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The Gazette of India

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 24th December, 1973:—

BILL No. XLIV OF 1973

A Bill to regulate the acceptance and utilisation of foreign contribution or hospitality by certain persons or associations, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Foreign Contribution (Regulation) Act, 1973.

Short
title,
extent,
appli-
cation and
com-
mence-
ment.

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

(a) citizens of India outside India; and

(b) associates 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.

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

Defini-
tions.

(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, or not, and any other organisation, by whatever name called; 21 of 1960.

(b) "candidate for election" means a candidate for election to any Legislature;

(c) "foreign contribution" means the donation, delivery or transfer made by any foreign source,—

(i) of any article, not being a gift made for the personal use of the person to whom it is made, if the market value, in India, of such gift for personal use, on the date of such gift, does not exceed five thousand rupees;

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

(d) "foreign hospitality" means any offer, not being a purely casual one, made by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free board, lodging, transport or medical treatment;

(e) "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 specify in this behalf,

(iii) a foreign company within the meaning of section 591 of the Companies Act, 1956, and also includes a company which is a subsidiary of a foreign company, 1 of 1966.

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

(v) a trade union registered in any foreign country or territory,

(vi) a foreign trust, by whatever name called, or a foundation which is either in the nature of trust or is mainly financed by a foreign country or territory,

(vii) society, club or other association of individuals formed or registered outside India,

(viii) a citizen of a foreign country, but does not include any foreign institution which has been permitted by the Central Government, by notification in the Official Gazette, to carry on its activities in India;

(f) "Legislature" means—

(i) either House of Parliament,

(ii) 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,

- 20 of 1963. (iii) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963,
- 19 of 1966. (iv) the Metropolitan Council of Delhi constituted under section 3 of the Delhi Administration Act, 1966,
- as the case may be;
- (g) "political party" means an association or body of individual citizens of India which is, or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968, as in force for the time being;
- (h) "prescribed" means prescribed by rules made under this Act;
- 25 of 1967. (i) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867;
- (j) "resident in India" does not include a casual visitor to India, whether as a tourist or otherwise;
- 1 of 1958. (k) "subsidiary" and "associate" have the meanings, respectively, assigned to them in the Companies Act, 1956;
- 16 of 1926. (l) "trade union" means a trade union registered under the Trade Unions Act, 1926.
- 7 of 1947. (2) Words and expressions used herein and not defined but defined in the Foreign Exchange Regulation Act, 1947, have the meanings respectively assigned to them in that Act.

3. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Applica-
tion of
other
laws not
barred.

CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY

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

- (a) candidate for election,
- (b) correspondent, columnist, editor, printer or publisher of a registered newspaper,
- (c) Government servant or employee of any corporation,
- (d) member of any Legislature,
- (e) political party or office-bearer thereof.

Candi-
date for
election,
etc., not to
accept
foreign
contri-
bution.

(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 foreign currency, 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 foreign currency to any person of Indian origin 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 obtained 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 or to any person referred to in sub-section (1), or both.

Organisa-
tion of
a poli-
tical
nature
not to
accept
foreign
contri-
bution
except
with
the
prior
permis-
sion of
the
Central
Govern-
ment.

5. (1) No organisation of a political nature, not being a political party, shall accept any foreign contribution except with the prior permission of the Central Government.

(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 foreign currency on behalf of an organisation referred to in sub-section (1).

(b) No person resident in India shall deliver any foreign currency to any person of Indian origin if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to an organisation referred to in sub-section (1).

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been obtained from any foreign source, to—

(i) any organisation referred to in sub-section (1), or

(ii) any person, if he knows or has reasonable cause to believe that such person intends, or is likely, to deliver such currency to an organisation referred to in sub-section (1).

Certain
associa-
tions
receiving
foreign
contri-
bution to
give
intima-
tion to
the
Central
Govern-
ment.

6. Every association [not being an organisation referred to in sub-section (1) of section 5] having a definite cultural, economic, educational, religious or social programme shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of 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 it.

Recipients
of scholar-
ships, etc.
to give
intima-
tion to
the
Central
Govern-
ment.

7. (1) Every citizen of India receiving any scholarship, stipend or any payment of a like nature from any foreign source shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of the scholarship, stipend or other payment received by him and the foreign source from which and the purpose for which such scholarship, stipend or other payment has been, or is being, received by him.

(2) Where any recurring payments are being received by any citizen of India from any foreign source by way of scholarship, stipend or other

payment, it shall be sufficient if the intimation referred to in sub-section (1) includes a precise information as to the intervals at which and the purpose for which such recurring payments will be received by such citizen of India.

8. Nothing contained in section 4 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,—

Persons to whom section 4 shall not apply.

(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 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 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 regulations made by the Central Government with regard to the acceptance or retention of such gift or presentation; or

(e) from his relative, when such foreign contribution has been received with the previous permission of the Central Government.

9. No member of a Legislature, office-bearer of a political party, Government servant or employee of any corporation shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality.

Restrictions on acceptance, of Foreign, hospitality.

10. The Central Government may—

(a) prohibit any association, not specified in section 4 or section 6, or any person, from accepting any foreign contribution;

(b) require any association, specified in section 6, to obtain prior permission of the Central Government before accepting any foreign contribution;

(c) require any person or class of persons, not specified in section 9, to obtain prior permission of the Central Government before accepting any foreign hospitality;

(d) require any person or class of persons or any association, not being an association specified in section 6, 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 or association, 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;

(e) require any person or class of persons, not specified in section 9, 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:

Power of Central Government to prohibit receipt of foreign contribution etc., in certain cases.

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such association or person or, as the case may be, the acceptance of foreign hospitality by such person, is likely to affect prejudicially—

- (ii) the 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, linguistic or regional groups, castes or communities.

Applica-
tion to
be made
in pres-
cribed
form for
obtaining
prior per-
mission
to accept
foreign
contri-
bution
or hospi-
tality.

11. Every individual, association, organisation or other person, who is required by or under this Act to obtain the prior permission of the Central Government to accept any foreign contribution or foreign hospitality, shall, before the acceptance of any such contribution or hospitality, make an application for such permission to the Central Government in such form and in such manner as may be prescribed.

CHAPTER III

MISCELLANEOUS

Power to
prohibit
payment
of
currency
received
in contra-
vention of
the Act to
political
parties,
etc.

12. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody any article or currency, 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 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 shall, so far as may be, apply to, or in relation to, such article or currency and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency:

37 of 1967.

Provided that nothing contained in this section shall apply to any remittance made, in the ordinary course of business, through any official channel, post office or any authorised dealer in foreign exchange under the Foreign Exchange Regulation Act, 1947.

7 of 1947.

Recipients
of foreign
contri-
bution to
maintain
accounts,
etc.

13. Every association, referred to in section 6, shall maintain, in such form and in such manner as may be prescribed,—

- (a) an account of any foreign contribution received by it, and
- (b) a record as to the manner in which such contribution has been utilised by it.

14. If the Central Government has any reason to suspect that any provision of this Act has been, or is being, contravened by—

Inspection of accounts.

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

it may, by general or special order, authorise such gazetted officer as it may think fit (hereinafter referred to as the "authorised 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 authorised 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.

15. If, after inspection of an account or record referred to in section 14, the authorised 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 in which any proceeding is brought for such contravention:

Seizure of accounts or record.

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 three months from the date of such seizure for the contravention disclosed by such account or record.

16. 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 or currency, 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.

Seizure of article or currency received in contravention of the Act.

17. Every seizure made under this Act shall be made in accordance with the provisions of section 103 of the Code of Criminal Procedure,

5 of 1898. 1898.

Seizure to be made in accordance with the Code of Criminal Procedure, 1898.

18. Any article or currency which is seized under section 16 shall be liable to confiscation.

Confiscation of article or currency obtained in contravention of the Act.

Adjudica-
tion of
confisca-
tion.

19. Any confiscation referred to in section 18 may be adjudged—

(a) without limit, by the Court of District Judge 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.

Oppor-
tunity
to be
given
before
adjudica-
tion of
confisca-
tion.

20. No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency has been seized.

Appeal.

21. (1) Any person aggrieved by any order made under section 19 may prefer an appeal,—

(a) where the order has been made by the Court of District Judge, to the High Court to which such Court is subordinate;

(b) where the order has been made by any other officer, to the Court of the District Judge 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 section 5, or any person or association referred to in section 9 or section 10, aggrieved by an order of the Central Government refusing to give permission, or by any order made by the Central Government, under section 5 or section 9 or section 10, as the case may be, may, within sixty days from the date of such order, prefer an appeal against such order to the Supreme Court of India.

(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, shall, as far as may be, apply thereto as they apply to an appeal from an original decree. 5 of 1908.

Penalty
for article
or cur-
rency
obtained
in contra-
vention
of sec-
tion 12.

22. If any person, on whom any prohibitory order has been served under section 12, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency, 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, 1898, 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 in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit. 5 of 1898.

23. (1) Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or currency, whether Indian or foreign, in contravention of any provision of this Act or any rule made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Punishment for the contravention of any provision of the Act.

(2) Whoever accepts any foreign hospitality in contravention of any provision of this Act shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

24. Any person who in relation to any article or currency, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency liable to confiscation under this Act shall be liable to a penalty not exceeding five times the value of the article or currency or one thousand rupees, whichever is more, where such article or currency is not available for confiscation.

Power to impose penalty where article or currency is not available for confiscation.

25. Whoever, having received from a foreign source any article for his personal use, the market value of which does not exceed five thousand rupees, sells or otherwise transfers, or makes any commercial use of, such article without the prior permission of the Central Government, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Penalty for sale or commercial use of articles received for personal use.

26. Whoever fails to comply with any provision of this Act for which no separate penalty has been provided shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for offences where no separate punishment has been provided.

27. (1) Where an offence under this Act or any rule 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:

Offences by companies.

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 made thereunder has been committed by a company and it is proved 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.

Bar
to the
prosecu-
tion of
offences
under
the Act.

28. 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.

Investi-
gation
into
cases
under
the Act.

29. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf. 5 of 1898.

Protec-
tion of
action
taken in
good
faith.

30. No suit or other legal proceeding shall lie against the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or order made thereunder.

Power to
make
rules.

31. (1) The Central Government may, by notification in the Official Gazette, make rules to carry 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 time within which, and the manner in which, intimation is to be given by an association specified in section 6, with regard to the foreign contributions received by it;

(b) the time within which, and the manner in which, intimation is to be given by persons receiving any scholarship, stipend or any payment of a like nature from a foreign source;

(c) the form and manner in which an application shall be made for obtaining prior permission of the Central Government to receive foreign contribution or foreign hospitality;

(d) the manner of service of the prohibitory order made under section 12;

(e) the form and manner in which account or record referred to in section 13 shall be maintained;

(f) the limits up to which an officer, not below the rank of an Assistant Sessions Judge, may make adjudication of confiscation;

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

(3) 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 rule or both Houses agree that the rule should not be made, the 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 rule.

32. If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any association (not being a political party), organisation or any individual from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

Power to
exempt.

33. Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

Act not
to apply
to Gov-
ernment
trans-
actions.

STATEMENT OF OBJECTS AND REASONS

There has been widespread concern about the unregulated receipt of funds from foreign agencies by individuals and organisations in the country. The Bill seeks to regulate the acceptance and utilisation of foreign contribution or hospitality with a view to ensuring that our parliamentary institutions, political associations, academic and other voluntary organisations as well as individuals working in important areas of national life may function in a manner consistent with the values of a sovereign democratic republic.

UMA SHANKAR DIKSHIT.

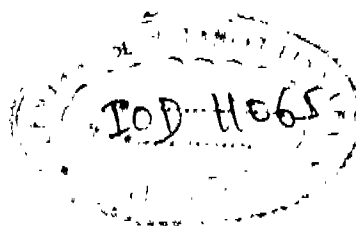
NEW DELHI;

The 13th December, 1973.

FINANCIAL MEMORANDUM

The Foreign Contribution (Regulation) Bill, 1973 seeks to regulate the acceptance and utilisation of foreign contribution or hospitality by certain individuals, organisations or other associations.

2. The Bill does not contain any provision which, if enacted, would directly involve any expenditure from the Consolidated Fund of India. However, for the enforcement of the provisions of the Bill, it may be necessary to establish a Cell. The expenditure which is likely to be incurred for the maintenance of such Cell is estimated to be of the order of Rs. 80,000 per annum, with a non-recurring expenditure of about Rs. 6,000.



MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The important matters in respect of which such rules may be made relate, *inter alia*, to the time within which and the manner in which intimation is to be given by an association with regard to foreign contributions received by it, the time within which and the manner in which intimation is to be given by persons receiving any scholarship, stipend or any payment of a like nature from a foreign source, the form and manner in which an application is to be made for obtaining prior permission of the Central Government to receive foreign contribution or foreign hospitality, the manner of service of orders on political parties, etc., prohibiting payment of currency received in contravention of the provisions of the Bill, the form and manner in which account of foreign contribution is to be maintained by recipients of foreign contribution and the limits up to which an officer, not below the rank of an Assistant Sessions Judge, may make adjudication of confiscation of any article or currency seized under the provisions of the Bill.

The aforesaid matters are all matters of procedure and administrative detail which it is not practicable to provide in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary-General.