



FCRA REGISTRATION - GOVERNANCE AND GS II AND III MAINS

Q. Examine critically the recent changes in the rules governing foreign funding of NGOs under the Foreign Contribution (Regulation) Act (FCRA), 1976.

News: *Centre cancels FCRA registration of NGO Centre for Financial Accountability that works on environment, human rights*

What's in the news?

- The Ministry of Home Affairs (MHA) cancelled the Foreign Contribution Regulation Act (FCRA) registration of the parent entity of the non-profit Centre for Financial Accountability (CFA), which monitors and critically analyses the role of financial institutions and their impact on development, human rights, and the environment.

Key takeaways:

- In a recent report, Centre for Financial Accountability had highlighted how projects sanctioned in a Special Economic Zone operated by Adani Group in Kutch region of Gujarat will compound environmental hazards and increase health risks for people.

Registration for NGOs:

- Registration under FCRA is **mandatory** to receive foreign donations.
- The **NGO must have a definite cultural, economic, educational, religious or social programme to get registered.**
- According to data available with the Ministry, as many as 3,294 associations were granted fresh registration from 2014 to 2023.

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.
- 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 utilization of foreign funds, and "to prohibit" their use for "any activities detrimental to national interest".

Registration under FCRA:

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



- **should not be fictitious or benami.**
- 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.
- **should 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.
- 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.
- **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.

Cancellation of License:

- 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 utilize its existing funds without permission from the ministry.
- **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 canceled
 - 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.
 - if it has become defunct.
- It can also be canceled if “in the **opinion of the Central Government**, it is necessary in the public interest to cancel the certificate”.
- Registrations are also canceled when an audit finds irregularities in the finances of an NGO in terms of misutilisation of foreign funds.
- **Once the registration of an NGO is canceled, 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.**

Appeal against Cancellation:

- 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.
- All orders of the government can be challenged in the **High Court**.



Recent Amendment:

The law was amended again by the current government in 2020, giving the government tighter control and scrutiny over the receipt and utilization of foreign funds by NGOs. 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.
- To utilise those funds only for the purpose for which they have been received and as stipulated in the Act.
- 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 organizations of a political nature.

New Rules:

- 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** - 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.

Need of Foreign Contribution Regulation Act (FCRA):

1. National Interest and Security:

- The Foreign Contribution Regulation Act sought to regulate foreign donations to individuals and associations so that they can function with the values of a sovereign democratic republic.

2. Regulation of Foreign Funding:

- The FCRA provides a legal framework for regulating foreign contributions to ensure transparency and accountability in utilizing such funds.

3. Preventing Money Laundering and Unlawful Activities:

- The FCRA helps prevent using foreign funds for prohibited or unlawful activities under Indian law.

4. Ensuring Legitimate Purposes:

- The act is designed to ensure that foreign contributions are used for legitimate purposes such as social, educational, cultural etc, for benefit the people of India.



Concerns Associated with Foreign Contribution Regulation Act (FCRA):

1. Lack of Compatibility with International Law:

- The International Commission of Jurists (ICJ) condemned the adoption of the Indian Foreign Contribution (Regulation) Amendment Act 2020.

2. Erosion of Civil Liberties:

- The suspension of Commonwealth Human Rights Initiative and Oxfam India give rise to suspicion that independent assessments of the country are not welcome.

3. Alleged Targeting of NGOs:

- Over the past seven years, the government has canceled the registration of more than 16,700 NGOs and thus, is facing allegations of targeting NGOs.

4. Stringent Regulations:

- The FCRA imposes complex and stringent regulations on NGOs receiving foreign funding under the act and can be time-consuming.

5. Potential of Misuse:

- The state can utilize Foreign Contribution Regulation Act as a tool to suppress organizations whose activities diverge from its goals, like environmental concerns, civil liberties, and human rights.

6. Ambiguity and Subjective Interpretation:

- Some NGOs have expressed concerns about the vague and subjective language of certain FCRA provisions.

Way Forward:

1. Ensuring Transparency in Granting and Suspension of Foreign Contribution Regulation Act:

- Transparent processes uphold democratic values and protect organizational integrity.

2. Streamlining FCRA Processes:

- The Delhi High Court has mandated the State Bank of India (SBI) to promptly open FCRA accounts for NGOs within 10 days of receiving approval from the Centre.

3. Engaging with Authorities:

- To comprehend the specific concerns leading to FCRA license cancellations. Constructive dialogue may present opportunities for resolution and clarification.

4. Diversifying Funding Channels:

- NGOs should lessen reliance on foreign funds by seeking financial support with government initiatives within India.



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5. Promoting Credible NGOs:

- With the rising cancellation of FCRA license, there is rising mistrust around NGOs. There is a need to recognise, promote and even award hard working NGOs.

