Foreign Contribution (Regulation) Act, 2010 - FCRA

[UPSC Notes]

What is FCRA?

FCRA or Foreign Contribution Regulation Act controls foreign funding or donations and ensures they don't compromise the nation's domestic security. The act, which was initially passed in 1976, was revised in 2010 and then amended again in 2020. Companies or other legal entities formed or Inc in India that have associated branches or affiliations outside India or are subject to the Act's regulations.

- The foreign contribution and hospitality regulation act FCRA was passed on March 31, 1976, to regulate how individuals and organizations use foreign contributions and hospitality while upholding the principles of an autonomous, democratic republic.
- To secure stringent control over non-profit organizations and political groupings that accepted foreign funds, the FCRA was enacted in 1976.
- The act was amended in 1984 to mandate that all voluntary organizations register with the Home Ministry.
- The law was repealed in 2010 and replaced with a new one with stricter regulations.

Features of FCRA

The FCRA lays down a framework that is to be followed regarding international contributions:

- Any associations, groups, or NGOs that wish to obtain foreign donations or funding must obey the guidelines underlined by the FCRA Act. All these NGOs are required by law to register with the FCRA.
- If all requirements are met, the registration can be renewed after the initial five-year period. For economic, social, educational, religious, and artistic goals, registered groups are permitted to accept donations from outside.
- It is required to file orders and returns similar to those for income tax; the MHA published new regulations in 2015 that required NGOs to certify that accepting

foreign funding would not adversely damage India’s integrity and sovereignty, its amicable relations with other states, or cause racial unrest.

- Additionally, it stated that to provide security agencies with access in real-time, all such voluntary organisations would need to maintain accounts in national or private banks that provide core banking facilities.
- It is forbidden for legislators, political party members, government employees, judges, and members of the media to accept any foreign contributions.

What is the need for FCRA?

“National interest and other matters associated or incidental thereto” was the initial goal of the FCRA. The legitimacy of other legal provisions, such as the **Companies Act of 2013** and the **Companies Rules of 2014**, is used to interpret the clause. The FCRA is required for the financial concerns related to NGOs and the projects undertaken by them to be transparent and accountable.

The FRCA Act aims to harmonise several programmes that allow these voluntary organisations to protect fundamental rights, the environment or the planet, and public health on the grounds of task orientation and the interest of the general public. For the regulation of foreign contributions and foreign hospitality, as well as for

- Sovereign rights and integrity of the country
- The interest of the public
- Freedom of election of any legislature
- Relations with the foreign State
- Peaceful coexistence amongst religious, social, linguistic or regional groups, caste, communities.

FCRA Registration

Under the FCRA Act, NGOs and other organizations must register themselves every 5 years. The foreign contributions can be received for these five objectives:

1. Social
2. Educational
3. Religious
4. Economic
5. Cultural

The term “national interest" can refer to the defense of social economic and community values including educational, cultural, and religious ones. Whereas, the term “foreign contribution” refers to the gift, delivery, or transfer of any goods, currency (whether Indian or foreign) or security made by a foreign source.

Amendments to FCRA Act

FCRA 1976

As we already discussed, the foreign contribution and hospitality regulation act FCRA was passed on March 31, 1976, with the intention of regulating how individuals and organizations use foreign contributions and hospitality while upholding the principles of an autonomous, democratic republic. In order to secure stringent control over non-profit organizations and political groupings that accepted foreign funds, the FCRA was enacted in 1976.

FCRA 2010

Under FCRA 2010, individuals are free to collect contributions from abroad without the ministry of home affairs' approval. However, the maximum amount that can be accepted in these international transactions in monetary terms is less than Rs.25,000. The act makes sure that the receivers of foreign donations follow the objectives stated in the act.

FCRA Ammendment 2020

Following are the major rules laid out in the FCRA 2020:

- The act prohibited public employees or servants from accepting donations from abroad.
- According to the FCRA Act, you cannot give a foreign donation to someone who isn't authorized to accept them.
- All office holders, directors, or key employees of a person receiving the foreign contribution or required to have an Aadhaar number as an identification document.
- According to the act, State Bank of India branches in New Delhi may only accept foreign donations in accounts designated by the banks as FCRA accounts.
- According to the act a maximum of 20% of the total amount of foreign funds received may be used to cover administrative costs.
- Under the act, the central government may allow a person to renounce their certificate of registration.

Issues relating FCRA

- Prohibition in the receivable of any foreign contributions, donations, or funding that may be considered detrimental to the interest of the nation.
- Refusal on the grounds of finding any donation to a non-governmental organization as negatively impacting the economic interest of the nation.
- Here no transparent guidelines are provided as to what favors the "interest of the nation".
- It also affects the right to free speech and freedom of association provided to us in Article 19(1)(A) and Article 19(1)(C) of the Indian constitution.

- The provisions were overly ambiguous and offered the state ample discretion to apply the clause any way it saw fit.