

Foreign Donations (Voluntary Activities) Regulation Act, 2016

(Act No. 43 of 2016)

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Foreign Donations (Voluntary Activities) Regulation Act, 2016

(Act No. 43 of 2016)

[13thOctober, 2016]

An Act to promulgate new law updating and considering the provisions of the Foreign Donations (Voluntary Activities) Regulations Ordinance 1978 (Ordinance No. XLVI of 1978) and Foreign Contributions (Regulation) Ordinance 1982 (Ordinance No. XXXI of 1982) by repealing the same

Whereas it is necessary and expedient to promulgate a new law updating and considering the provisions of the Foreign Donations (Voluntary Activities) Regulations Ordinance 1978 (Ordinance No. XLVI of 1978) and Foreign Contributions (Regulation) Ordinance 1982 (Ordinance No. XXXI of 1982) by repealing the same

Now, therefore the following Act is hereby promulgated:-

1. Short title and commencement.- (1) This Act may be called the Foreign Donations (Voluntary Activities) Regulation Act, 2016.

(2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. Definition.- Unless there is anything repugnant in the subject or context, in this Act-

- (1) “NGO” means any organization registered by the Bureau for the purpose of carrying out voluntary activities within Bangladesh and includes any organization or NGO registered under the existing laws of any foreign country, which is registered under this Act;
- (2) “prescribed” means prescribed by rules;
- (3) “project” means any project approved by the Bureau under this Act;
- (4) “rules” means rules made under this Act;
- (5) “foreign donations” means cash or goods is given by, or grant, donation, aid or assistance is given in any other way by, a foreign government, institution or citizen or a Bangladeshi citizen living abroad to an organization, NGO or individual for carrying out voluntary or charitable activities within Bangladesh;
- (6) “person” means a person permitted by the Bureau to receive foreign donations for the purpose of carrying out and conducting voluntary activities under this Act;
- (7) “Bureau” means the NGO Affairs Bureau;
- (8) “Director General” means the Director General of the NGO Affairs Bureau;

- (9) “organization” means a non-political, non-profit voluntary organization, institution and organization, whatever its name, consisting of a number of persons for the purpose of carrying out voluntary activities within Bangladesh and registered under the existing laws of Bangladesh;
- (10) “voluntary activities” means non-profit social, religious, cultural, economic, educational activities, healthcare, drinking water and sewerage, relief and rehabilitation, agriculture and agricultural development, infrastructure development, public awareness, poverty alleviation, women's empowerment, democracy and good governance, human rights, secularism, empowerment and protection of rights of marginalized and disadvantaged people, participation and protection of rights of the children and adolescents, elderly and persons with disabilities, equal rights and equal participation, environmental protection and development, climate change, natural resources, skills development, science and information technology, vocational activities, social welfare, research activities, multi-ethnic entities, protection of land rights and development activities and includes any other activities prescribed by the government from time to time.

3. Carrying out voluntary activities by receiving foreign donations.- Notwithstanding anything contained in any other law for the time being in force, no organization or NGO may undertake and carry out any voluntary activity by receiving foreign donations without obtaining registration from the Bureau under this Act:

Provided that no registration shall be required for receiving of foreign donations for the purpose of carrying out and conducting voluntary activities by any person, the approval of the Bureau needs to be obtained.

4. Registration and renewal of registration.- (1) An application for registration under this Act shall be made to the Director General in the prescribed manner with prescribed fees.

(2) In the application form, the relevant information including the amount of foreign donations, the source of its receipt and the purpose for which the donation shall be submitted.

(3) If the application and information received under sub-section (1) is found to be correct, subject to the opinion of the Ministry of Home Affairs and the Banks and Financial Institutions Division, Ministry of Finance, the Director General shall issue a registration certificate in favour of the applicant for 10 (ten) years and the said registration certificate shall be renewable in every 10 (ten) years.

(4) An application shall be made to the Director General for renewal of the registration certificate along with the prescribed renewal fee 6 (six) months prior to the lapse of 10 (ten) years from the date of receipt of the registration.

(5) If the application and information received under sub-section (4) is found to be correct and the activities of the applicant for the previous 10 (ten) years are satisfactory, the Director General shall issue a certificate of renewal of registration for the next 10 (ten) years.

(6) The registration certificate shall remain in force till the application for renewal of registration is disposed of as per sub-section (5).

5. Prohibition of accepting foreign donations.- The following persons or organizations shall not accept foreign donations, namely: -

- (a) contesting candidates of national or local government elections;
- (b) members of the Parliament;
- (c) elected representatives of local government councils;
- (d) any political party;
- (e) persons holding constitutional office including judges of the Supreme Court of Bangladesh;
- (f) any officer or employee working in a government, semi-government, autonomous or statutory organization;
- (g) any officer or employee of an NGO or organization registered under this Act;
- (h) any person or entity enlisted or proscribed, as the case may be, under section 18 of the Anti-Terrorism Act, 2009 (Act No. 18 of 2009).

6. Project approval, etc.- (1) No individual or NGO may accept foreign donations without the approval of the project and the activities of such person or NGO shall be limited to the approved project.

(2) The project proposal shall be prepared in the prescribed form for the acceptance and expenditure of foreign donations under sub-section (1) and shall be applied to the Director General for its approval.

(3) The Bureau shall examine the project proposal at an early stage and take the opinion of the concerned ministry of the project:

Provided that before undertaking voluntary activities under this Act in Khagrachhari, Rangamati and Bandarban hill tracts districts, the concerned person or NGO shall take the opinion of the Ministry of Chittagong Hill Tracts.

(4) The Bureau may return the project proposal to the concerned person or NGO for modification or amendment of it as per the objection or recommendation of the concerned ministry:

Provided that if the Bureau thinks that the objections or recommendations of the concerned ministry are unacceptable, it shall forward them to the office of the Prime Minister and shall take further necessary action as directed by the office of the Prime Minister.

(5) No more than 20 (twenty) percent of the approved expenditure on any project may be spent for the administrative purposes.

(6) Notwithstanding anything contained in other provisions of this section, the Director General shall, within 24 hours, issue an order for release of foreign donations, including project approval, if the application and information of the persons or NGOs seeking to carry out emergency and post-disaster emergency relief programs are appropriate.

7. Assistance provided by NGOs, etc.- An NGO registered under this Act may provide aid to any Bangladeshi non-governmental voluntary organization for carrying out

voluntary activities from foreign donations collected under the following conditions, namely:-

- (a) the recipient of the aid shall be from an organization registered under the existing laws of Bangladesh;
- (b) the project proposal prepared by the aid provider approved by the Bureau shall contain the details of the aid recipient and the outline of expenditure; and
- (c) the aid providing agency shall ensure that project shall be implemented in accordance with the conditions of the approval of the project.

8. Recruitment of foreign experts, advisers or officers and traveling abroad.- (1)

If there is a provision for appointment of foreign experts, advisers or officers in the approved project, the application for their appointment, extension of tenure and matters relating to security clearance shall be submitted to the Director General in the prescribed form and the recruitment proposals shall be limited to man-month approved by the Bureau.

(2) If the application and information received under sub-section (1) is found to be correct, the Director General shall grant the application:

Provided that, the opinion of the Ministry of Home Affairs shall be sought before granting security clearances.

(3) The Bureau shall be informed if any person engaged in voluntary activities travel abroad from the approved budget of the approved project for the official work.

9. Maintenance of accounts of foreign donations.- (1) Every person or NGO shall receive the amount of all foreign donations in foreign currency or in domestic currency through a specified bank account (mother account) of any scheduled bank.

(2) No bank shall be allowed to disburse foreign donations to any person or NGO without a letter of permission for disburse from the Bureau.

(3) The Bangladesh Bank shall send to the Bureau and the Economic Relations Division in July and January of each year the semi-annual account of foreign exchange received by each individual or NGO.

(4) The Bangladesh Bank shall remit the foreign exchange account received by any person or NGO registered under this Act as per the requirements of the Bureau and of the Economic Relations Division.

Explanation: For the purpose of this section, Bangladesh Bank means Bangladesh Bank established under Article 3 of the Bangladesh Bank Order, 1972 (President's Order No. 127 of 1972).

10. Power to inspect, observe and monitor.- (1) The Bureau may, from time to time, inspect, observe and monitor the voluntary activities carried out by any person and NGO under this Act and its progress.

(2) For the purposes of sub-section (1), the Bureau may constitute a Monitoring Committee and, if necessary, appoint a third party assessor.

(3) During the inspection, monitoring and observation, each NGO shall provide relevant statements, ledgers book, documents and information as is required.

(4) On behalf of the Bureau, the Divisional Commissioner shall, in the prescribed manner, monitor and coordinate the voluntary activities carried out by the NGOs in their respective areas.

(5) On behalf of the Bureau, the Deputy Commissioner and, as the case may be, the Upazila Nirbahi Officer, in the prescribed manner, shall review the voluntary activities carried out by the NGOs in their respective areas and their progress through coordination meetings every month and if any irregularity is found in any NGO, the Deputy Commissioner shall inform the Bureau in the form of a report and Upazila Nirbahi Officer, shall inform the Deputy Commissioner in the form of a report, and shall send a copy thereof to the Bureau.

(6) The Chittagong Hill Tracts Regional Council established under the Chittagong Hill Tracts Regional Council Act, 1997 (Act No. 12 of 1998) shall, in accordance with the provisions of clause (g) of section 22 of the aforesaid Act, coordinate and supervise the overall activities of NGOs in their respective areas.

(7) There shall be a committee appointed at the district level to monitor and evaluate the activities of NGOs in the Chittagong Hill Tracts area and such committee shall review and coordinate the activities of NGOs by holding at least one meeting in every four months.

(8) The NGOs referred to in sub-section (7) shall regularly submit progress and evaluation reports on their activities along with the convener of the committee and shall send a copy of the report to the Chittagong Hill Tracts Regional Council.

11. Constitution and governing council.- Each NGO shall have a constitution regarding its structure, goals, objectives and management and its executive council and general council shall be mentioned in the constitution.

12. Audit and accounts.- (1) Every NGO and individual shall maintain its accounts in the prescribed manner and prepare an annual statement of accounts.

(2) The concerned person, the central office and the field level offices of the NGO, as the case may be, shall, after the completion of the project, keep the vouchers in the prescribed manner, for 5 (five) years.

13. Reports and declarations.- (1) After the end of each financial year, each NGO and individual shall submit to the Director General an annual report containing the details of the activities performed in that financial year in the prescribed manner.

(2) The Director General may, if necessary, at any time call for a report and statement from any NGO or individual on any subject of the project approved by the Bureau and such NGO and individual shall bound to provide it to the Director General.

(3) Unless any person or NGO is exempted by written order from the government, every person or NGO carrying out and conducting voluntary activities with full or partial foreign donations shall submit a declaration to the Director General, within the time and manner prescribed by him, and the said declaration shall state the details of foreign donations received, their sources and uses.

14. Offences.- Any NGO or individual violates the provisions of this Act or any rules or orders made thereunder shall be an offence under this Act, and makes any hateful and defamatory remarks as to the Constitution and Constitutional institutions or engages in

subversive activity or financing, sponsoring or assistance in any militancy and terrorist activity or there is any involvement of women and children trafficking or drug and arms trafficking shall be deemed to be an offence under the existing laws of the country.

15. Punishment for offences.- (1) In case of any offence committed under section 14, the Director General-

- (a) by issuing a letter give written instructions to such person or NGO to be warned or to rectify within a specified time;
- (b) cancel or suspend the registration or suspend voluntary activities approved by the Bureau in favor of the said NGO or organization in the prescribed manner;
- (c) in case of receiving foreign donations without permission, may levy a fine, in the prescribed manner, equal to or not more than three times the monetary value of the foreign donations received;
- (d) may take necessary action against the concerned NGO or person for inflicting punishment under the existing laws of the country.

(2) If any officer of any NGO commits an offence under this Act, disciplinary action may be taken against him:

Provided that a person shall not be liable for punishment if he proves that the offence was not committed with his knowledge, or that he had taken sufficient precautionary measures to prevent from committing the offence.

16. Measures in case of cancellation of registration or suspension of activities by the Bureau, etc.- In case of registration of an NGO is cancelled or activities of an NGO is suspended, or registration period is expired or for any other reason terminated under this Act, the Director General may, with the prior approval of the government, issue the following orders, namely:-

- (a) to prohibit any bank or person to whom the funds of foreign donations of the concerned NGO, or movable-immovable properties, securities or any other property acquired by the said donations are deposited, from selling or transferring such assets without the written permission of the Director General;
- (b) to appoint an administrator for the dissolution of an NGO or for any other reason to file a suit and conduct a suit;
- (c) instruct to transfer the remaining money or assets to the concerned foreign donor after payment of all liabilities of the concerned NGO;
- (d) if for any reason it is not possible to transfer the remaining money or assets under clause (c) to the concerned foreign donor, instruct to transfer such remaining money or assets to the government treasury or to NGO which has the similar objectives of the dissolved NGO, as the case may be.

17. Appeal.- (1) If any NGO or individual is aggrieved by an order made by the Bureau under this Act, he may prefer an appeal to the Secretary, Office of the Prime Minister, within 30 (thirty) working days of the issuance of such order and the Secretary, Office of the Prime Minister, shall be deemed to be the Appellate Authority:

Provided that in case of failure to prefer an appeal within the said 30 (thirty) working days for reasonable causes, the Appellate Authority may extend the time for filing an appeal not more than 15 (fifteen) working days.

(2) An appeal under sub-section (1) shall be disposed of within 45 (forty five) working days of receipt or accept of the appeal.

(3) The Appellate Authority may uphold, cancel or amend any order made by the Bureau.

(4) The decision given under sub-section (3) shall be deemed to be final.

18. Association of NGOs.- Association may be formed with the interested NGOs with the aim of coordinating and cooperating among the NGOs registered under this Act and of cooperating with the government.

19. Power to make rules.- For the purposes of this Act, the government may, by notification in the official Gazette, make rules:

Provided that until the rules is made, the government may, if necessary, by general or special order, give instructions for the taking and execution of any action, subject to its conformity with this Act.

20. Issuance of executive orders.- The government may, if necessary, issue executive orders from time to time for the purpose of the Act.

21. Repeal and savings.- (1) The Foreign Donations (Voluntary Activities) Regulation Ordinance, 1978 (Ordinance No. XLVI of 1978) and the Foreign Contributions (Regulation) Ordinance, 1982 (Ordinance No. XXXI of 1982) are hereby repealed.

(2) Notwithstanding such repeal under sub-section (1), under these two repealed Ordinances-

- (a) any work done or any rule made or any order, circular or notification issued or any notice given or any complaint filed or any application submitted, subject to consistent with the provisions of this Act, shall be deemed to be done, made, issued given, filed and submitted under this Act;
- (b) if any activity is ongoing, subject to consistent with the provisions of this Act, shall be deemed continue as if it had been taken under this Act; and
- (c) if any case or legal proceedings is pending in any court on the date of commencement of this Act, such case or proceedings shall be disposed of in accordance with the provisions of these two Ordinances, as if these two Ordinances had not been repealed.

22. Publication of authentic English text.- (1) After the commencement of this Act, the government shall, by notification in the official Gazette, publish an authentic English text of the Bangla text of this Act.

(2) In case of conflict between the Bangla and English text, the Bangla text shall prevail.
