

FOREIGN DONATIONS (VOLUNTARY ACTIVITIES) REGULATION ACT 2016

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 shall 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. Definitions.** – In this Act, unless there is anything repugnant to the subject or context, -
 - (1) “NGO” means any organization registered by the Bureau to conduct voluntary activities inside Bangladesh and any organization or NGO registered under prevalent law of any foreign country, which is also registered under this Act, shall be included in it;
 - (2) “Prescribed” means prescribed by rules;
 - (3) “Project” means any project approved by the Bureau under this Act;
 - (4) “Rule” means rule framed under this Act;
 - (5) “Foreign Donation” means funds, goods, or any other grants or assistance given in any other form by any foreign Government, organization or any expatriate Bangladeshi citizen, in favor of any organization, NGO or individual to conduct voluntary or Charitable activities inside Bangladesh;
 - (6) “Individual” means a person permitted by the Bureau to receive foreign donations in order to undertake 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 association of persons established or registered under the relevant law of Bangladesh by whatever name it may be called with a view to conducting voluntary activities inside Bangladesh
 - (10) “Voluntary Activities” shall mean and include non-profit social, religious, cultural, economic, educational activities, healthcare, pure drinking water and sewerage system, relief and rehabilitation, agriculture and agricultural development infrastructure, public awareness, poverty alleviation, women’s empowerment, democracy and good governance, human rights, secularism, Activities related to the empowerment of marginal and under-privileged masses and upholding their rights, children and the adolescents, Activities related to the participation of the elderly and retarded people and upholding their rights, equal rights and equal participation, environment conservation and development, climate change, natural resources, efficiency enhancement, science and information technology, vocational activities, social welfare, Research Activities, Activities related to the development and protection of various ethnic

groups, upholding right to land and development activities and any other activities which may be specified by the Government from time to time, shall also be included in it.

3. Conducting Voluntary Activities by taking Foreign Donations.- Notwithstanding anything contained in any other law for the time being in force, no organization or NGO shall conduct any voluntary activities taking foreign donation without having been registered with the Bureau:

Provided no individual shall be required to be registered with the Bureau for undertaking and conducting voluntary activities taking foreign donations, but shall have to obtain prior approval from the Bureau.

4. Registration and renewal of registration.-

- (1) For registration under this Act application shall be addressed to the Director General in the prescribed manner depositing prescribed fees.
- (2) The application shall contain the particulars as to the amount of the foreign donation, source of its availability and the utilization of the fund along with other relevant information.
- (3) If the application under Sub Section (1) and the information furnished therewith appears to be correct, The Director General shall, subject to the opinion of the Ministry of Home and The Bank and Financial Institution department of the Ministry of Finance issue a Registration Certificate in favor of the applicant for 10 (ten) years renewable after every 10 (ten) years thereafter.
- (4) The application for the renewal of the registration has to be made 6 (six) months prior to the expiry of the 10 (Ten) years tenure of its registration to the Director General depositing the prescribed renewal fees therewith.
- (5) If the application under Sub Section (4) and the information furnished therewith appears to be correct and the activities of the applicant in the previous 10 (ten) years appears to be satisfactory, The Director General shall issue a registration renewal certificate in favor of the applicant for a further period of 10 (Ten) years.
- (6) Registration Certificate shall remain effective till disposal of the application under sub section (5) for renewal of registration.

5. Prohibition for Acceptance of Foreign Donations. – The following individuals or institutions shall not accept foreign donations, e.g.:-

- (a) Candidates running for any constituency of the parliament or for any office of the local government;
- (b) Member of the Parliament;
- (c) Elected people's representative to local government council;
- (d) Any political party;
- (e) Persons holding any constitutional office, including judges of the Supreme Court;

- (f) Any officer or employee working in any government, semi-government, autonomous or statutory organization;
- (g) Any officer or employee of any NGO or organization registered under this Act;
- (h) Any individual or entity enlisted or banned, as the case may be, under Section 18 of the Anti Terrorism Act 2009 (Act XVI of 2009).

6. Approval of Projects, etc. –

- (1) No individual or NGO shall accept any foreign donation without approval of projects and activities of such individual or NGO shall be confined with the limit of the approved projects;
- (2) In order to accept foreign donation and incur expenses under sub section (1), project proposal shall be prepared in the prescribed form and an application for approval of the same has to be furnished before the Director General;
- (3) The Bureau, after primary scrutiny of the project proposal, shall obtain opinion from the concerned Ministry related with the project;

Provided that before undertaking voluntary activities under this Act in Khagrachhari, Rangamati and Bandarban Hill tracts, the concerned individual or NGO shall obtain opinion from the Ministry of Chittagong Hill Tracts Affairs;

- (4) The Bureau shall return the project proposal to the individual or NGO for alteration or correction as the case may be, in accordance with the objection or recommendation made by the concerned Ministry;

Provided if the Bureau considers the objection or recommendation made by the concerned Ministry unacceptable, it shall forward the proposal to the Prime Minister's Office and take further necessary action according to the directions passed by the Prime Minister's Office;

- (5) No registered NGO or Person shall spend more than 20% of approved expenditure limit of a project in its administrative functions;
- (6) Notwithstanding anything contained in any other provision of this section, In case of any project related to Emergency Relief Program during any natural calamities or after any such disaster the Director General shall issue an order of release of fund from foreign donation including approval of the projects within 24 hours of application if the application and information furnished therewith appears to be appropriate.

7. Granting Assistance by NGO etc.- Any NGO registered under this Act may grant assistance to any Bangladeshi non-government voluntary organization from foreign donation received by it, under the following conditions, e.g.-

- (a) The entity receiving the grant must be a registered organization under prevalent laws of Bangladesh;
- (b) The approved project proposal of the granting NGO or individual must contain the details of the receiving NGO along with an outline of expenditure of fund to be granted
- (c) The granting NGO or individual shall guarantee the implementation of the project in accordance with the conditions of approval of the project.

8. Appointment of Foreign Consultant, Advisor or Officer and Foreign Tours. –

- (1) If the appointment of foreign consultants, advisors or officers are provided for in the approved Proposal of the Project, the NGO or individual undertaking the same shall apply to the Director General for the appointment, extension of appointment and their security clearance in the prescribed form limiting such appointment within the approved man-month of such expatriate employees or consultants;
- (2) The Director General shall approve the application received under sub section (1) if such application and relevant information are found to be correct.

Provided the opinion of the Ministry of Home has been taken in case of issuing security clearance of such expatriate employees or consultants;

- (3) The bureau shall be apprised of any official tour abroad of any individual engaged in voluntary activities spending the money of the approved budget of any project

9. Maintenance of Account of Foreign Donations. –

- (1) Every individual or NGO shall receive all foreign donations in foreign exchange or in local currency through a specific Bank account (mother account) maintained with any scheduled Bank;
- (2) No Bank shall debit such account of foreign donation to the benefit of any individual or NGO without the Approval of the releasing of fund issued by the bureau;
- (3) The Bangladesh Bank shall send to the Bureau and the Economic Relations Division half yearly statement of accounts of foreign exchange received by every individual or NGO in the months of July and January in every year;
- (4) The Bangladesh Bank shall send to the Bureau and the Economic Relations Division statement of accounts of foreign exchange received by any individual or NGO registered under this Act, in accordance with their requirements;

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

10. Power to make Inspection, Monitoring and Review.-

- (1) The Bureau shall, from time to time, make inspection, monitoring and review of voluntary activities and their progress conducted by any individual or NGO under this Act;
- (2) The Bureau shall form and constitute Monitoring Committee for the purpose of the sub section (1) and if necessary, shall appoint third party assessor;
- (3) During inspection, monitoring and review, each NGO shall supply all concerned statements, ledger of accounts, documents and information according to requirement;
- (4) On behalf of the Bureau, the Divisional Commissioners within their respective jurisdictions shall, in the prescribed manner, monitor and coordinate voluntary activities conducted by the NGOs;
- (5) On behalf of the Bureau, the Deputy Commissioners and in appropriate cases the Upazila Nirbahi Officers within their respective jurisdictions shall review voluntary activities undertaken by the NGOs and their progress through monthly coordination meetings and if any sort of irregularity is noticed regarding any activity by the concerned NGO, the Deputy Commissioner shall inform the Bureau about the matter through a written statement and in appropriate cases the Upazilla Nirbahi Officer shall inform the Deputy Commissioner about the matter through a written statement with intimation to the Bureau;
- (6) The Chittagong Hill Tracts Regional Council established under the Chittagong Hill Tracts Regional Council Act 1998 (Act XII of 1998) shall coordinate and supervise overall activities of the NGOs within their respective jurisdictions in the prescribed manner and in accordance with the provisions of section 22(g) of the said Act;
- (7) There shall be a committee at the District level to supervise and evaluate activities of the NGOs in the Chittagong Hill Tracts area and the said committee shall review and coordinate activities of the NGOs in meetings convened at least once in every four months;
- (8) The NGOs mentioned in sub section (7) shall submit regular reports to the convener of the committee regarding their activities and send copies of such reports to the Chittagong Hill Tracts Regional Council.

11. Constitution and Managing Committee.- Each NGO shall have a Constitution regarding its formation, goals, objectives and management and the Constitution shall mention about the Managing Committee and the General Committee.

12. Audit and Accounts.-

- (1) Each NGO and individual shall in the prescribed manner, maintain its accounts and prepare annual statement of accounts;
- (2) On completion of the project vouchers of expenditure shall be preserved for 5 (five) years in the prescribed manner, in appropriate cases, by the concerned person, central office of the NGO and the field level offices.

13. Report and Declaration.-

- (1) At the end of each Financial Year each NGO and individual, in the prescribed manner, shall submit before the Director General, an annual statement containing activities performed in the said Financial Year;
- (2) The Director General, if required, can call for any explanation of any of the information provided in the annual report submitted by the NGO or individual, and such NGO and individual shall be bound to supply the same to the Director General;
- (3) Unless any individual or NGO is exempted by a written order of the Government, each individual or NGO undertaking and conducting voluntary activities fully or partially funded by foreign donation, shall submit to the Director General, a Declaration within the time frame and in the manner prescribed by him and such Declaration shall contain the amount received as foreign donation, its source and utilization.

14. Offences.- If any NGOs or Individual violates any provision of this Act or any rules or orders promulgated hereunder, Or pass any malicious and indecent (Derogatory and reproachful) comments regarding the constitution of Bangladesh or any constitutional institutions or engage it in any anti state activities or in financing, patronizing or supporting militancy and terrorist activities or having involvement with women and children trafficking or smuggling of narcotics and arms then it shall be treated to be an offence under the law for the time being in force.

15. Punishment for Offences. –(1) If any offence is committed under Section 14, the Director General may

- (a) by issuing a letter, direct the said NGO or individual to be cautioned or rectified within the time specified therein.
 - (b) in the prescribed manner, cancel or postpone the registration accorded by the Bureau in favor of the said NGO or stop the voluntary activities undertaken by the said NGO or individuals
 - (c) In case the NGO or the Individuals commit an offence of receiving foreign donation without permission or approval as the case may be, the Director General may, in the prescribed manner, realize fine equivalent to any amount between the amount of foreign donation so received and the amount three times of the received foreign donations.
 - (d) may take necessary action in order to punish the concerned NGO or individual under prevalent laws of the country
- (2) Penal action may be taken against any official of any NGO if he/she commits any offence under this Act:

Provided that if any person can prove that the offence was not committed within his/her knowledge or he/she had taken sufficient preventive measures so that the offence could not be committed, in such cases the person concerned shall not be punishable for such offence.

16. Measures to be taken in case of cancellation of registration accorded by the Bureau or postponement of activities, etc.- If registration of any NGO under this Act is cancelled or its activities are postponed or term of its registration is expired or it is abolished on any other grounds, the Director General with prior permission from the Government, shall order as follows, e.g. –

- (a) Order restraining any Bank or individual with whom fund from foreign donation in favor of the concerned NGO is deposited or any movable or immovable property, securities or any other property acquired by the said NGO is entrusted from selling or transferring any property without written permission by the Director General;
- (b) Appointment of Administrator in order to abolish any NGO or instituting and conducting litigations for any other reasons;
- (c) Order of transfer of residual fund or asset to the concerned foreign donor after paying off all debts and liabilities of such NGO,;
- (d) Order of transfer of residual fund or asset under paragraph (c), to the Government account or in appropriate cases, to any other NGO having similar objectives as of the abolished NGO, in case such fund or asset cannot be transferred in favor of the concerned foreign donor.

17. Appeal.- (1) Any NGO or individual, being aggrieved by any order passed by the Bureau, shall prefer an appeal before the Secretary, Prime Minister’s Office, within 30 (thirty) working days of such order and the Secretary, Prime Minister’s Office, shall be deemed to be the appellate authority:

Provided that the appellate authority shall extend the time limit for preferring an appeal by a maximum of 15 (fifteen) working days, on an application by the applicant in case the applicant fails to prefer an appeal within the stipulated time of 30 (thirty) working days on a reasonable grounds.

- (2) An appeal under sub section (1) shall be disposed off within 30 (thirty) working days from the date of admission or receipt of the appeal.
- (3) The appellate authority shall uphold, annul or revise any orders given by the Bureau.
- (4) Decision given under sub section (3) shall be deemed as final.

18. Union of the NGOs.- Union may be formed taking individual NGOs as its members with a view to establishing coordination amongst registered NGOs under this Act and extend cooperation to the Government.

19. Power to make rules.- In order to meet objectives of this Act, the Government, by Notification in the Official Gazette, shall make rules:

Provided that until Rules are formulated, the Government, if required, by general or special orders, subject to conformity with this Act, shall issue instructions about taking or performing any action.

20. Issuing Executive Orders.- In order to meet objectives of this Act, the government, if required, shall issue executive orders, from time to time.

21. Repeals and Savings.- (1) Foreign Donations (Voluntary Activities) Regulation Ordinance 1978 (Ordinance No XLVI of 1978) and Foreign Contributions (Regulation) Ordinance 1982 (Ordinance No XXXI of 1982) are hereby repealed.

(2) In spite of such repeal under sub section (1), under the two repealed Ordinances-

(a) any act or action or any rule made or order issued, circular or notification or any notice served or any allegation instituted or petition filed subject to be in conformity with the provisions of this Act, shall be deemed to be made, issued, notified, given, instituted and submitted under this Act;

(b) any ongoing proceedings, subject to be in conformity with the provisions of this Act, shall be ongoing and uninterrupted in such a manner that the same have been adopted under this Act; and

(c) any litigation or legal proceedings under disposal of any court on the date of commencement of this Act, shall be disposed of in such a manner under the provisions of the two repealed Ordinances that the said two Ordinances have not been repealed.

22. Publication of Authentic English Text.- (1) After commencement of this Act the Government by Notification in the Official Gazette, shall publish an Authentic English Text translated from the Bangla Text of this Act.

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