



Archdiocesan Institutions' Central Office

Archdiocese of Ernakulam – Angamaly

Catholic Centre, Broadway, Ernakulam, Kochi 682 031, Kerala, India
Tel: 0484-2352300 Mob: 8547881730 E-mail: aicoekm@gmail.com

AICO/GEN/ 0768/2020

4th December 2020

To, All Archdiocesan Institutions

Dear Rev. Father,

Sub: Key highlights of "Foreign Contribution (Regulation) Amendment Act, 2020"

The Foreign Contribution (Regulation) Act, 2010 (FCR Act 2010) is the enactment which regulate the acceptance of foreign contribution by organisations in India. Some of the sections of the said Act are amended by enacting "Foreign Contribution (Regulation) Amendment Act, 2020" (FCR Amendment Act 2020).

The FCR Amendment Act 2020 came into effect on 29th September, 2020. The following are the changes brought by the FCR Amendment Act 2020:

1. Prohibition of public servants from receiving foreign contribution

The FCR Act 2010 prohibits the acceptance of foreign contribution by judges, government servants and employees of government entities.

By virtue of the amendment to Section 3(1) (c), FCR Amendment Act 2020 prohibits public servants also from accepting foreign contribution.

2. Prohibition on transfer of foreign contribution received

Under FCR Act 2010, 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 FCR Amendment Act 2020 amended this to prohibit the transfer of foreign contribution to any other person irrespective whether such 'person' is registered to accept foreign contribution (or has obtained prior permission under the Act to obtain foreign contribution). The term 'person' under the Act includes an individual, an association, or a registered company.

Pursuant to the amendment, transfer of foreign contribution to any person, either registered or not registered under the Act is prohibited.

3. Restriction to utilise foreign contribution for administrative purpose

FCR Act 2010 prescribes the maximum limit of 50% of foreign contribution fund utilisation towards administrative expenses. As per FCR Rules, 2011 Administrative

expenses will include salaries, remuneration, rent, utility bills, legal and professional charges, etc. As per FCR Amendment Act 2020, this limit of 50% is reduced to 20% of foreign contribution received in a financial year.

4. Prior approval for utilisation and receipt of foreign contribution

Section 11 requires a person having a definite cultural, economic, educational, religious or social programme, to either register or obtain prior approval to receive foreign contribution. Before the FCR (Amendment) Act, 2020 if a person under Section 11(1) & (2), is found guilty of an offence, prior approval must be obtained from the Central Government for utilisation or receipt of further foreign contribution.

The recent amendment distinguishes the threshold for prior approval between persons registered and not registered under the FCRA. In case of unregistered persons, prior approval is required if the central government has reason to believe that they have contravened the provisions of the Act pursuant to a summary inquiry, whereas in case of registered persons, prior approval is necessitated only when they are found guilty of violating the provisions of the Act.

The amended provision enables the Central Government to place a bar on utilisation or receipt of further foreign contribution, even before the unregistered person is found guilty. The purpose behind this section is to pre-emptively stop the utilisation and further receipt of foreign contribution funds that prima facie violates the FCR Act 2010.

5. Mandatory opening of FCRA bank account in State Bank of India, Delhi

Pursuant to the amendment, Section 17 mandates the creation of "FCRA Account" at a designated branch of State Bank of India, New Delhi for receiving foreign contribution. No other funds other than foreign contribution must be maintained in this account. The entities may also open one or more accounts in other Scheduled banks for keeping or utilising the foreign contribution received from his FCRA account in State Bank of India, New Delhi.

The address of the designated branch where the account shall be opened is State Bank of India (SBI), Main Branch, 11, Sansad Marg, New Delhi-110001. For opening such account one need not visit New Delhi. This can be done by simply visiting to the nearest SBI branch.

The Central Government has decided to grant sufficient time to the existing "FCRA Account holders for transitioning to the new regime. They can open the "FCRA Accounts" at State Bank of India, New Delhi till **31st March, 2021**.

6. Aadhaar identification

The newly inserted provision, Section 12A requires 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.

7. Extension of suspension period

The central government may suspend the certificate of a person, whose cancellation of registration certificate is pending consideration under Section 13. The amendment to Section 13 has increased the maximum period of suspension from 180 days to 360 days. The Act precludes such organisations from utilising or receiving foreign contribution during the period of suspension.

8. Surrender of certificate

The insertion of Section 14A permits any registered person to surrender their registration certificate. The Central Government may accept the same if it is satisfied such registered person has not contravened the provisions of the Act. Section 15 prescribes that foreign contribution and assets created there from must be vested in the prescribed authority in the event of cancellation of certificate. This provision has been amended to provide for vesting in the event of surrender of certificate. Prior to the Amendment, there existed no mechanism to surrender registration certificate.

9. Renewal of certificate

Pursuant to the amendment, Section 16 requires the central government to conduct an inquiry before renewing the registration certificate. The conditions satisfied at the time of issuing the certificate of registration under Section 12(4) is required to be satisfied at the time of renewal as well. Some of the criteria provided under Section 12(4) include that the person applying for renewal,

- is not fictitious or benami;
- has not 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;
- has not been found guilty of diversion or mis-utilisation of its funds;
- has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;
- is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;
- has not been prohibited from accepting foreign contribution;
- has not contravened any of the provisions of this Act.

The Central Government is required to satisfy itself that all the conditions under Section 12(4) are met before renewing the certificate. This requirement acts as a deterrent for persons registered under the FCR Act 2010 from violating its norms after obtaining the registration certificate.

All the institutions maintaining FCRA accounts or intending to open FCRA accounts are requested to meticulously comply with the provisions of the Foreign Contribution (Regulation) Act, 2010 and its amendment as per Foreign Contribution (Regulation) Amendment Act, 2020.

Regards



Fr. Xavier Thelakkatt
Director