

Chapter 3: Foreign Contribution (Regulation) Act,

Preamble of FCRA, 2010 (ICAI)

Compulsory points (To be written in every answer)

The provisions apply to :

1. Whole of India,
2. Citizens of India outside India, and
3. Associate Branches or subsidiaries, outside India, of Companies or Body Corporates, Registered or Incorporated in India.

The provisions apply from 1st May, 2011

Important definition

Sec 2(g) : Foreign Company

FOREIGN COMPANY: means any company or association or Body of Individuals **incorporated outside India** and includes:

- i. Foreign Company u/s 379 of Companies Act, 2013
- ii. Subsidiary Company of a Foreign Company
- iii. Registered Office or Principal Place of Business of a Foreign Company referred to in (i) & (ii)
- iv. Multi National Corporation

What is a Multi National Corporation?

A corporation that is **incorporated in a foreign country** or territory shall be deemed to be MNC if such corporation:

- i. has a subsidiary or branch or place of business in two or more countries or territories, or
- ii. carries on a business, or otherwise operates, in two or more countries or territories.

Sec 2(h) : Foreign Contribution

"Foreign Contribution" means the **donation, delivery or transfer** made **by** any **foreign source**,—

- i. of any article, **not being** an article given to a person as a **gift** for his personal use, if the **market value**, in India, of such article, on the date of such gift, is **not more than** such sum (Rs. 25000/-) as may be specified from time to time, by the CG by the rules made by it in this behalf;
- ii. of any **currency, whether Indian or foreign**;
- iii. of any **security** as defined in clause (h) of Sec 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and **includes any foreign security** as defined in clause (o) of Sec 2 of the Foreign Exchange Management Act, 1999 (42 of 1999)

Explanation 1: A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2: i. Interest accrued on FC deposited in bank or
ii. any other income derived from the FC or interest thereon shall also be deemed to be FC within the meaning of this clause.

Explanation 3: Any amount received, by any person from any foreign source in India, by way of fee (*including fees charged by an educational institution in India from foreign student*) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

Sec 2(j) : Foreign Source

"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 UN or any of its specialised agencies, the World Bank, IMF or such other agency as the CG may, by notification, specify in this behalf;
- iii. a foreign company;
- iv. a corporation, not being a foreign company, incorporated in a foreign country or territory;
- v. a multi-national corporation referred to in sub-clause (iv) of clause (g);
- vi. a company within the meaning of the Companies Act, 1956 (1 of 1956), and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following,

namely:—

- A. the Government of a foreign country or territory;
- B. the citizens of a foreign country or territory;
- C. corporations incorporated in a foreign country or territory;
- D. trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;
- E. foreign company;
- vii. a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- vii. a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- viii. a society, club or other association of individuals formed or registered outside India;
- ix. a citizen of a foreign country

Sec 3 & 4: Regulation of 'Foreign Contribution' & 'Foreign Hospitality'

Why the provision was made?

Sec 3 specifies which group of people are prohibited from accepting FC & FH. But not all FC & FH accepted by such people are prohibited. Those transactions which are NOT PROHIBITED are specified in Sec 4. In other words, **Sec 4 describes specific exemptions to people who are covered in Sec 3.**

Sec 3 : Persons prohibited from accepting FC

Sec 3 (1) : No FC shall be accepted by any—

- (a) candidate for election;
- (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered NEWSPAPER;
- (c) Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
- (d) member of any Legislature;
- (e) political party or office-bearer thereof;
- (f) organisation of a political nature as may be specified under sub-Sec (1) of Sec 5 by the CG
- (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-Sec (1) of Sec 2 of the Information Technology Act, 2000 (21 of 2000) or any other mode of mass communication;
- (h) correspondent, columnist, cartoonist, editor, owner of the association or company REFERRED IN CLAUSE (g).

Sec 3 (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 currency from a foreign source, on behalf of any political party, or any person referred to in sub-Sec (1), or both.

(b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person 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-Sec (1), or both.

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

- (i) any political party or any person referred to in sub-Sec (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-Sec (1), or both.

Sec3 (3): No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in Sec 9, shall deliver such currency —

- (a) to any person other than a person for which it was received, or
- (b) to 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 person other than the person for which such currency was received.

Persons to whom Sec 3 shall not apply.

Sec 2 (n) : Political Party

“political party” means—

- (i) an association or Body of individual citizens of India—

- (A) to be registered with the Election Commission of India as a political party
(B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;
(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No.56/J&K/02, dated the 8th August, 2002, as in force for the time being;

Sec 2 (m) : Person (definition is inclusive and not exhaustive)

“person” includes—

- (i) an individual; (ii) a HUF; (iii) an association; (iv) a company u/s 25 of the Companies Act, 1956

Sec 4 : Transaction carried on by persons referred to in Sec 3 which are not prohibited

THIS SEC IS SUBJECT TO THE PROVISIONS OF SEC 10 (Prohibition on paying, delivering, transferring or dealing with FC arising out of Contravention)

Where persons u/s 3 received any FC for following purpose, there shall not be any prohibition:

- (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 course of international trade or commerce, or 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 the CG or State 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 rules made by the CG with regard to the acceptance or retention of such gift or presentation; or
(e) from his relative; or
(f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999 (42 of 1999); or
(g) by way of any scholarship, stipend or any payment of like nature:

Any FC received by any person specified under Sec 3 (Persons prohibited) , for any of the purposes other than those specified under this Sec (Exception) , such contribution shall be deemed to have been accepted in contravention of the provisions of Sec 3.

Sec 6: Restriction on acceptance of Foreign Hospitality

Why the provision is made?

Sec 3 prohibits Foreign Contributions and Sec 6 prohibits on Foreign Hospitality. Foreign Hospitality provided to certain “influential persons” is prohibited. It is done so that such high ranking persons are not corrupted/ bribed by receipt of such hospitality.

Sec2(i): What is Foreign Hospitality?

“foreign hospitality” means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment;

Persons prohibited from receiving Foreign Hospitality u/s 6

- i. Member of a Legislature or
- ii. Office-bearer of a political party or
- iii. Judge or
- iv. Government servant or
- v. Employee of any corporation or any other body owned or controlled by the Government

Exception (i.e. case when prohibited persons can receive FH - 2 cases)

1. If prior permission of CG is obtained there is no prohibition on such persons to accept FH.
2. For an emergent medical aid needed on account of sudden illness contracted during a visit outside India, no prohibition is imposed by Sec 6.

But within one month from the date of receipt, intimate CG as to :

- i. the receipt of such hospitality,
- ii. the source from which hospitality was received,
- iii. the manner in which hospitality was received by him.

Rule 7 of FCR, 2011 further provides if value of ‘emergent medical aid’ exceeds Rs.100000/- then within 60 days intimate CG giving full details including :

- i. the source,

- ii. approximate value in Indian Rupees, and
- iii. the purpose and manner in which it was utilised.

Procedure to obtain prior permission and escape prohibition u/s 6 from receiving FH

As per Rule 7 of FCR, 2011:

1. Form FC-2 to be used for requesting CG permission.
2. Invitation letter from the Host or Host Country.
3. If visit sponsored by Ministry/Dept of Govt, administrative clearance thereof.

Time period: Form must reach Appropriate Authority 2 weeks prior to proposed date of onward journey.

Sec 7: Prohibition to transfer FC to other person

Compulsory points (To be written in every answer)

Transfer of FC done by possessor of FC to any other person shall be allowed only if :

Both transferor and transferee are registered and granted a certificate or have obtained prior permission under this Act (Refer Sec 11)

Exception (only transferor to be registered/ transferee is exempted from registration)

On following certain PROCEDURE, transfer of upto 10% of total FC received in that FY can be done if ONLY THE TRANSFEROR is registered and granted a certificate or has obtained prior permission under this Act. Transfer should be reflected in return under Form FC-4 filed by transferor and recipient.

PROCEDURE to be followed for above Exception

Rule 24 of FCRR,2011:

- i. Apply in Form FC-10 to CG
- ii. Declaration that amount proposed to transfer is less than 10% of total FC received in that FY.
- iii. Declaration that no transfer will be made till permission is received.

Sec 8: Restriction to utilize foreign contribution for administrative purpose.

Key Points

- i. Every person who has received FC under CG permission , shall use it for only that purpose only.
- ii. The FC or income thereon not to be used for Speculative Activities.
- iii. Unless CG permits person shall not spend more than 50 % of FC received in that FY on Administrative expenses.

What are Speculative Activities? Rule 4 FCRR,2011

- i. any activity or investment that has an element of risk of appreciation or depreciation of the original investment, linked to market forces, including investment in mutual funds or in shares;
- ii. participation in any scheme that promises high returns like investment in chits or land or similar assets not directly linked to the declared aims and objectives of the organisation or association.

Sec 9 : Power of CG to prohibit receipt of foreign contribution, etc.,

Grounds on which power can be exercised u/s 9

CG is satisfied that acceptance of FC or FH by any person is likely to affect prejudicially -

- i. the sovereignty and integrity of India; or
- ii. 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, social, linguistic or regional groups, castes or communities.

What CG can do using Sec 9?

Under this Sec, CG can extend Sec 3 / Sec 6 / Sec 11 provisions to persons who were NOT initially covered therein as follows :

- i. Persons NOT covered u/s 3 or u/s 6 can be prohibited from obtaining FC or be required to obtain CG permission respectively.
- ii. Require persons NOT covered u/s 6 to provide intimation as to receipt, source and manner of hospitality.
- iii. Require persons NOT covered u/s 11 to provide intimation as to, source and manner of receipt and utilisation of FC.
- iv. Require persons specified in Sec 11(1) to obtain PRIOR PERMISSION of CG before accepting FC.

Sec 10: Power to prohibit payment of currency received in contravention of the Act.

Actions taken under this Sec

In contravention of any of the provisions of this Act, if any person has in his custody or control any article or currency or security, then CG may:

- i. prohibit such person from paying, delivering, transferring or otherwise dealing with the same.
- OR
- ii. allow it only in accordance with the written orders of the CG and a copy of such order shall be served upon the person so prohibited AND Sec 7(2)/(3)/(4) of the Unlawful Activities (Prevention) Act, 1967 shall apply.

Sec 11: Registration of certain persons with CG

Persons running a “specific programme” shall be required to either obtain a REGISTRATION (long term) or PRIOR PERMISSION (case to case) to obtain FC as follows:

- i. Any person having a definite “cultural, economic, educational, religious or social programme” shall accept FC only if such person obtains a CERTIFICATE OF REGISTRATION from the CG.
- ii. Any association
 - a. registered with the CG u/s 6 or
 - b. granted prior permission u/s 6of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), shall be deemed to have been registered or granted prior permission, under this (FCRA,2010) Act, and shall be valid for a period of five years from the date on which this Sec comes into force.
- iii. Every person referred to above (i) and (ii), if they are not REGISTERED with the CG shall obtain the PRIOR PERMISSION of CG before accepting any FC, such ‘prior permission’ shall be valid for the FC obtained from specific purpose and specific source only.
- iv. If the person referred to (i) (ii) or (iii) has been found guilty of violation of any of the provisions of this Act or the Foreign Contribution (Regulation) Act, 1976, the unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the CG.
- v. CG may, by notification in the Official Gazette, specify—
 - a. the person/(s) who shall obtain FC with CG’s prior permission; or
 - b. the area/(s) in which the FC shall be accepted and utilised with the CG’s prior permission; or
 - c. the purpose/(s) for which the FC shall be utilised with the CG’s prior permission; or
 - d. the source/(s) from which the FC shall be accepted with the CG’s prior permission.

Sec 12: Grant of certificate of registration.

Procedure for Application

1. Application for Certificate/Prior Permission (u/s 11 above) shall be made to CG.
2. If application is improper in form and manner, the CG shall, by an order reject it. (not the same as refusal)
3. CG shall inquire into certain CONDITIONS (given below), If CONDITIONS are satisfied then grant Certificate/ Prior Permission.
4. Certificate/ Prior Permission shall:
 - a. be given within 90 days of receipt of Application, or
 - b. if not given within 90 days, reasons shall be communicated to applicant, or
 - c. Certificate/Prior Permission may be refused after recording the reasons of refusal and giving copy thereof to Applicant (except in cases where there is no obligation to do so under RTI Act, 2005)
5. A person shall not be eligible for Certificate/Prior Permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.
6. Certificate is valid for a period of five years and the Prior Permission shall be valid for the specific purpose or amount of FC

CONDITIONS that the CG inquires to satisfy itself before granting Registration/ Prior Permission :

The following CONDITIONS are inquired into by CG before granting Certificate/Prior Permission:

- (a) the person making an application for Registration /Prior Permission,
 - (i) is not fictitious or benami;
 - (ii) 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;
 - (iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;

- (iv) has not been found guilty or diversion or misutilisation of its funds;
- (v) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;
- (vi) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;
- (vii) has not contravened any of the provisions of this Act;
- (viii) has not been prohibited from accepting foreign contribution;
- b) the person making an application for REGISTRATION has undertaken reasonable activity in its chosen field for the benefit of the society for which the FC is proposed to be utilised;
- c) the person making an application for giving PRIOR PERMISSION has prepared a reasonable project for the benefit of the society for which the FC is proposed to be utilised;
- d) in case the person being an INDIVIDUAL, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;
- e) in case the person being OTHER THAN AN INDIVIDUAL, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;
- f) the acceptance of foreign contribution by the person referred to in sub- Sec (1) is not likely to affect prejudicially—
 - (i) the sovereignty and integrity of India; or
 - (ii) the security, strategic, scientific or economic interest of the State; or
 - (iii) the public interest; or
 - (iv) freedom or fairness of election to any Legislature; or
 - (v) friendly relation with any foreign State; or
 - (vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;
- g) the acceptance of foreign contribution referred to in sub-Sec (1),—
 - (i) shall not lead to incitement of an offence;
 - (ii) shall not endanger the life or physical safety of any person.

Sec 13: Suspension of certificate

- i. CG may, in writing, SUSPEND the CERTIFICATE for upto 180 days, if it is satisfied that it is necessary to do.
- ii. Such action shall be pending consideration of the question of 'CANCELLING the CERTIFICATE' on any of the grounds mentioned in Sec 14(1)
- iii. Every person whose certificate has been suspended shall :
 - (a) not receive any FC during the period of suspension of certificate, except on CG's Terms & Conditions;
 - (b) utilise FC in his custody with the prior approval of the CG

Sec 14: Cancellation of certificate

- i. CG may by order CANCEL THE CERTIFICATE, if satisfied after inquiry that :
 - a. the holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false; or
 - b. the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or
 - c. in the opinion of the CG, it is necessary in the public interest to cancel the certificate; or
 - d. the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or
 - e. if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.
- ii. Before cancellation of certificate every person concerned shall be given a opportunity of being heard.
- iii. Once cancelled, person shall not be eligible for Registration/Prior Permission for a period of 3 years thereafter

Sec 16: Renewal of certificate

- i. Certificate u/s 12 shall be renewed within 6 MONTHS BEFORE THE EXPIRY OF THE PERIOD of the certificate.
- ii. Application shall be made to the CG
- iii. Renewed Certificate shall:
 - a. be given within 90 days of receipt of Application, or

- b. if not renewed within 90 days, reasons shall be communicated to applicant, or
- c. Renewal may be refused in case of violation of any provision.
- iv. Renewal of Certificate shall be for 5 years.

Procedure for Renewal (Rule 12 FCR, 2011)

1. Certificate issued shall be liable to be renewed after the expiry of 5 years from the date of its issue.
2. Renewal Application to CG in Form FC-5, submitted 6 months before the date of expiry of the certificate.
3. Fee of Rs.500 remitted by DD or banker's cheque in favour of the "Pay and Accounts Officer, Ministry of Home Affairs", payable at New Delhi.
4. If application for renewal is:
 - a. NOT received or
 - b. NOT accompanied by the requisite fee,the validity of the certificate shall be deemed to have ceased 5 years from the date of the grant of registration.
5. Delay may be condoned upto four months after the expiry of the original certificate of registration, if sufficient grounds are shown in writing.
6. In all other cases a fresh request for the grant of a certificate of registration may be made to CG as per the provisions of Rule 9.

Sec 17: Foreign contribution through scheduled bank

- i. Person granted Registration/Prior Permission u/s 12 shall RECEIVE FC in a single A/c of a single bank branch.
- ii. Multiple accounts in multiple banks for UTILISING the FC received by him can be opened.
- iii. Except FC nothing shall be received or deposited in such account or accounts.
- iv. Duty is placed on 'bank or authorised person in foreign exchange' to report to specified authority :
 - a. prescribed amount of foreign remittance;
 - b. the source and manner in which the foreign remittance was received; and
 - c. other particulars.

Rule 16 of FCR,2011 states that Bank shall report to CG within 48 hours

Sec 18: Intimation

Person granted Registration/Prior approval shall intimate to the CG, and other authority specified by CG, as to:

- i. the amount of each foreign contribution received by it,
- ii. the source from which and the manner in which such FC was received,
- iii. and the purposes for which, and the manner in which such FC was utilised by him.

Every person receiving FC shall submit a copy of a statement indicating therein:

the particulars of foreign contribution received duly certified by officer of the 'bank or authorised person in foreign exchange' and furnish the same to the CG along with the aforementioned intimation .

Sec 19: Maintenance of accounts

Person granted Registration/Prior approval shall maintain:

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

Sec 20: Audit of Accounts

- a) If person granted Registration/Prior Permission , fails to furnish :
 - i. any INTIMATION under this Act within time or
 - ii. the INTIMATION IS NOT IN ACCORDANCE WITH LAW, or
 - iii. INSPECTION OF SUCH INTIMATION REVEALS CONTRAVENTION of the Actthe CG may authorise audit of any books of account.
- b) Audit shall be conducted by Group A gazetted officer under the CG or any other officer or authority or organisation, having the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:
- c) Information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

Sec 22: Disposal of assets created out of foreign contribution.

3.8

Person who was permitted to accept FC under this Act, ceases to exist or becomes defunct,

- i. all the assets (created by FC) of such person shall be disposed of as per law, or
- ii. in absence of law, CG may notify authority to dispose off such assets.

Sec 28: Confiscation of article/currency/security obtained in contravention of the Act

Any article or currency or security which is SEIZED u/s 25 shall be liable to CONFISCATION if such article or currency or security has been adjudged u/s 29 to have been received or obtained in contravention of this Act.

Sec 29 : Adjudication of Confiscation

Any confiscation referred to in Sec 28 may be adjudged—

(a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and
 (b) subject to such limits (upto Rs. 10,00,000/- "Rule 19 FCR,2011") by officer, not below the rank of an Assistant Sessions Judge.

(2) Once adjudication is concluded by the Court of Session or Assistant Sessions Judge, order may be made for the disposal by confiscation or delivery of seized article or currency or security, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

Sec 30 : Procedure for Confiscation

Order for confiscation is made after reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been SEIZED.

Sec 31: Appeal

Order made	Order u/s	Order made by	Appeal to	Time limit	Time Extension
Adjudication of Confiscation	29(1)(a)	Court of Session	HC to which 'Court of Session' is subordinate	1 month of Date of Communication of Order	Further 1 month on sufficient cause shown
	29(1)(b)	Officer not below rank of Assistant Sessions Judge	Court of Session		

Other Appeals

- i. Any organisation referred to in Sec 3(1)(f) (i.e. organisation of a political nature as may be specified u/s 5(1) by the CG), or
- ii. any person or association referred to in Sec 6 (those prohibited from getting foreign hospitality) or Sec 9 (those persons to whom prohibitions are extended by CG), aggrieved by an order made in pursuance of
 - i. Sec 5 or
 - ii. by an order of the CG refusing to give permission under this Act, or
 - iii. by any order made by the CG u/s 12(2)& 12(4) (Grant of Registration), or 14(1) (Cancellation of Registration),

as the case may be, may, within 60 days from the date of such order, prefer an appeal against such order to the HC within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

Sec 32: Revision of orders by CG

CG may examine the record of any proceeding and make necessary inquiry thereon and pass such order thereon as it thinks fit (i.e revise):

- i. either of its own motion (within 1 year of passing original order) , OR
- ii. on an application for REVISION by the person registered under this Act,(within 1 year of communication or knowledge of order to that person whichever is earlier; further extendible for sufficient cause)

Exception to Sec 32

CG shall NOT REVISE any order where :

- i. an appeal against the order lies but has not been made AND the time limit for appeal may be made has not expired, OR
- ii. such person has NOT waived his right of appeal OR
- iii. an appeal has been filed under this Act.

Offences and Penalties

Sec	Nature of Offence Committed	Penalty Imposed
33	(a) giving false intimation u/Sec 9(c) or Sec 18	i. Imprisonment upto 6 months ii. Fine
	(b) seek Registration/Prior Permission by fraud, false representation or concealment	iii. Both
34	Contravention of prohibition (u/s 10) to pay deliver transfer or deal in any article, currency, security.	i. Imprisonment upto 3 years ii. Fine iii. Both iv. Additional Fine ~ market value of article, currency, security
35	Person accepts or 'assists' in contravention of Act to obtain FC, currency, security from foreign source	i. Imprisonment upto 5 years ii. Fine iii. Both
36	article or currency or security liable to confiscation but no longer available for confiscation	Fine upto 5 times the value of the article or currency or security OR 1000/- rupees, whichever is more. Fine shall be in addition to other fines.
37	Contravention for which no other penalty is specified	i. Imprisonment upto 1 year ii. Fine iii. Both
38	Person convicted second time of any offence u/s 35 or 37, relates to the acceptance or utilisation of FC	Not to accept any FC for a period of 5 years from the date of the subsequent conviction.

3.9

Offences of Companies

1. If a contravention has been committed by a Company, then :
every person committed and in charge and responsible to the company for the conduct of the business of the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
2. He shall not be 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.
3. However, if an offence under this Act or any rule or order 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.

Sec 40: Bar on prosecution of offences under this Act.

No court shall take cognizance of any offence under this Act, except with the previous sanction of the CG or any officer authorised by that Government in this behalf.

Sec 41: Composition of Offences

1. Offences committed by Individual, Association or Officer or Employee thereof, which are punishable under this Act But NOT punishable WITH IMPRISONMENT ONLY can be compounded.
2. If offence once compounded is committed again and sought to be compounded again within 3 years, it shall be rejected. Compounding for same offence can be done after three years.
3. No prosecution shall be undertaken against the offender for the offence compounded.

4. In case of compounding an offence for failure to obtain permission or file/register/deliver/send any return/account/document then, the concerned authority may require that such documents be filed.

Miscellaneous

Power to call information or document

Any inspecting officer referred to in Sec 23, during the course of any inspection of any account or record maintained by any political party, person, organisation or association in connection with the contravention of any provision of this Act:

- (a) call for information from any person to satisfy himself whether there has been any contravention of the provisions of this Act or rule or order made thereunder;
- (b) require any person to produce or deliver any document or thing useful or relevant to such inspection;
- (c) examine any person acquainted with the facts and circumstances of the case related to the inspection.

Investigation into cases under the Act

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act may also be investigated into by such authority as the CG may specify and the authority so specified shall have all the powers which an officer-in-charge of a police station has while making an investigation into a cognizable offence.

Power of CG to give directions

The CG may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of this Act.

Delegation of powers

The CG may, by notification, direct that any of its powers or functions under this Act, except power to make rule under Sec 48, shall, in relation to such matters and subject to such conditions, if any, may be specified in the notification, be exercised or discharged also by such authority as may be specified.

Power to make Rules

- (1) The CG may, by notification, make rules for carrying out the provisions of this Act.
- (2) The Rules may provide for:
 - (a) the value of the article which may be specified under sub-clause (i) of clause (h) of sec 2(1)
 - (b) the authority which may be specified under clause (p) of sub-Sec (1) of Sec 2;
 - (c) acceptance or retention of gift or presentation under clause (d) of Sec 4;
 - (d) guidelines specifying the ground or grounds on which an organisation may be specified as an organisation of political nature under sub-Sec (1) of Sec 5;
 - (e) the activities which shall be construed as speculative business under proviso to clause (a) of Sec 8(1);
 - (f) the elements and the manner in which the administrative expenses shall be calculated u/s 8(2)
 - (g) the time within and the manner in which any person or class of persons or an association be required to furnish intimation regarding the amount of foreign contribution received under clause (c) of Sec 9;
 - (h) the time within which and the manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under clause (e) of Sec 9;
 - (i) the manner in which the copy of the order of the CG shall be served upon any person u/s 10;
 - (j) the form and manner in which the application for grant of certificate of registration or giving of prior permission under sub-Sec (1) of Sec 12;
 - (k) the fee to be accompanied by the application u/s 12(1);
 - (l) the terms and conditions for granting a certificate or giving prior permission under clause (g) of Sec 12 (4);
 - (m) the manner of utilising the foreign contribution under clause (b) of sub- Sec (2) of Sec 13;
 - (n) the authority with whom the foreign contribution to be vested under sub- Sec (1) of Sec 15;
 - (o) the period within which and the manner in which the foreign contribution shall be managed u/s 15(2);
 - (p) the form and manner in which the application for a renewal of certificate of registration shall be made under sub-Sec (2) of Sec 16;
 - (q) the fee to be accompanied by the application for renewal of certificate under sub-Sec (2) of Sec 16;
 - (r) the prescribed amount of foreign remittance, the form and manner in which the foreign remittance received by every bank or authorised person in foreign exchange shall be reported under sub-Sec (2) of Sec 17;

- (s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this Act shall give intimation under Sec 18;
- (t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under Sec 19;
- (u) the time within which and the manner in which a candidate for election shall give intimation under Sec 21;
- (v) the manner and procedure to be followed in disposing of the assets under Sec 22;
- (w) the limits subject to which any confiscation may be adjudged under clause (b) of sec 29(1);
- (x) the fee to be accompanied along with every application for revision u/s 32(5);
- (y) the form and manner for making of an application for compounding of an offence and the fee therefor under sub-Sec (4) of Sec 41;
- (z) the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under Sec 44;
- (za) any other matter which is required to be, or may be, prescribed.

Power to exempt in certain cases

If the CG is of opinion that it is necessary or expedient in the interests of the general public, may order and subject to such conditions as may be specified in the order, exempt any person or association or organisation (not being a political party), or any individual (not being a candidate for election) 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.

Act not to apply to certain Government transactions

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

Application of other laws not barred

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

Power to remove difficulties

1. If any difficulty arises in giving effect to the provisions of this Act, the CG may order by publishing in the Official Gazette such provisions that are not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty. Provided that no order shall be made under this Section after the expiry of two years from the commencement of this Act.
2. Every order made under this Sec shall be laid, as soon as may be after it is made, before each House of Parliament.