

FC CERTIFICATE VALIDITY EXTENDED

♦ Legal Series Vol. XIV ♦ Issue 3

For private circulation only

UNDERSTANDING THE IMPLICATION OF THE RECENT PUBLIC NOTICE ISSUED BY FCRA DEPARTMENT



Authors* :

Dr. Manoj Fogla, Founder, SAGA LAW LLP

Dr. Sanjay Patra, Executive Director, FMSF

Suresh Kejriwal, Consultant

Sandeep Sharma, Director Program, FMSF

* The Authors can be contacted at mfogla@yahoo.com

Standards & Norms

Resource support on NGO Governance, Accounting and Regulations



FC CERTIFICATE VALIDITY EXTENDED

♦ Legal Series Vol. XIV ♦ Issue 3

For private circulation only

UNDERSTANDING THE IMPLICATION OF THE RECENT PUBLIC NOTICE ISSUED BY FCRA DEPARTMENT

CONTENTS

1.	INTRODUCTION	01
2.	ONLY ORGANISATIONS WHO HAVE APPLIED FOR RENEWAL SHALL BE ELIGIBLE	01
3.	SUMMARISING THE IMPLICATIONS OF THE PUBLIC NOTICE	01
4.	LAW RELATING TO BELATED RENEWAL APPLICATION AFTER LAPSE OF CERTIFICATE	03
5.	Annexure 1 : MINISTRY OF HOME AFFAIRS (MHA) VIDE ITS PUBLIC NOTICE NO. II/21022/23(22)/2020-FCRA-III DATED 30TH SEPTEMBER, 2021	04

INTRODUCTION:

- 1.01** As per section 12(6) of the FCR Act, the FCRA Registration Certificate remains valid for a period of 5 years. The Registration Certificate of most of the organisations was expiring on 31st October 2021. There was concern amongst the FC registered organisations as the renewal of Registration Certificate was still under process. However, the Ministry of Home Affairs (MHA) vide its Public Notice No. II/21022/23(22)/2020-FCRA-III dated 30th September, 2021, has extended the validity of the FCRA certificate. A copy of the Public Notice is provided in **Annexure I**.

ONLY ORGANISATIONS WHO HAVE APPLIED FOR RENEWAL SHALL BE ELIGIBLE

- 2.01** It may be noted that as per the Public Notice all those registrations which were expiring between 29th September, 2020 to 31st December, 2021 shall remain valid upto 31st December, 2021. It may further be noted that only those organisations which have applied for renewal of registration shall be eligible for the extension of the certificate. The Public Notice clarifies that the extension benefit shall be available only to those organisations which are '**awaiting**' renewal which is evident from the following extract from the Public Notice.

*"the FCRA registration certificates which are expiring during the period between 29th September, 2020 and 31st December, 2021 **and which await renewal** shall remain valid upto 31st December, 2021."*

SUMMARISING THE IMPLICATIONS OF THE PUBLIC NOTICE

- 3.01** The extension of the validity of the FC Registration Certificate upto 31st December, 2021 shall be available **only** to those NGOs who have already submitted their renewal application or only when they submit their renewal application within the specified time limit.
- 3.02** The NGOs which are not able to submit their renewal application within the last date i.e. 31/10/2021 can not avail the benefit of above public notice and their

certificate will expire. However, they may exercise the option of submitting belated renewal application. Such NGOs will cease to be FC registered organisation unless the FC registration is restored and their FC asset will also vest in the prescribed authority under Rule 12(6) and (6A) which are reproduced below:

"[(6) If no application for renewal of registration is received or the application is not accompanied by requisite fee before the expiry of the validity of the certificate of registration, the validity of the certificate of registration shall be deemed to have ceased from the date of completion of the period of five years from the date of the grant of certificate of registration.

[(6A) The amount of foreign contribution lying unutilised in the FCRA Account and utilisation account of a person whose certificate of registration is deemed to have ceased under sub-rule (6) and assets, if any, created out of the foreign contribution, shall vest with the prescribed authority under the Act until the certificate is renewed or fresh registration is granted by the Central Government.]"

- 3.03** NGOs who have already submitted their Renewal Application and whose certificates either expired or is going to expire between 29/09/2020 to 31/10/2021 can avail the benefit of this public notice and can receive foreign contribution & utilize the same atleast upto 31/12/2021.
- 3.04** The said Public Notice dated 30th September, 2021 shall be applicable If the concerned NGO has already submitted their renewal application latest by 30th September,2021 failing which such NGO will not be eligible to receive or utilize FC fund from 1st October,2021.
- 3.05** *It is strongly recommended that the organisations having valid registration expiring on 31/10/2021 who have not filed renewal application should file the same on or before 31/10/2021, in order to continue their registered status upto 31/12/2021.*

LAW RELATING TO BELATED RENEWAL APPLICATION

AFTER LAPSE OF CERTIFICATE

- 4.01** Under Rule 12(8) of FCRR, 2011 an organisation can apply for renewal upto 1 year after the expiry of the registration period, provided the organisation is able to explain the reason for such delay. The text of Rule 12(8) is reproduced as under:

“(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 [and with late fee of Rs.5000/- (Five Thousand rupees only)] , but not later than [one year] after the 42 43 expiry of the original certificate of registration.”

- 4.02** In the light of above, any NGO technically can apply for renewal upto 1 year after the expiry of the Registration Certificate. For example, an NGO whose registration certificate had already expired on 30th September 2021 can submit application for renewal after 30th September, 2021 in terms of the above Rule. It may be noted that even in case of belated renewal application the organisation cannot receive FC funds and its asset will vest with the prescribed authority.

- 4.03** It may also be noted that in such cases the benefit of the latest Public Notice dt 30th September 2021 regarding extension of certificate date will not be available.

Standards & Norms aims to provide relevant informations and guidance on NGO governance, Financial Management and Legal Regulations. The informations provided are correct and relevant to the best of the knowledge of the author and contributor. It is suggested that the reader should cross check all the facts, law and contents before using them. The author or the publisher will not be responsible for any loss or damage to any one, in any manner.



fmsf

Published by **Dr. Sanjay Patra** on behalf of
FINANCIAL MANAGEMENT SERVICE FOUNDATION
 'ACCOUNTABILITY HOUSE', A-5, Sector 26, Noida-201 301
 Tel. : 91-120-4773200, website : www.fmsfindia.org
 e-mail : fmsf@fmsfindia.org

Annexure - 1**No. II/21022/23(22)/2020-FCRA-III**

Government of India
Ministry of Home Affairs
(Foreigners Division-FCRA)

First Floor, Major Dhyan Chand National Stadium,
India Gate Circle, New Delhi-110001

Dated: the 30th September, 2021

PUBLIC NOTICE

Subject: Extension of the validity of the registration certificates issued under the Foreign Contribution (Regulation) Act, 2010 expiring during the period between 29th September, 2020 and 31st December, 2021 upto 31st December, 2021.

The Ministry of Home Affairs is mandated to administer the Foreign Contribution (Regulation) Act, 2010 (hereinafter referred as the Act). Section 12(6) of the Act provides that the certificate granted shall be valid for a period of five years from the date of its issue.

2. Section 16(1) of the Act has been amended by the Foreign Contribution (Regulation) Act, 2020. In continuation to this Ministry's Public Notice No. II/21022/23(22)/2020-FCRA-III, dated 12th January, 2021 and Public Notice No.II/21022/36(58)/2021-FCRA-II, dated 18th May, 2021 and with a view to ensure smooth transition to the amended legal regime and in exercise of the power conferred by section 50 of the Act, the Central Government, in public interest, has decided that the FCRA registration certificates which are expiring during the period between 29th September, 2020 and 31st December, 2021 and which await renewal shall remain valid upto 31st December, 2021.

3. This issues with the approval of the Competent Authority.

4. All concerned may take note of the above decision and take appropriate action in the matter.


(D.S. Parihar)

Deputy Secretary (FCRA)
Tele. 011-23077504

