

FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

Preamble 1 - THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

[Act No. 42 of 2010]

[26th September, 2010.]

PREAMBLE

An Act to consolidate the law to regulate the acceptance and utilisation of foreign contribution or

foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and

utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national

interest and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

Section 1 - Short title, extent, application and commencement

(1) This Act may be called the Foreign Contribution (Regulation) Act, 2010.

(2) It extends to the whole of India, and it shall also apply to—

(a) citizens of India outside India; and

(b) associate branches or subsidiaries, outside India, of companies or bodies

corporate, registered or incorporated in India.

(3) It shall come into force on such date as the Central Government may, by notification in

the Official Gazette, appoint:

Provided that 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 coming into force of that provision.

1. Effective from 01.05.2011 vide Notification No. SO909(E) dated 29.04.2011.

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Section 2 - Definitions

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

(a) "association" means an association of individuals, whether incorporated or not,

having an office in India and includes a society, whether registered under the

Societies Registration Act, 1860(21 of 1860), or not, and any other organisation, by

whatever name called;

(b) "authorised person in foreign exchange" means an authorised person referred to

in clause (c) of section 2 of the Foreign Exchange Management Act, 1999(42 of

1999);

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(c) "bank" means a banking company as referred to in clause (c) of section 5 of the

Banking Regulation Act, 1949(10 of 1949);

(d) "candidate for election" means a person who has been duly nominated as a

candidate for election to any Legislature;

(e) "certificate" means certificate of registration granted under sub-section (3) of

section 12;

(f) "company" shall have the meaning assigned to it under clause (17) of section 2 of

the Income-tax Act, 1961(43 of 1961);

(g) "foreign company" means any company or association or body of individuals

incorporated outside India and includes—

(i) a foreign company within the meaning of section 591 of the Companies Act,

1956(1 of 1956);

(ii) a company which is a subsidiary of a foreign company;

(iii) the registered office or principal place of business of a foreign company

referred to in sub-clause (i) or company referred to in sub-clause (ii);

(iv) a multi-national corporation.

Explanation.— For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,—

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

(h) "foreign contribution" means the donation, delivery or transfer made by any

foreign source,—

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such

gift, is not more than such sum as may be specified from time to time, by the

Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956(42 of 1956) and includes any foreign security

as defined in clause (o) of section 2 of the Foreign Exchange Management Act,

1999(42 of 1999).

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Explanation 1.— A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2.— The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 3.—Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

(i) "foreign hospitality" means any offer, not being a purely casual one, made in cash

or kind by a foreign source for providing a person with the costs of travel to any

foreign country or territory or with free boarding, lodging, transport or medical

treatment;

(j) "foreign source" includes,—

(i) the Government of any foreign country or territory and any agency of such

Government;

(ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such

other agency as the Central Government may, by notification, specify in this

behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g);

(vi) a company within the meaning of the Companies Act, 1956(1 of 1956),

and more than one-half of the nominal value of its share capital is held, either

singly or in the aggregate, by one or more of the following, namely:—

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(A) the Government of a foreign country or territory;

(B) the citizens of a foreign country or territory;

(C) corporations incorporated in a foreign country or territory;

(D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

(E) foreign company;

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such

trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association of individuals formed or registered outside India;

(x) a citizen of a foreign country;

(k) "Legislature" means —

(A) either House of Parliament;

(B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;

(C) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963(20 of 1963);

(D) Legislative Assembly for the National Capital Territory of Delhi referred to

in the Government of National Capital Territory of Delhi Act, 1991(1 of 1992);

(E) Municipality as defined in clause (e) of article 243P of the Constitution;

(F) District Councils and Regional Councils in the States of Assam, Meghalaya,

Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;

(G) Panchayat as defined in clause (d) of article 243 of the Constitution; or

(H) any other elective body as may be notified by the Central Government;

(I) "notification" means notification published in the Official Gazette and the

expression "notify" shall be construed accordingly;

(m) "person" includes—

(i) an individual;

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(ii) a Hindu undivided family;

(iii) an association;

(iv) a company registered under section 25 of the Companies Act, 1956(1 of

1956);

(n) "political party" means—

(i) an association or body of individual citizens of India—

(A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951(43 of 1951); or

(B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;

(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No.56/J&K/02, dated the 8th

August, 2002, as in force for the time being;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "prescribed authority" means an authority specified as such by rules made by the
Central Government under this Act;

(q) "registered newspaper" means a newspaper registered under the
Press and
Registration of Books Act, 1867(25 of 1867);

(r) "relative" has the meaning assigned to it in clause (41) of section 2 of
the
Companies Act, 1956(1 of 1956);

(s) "scheduled bank" shall have the meaning assigned to it under clause
(e) of section
2 of the Reserve Bank of India Act, 1934(2 of 1934);

(t) "subsidiary" and "associate" shall have the meanings, respectively
assigned to
them in the Companies Act, 1956(1 of 1956);

(u) "trade union" means a trade union registered under the Trade Unions
Act,
1926(16 of 1926);

(2) Words and expressions used herein and not defined in this Act but
defined in the
Representation of the People Act, 1950(43 of 1950) or the
Representation of the People Act,
1951(43 of 1951) or the Foreign Exchange Management Act, 1999(42 of
1999) shall have
the meanings respectively assigned to them in those Acts.

Section 3 - Prohibition to accept foreign contribution

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(1) No foreign contribution shall be accepted by any—

(a) candidate for election;

(b) correspondent, columnist, cartoonist, editor, owner, printer or
publisher of a
registered newspaper;

(c) Judge, Government servant or employee of any corporation or any
other body
controlled or owned by the Government;

(d) member of any Legislature;

(e) political party or office-bearer thereof;

(f) organisation of a political nature as may be specified under sub-
section (1) of
section 5 by the Central Government;

(g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000(21 of 2000) or any other mode of mass communication;

(h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

Explanation.—In clause (c) and section 6, the expression "corporation" means

a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956(1 of 1956).

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall

accept any foreign contribution, or acquire or agree to acquire any currency from a foreign

source, on behalf of any political party, or any person referred to in sub-section (1), or both.

(b) No person, resident in India, shall deliver any currency, whether Indian or foreign,

which has been accepted from any foreign source, to any person if he knows or has

reasonable cause to believe that such other person intends, or is likely, to deliver

such currency to any political party or any person referred to in sub-section (1), or

both.

(c) No citizen of India resident outside India shall deliver any currency, whether

Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such

other person intends, or is likely, to deliver such currency to a political party

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or to any person referred to in sub-section (1), or both.

(3) No person receiving any currency, whether Indian or foreign, from a foreign source on

behalf of any person or class of persons, referred to in section 9, shall deliver such

currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such

other person intends, or is likely, to deliver such currency to a person other than the

person for which such currency was received.

Section 4 - Persons to whom section 3 shall not apply

Nothing contained in section 3 shall apply to the acceptance, by any person specified in that

section, of any foreign contribution where such contribution is accepted by him, subject to

the provisions of section 10,—

(a) by way of salary, wages or other remuneration due to him or to any group of

persons working under him, from any foreign source or by way of payment in the

ordinary course of business transacted in India by such foreign source; or

(b) by way of payment, in the course of international trade or commerce, or in the

ordinary course of business transacted by him outside India; or

(c) as an agent of a foreign source in relation to any transaction made by such foreign

source with the Central Government or State Government; or

(d) by way of a gift or presentation made to him as a member of any Indian

delegation, provided that such gift or present was accepted in accordance with the

rules made by the Central Government with regard to the acceptance or retention of

such gift or presentation; or

(e) from his relative; or

(f) by way of remittance received, in the ordinary course of business through any

official channel, post office, or any authorised person in foreign exchange under the

Foreign Exchange Management Act, 1999(42 of 1999); or

(g) by way of any scholarship, stipend or any payment of like nature:

Provided that in case any foreign contribution received by any person specified

under section 3, for any of the purposes other than those specified under this

section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

Section 5 - Procedure to notify an organisation of a political nature

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(1) The Central Government may, having regard to the activities of the organisation or the

ideology propagated by the organisation or the programme of the organisation or the

association of the organisations with the activities of any political party, by an order

published in the Official Gazette, specify such organisation as an organisation of a political

nature not being a political party, referred to in clause (f) of sub-section (1) of section 3:

Provided that the Central Government may, by rules made by it, frame the guidelines

specifying the ground or grounds on which an organisation shall be specified as an

organisation of a political nature.

(2) Before making an order under sub-section (1), the Central Government shall give the

organisation in respect of whom the order is proposed to be made, a notice in writing

informing it of the ground or grounds, on which it is proposed to be specified as an

organisation of political nature under that sub-section.

(3) The organisation to whom a notice has been served under sub-section (2), may, within a

period of thirty days from the date of the notice, make a representation to the Central

Government giving reasons for not specifying such organisation as an organisation under

sub-section (1):

Provided that the Central Government may entertain the representation after the

expiry of the said period of thirty days, if it is satisfied that the organisation was

prevented by sufficient cause from making the representation within thirty days.

(4) The Central Government may, if it considers it appropriate, forward the representation

referred to in sub-section (5) to any authority to report on such representation.

(5) The Central Government may, after considering the representation and the report of the

authority referred to in sub-section (4), specify such organisation as an organisation of a

political nature not being a political party and make an order under sub-section (7)

accordingly.

(6) Every order under sub-section (7) shall be made within a period of one hundred and

twenty days from the date of issue of notice under sub-section (2):

Provided that in case no order is made within the said period of one hundred and

twenty days, the Central Government shall, after recording the reasons therefor,

make an order under sub-section (7) within a period of sixty days from the expiry of

the said period of one hundred and twenty days.

Section 6 - Restriction on acceptance of foreign hospitality

No member of a Legislature or office-bearer of a political party or Judge or Government

servant or employee of any corporation or any other body owned or controlled by the

Government shall, while visiting any country or territory outside India, accept, except with

the prior permission of the Central Government, any foreign hospitality:

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Provided that it shall not be necessary to obtain any such permission for an emergent

medical aid needed on account of sudden illness contracted during a visit outside

India, but, where such foreign hospitality has been received, the person receiving

such hospitality shall give, within one month from the date of receipt of such

hospitality an intimation to the Central Government as to the receipt of such

hospitality, and the source from which, and the manner in which, such hospitality was

received by him.

Section 7 - Prohibition to transfer foreign contribution to other person

No person who —

(a) is registered and granted a certificate or has obtained prior permission under this

Act; and

(b) receives any foreign contribution,

shall transfer such foreign contribution to any other person unless such other person is also

registered and had been granted the certificate or obtained the prior permission under this

Act:

Provided that such person may transfer, with the prior approval of the Central

Government, a part of such foreign contribution to any other person who has not

been granted a certificate or obtained permission under this Act in accordance with

the rules made by the Central Government.

Section 8 - Restriction to utilise foreign contribution for administrative purpose

(1) Every person, who is registered and granted a certificate or given prior permission under

this Act and receives any foreign contribution,—

(a) shall utilise such contribution for the purposes for which the contribution has been

received:

Provided that any foreign contribution or any income arising out of it shall not

be used for speculative business:

Provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the

purpose of this section;

(b) shall not defray as far as possible such sum, not exceeding fifty per cent. of such

contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding fifty per cent. of such contribution may be defrayed with prior approval of the Central Government.

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(2) The Central Government may prescribe the elements which shall be included in the

administrative expenses and the manner in which the administrative expenses referred to in

sub-section (1) shall be calculated.

Section 9 - Power of Central Government to prohibit receipt of foreign contribution, etc.,

in certain cases

The Central Government may—

(a) prohibit any person or organisation not specified in section 3, from accepting any

foreign contribution;

(b) require any person or class of persons, not specified in section 6, to obtain prior

permission of the Central Government before accepting any foreign hospitality;

(c) require any person or class of persons not specified in section 11, to furnish

intimation within such time and in such manner as may be prescribed as to the

amount of any foreign contribution received by such person or class of persons as the

case may be, and the source from which and the manner in which such contribution

was received and the purpose for which and the manner in which such foreign

contribution was utilised;

(d) without prejudice to the provisions of sub-section (1) of section 11, require any

person or class of persons specified in that sub-section to obtain prior permission of

the Central Government before accepting any foreign contribution;

(e) require any person or class of persons, not specified in section 6, to furnish

intimation, within such time and in such manner as may be prescribed, as to the

receipt of any foreign hospitality, the source from which and the manner in which

such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the

Central Government is satisfied that the acceptance of foreign contribution by

such person or class of persons, as the case may be, or the acceptance of

foreign hospitality by such person, is likely to affect prejudicially —

(i) the sovereignty and integrity of India; or

(ii) public interest; or

- (iii) freedom or fairness of election to any Legislature; or
- (iv) friendly relations with any foreign State; or
- (v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

Section 10 - Power to prohibit payment of currency received in contravention of the Act

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Where the Central Government is satisfied, after making such inquiry as it may deem fit,

that any person has in his custody or control any article or currency or security, whether

Indian or foreign, which has been accepted by such person in contravention of any of the

provisions of this Act, it may, by order in writing, prohibit such person from paying,

delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or

currency or security save in accordance with the written orders of the Central Government

and a copy of such order shall be served upon the person so prohibited in the prescribed

manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the

Unlawful Activities (Prevention) Act, 1967(37 of 1967) shall, so far as may be, apply to, or in

relation to, such article or currency or security and references in the said sub-sections to

moneys, securities or credits shall be construed as references to such article or currency or

security.

Section 11 - Registration of certain persons with Central Government

(1) Save as otherwise provided in this Act, no person having a definite cultural, economic,

educational, religious or social programme shall accept foreign contribution unless such

person obtains a certificate of registration from the Central Government:

Provided that any association registered with the Central Government under section 6

or granted prior permission under that section of the Foreign Contribution

(Regulation) Act, 1976(49 of 1976), as it stood immediately before the

commencement of this Act, shall be deemed to have been registered or granted prior

permission, as the case may be, under this Act and such registration shall be valid for

a period of five years from the date on which this section comes into force.

(2) Every person referred to in sub-section (1) may, if it is not registered with the Central

Government under that sub-section, accept any foreign contribution only after obtaining the

prior permission of the Central Government and such prior permission shall be valid for the

specific purpose for which it is obtained and from the specific source:

Provided that if the person referred to in sub-sections (1) and (2) has been found

guilty of violation of any of the provisions of this Act or the Foreign Contribution

(Regulation) Act, 1976(49 of 1976), the unutilised or unreceived amount of foreign

contribution shall not be utilised or received, as the case may be, without the prior

approval of the Central Government.

(3) Notwithstanding anything contained in this Act, the Central Government may, by

notification in the Official Gazette, specify—

(i) the person or class of persons who shall obtain its prior permission before

accepting the foreign contribution; or

(ii) the area or areas in which the foreign contribution shall be accepted and utilised

with the prior permission of the Central Government; or

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(iii) the purpose or purposes for which the foreign contribution shall be utilised with

the prior permission of the Central Government; or

(iv) the source or sources from which the foreign contribution shall be accepted with

the prior permission of the Central Government.

Section 12 - Grant of certificate of registration

(1) An application by a person, referred to in section 11 for grant of certificate or giving prior

permission, shall be made to the Central Government in such form and manner and along

with such fee, as may be prescribed.

(2) On receipt of an application under sub-section (1), the Central Government shall, by an

order, if the application is not in the prescribed form or does not contain any of the

particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate or giving prior permission and after

making such inquiry as the Central Government deems fit, it is of the opinion that the

conditions specified in sub-section (4) are satisfied, it may, ordinarily within ninety days from

the date of receipt of application under sub-section (1), register such person and grant him a

certificate or give him prior permission, as the case may be, subject to such terms and

conditions as may be prescribed:

Provided that in case the Central Government does not grant, within the said period

of ninety days, a certificate or give prior permission, it shall communicate the reasons

therefor to the applicant:

Provided further that a person shall not be eligible for grant of certificate or giving

prior permission, if his certificate has been suspended and such suspension of

certificate continues on the date of making application.

(4) The following shall be the conditions for the purposes of sub-section (3), namely:—

(a) the person making an application for registration or grant of prior permission

under sub-section (1),—

(i) is not fititious or benami;

(ii) has not been prosecuted or convicted for indulging in activities aimed at

conversion through inducement or force, either directly or indirectly, from one

religious faith to another;

(iii) has not been prosecuted or convicted for creating communal tension or

disharmony in any specified district or any other part of the country;

(iv) has not been found guilty of diversion or mis-utilisation of its funds;

(v) is not engaged or likely to engage in propagation of sedition or advocate

violent methods to achieve its ends;

(vi) is not likely to use the foreign contribution for personal gains or divert it

for undesirable purposes;

(vii) has not contravened any of the provisions of this Act;

(viii) has not been prohibited from accepting foreign contribution;

(b) the person making an application for registration under sub-section (1) has

undertaken reasonable activity in its chosen field for the benefit of the society for

which the foreign contribution is proposed to be utilised;

(c) the person making an application for giving prior permission under sub-section (1)

has prepared a reasonable project for the benefit of the society for which the foreign

contribution is proposed to be utilised;

(d) in case the person being an individual, such individual has neither been convicted

under any law for the time being in force nor any prosecution for any offence pending

against him;

(e) in case the person being other than an individual, any of its directors or office

bearers has neither been convicted under any law for the time being in force nor any

prosecution for any offence is pending against him;

(f) the acceptance of foreign contribution by the person referred to in subsection (1)

is not likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) the security, strategic, scientific or economic interest of the State; or

(iii) the public interest; or

(iv) freedom or fairness of election to any Legislature; or

(v) friendly relation with any foreign State; or

(vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;

(g) the acceptance of foreign contribution referred to in sub-section (7),—

(i) shall not lead to incitement of an offence;

(ii) shall not endanger the life or physical safety of any person.

(5) Where the Central Government refuses the grant of certificate or does not give prior

permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant:

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Provided that the Central Government may not communicate the reasons for refusal

for grant of certificate or for not giving prior permission to the applicant under this

section in cases where is no obligation to give any information or documents or

records or papers under the Right to Information Act, 2005(22 of 2005).

(6) The certificate granted under sub-section (3) shall be valid for a period of five years and

the prior permission shall be valid for the specific purpose or specific amount of foreign

contribution proposed to be received, as the case may be.

Section 13 - Suspension of certificate

(1) Where the Central Government, for reasons to be recorded in writing, is satisfied that

pending consideration of the question of cancelling the certificate on any of the grounds

mentioned in sub-section (1) of section 14, it is necessary so to do, it may, by order in

writing, suspend the certificate for such period not exceeding one hundred and eighty days

as may be specified in the order.

(2) Every person whose certificate has been suspended shall —

(a) not receive any foreign contribution during the period of suspension of certificate:

Provided that the Central Government, on an application made by such person,

if it considers appropriate, allow receipt of any foreign contribution by such

person on such terms and conditions as it may specify;

(b) utilise, in the prescribed manner, the foreign contribution in his custody with the

prior approval of the Central Government.

Section 14 - Cancellation of certificate

(1) The Central Government may, if it is satisfied after making such inquiry as it may deem

fit, by an order, cancel the certificate if—

(a) the holder of the certificate has made a statement in, or in relation to, the

application for the grant of registration or renewal thereof, which is incorrect or false;

or

(b) the holder of the certificate has violated any of the terms and conditions of the

certificate or renewal thereof; or

(c) in the opinion of the Central Government, it is necessary in the public interest to

cancel the certificate; or

(d) the holder of certificate has violated any of the provisions of this Act or rules or

order made thereunder; or

(e) if the holder of the certificate has not been engaged in any reasonable activity in

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its chosen field for the benefit of the society for two consecutive years or has become

defunct.

(2) No order of cancellation of certificate under this section shall be made unless the person

concerned has been given a reasonable opportunity of being heard.

(5) Any person whose certificate has been cancelled under this section shall not be eligible

for registration or grant of prior permission for a period of three years from the date of

cancellation of such certificate.

Section 15 - Management of foreign contribution of person whose certificate has been

cancelled

(1) The foreign contribution and assets created out of the foreign contribution in the custody

of every person whose certificate has been cancelled under section 14 shall vest in such

authority as may be prescribed.

(2) The authority referred to in sub-section (1) may, if it considers necessary and in public

interest, manage the activities of the person referred to in that sub-section for such period

and in such manner, as the Central Government may direct and such authority may utilise

the foreign contribution or dispose of the assets created out of it in case adequate funds are

not available for running such activity.

(3) The authority referred to in sub-section (1) shall return the foreign contribution and the assets vested upon it under that sub-section to the person referred to in the said sub-section if such person is subsequently registered under this Act.

Section 16 - Renewal of certificate

(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.

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Section 17 - Foreign contribution through scheduled bank

(1) Every person who has been granted a certificate or given prior permission under section

12 shall receive foreign contribution in a single account only through such one of the

branches of a bank as he may specify in his application for grant of certificate:

Provided that such person may open one or more accounts in one or more banks for

utilising the foreign contribution received by him:

Provided further that no funds other than foreign contribution shall be received or

deposited in such account or accounts.

(2) Every bank or authorised person in foreign exchange shall report to such authority as

may be specified—

(a) prescribed amount of foreign remittance;

(b) the source and manner in which the foreign remittance was received; and

(c) other particulars,

in such form and manner as may be prescribed.

Section 18 - Intimation

(1) Every person who has been granted a certificate or given prior approval under this Act

shall give, within such time and in such manner as may be prescribed, an intimation to the

Central Government, and such other authority as may be specified by the Central

Government, as to the amount of each foreign contribution received by it, the source from

which and the manner in which such foreign contribution was received, and the purposes for

which, and the manner in which such foreign contribution was utilised by him.

(2) Every person receiving foreign contribution shall submit a copy of a statement indicating

therein the particulars of foreign contribution received duly certified by officer of the bank or

authorised person in foreign exchange and furnish the same to the Central Government

along with the intimation under sub-section (1).

Section 19 - Maintenance of accounts

Every person who has been granted a certificate or given prior approval under this Act shall

maintain, in such form and manner as may be prescribed,—

(a) an account of any foreign contribution received by him; and

(b) a record as to the manner in which such contribution has been utilised by him.

Section 20 - Audit of accounts

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Where any person who has been granted a certificate or given prior permission, fails to

furnish any intimation under this Act within the time specified therefor or the intimation so

furnished is not in accordance with law or if, after inspection of such intimation, the Central

Government has any reasonable cause to believe that any provision of this Act has been, or

is being, contravened, the Central Government may, by general or special order, authorise

such gazetted officer, holding a Group A post under the Central Government or any other

officer or authority or organisation, as it may think fit, to audit any books of account kept or

maintained by such person and thereupon every such officer shall have the right to enter in

or upon any premises at any reasonable hour, before sunset and after sunrise, for the

purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and

shall not be disclosed except for the purposes of this Act.

Section 21 - Intimation by candidate for election

Every candidate for election, who had received any foreign contribution, at any time within

one hundred and eighty days immediately preceding the date on which he is duly nominated

as such candidate, shall give, within such time and in such manner as may be prescribed, an

intimation to the Central Government or prescribed authority or both as to the amount of

foreign contribution received by him, the source from which, and the manner in which, such

foreign contribution was received and the purposes for which and the manner in which such

foreign contribution was utilised by him.

Section 22 - Disposal of assets created out of foreign contribution

Where any person who was permitted to accept foreign contribution under this Act, ceases to

exist or has become defunct, all the assets of such person shall be disposed of in accordance

with the provisions contained in any law for the time being in force under which the person

was registered or incorporated, and in the absence of any such law, the Central Government

may, having regard to the nature of assets created out of foreign contribution received under

this Act, by notification, specify that all such assets shall be disposed off by such authority, as

it may specify, in such manner and procedure as may be prescribed.

Section 23 - Inspection of accounts or records

If the Central Government has, for any reason, to be recorded in writing, any ground to

suspect that any provision of this Act has been or is being, contravened by—

- (a) any political party; or
- (b) any person; or
- (c) any organisation; or
- (d) any association,

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it may, by general or special order, authorise such gazetted officer, holding a Group A post

under the Central Government or such other officer or authority or organisation, as it may

think fit (hereinafter referred to as the inspecting officer), to inspect any account or record

maintained by such political party, person, organisation or association, as the case may be,

and thereupon every such inspecting officer shall have the right to enter in or upon any

premises at any reasonable hour, before sunset and after sunrise, for the purpose of

inspecting the said account or record.

Section 24 - Seizure of accounts or records

If, after inspection of an account or record referred to in section 23, the inspecting officer has

any reasonable cause to believe that any provision of this Act or of any other law relating to

foreign exchange has been, or is being, contravened, he may seize such account or record

and produce the same before the court, authority or tribunal in which any proceeding is

brought for such contravention:

Provided that the authorised officer shall return such account or record to the person

from whom it was seized if no proceeding is brought within six months from the date

of such seizure for the contravention disclosed by such account or record.

Section 25 - Seizure of article or currency or security received in contravention of the Act

If any gazetted officer, authorised in this behalf by the Central Government by general or special order, has any reason to believe that any person has in his possession or control any article exceeding the value specified in sub-clause (i) of clause (h) of subsection (1) of section 2 or currency or security whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency or security.

Section 26 - Disposal of seized article or currency or security

(1) The Central Government, may, having regard to the value of article or currency or

security, their vulnerability to theft or any relevant consideration, by notification, specify

such article or currency or security which shall, as soon as may be after their seizure, be

disposed of by such officer and in such manner, as the Central Government may, from time

to time, determine after following the procedure hereinafter specified.

(2) The article or currency or security seized shall be forwarded without unnecessary delay

to such officer as may be specified.

(3) Where any article or currency or security has been seized and forwarded to such officer,

the officer referred to in sub-section (1), shall prepare an inventory of such article or

currency or security containing such details relating to their description, value or such other

identifying particulars as the officer referred to in that sub-section may consider relevant to

the identity of the article or the currency or security and make an application to any

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Magistrate for the purposes of certifying the correctness of the inventory so prepared.

(4) Where an application is made under sub-section (2), the Magistrate shall, as soon as may

be, allow the application.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872(1 of 1872) or the

Code of Criminal Procedure, 1973(2 of 1974), every court trying an offence under this Act,

shall treat the inventory, as certified by the Magistrate, as primary evidence in respect of such offence.

(6) Every officer acting under sub-section (J) shall forthwith report the seizure to the Court of Session or Assistant Sessions Judge having jurisdiction for adjudging the confiscation under section 29.

Section 27 - Seizure to be made in accordance with Act 2 of 1974

The provisions of the Code of Criminal Procedure, 1973 shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under this Act.

Section 28 - Confiscation of article or currency or security obtained in contravention of the Act

Any article or currency or security which is seized under section 25 shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act.

Section 29 - Adjudication of confiscation

(1) Any confiscation referred to in section 28 may be adjudged—
(a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and
(b) subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) When an adjudication under sub-section (1) is concluded by the Court of Session or Assistant Sessions Judge, as the case may be, the Sessions Judge or Assistant Sessions Judge may make such order as he thinks fit for the disposal by confiscation or delivery of seized article or currency or security, as the case may be, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

Section 30 - Procedure for confiscation

No order of adjudication of confiscation shall be made unless a reasonable opportunity of

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making a representation against such confiscation has been given to the person from whom

any article or currency or security has been seized.

Section 31 - Appeal

(1) Any person aggrieved by any order made under section 29 may prefer an appeal,—

(a) where the order has been made by the Court of Session, to the High Court to

which such Court is subordinate; or

(b) where the order has been made by any officer specified under clause (b) of

sub-section (1) of section 29, to the Court of Session within the local limits of whose

jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order:

Provided that the appellate court may, if it is satisfied that the appellant was

prevented by sufficient cause from preferring the appeal within the said period of one

month, allow such appeal to be preferred within a further period of one month, but

not thereafter.

(2) Any organisation referred to in clause (f) of sub-section (1) of section 3, or any person or

association referred to in section 6 or section 9, aggrieved by an order made in pursuance of

section 5 or by an order of the Central Government refusing to give permission under this

Act, or by any order made by the Central Government under sub-section (2) or sub-section

(4) of section 12, or sub-section (1) of section 14, as the case may be, may, within sixty days

from the date of such order, prefer an appeal against such order to the High Court within the

local limits of whose jurisdiction the appellant ordinarily resides or carries on business or

personally works for gain, or, where the appellant is an organisation or association, the

principal office of such organisation or association is located.

(3) Every appeal preferred under this section shall be deemed to be an appeal from an

original decree and the provisions of Order XLI of the First Schedule to the Code of Civil

Procedure, 1908(5 of 19080, shall, as far as may be, apply thereto as they apply to an

appeal from an original decree.

Section 32 - Revision of orders by Central Government

(1) The Central Government may, either of its own motion or on an application for revision

by the person registered under this Act, call for and examine the record of any proceeding

under this Act in which any such order has been passed by it and may make such inquiry or

cause such inquiry to be made and, subject to the provisions of this Act, may pass such order

thereon as it thinks fit.

(2) The Central Government shall not of its own motion revise any order under this section if

the order has been made more than one year previously.

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(3) In the case of an application for revision under this section by the person referred to in

sub-section (1), the application must be made within one year from the date on which the

order in question was communicated to him or the date on which he otherwise came to know

of it, whichever is earlier:

Provided that the Central Government may, if it is satisfied that such person was

prevented by sufficient cause from making the application within that period, admit an

application made after the expiry of that period.

(4) The Central Government shall not revise any order where an appeal against the order

lies but has not been made and the time within which such appeal may be made has not

expired or such person has not waived his right of appeal or an appeal has been filed under

this Act.

(5) Every application by such person for revision under this section shall be accompanied by

such fee, as may be prescribed.

Explanation.— An order by the Central Government declining to interfere shall, for

the purposes of this section, be deemed not to be an order prejudicial to such person.

Section 33 - Making of false statement, declaration or delivering false accounts

Any person, subject to this Act, who knowingly, —

(a) gives false intimation under sub-section (c) of section 9 or section 18; or

(b) seeks prior permission or registration by means of fraud, false representation or

concealment of material fact,

shall, on conviction by a court, be liable to imprisonment for a term which may extend to six

months or with fine or with both.

Section 34 - Penalty for article or currency or security obtained in contravention of section

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If any person, on whom any prohibitory order has been served under section 10, pays,

delivers, transfers or otherwise deals with, in any manner whatsoever, any article or

currency or security, whether Indian or foreign, in contravention of such prohibitory order,

he shall be punished with imprisonment for a term which may extend to three years, or with

fine, or with both; and notwithstanding anything contained in the Code of Criminal

Procedure, 1973(2 of 1974), the court trying such contravention may also impose on the

person convicted an additional fine equivalent to the market value of the article or the

amount of the currency or security in respect of which the prohibitory order has been

contravened by him or such part thereof as the court may deem fit.

Section 35 - Punishment for contravention of any provision of the Act

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Whoever accepts, or assists any person, political party or organisation in accepting, any

foreign contribution or any currency or security from a foreign source, in contravention of

any provision of this Act or any rule or order made thereunder, shall be punished with

imprisonment for a term which may extend to five years, or with fine, or with both.

Section 36 - Power to impose additional fine where article or currency or security is not

available for confiscation

Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), the

court trying a person, who, in relation to any article or currency or security, whether Indian

or foreign, does or omits to do any act which act or omission would render such article or

currency or security liable to confiscation under this Act, may, in the event of the conviction

of such person for the act or omission aforesaid, impose on such person a fine not exceeding

five times the value of the article or currency or security or one thousand rupees, whichever

is more, if such article or currency or security is not available for confiscation, and the fine so

imposed shall be in addition to any other fine which may be imposed on such person under

this Act.

Section 37 - Penalty for offences where no separate punishment has been provided

Whoever fails to comply with any provision of this Act for which no separate penalty has

been provided in this Act shall be punished with imprisonment for a term which may extend

to one year, or with fine or with both.

Section 38 - Prohibition of acceptance of foreign contribution

Notwithstanding anything contained in this Act, whoever, having been convicted of any

offence under section 35 or section 37, in so far as such offence relates to the acceptance or

utilisation of foreign contribution, is again convicted of such offence shall not accept any

foreign contribution for a period of five years from the date of the subsequent conviction.

Section 39 - Offences by companies

(1) Where an offence under this Act or any rule or order made thereunder has been

committed by a company, every person who, at the time the offence was committed, was in

charge of, and was responsible to, the company for the conduct of the business of the

company, as well as the company, shall be deemed to be guilty of the offence and shall be

liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to

any punishment if he proves that the offence was committed without his knowledge or

that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act

or any rule or order made thereunder has been committed by a company and it is proved

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that the offence has been committed with the consent or connivance of, or is attributable to

any neglect on the part of, any director, manager, secretary or other officer of the company,

such director, manager, secretary or other officer shall also be deemed to be guilty of that

offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm, society, trade union or other

association of individuals; and

(b) "director", in relation to a firm, society, trade union or other association of individuals,

means a partner in the firm or a member of the governing body of such society, trade union

or other association of individuals.

Section 40 - Bar on prosecution of offences under the Act

No court shall take cognizance of any offence under this Act, except with the previous

sanction of the Central Government or any officer authorised by that Government in this

behalf.

Section 41 - Composition of certain offences

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974),

any offence punishable under this Act (whether committed by an individual or association or

any officer or employee thereof), not being an offence punishable with imprisonment only,

may, before the institution of any prosecution, be compounded by such officers or authorities

and for such sums as the Central Government may, by notification in the Official Gazette,

specify in this behalf.

(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or

association or its officer or other employee within a period of three years from the date on

which a similar offence committed by it or him was compounded under this section.

Explanation.— For the purposes of this section, any second or subsequent offence

committed after the expiry of a period of three years from the date on which the

offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to

compound an offence, subject to the direction, control and supervision of the Central

Government.

(4) Every application for the compounding of an offence shall be made to the officer or

authority referred to in sub-section (1) in such form and manner along with such fee as may

be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no

prosecution shall be instituted in relation to such offence, against the offender in relation to

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whom the offence is so compounded.

(6) Every officer or authority referred to in sub-section (1), while dealing with a proposal for

the compounding of an offence for a default in compliance with any provision of this Act

which requires by an individual or association or its officer or other employee to obtain

permission or file or register with, or deliver or send to, the Central Government or any

prescribed authority any return, account or other document, may, direct, by order, if he or it

thinks fit to do so, any individual or association or its officer or other employee to file or

register with, such return, account or other document within such time as may be specified

in the order.

Section 42 - Power to call for information or document

Any inspecting officer referred to in section 23 who is authorised in this behalf by the Central

Government may, during the course of any inspection of any account or record maintained

by any political party, person, organisation or association in connection with the

contravention of any provision of this Act, —

(a) call for information from any person for the purpose of satisfying himself whether

there has been any contravention of the provisions of this Act or rule or order made

thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant

to such inspection;

(c) examine any person acquainted with the facts and circumstances of the case

related to the inspection.

Section 43 - Investigation into cases under the Act

Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), any

offence punishable under this Act may also be investigated into by such authority as the

Central Government may specify in this behalf and the authority so specified shall have all

the powers which an officer-in-charge of a police station has while making an investigation

into a cognizable offence.

Section 44 - Returns by prescribed authority to Central Government

The prescribed authority shall furnish to the Central Government at such time and in such

form and manner such returns and statements as may be prescribed.

Section 45 - Protection of action taken in good faith

No suit or other legal proceedings shall lie against the Central Government or the authority

referred to in section 44 or any of its officers in respect of any loss of damage caused or

likely to be caused by anything which is in good faith done or intended to be done in

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pursuance of the provisions of this Act or, any rule or order made thereunder.

Section 46 - Power of Central Government to give directions

The Central Government may give such directions as it may deem necessary to any other

authority or any person or class of persons regarding the carrying into execution of the

provisions of this Act.

Section 47 - Delegation of powers

The Central Government may, by notification, direct that any of its powers or functions

under this Act, except power to make rule under section 48, shall, in relation to such matters

and subject to such conditions, if any, may be specified in the notification, be exercised or

discharged also by such authority as may be specified.

Section 48 - Power to make rules

(1) The Central Government may, by notification, make rules for carrying out the provisions

of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules

may provide for all or any of the following matters, namely:—

(a) the value of the article which may be specified under sub-clause (i) of clause (h)

of sub-section (1) of section 2;

(b) the authority which may be specified under clause (p) of sub-section (1) of section

2;

(c) acceptance or retention of gift or presentation under clause (d) of section 4;

(d) guidelines specifying the ground or grounds on which an organisation may be

specified as an organisation of political nature under sub-section (1) of section 5;

(e) the activities or business which shall be construed as speculative business under

the proviso to clause (a) of sub-section (1) of section 8;

(f) the elements and the manner in which the administrative expenses shall be
calculated under sub-section (2) of section 8;
(g) the time within which and the manner in which any person or class of persons or
an association may be required to furnish intimation regarding the amount of foreign
contribution received under clause (c) of section 9;
(h) the time within which and the manner in which any person or class of persons
may be required to furnish intimation regarding foreign hospitality under clause (e) of
section 9;

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(i) the manner in which the copy of the order of the Central Government shall be
served upon any person under section 10;
(j) the form and manner in which the application for grant of certificate of registration
or giving of prior permission under sub-section (1) of section 12;
(k) the fee to be accompanied by the application under sub-section (1) of section 12;
(l) the terms and conditions for granting a certificate or giving prior permission under
clause (g) of sub-section (4) of section 12;
(m) the manner of utilising the foreign contribution under clause (b) of subsection (2)
of section 13;
(n) the authority with whom the foreign contribution to be vested under subsection
(1) of section 15;
(o) the period within which and the manner in which the foreign contribution shall be
managed under sub-section (2) of section 15;
(p) the form and manner in which the application for a renewal of certificate of
registration shall be made under sub-section (2) of section 16;
(q) the fee to be accompanied by the application for renewal of certificate under
sub-section (2) of section 16;
(r) the prescribed amount of foreign remittance, the form and manner in which the

foreign remittance received by every bank or authorised person in foreign exchange

shall be reported under sub-section (2) of section 17;

(s) the time within which and the manner in which the person who has been granted

certificate of registration or given prior permission under this Act shall give intimation

under section 18;

(t) the form and manner in which account of any foreign contribution and the manner

in which such contribution has been utilised shall be maintained under section 19;

(u) the time within which and the manner in which a candidate for election shall give

intimation under section 21;

(v) the manner and procedure to be followed in disposing of the assets under section

22;

(w) the limits subject to which any confiscation may be adjudged under clause (b) of

sub-section (1) of section 29;

(x) the fee to be accompanied along with every application for revision under

sub-section (5) of section 32;

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(y) the form and manner for making of an application for compounding of an offence

and the fee therefor under sub-section (4) of section 41;

(z) the form and manner in which and the time within which returns and statements

to be furnished by the prescribed authority under section 44;

(za) any other matter which is required to be, or may be, prescribed.

Section 49 - Orders and rules to be laid before Parliament

Every order made under section 5 and every rule made by the Central Government under

this Act shall be laid, as soon as may be after it is made, before each House of Parliament

while it is in session for a total period of thirty days which may be comprised in one session

or in two or more successive sessions, and if, before the expiry of the session immediately

following the session or the successive sessions aforesaid, both Houses agree in making any

modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

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