

Bill Summary

The Foreign Contribution (Regulation) Amendment Bill, 2020

- The Foreign Contribution (Regulation) Amendment Bill, 2020 was introduced in Lok Sabha on September 20, 2020. The Bill amends the Foreign Contribution (Regulation) Act, 2010. The Act regulates the acceptance and utilisation of foreign contribution by individuals, associations and companies. Foreign contribution is the donation or transfer of any currency, security or article (of beyond a specified value) by a foreign source.
- **Prohibition to accept foreign contribution:** Under the Act, certain persons are prohibited to accept any foreign contribution. These include: election candidates, editor or publisher of a newspaper, judges, government servants, members of any legislature, and political parties, among others. The Bill adds public servants (as defined under the Indian Penal Code) to this list. Public servant includes any person who is in service or pay of the government, or remunerated by the government for the performance of any public duty.
- **Transfer of foreign contribution:** Under the Act, foreign contribution cannot be transferred to any other person unless such person is also registered to accept foreign contribution (or has obtained prior permission under the Act to obtain foreign contribution). The Bill amends this to prohibit the transfer of foreign contribution to any other person. The term ‘person’ under the Act includes an individual, an association, or a registered company.
- **Aadhaar for registration:** The Act states that a person may accept foreign contribution if they have: (i) obtained a certificate of registration from central government, or (ii) not registered, but obtained prior permission from the government to accept foreign contribution. Any person seeking registration (or renewal of such registration) or prior permission for receiving foreign contribution must make an application to the central government in the prescribed manner. The Bill adds that any person seeking prior permission, registration or renewal of registration must provide the Aadhaar number of all its office bearers, directors or key functionaries, as an identification document. In case of a foreigner, they must provide a copy of the passport or the Overseas Citizen of India card for identification.
- **FCRA account:** Under the Act, a registered person must accept foreign contribution only in a single branch of a scheduled bank specified by them. However, they may open more accounts in other banks for utilisation of the contribution. The Bill amends this to state that foreign contribution must be received only in an account designated by the bank as “FCRA account” in such branch of the State Bank of India, New Delhi, as notified by the central government. No funds other than the foreign contribution should be received or deposited in this account. The person may open another FCRA account in any scheduled bank of their choice for keeping or utilising the received contribution.
- **Restriction in utilisation of foreign contribution:** Under the Act, if a person accepting foreign contribution is found guilty of violating any provisions of the Act or the Foreign Contribution (Regulation) Act, 1976, the unutilised or unreceived foreign contribution may be utilised or received, only with the prior approval of the central government. The Bill adds that the government may also restrict usage of unutilised foreign contribution for persons who have been granted prior permission to receive such contribution. This may be done if, based on a summary inquiry, and pending any further inquiry, the government believes that such person has contravened provisions of the Act.
- **Renewal of license:** Under the Act, every person who has been given a certificate of registration must renew the certificate within six months of expiration. The Bill provides that the government may conduct an inquiry before renewing the certificate to ensure that the person making the application: (i) is not fictitious or benami, (ii) has not been prosecuted or convicted for creating communal tension or indulging in activities aimed at religious conversion, and (iii) has not been found guilty of diversion or misutilisation of funds, among others conditions.
- **Reduction in use of foreign contribution for administrative purposes:** Under the Act, a person who receives foreign contribution must use it only for the purpose for which the contribution is received. Further, they must not use more than 50% of the contribution for meeting administrative expenses. The Bill reduces this limit to 20%.
- **Surrender of certificate:** The Bill adds a provision allowing the central government to permit a person to surrender their registration certificate. The government may do so if, post an inquiry, it is satisfied that such person has not contravened any provisions of the Act, and the management of its foreign contribution (and related assets) has been vested in an authority prescribed by the government.
- **Suspension of registration:** Under the Act, the government may suspend the registration of a person for a period not exceeding 180 days. The Bill adds that such suspension may be extended up to an additional 180 days.

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