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The Foreign Contribution Regulation Act

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Why is in news? The Centre recently [suspended the Foreign Contribution Regulation Act \(FCRA\) licence](#) of the Centre for Policy Research (CPR) following the prima facie inputs regarding the violation of funding norms. "Inquiry is going on."

A Brief about FCRA

The FCRA was enacted during the Emergency in 1976 amid apprehensions that foreign powers were interfering in India's affairs by pumping money into the country through independent organisations. These concerns were, in fact, even older as they had been expressed in Parliament as early as in 1969.

The law sought to regulate foreign donations to individuals and associations so that they functioned "in a manner consistent with the values of a sovereign democratic republic".

An amended FCRA was enacted under the UPA government in 2010 to "consolidate the law" on utilisation of foreign funds, and "to prohibit" their use for "any activities detrimental to national interest".

The law was amended again by the current government in 2020, giving the government tighter control and scrutiny over the receipt and utilisation of foreign funds by NGOs.

Broadly, the FCRA requires every person or NGO seeking to receive foreign donations to be

- Registered under the Act
- To open a bank account for the receipt of the foreign funds in State Bank of India, Delhi, and
- To utilise those funds only for the purpose for which they have been received and as stipulated in the Act.

They are also required to file annual returns, and they must not transfer the funds to another NGO.

The Act prohibits the receipt of foreign funds by candidates for elections, journalists or newspaper and media broadcast companies, judges and government servants, members of legislature and political parties or their office-bearers, and organisations of a political nature.

In July 2022, the MHA effected changes to FCRA rules through two gazette notifications and increased the number of compoundable offences under the Act from 7 to 12.

The other key changes were exemption from intimation to the government for contributions less than Rs 10 lakh the earlier limit was Rs 1 lakh received from relatives abroad, and increase in time limit for intimation of opening of bank accounts.

Under the new rules, political parties, legislature members, election candidates, judges, government servants, journalists and media houses among others, all barred from receiving foreign contribution and will no longer be prosecuted if they receive foreign contribution from relatives abroad and fail to intimate the government within 90 days. However, the recipient will be required to pay 5% of the foreign contribution received.

Procedure for granting FCRA Registration

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NGOs that want to receive foreign funds must apply online in a prescribed format with the required documentation.

FCRA registrations are granted to individuals or associations that have definite cultural, economic, educational, religious, and social programmes.

Following the application by the NGO, the MHA makes inquiries through the Intelligence Bureau into the antecedents of the applicant, and accordingly processes the application.

Under the FCRA, the applicant should not be fictitious or benami; and should not have 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.

The applicant should also not have been prosecuted for or convicted of creating communal tension or disharmony; should not have been found guilty of diversion or misutilisation of funds; and should not be engaged or likely to be engaged in the propagation of sedition.

The MHA is required to approve or reject the application within 90 days. In case of failure to process the application in the given time, the MHA is expected to inform the NGO of the reasons for the same

Validity of FCRA Registration

Once granted, FCRA registration is valid for five years. NGOs are expected to apply for renewal within six months of the date of expiry of registration.

In case of failure to apply for renewal, the registration is deemed to have expired, and the NGO is no longer entitled to receive foreign funds or utilise its existing funds without permission from the ministry.

According to the MHA, NGOs failing to apply before the due date can petition the ministry with cogent reasons within four months of the expiry of registration, following which their applications can be reconsidered.

Many NGOs do not apply for renewal for a variety of reasons, which include either completion of the project for which the FCRA registration had been taken or the NGO itself folding up.

Cancellation Procedure

The government reserves the right to cancel the FCRA registration of any NGO if it finds it to be in violation of the Act.

Registration can be cancelled if an inquiry finds a false statement in the application; if the NGO is found to have violated any of the terms and conditions of the certificate or renewal; if it has not been engaged in any reasonable activity in its chosen field for the benefit of society for two consecutive years; or if it has become defunct.

It can also be cancelled if “in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate,” the FCRA says.

Registrations are also cancelled when an audit finds irregularities in the finances of an NGO in terms of misutilisation of foreign funds.

According to FCRA, no order of cancellation of certificate can be made unless the person or NGO concerned has been given a reasonable opportunity of being heard. Once the registration of an NGO is cancelled, it is not eligible for re-registration for three years.

The ministry also has powers to suspend an NGO's registration for 180 days pending inquiry, and can freeze its funds.

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All orders of the government can be challenged in the High Court

NGOs have been accused of violating FCRA provisions

Until 2011, there were more than 40,000 NGOs registered under FCRA in India. That number now stands at 16,000.

Over the past seven years, the government has cancelled the registration of more than 16,700 NGOs. Over 10,000 of these cancellations were carried out in 2015.

The previous government had cracked down on NGOs following protests against the Kudankulam nuclear power project in Tamil Nadu. In 2012, the Manmohan Singh government cancelled the registration of almost 4,000 NGOs — up from just four the previous year.

Several international and well-known NGOs such as Compassion International, Greenpeace India, Sabrang Trust, Lawyers' Collective, Amnesty International, and Ford Foundation have come under the government's scanner for alleged violations of FCRA.

Most have been accused of financial irregularities or “political activity” for cancellation of their registration. Amnesty was forced to shut its operation in India in 2020 following investigations launched by the Enforcement Directorate in 2018 into its financial dealings. Amnesty called the government action “witch-hunt of human-right activists...and a crackdown on dissent”.

Greenpeace India has scaled down its operations after its FCRA registration was cancelled in 2015 on grounds of opening multiple bank accounts, and movement of funds.

Lawyer Indira Jaising's NGO Lawyers' Collective is facing a CBI probe. In 2016, the MHA had cancelled the FCRA licence of the NGO for allegedly using foreign contributions for “political purposes”.

Activist Teesta Setalvad's NGO Sabrang Trust had its FCRA registration cancelled in 2016 for allegedly mixing foreign and domestic funds, and for spending funds on publishing the Communalism Combat magazine.

In April 2015, the MHA put the Ford Foundation under the “prior approval category”, which meant that all funds from the organisation to recipients in India would have to be cleared by the government. The international NGO was also put on the Home Ministry's watch list for some time in the interest of “national security”.

In 2016, Compassion International was barred by the government from funding NGOs in India over allegations of conversion.