

Useful information about the NGO's

Formation and Registration of an NGO

Basically a Non-Governmental Organization (NGO) is an association of persons or a body of individuals with non-profit motive working for general public utility and for charitable purposes. The NGO may be formed and registered as a Society, Trust, Company or Wakf.

REGISTRATION OF NGO's

a) Society

An NGO may be formed as a society. A society maybe defined as a company or an association of persons united together by mutual consent to deliberate, determine and act jointly for some common purpose. As per the Societies Registration Act, 1980, a society can be formed by a minimum of seven (or more) persons, eligible to enter into a contract, for any of the following purposes:

- (i) Grant of charitable assistance;
- (ii) Creation of military orphan fund;
- (iii) Promotion of science, literature or the fine arts; instruction and diffusion of useful knowledge, diffusion of political education, foundation or maintenance of libraries or reading rooms for general use of members or the public, public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments or designs;
- (iv) Any other object added by the State Government.

The documents required for the formation of a society are (i) the Memorandum of Association describing the objects of a society's existence and its operation and (ii) the Rules and Regulations to guide the members of the governing body and to regulate the functions of the society and its internal management. When an NGO

is constituted as a society, it is required to be registered under the Societies Registration Act, 1860 and the Registrar of Societies enforces the provisions of the Act.

b) Trust

A trust is a convenient method whereby a limited number of persons may hold property on behalf of other persons, who may be a large or fluctuating body or who may include persons not yet born. The Trust comprises of the Author of the trust, the Trustees and the Beneficiaries. The instrument or document by which the trust is declared is called the “Instrument of Trust” or more popularly as the “Trust Deed”. It is always advisable to have a written trust–deed. A trust–deed involving an immovable property must be registered under the Indian Registration Act, 1908.

The other laws applicable to Trusts are the Charitable and Religious Trusts Act, 1920, Religious Endowments Act, 1863 and the Indian Trusts Act, 1882. For registration of a Trust under the Indian Trusts Act 1882, the Trust Deed prepared on stamp paper of the requisite value should be submitted to the local Registrar for registration.

c) Company

NGO’s can be registered as companies under the Companies Act, 1956. Under Section 25 of the Companies Act, 1956, an association formed for carrying out the following activities can be registered as a company:

- (i) for the purposes of promoting commerce, art, science, religion, charity or any other useful object;
- (ii) with intention to apply its profits or other income for promoting its objects, and
- (iii) which prohibits payment of any dividend to its members.

An association desiring incorporation as a Company should prepare a Memorandum and Articles of Association and apply with required documents to the Regional Director, Company Law Board of the region. The Central Government is empowered to grant licenses to the associations formed with the above objectives and they are

allowed to be registered as companies with limited liability without the addition of the words “Limited” or “Private Limited” to their names and are eligible for exemptions from some of the provisions of the Companies Act, 1956.

d) Wakf

Wakf means the permanent dedication by a person professing Islam, of any movable or immovable property for any purpose recognized by the Muslim law as pious, religious or charitable. It includes wakf by usage and family wakfs called wakf-alal-aulad. The person making such dedication is called *wakif* and the deed or instrument by which a wakf has been created is called *wakf deed*. All the wakfs in India are governed under the provisions of the Wakf Act, 1995 which is a Central Act. The Karnataka Government has framed the Karnataka Wakf Rules, 1997. The Karnataka State Board of Wakfs exercises superintendence and control over all the wakfs in Karnataka State. The office of the Board is headed by the Chief Executive Officer.

All the wakfs existing in the State are surveyed and notified in the official Gazette under Section 5(2) of the Wakf Act, 1995. In addition, any wakf created before or after the commencement of the said Act can be registered under Section 36 of the Wakf Act, 1995. Any person desirous of creating a wakf may give an application to the Wakf Board with the requisite particulars.