior permission’ for receiving foreign grants. In light of the foregoing, it is submitted that the societies receiving foreign grants can be subject to a “Central Law” such as the Multi State Societies Registration Act.

5.4 The definition further goes on to clarify that certain activities such as becoming a party to legal proceeding or holding a meeting outside the place of origin are not considered inter state activities per-se. The justification for providing a wide definition of ‘inter – state activity’ is to ensure that there are adequate safeguard mechanisms for ensuring accountability and transparency in societies that receive foreign funding or receive funds directly from the central government. This has been further enabled by providing for compulsory registering and reporting mechanisms for the societies that conduct inter-state activities.

5.5 The key provisions of the proposed Bill have been set out below-

a. **Chapter II provides for Mode of formation of Multi state Societies:**

Like the present Act, i.e. Societies registration Act, 1860, clause 6 of the Proposed Bill provides that any seven or more persons associated for any literary, scientific or charitable purpose and who conduct or plan to conduct inter state activity may form a multi state society. A Multi state society is a body corporate (Clause 17). Clause 8 provides every multi state society must have either the words. a) “multi-state society”; or the acronym (b) “MULTI-STATE SOCIETY” or MSS as the last words of its name along with the name of the state. This would enable a multi state society to be distinguished from other kinds of societies.

b. **Chapter II provides for mode of Registration of Multi-state Societies:** Clause 4 of the Proposed Bill provides for compulsory registration of multi-state societies. Failure to obtain registration is an offence punishable under the proposed Bill. A provision has been introduced in the Proposed Bill which empowers the Central Governments to cancel registration on grounds of non- compliance with its directions or submission of false document or for making misleading statements.

c. **Transition:** A transition provision of twelve months has been prescribe to all multi-state societies registered under the Societies Registration Act, 1860 for registration under the proposed bill (clause 4). Failure to fulfill this requirement would be punishable offence. it is also important to note that no existing multi-state society can utilize its funds unless it is registered under this bill. This is a mandatory requirement, non-fulfillment of which would be a punishable offence (Clause 5).

d. **Chapter II provides for Mode of reporting activities by Multi-State societies to the Registrar:**

The proposed Bill also establishes an elaborate reporting mechanism whereby every multi-state society has to report its change in name, address or the type of activity to the Registrar (clause 11). Clause 13 requires every multi-state society to annually report a list of the names, addresses and occupations of the members of its governing body and a report on their activities indicating the nature and extent of inter-state activities. Clause 14 requires every Multi-State society to maintain books of account in the prescribed form.

e. Chapter II provides for Mode of dissolution of Multi-States Societies:

The proposed Bill provides for two modes of dissolution for a multi-state society viz, a) voluntary; and b) compulsory. As per clause 25, voluntary dissolution may be ordered, if, a registered multi-state society makes an application to the Central Government signed by not less than three-fifths of the members of that multi-state society. Compulsory dissolution may occur if the central Government has reason to believe that the society is being used for unlawful purposes or for purposes prejudicial to national security, peace, welfare or public order, or if the registration of any multi-state society has been procured by fraud or misrepresentation, or if the society is being used for the purposes incompatible with its objects or if the society becomes dormant (Clause 26). Under Clause 27, the registrar may order dissolution, if he has reason to believe that the society has ceased to exist or is not carrying on any business.

f. Chapter III provides for Mode and manner of conduct of Inspection or enquiry into affairs of the Multi-state societies:

In what represents a departure from the Act, Chapter III of the Proposed Bill provides the power to the Central Government to call for information, or order inspection of the society in public interest or when such information/inspection is necessary for the purpose of enforcement. Clause 35 also provides that the power to conduct search and seizure of premises, if the central Government has reason to believe that books of account or prescribed information are not being maintained in the manner provided under the Proposed Bill. it is submitted

that the powers to inspect or call for information are likely to bring in much needed transparency and accountability in the functioning of the societies.

g. Chapter III provides for Mode and manner of conduct of Investigation into the affairs of a multi-state society:

As per Clause, the central Government has the power to investigate into the affairs of a Multi-state society on receipt of a report of the inspector appointed under the Act or on receipt of a complaint from a member or key managerial personnel officers of the multi-state society is not conducting its affairs in accordance with its Memorandum of Association and/or rules or in a manner oppressive to its members. It is submitted that these provisions will ensure protection of rights of members in a society and ensure that the affairs of the society are conducted in accordance with its object.

h. Chapter IV provides for Central Government power to take over the affairs of a multi- state society.

As per Chapter IV, the Central Government has the power to take over the affairs of a Multi-state society are being conducted or are proposed to be conducted against public interest. In such circumstances, the Central Government may take control over the affairs of the Multi-state society or appoint a new governing Body altogether.

i. Habitual Offenders: Under the Proposed Bill habitual offenders are very strictly deal with. Under Clause 12, if a society has furnished false or misleading documents for obtaining registration or has failed to comply with the provisions of this act an ‘improvement notice’ will result in suspension of registration. Finally if a Multi-state Society fails to comply with the ‘improvement notice’ even during the period of suspension, it’s registration will be cancelled.

j. Chapter V provides for the penalties provided for offences: The Proposed Bill adopts a graded approach to offences, providing regulators with the ability to issue ‘improvement notices’ or ‘suspend registration’ for non-compliance and prescribing penalties as a last resort.

k. Chapter VII provides for mode of formation of foreign society: The proposed Bill contains provision on foreign societies under Chapter VII. A foreign society is defined as a society or other association of individuals incorporated outside the India within the meaning of Foreign exchange Management Act, 1999. Foreign societies are required to furnish information – copies of their charter documents, address, a list of their governing board of officer’s address, particulars of opening and closing of a place of business in India and a declaration that none of the officers of the society or their authorized representative have been convicted or debarred from formation of companies or societies and management in India or abroad. They are also required to maintain books of account in the prescribed manner.

Chapter VI

Justification

6.1 The proposed Bill will not substitute or supersede the existing framework regulating Societies, i.e., the Societies Registration Act, 1860. The present statutes will continue to govern societies which are not engaged in inter-state Societies Bill after being enacted as a Central Act will cover societies which have multi state operations or pan national characteristics.

6.2 The proposed Bill provides for a centralized registration and reporting mechanism under the jurisdiction of the Ministry of Corporate Affairs. The Multi state nature of the business entities is determined by the scope of their activities. The legislation also contains provisions relating to protection of right of members and provides the institutional basis for good business governance structures ensuring that businesses utilize their resources for the common good. In addition, the Expert Group has studied the key learning's from judicial pronouncement and administrative enforcement of the existing statues in order to provide an efficient framework for regulation of Multi state societies.

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6. The expert group also likes to thank and appreciate Smt. Renuka Kumar, Joint secretary, Ministry of Corporate Affairs, who provided timely support, guidance and Guidelines for preparation of the report of the Expert Group and willingly took upon herself the responsibility of being the focal point for collecting information from other concerned Ministries/Departments. The Expert Group benefited greatly from her analysis and insights, based on direct experience from regulation of companies. The contributions and drafting guidance provided by Shri. U.C.Nahta, DII, Ministry of corporate Affairs were pivotal during the working of the Expert Group.

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8. Last but not the Least the Expert Group acknowledges the secretarial services rendered by Smt. Durgesh Nandini, P.S. in the Ministry of Corporate Affairs.

Annex I

Composition of and Terms of Reference to the expert Group.

1. The Ministry has decided to constitute an Expert Group to study the legislative and regulatory architecture of the Societies Registration Act, 1860 governing the functioning of the societies in India and also to study the ground situation with respect to the operation of the said Act so as to identify the regulatory oversight mechanism with a view to formulate a model law on the subject.
2. The Ministry constituted an Expert Group under the Chairmanship of Shri. T.K. Vishwanthan, the then adviser to Ministry of Law and presently the secretary General of Lok sabha to study the legislative and regulatory architecture of the Societies Registration Act, 1860 governing the functioning of societies in India and also to study the ground situation with respect to the operation of the said Act so as to identify the regulatory gaps and oversight mechanism with a view to formulate a Model law on the subject. The expert group had the liberty to co-opt any other expert as a member or special invitee in any of its meetings, if needed, and also to invite other persons to assist in its working.
3. Owing to impending assignments on his appointment as Secretary General, Lok sabha, shri T.K. Viswanathan had indicated his inability to continue as chairman of this Expert Group.

4. Keeping in view the expertise in the area, the Ministry requested Dr.K.N. Chaturvedi, former secretary (Legislative), Government of India to be the Chairman of the Expert Group could commence its work under the chairmanship of Dr. K.N.Chaturvedi in the month of September, 2011.

5. The Expert Group was asked to submit its report by 30.06.2012. To finalize this report, the Expert Group held meetings at the Ministry of Corporate Affairs office and collected the materials and data from other Ministeries/Departments.

MULTI-STATE SOCIETIES REGISTRATION BILL,2012.

A Bill to provide for the registration and regulation of Multi State societies and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows.

Chapter I – Preliminary

1. Short title, commencement and extent.

- 1) This act may be called the Multi-state Societies Registration Act, 2012.
- 2) It extends to the whole of India.

3) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. Definitions

(1) In this Act, unless the context otherwise requires,

(a) “activity” includes all transactions by a society related to its objectives.

(b) “Certificate of registration” means a certificate of registration issued under Section 8 of the Act.

(c) “Chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who holds a valid certificate of practice under sub-section (1) of section 6 of that act.

(d) “Chief Executive Officer” means an officer of a multi-state society who has been designated as such by virtue of an agreement with the multi-state society or a resolution passed by the governing body or by its members, or in the absence of such person, the Secretary of the Governing Body;

(e) “Chief Financial Officer” means a person appointed as the Chief Financial Officer of a Multi state society, or in a absence of such person, the treasurer.

(f) “Company Secretary” means a Company Secretary as defined in clause (C) of sub-section (1) of section 2 of the company Secretaries Act, 1980 and who is appointed by a Multi state society to perform the functions of a company Secretary under this Act.

- (g) “court” means the principal court of Original civil jurisdiction where the multi-state society is registered.
- (h) “Financial year” means the year starting on April 1 and ending on March 31 of every year.
- (i) “foreign society” means a society or other association of individuals incorporated outside India within the meaning of Foreign Exchange Management Act, 1999; as defined under section 53 of this Act.
- (j) “governing body” means the governors, council, directors, committee, trustees or other body with whatever nomenclature to whom by the rules and regulations of the Multi-state society, for the purpose of his identification as such.
- (k) “governing body notification number” means an identification number which the central Government may allot to any individual intending to be appointed as member of Governing body of a multi state society or to any existing member of Governing body of a multi state society, for the purpose of his identification as such:
- (i) “Improvement notice” means a notice issued under section [] by the Central Government or any other officer/authority empowered by the Central Government.
- (m) “inspector” means any officer appointed by the central Government for the purposes of Chapter III of this Act.
- (n) “inter state activity” means any activity carried out by a society directly or indirectly for cash, or for deferred payment or for commission, remuneration or other valuable consideration from the place other than place of origin including overseas transaction and also to include the following:

1. – The Receipt of foreign contribution, as under the Foreign Contribution (Regulation) Act, 2010, or an application/registration to receive such foreign contribution in excess of the amount as may be prescribed.
2. – The receipt of grants/funds/donations, in excess of amounts may be prescribed, from a Non-resident Indian.
3. – The receipt of grants/funds/donations in excess of such amounts a may be prescribed, directly from the central Government.
4. – Receipt of Immovable property from the central Government or any agency thereof in excess of such value as may be prescribed shall be deemed as an inter-state activity within the meaning of this clause.
5. – Funding of another society or membership of a society outside the place of origin by any society shall be deemed as an inter state activity within the meaning of this clause.
6. – Admitting persons who are not citizens of India or Non-resident Indians as members shall be deemed as an inter state activity within the meaning of this clause.

Explanation:- The following activities being conducted outside the place of origin shall not be considered an inter state activity.

- (i) Becoming a party to a legal proceeding or effecting settlement of a legal proceeding or of a legal claim or legal dispute;
 - (ii) Holding a meeting of managers or partners outside the place of origin.
- (o) “member” means a person as defined under section 26.

- (p) “memorandum of association” means the document of a multi state society as submitted under section 3 of this Act.
- (q) “multi state society” means any multi state society registered under this Act or any society carrying on inter state activity.
- (r) “officer” includes any manager or person in accordance with whose instruction the Governing Body or any one or more Committees of the multi-state society are accustomed to act or who controls the day to day functioning of the multi state society or a part thereof.
- (s) “place of origin” means the State in which the multi state society is registered.
- (t) “quarter” means one of four three month intervals of a financial year starting in April 1 and ending on March 31.
- (u) “Regional directors” means Regional director, as notified by the ministry of Corporate affairs.
- (v) “Registrar” means the Registrar, of multi state societies, as notified by the Ministry of Corporate Affairs.
- (w) “Rules and Regulation” means the rules and regulation of the multi state society filed with the registrar.
- (x) “secretary” means the secretary of the Multi state societies appointed in accordance with its memorandum of association or rules and regulation.
- (y) “society” means any society registered under the Society Registration Act, 1860.

(z) “Treasure” means the treasure of a multi state society appointed in accordance with its memorandum of association or rules and regulation.

3. Applicability.

(1) This Act shall be applicable to:

(a) all multi-state societies incorporated after the commencement of this act,

(b) all multi state societies incorporated before the commencement of the Act, Whether under:

(i) Societies Registration Act, 1860 or.

(ii) Any other Law relating to societies in force in any state or in pursuance of the Societies Registration Act, 1860.

and where the registration for such Multi state society has not been cancelled.

4. Multi-state society not to carry on inter state activity without registration.

(i) Notwithstanding anything contained in any Act, all multi state societies shall be registered under this Act.

(ii) No multi state Society shall carry on any inter –state activity without registration under this Act.

Provided that all multi state societies registered under the societies Registration Act, 1860 and conducting interstate activities shall register under this act or cease all inter state activity within twelve months from the date of commencement of this Act or close of the Next financial year, whichever is later.

(3) Subject to the provisions of section 5, any multi state society carrying on inter state activity in violation of sub section (1) shall have committed an offence punishable as prescribed under schedule – I of this Act.

5. Application for emergent cases.

(1) Notwithstanding anything contained under section 4, a multi state society registered under the Societies Registration Act, 1860 prior to the commencement of this Act may receive the following funds pending registration under this Act.

(a) foreign contribution, as defined under the Foreign contributions (Regulation) Act, 2010.

(b) grants/funds/donations from a Non-resident Indian.

(c) grants/funds/donations in excess of Rupees Ten Lakh per financial year directly from the Central Government.

(2) No funds received under sub section (1) shall be utilized before the multi state society receive registration under this Act.

(3) Any multi state society in contravention of Sub-section (2) shall have committed an offence punishable as prescribed under schedule – of this Act.

Chapter II – Registration of Multi state Societies and matters incidental thereto:

6. Mode of forming a Multi State Society.

- (1) Any seven or more person associated for any literary, scientific or charitable purpose, or for any such purpose as is described in Section [] of this Act and who conduct or plan to conduct inter state activity by such association shall, by subscribing their names to a memorandum of association and filling the same with an application for registration as a multi state society to the Registrar in manner prescribed.
- (2) Form 1 in Table A of Schedule-1 of this Act shall form the baseline for the memorandum of association and rules and regulation for all multi-state societies.
- (3) If form 1 in Table A of schedule-1 of this act is not baseline for the memorandum and Rules and regulation for all multi state society or a part thereof, the form shall automatically apply to such memorandum and rules and regulations or part thereof.

7. Documents required for registration

- (1) An application for registration of Multi state Societies shall consist of the following.
 - (a) An application in the form of as may be prescribed.
 - (b) A copy of the memorandum of association, which shall contain the following:

- (i) The Name of the multi state society.
- (ii) The object of the multi state society.
- (iii) The address which shall be the registered office of the Multi state society.
- (iv) The Names, addresses and occupations of the governors, council, directors, committee or other governing body to whom, by the rules of the multi state society, the management of its affairs is entrusted.
- (v) Provision for distribution of multi state society property upon winding down, and
- (vi) Details of existing or planned interstate activity.
- (vii) For a multi-state society which is affiliated to or is being registered pursuant to Chapter VII herein, provide details of the operations of such Foreign Society and the linkages/affiliation of the proposed multi state society with such foreign society.

(c) A copy of the rules and regulations of the multi-state society, certified to be a correct copy by all members of the governing body.

8. Name

- (1) Every multi state society shall have either the words “multi state society ” or the acronym “MULTI STATE SOCIETY” or “MSS” as the last words of its name alongwith the name of the state in which the society has its place of origin.
- (2) No Multi state society shall be registered by a name which, in the opinion of the Central Government is-
 - (a) Undesirable; or
 - (b) identical or too nearly resembles to that of any other partnership firm or multi state society or limited liability partnership or body corporate or a registered trade marks act, 1999 (47 of 1999)