

# Bill Summary

## The Foreign Contribution (Regulation) Bill, 2006

The Foreign Contribution (Regulation) Bill, 2006 was introduced in the Rajya Sabha on December 18, 2006 by the Minister of Home Affairs Shri Shivraj Vishwanath Patil. The Bill was passed by the Lok Sabha on August 27, 2010 and the Rajya Sabha on August 19, 2010.

- The 1976 Foreign Contribution (Regulation) Act (FCRA) introduced a list of individuals prohibited from accepting any type of foreign contribution: (a) candidates for election, (b) correspondents, columnists, cartoonists, editors, owners, printers or publishers of a registered newspaper, (c) judges, government servants or employees of any public sector corporation, (d) members of any Legislature, and (e) political parties or their office-bearers. The new Bill maintains the previous list and adds two more groups: “organisations of political nature,” and any association or group engaged in the production or broadcast of audio or audio visual news or current affairs programmes through any electronic mode. The Bill also allows the
  - central government to add any person or organisation to this list. The Bill also prohibits any other individuals from accepting and transferring foreign funds to such groups. However, these persons may receive foreign contribution, for certain specified transactions such as salary, wages, international trade or from relatives.
  - The central government can identify organisations as being of a “political nature” by publishing an order in the Official Gazette. The government must notify the identified organisation of such categorisation and the reasons for the same. That organisation has the right to make a representation to the central government within 30 days of the notification to challenge the classification.
  - Both the 1976 Act and the new Bill require prior government permission for all members of legislatures, officer-bearers of political parties, judges, and government servants before accepting any foreign hospitality other than “a purely casual one”.
  - The central government has the power to prohibit any persons or organisations from accepting foreign contribution or hospitality if it is determined that such acceptance would likely “affect prejudicially” (i) the sovereignty and integrity of India, (ii) public interest, (iii) freedom or fairness of election to any legislature, (iv) friendly relations with any foreign State, or (v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.
  - Foreign funds received as fees for service, costs incurred for goods or services in the ordinary course of business, and trade or commerce are excluded from the definition of foreign contribution.
- Funding from the United Nations, the World Bank and the International Monetary Fund is exempt from the requirements of the Bill. The central government can add other funders to this exemption list through notification.
- All persons or organisations who have a “definite cultural, economic, educational, religious or social programme” (unless otherwise specified in this Act) must obtain a certificate of registration from the central government in order to accept foreign contribution. In addition to associations, societies and other organisations, the new Bill is applicable for individuals, Hindu Undivided Families, and Section 25 Companies (not-for-profit companies).
- Under the new Bill, registration expires every five years, and must be renewed within six months before the expiry of the certificate. The central government may also prescribe an application fee.
- The Bill details additional requirements for registration including ensuring that the applicant: (i) is not fictitious, (ii) has not engaged in activities aimed at forced or induced conversion from one religious faith to another, (iii) has not created communal tension, (iv) has not been found guilty of diversion of funds, (v) is not engaged in violent or seditious activities to achieve its ends, (vi) is not likely to use foreign contribution for “personal gains or divert it for undesirable purposes”, (vii) has not contravened any of the provisions of the Act and the FCRA certification is not currently suspended or cancelled within the last three years, (viii) has not been prohibited from accepting foreign contribution, (ix) has used the funds for the intended purpose, (x) and no one involved in the organisation has been convicted under any law in force.
- In the case of rejection of certification, the central government must record the reasons and provide a copy to the application giving information to the extent as specified necessary by the Right to Information Act, 2005.
- The central government may also suspend for 180 days or cancel certificates of registration to receive foreign contribution in cases of false statements in applicant registration or renewal, violation of FCRA certification or the FCRA Act, or if the central government thinks it is in the public interest to do so.
- The Bill clarifies that income or interest from FCRA funds is considered foreign contribution.

- The Bill prohibits the transferring of foreign contribution by a registered organisation to an unregistered one.
- The Bill introduces a cap of 50% of foreign funds for administrative expenses. The government will define what constitutes administrative expenses. This cap may be exceeded with prior permission.
- The Bill specifies that foreign contribution may not be used for “speculative business.”
- As in the 1976 Act, registered associations may only receive foreign contribution in a single account of a specified bank branch. The Bill permits opening multiple bank accounts for utilising the foreign contribution.
- Banks must report to the government the amount of foreign remittance, the source and manner in which the foreign remittance was received and any other particulars. As in the 1976 Act, registered individuals and groups must also provide the central government with such financial information.
- Every candidate for election who has received any foreign contribution 180 days before his nomination must provide the details to the central government.
- The central government may authorize a Group A post gazetted officer or “any other officer or authority or organization as it deems fit” to conduct an audit of accounts of any political party, person, organization, or association. The official has full rights to enter any premises to conduct such an audit, between sunrise and sunset.
- The Bill allows any authorised official to search and seize any accounts should he suspect the organisation to be in violation of this Act, and provides a procedure for the seizure and disposal, if necessary of such articles, currency or security. The Bill gives persons the right to appeal such a confiscation in certain circumstances.
- Any person who violates this Act either through false statement, fraudulent registration, or violates any prohibitive order is punishable with imprisonment of up to three years and/or a fine. Anybody who accepts or assists any person, political party or organisation in accepting illegal foreign contribution may be punished by imprisonment of up to five years and/or a fine. Should an article, currency or security not be available for confiscation, a court can impose a fine of up to five times the value of the article or Rs 1,000 (whichever is higher). For any other violation, punishment can consist of imprisonment of up to one year.

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