

[AS INTRODUCED IN THE SENATE]

A
BILL

to consolidate the law to regulate the acceptance and utilisation of foreign contribution by Non-Governmental Organisations (NGOs), whether registered or not in Pakistan, and to regulate acceptance and utilisation of foreign contribution for any activities detrimental to the national interest and for matters connected therewith or incidental thereto

WHEREAS it is expedient to consolidate the law to regulate the acceptance and utilisation of foreign contribution by Non-Governmental Organisations (NGOs), whether registered or not in Pakistan, for any activities detrimental to the national interest and for matters connected therewith or incidental thereto and for the purposes hereinafter appearing;

It is hereby enacted as follows:—

**CHAPTER I
PRELIMINARY**

1. **Short title, extent, application and commencement.**- (1) This Act may be called the Regulation of Foreign Contribution Act, 2012.

(2) It extends to the whole of Pakistan, and it shall also apply to—

- (a) citizens residing in the country; and
- (b) Non-Governmental Organisations, whether registered or not, in Pakistan.

(3) It shall come into force on such date as the Federal Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. **Definitions.**— (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) “foreign contribution” means the donation, delivery or transfer made by any foreign source of any currency, whether Pakistani or foreign;

Explanation 1— A donation, delivery or transfer of any currency, Pakistani or foreign, referred to in this clause by any NGO/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 II— The interest accrued on the foreign contribution deposited in any bank or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

- (b) “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 United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Federal Government 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;
 - (vi) a company, whereby 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;
 - (viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
 - (ix) a society, club or other association of individuals formed or registered outside Pakistan;

- (x) a citizen of a foreign country;
- (c) "Legislature" means —
 - (i) either House of Parliament;
 - (ii) the Legislative Assembly of a Province/Gilgit-Baltistan;
 - (iii) District Councils;
 - (iv) any other elected body as may be notified by the Federal Government;
- (d) "Non-Governmental Organisation" means an association of individuals, whether registered or not, having an office in Pakistan, and registered with the Corporate Law Authority;
- (e) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;
- (f) "person" includes—
 - (i) an individual;
 - (ii) an undivided family;
 - (iii) an association;
 - (iv) an NGO registered under the Corporate Law Authority;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "prescribed authority" means an authority specified as such by rules made by the Federal Government under this Act;

CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION

3. **Regulation of foreign contribution.**— All non-governmental organizations, as well as their office-holders, in Pakistan registered with the Corporate Law Authority shall have to declare any contribution they receive from foreign sources as described in clause 6.

4. **Restriction to utilise foreign contribution for administrative purpose.** — (1) Every NGO/person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,—

- (a) shall utilise such contribution for the purposes for which the contribution has been intended;

- (b) shall not defray as far as possible such sum, not exceeding twenty percent (20%) of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding twenty per cent. of such contribution may be defrayed with prior approval of the Federal Government.

5. **Power to prohibit payment of currency received in contravention of the Act.** — Where the Federal Government is satisfied, after making such inquiry as it may deem fit, that any NGO/person has any donation, whether Pakistani or foreign, which has been accepted by such NGO/person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such NGO/person from utilizing, transferring or otherwise dealing with, in any manner whatsoever, such donation save in accordance with the written orders of the Federal Government and a copy of such order shall be served upon the NGO/person so prohibited in the prescribed manner.

CHAPTER III REGISTRATION

6. **Registration with Federal Government.** — (1) No NGO/person shall accept foreign contribution unless such NGO/person obtains a certificate of registration from the Federal Government:

Provided that any association registered with the Federal Government shall be deemed to have been registered under this Act, and such registration shall be valid for a period of five years from the date on which this section comes into force.

7. **Grant of certificate of registration.** — (1) An application by an NGO/person for grant of certificate or giving prior permission, shall be made to the Federal Government in such form and manner and along with such fee, as may be prescribed.

(2) On receipt of an application under sub-section (1), the Federal Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate and after making such inquiry as the Federal Government deems fit, it is of the opinion that the conditions specified in sub-section (4) are satisfied, it may, ordinarily within thirty days from the date of receipt of application under sub-section (1), register such NGO/person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed:

Provided that in case the Federal Government does not grant, within the said period of thirty days, a certificate or give prior permission, it shall communicate the reasons in writing therefore to the applicant:

Provided further that an NGO/ person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

(4) The following shall be the conditions for the purposes of sub-section (3), namely:—

- (a) the person making an application for registration,—
 - (i) has not been convicted of any offence that disqualifies them from being registered;
 - (ii) has not been found guilty or diversion or mis-utilisation of its funds;
 - (iii) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;
 - (iv) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;
 - (v) has not contravened any of the provisions of this Act;
 - (vi) has not been prohibited from accepting foreign contribution;
- (b) the NGO/person making an application for registration has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;
- (c) is not likely to affect prejudicially—
 - (i) the sovereignty and integrity of Pakistan; 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;

(d) the acceptance of foreign contribution referred to in sub-section (1),—

(i) shall not lead to incitement of an offence;

(ii) shall not endanger the life or physical safety of any person.

(5) Where the Federal Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant.

(6) The certificate granted under sub-section (3) shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

8. **Suspension of certificate.** — (1) Where the Federal Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of canceling the certificate on any of the grounds mentioned in sub-section (1), it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.

(2) Every NGO/person whose certificate has been suspended shall —

(a) not receive any foreign contribution during the period of suspension of certificate:

(b) not utilise, in the prescribed manner, the foreign contribution in his custody.

9. **Cancellation of certificate.** — (1) The Federal Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if —

(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) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or

(2) No order of cancellation of certificate under this section shall be made unless the NGO/person concerned has been given a reasonable opportunity of being heard.

(3) Any NGO/person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

10. **Renewal of certificate.** — (1) Every NGO/person who has been granted a certificate of registration shall have such certificate renewed within thirty days before the expiry of the period of the certificate.

(2) The application for renewal of the certificate shall be made to the Federal Government in such form and manner and accompanied by such fee as may be prescribed.

CHAPTER IV

ACCOUNTS, INTIMATION, AUDIT AND DISPOSAL OF ASSETS, ETC.

11. **Foreign contribution through scheduled bank.** — (1) Every NGO/person who has been granted a certificate of registration shall receive foreign contribution in an account as specified in the application for registration.

(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified —

- (a) prescribed amount of foreign remittance received;
- (b) the source and manner in which the foreign remittance was received; and
- (c) other particulars, in such form and manner as may be prescribed.

12. **Intimation.** — (1) Every NGO/person who has been granted a certificate of registration under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Federal Government, and such other authority as may be specified by the Federal Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

(2) Every NGO/person receiving foreign contribution 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 Federal Government along with the intimation under sub-section (1) within 30 days of receipt of such contribution.

13. **Maintenance of accounts.** — Every NGO/person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed,—

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

14. **Audit of accounts.** — Where any NGO/person who has been granted a certificate, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Federal Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Federal Government may, by general or special order, authorise such gazetted officer under the Federal Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such NGO/person and thereupon every such officer shall have 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:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

CHAPTER V

INSPECTION, SEARCH AND PUNITIVE ACTION

15. **Inspection of accounts or records.** — If the Federal Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been or is being, contravened by—

- (a) any person; or
- (b) any organisation; or
- (c) any association,

it may, by general or special order, authorise a gazetted officer under the Federal Government or such other officer or authority or organisation, as it may think fit (hereinafter referred to as the inspecting officer), to inspect any account or record maintained by such NGO, person, organisation or association, as the case may be, and thereupon every such inspecting officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record.

16. **Punitive action.** — In case, the inspecting officer finds any anomaly related to account of record maintained by the NGO, he/she shall officially notify the same to the NGO, which, upon receiving any such notification, shall be bound to file a reply to the competent authority within thirty days of the receipt of the notice, which shall decide whether the certificate of registration be revoked/ suspended or not.

CHAPTER VI ADJUDICATION

17. **Confiscation of contribution obtained in contravention of the Act.** — Any contribution which is seized under this Act shall be liable to confiscation if such contribution has been adjudged under to have been received or obtained in contravention of this Act.

18. **Adjudication of confiscation.** — (1) Any confiscation 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 as may be prescribed, by such officer, not below the rank of a Sessions Judge, as the Federal Government may, by notification in the Official Gazette, specify in this behalf.

(2) When an adjudication under sub-section (1) is concluded by the Court of Session Judge, the court may make such order as it thinks fit for the disposal by confiscation or delivery of seized contribution to any NGO/person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

19. **Procedure for confiscation.** — No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the NGO/person from whom any contribution has been seized.

CHAPTER VII APPEAL AND REVISION

20. **Appeal.** — (1) Any NGO/person aggrieved by any order made under this Act may prefer an appeal,—

- (a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate; or

- (b) where the order has been made by any officer specified under the Act, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made, within one month from the date of communication to such NGO/person of the order:

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

21. **Revision of orders by Federal Government.** — (1) The Federal Government may, either of its own motion or on an application for revision by the NGO/person registered under this Act, call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.

(2) The Federal Government shall not of its own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the NGO/person, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Federal Government may, if it is satisfied that such NGO/person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Federal Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such NGO/person has not waived his right of appeal or an appeal has been filed under this Act.

(5) Every application by such NGO/person for revision under this section shall be accompanied by such fee, as may be prescribed.

Explanation.— An order by the Federal Government declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to such NGO/person.

CHAPTER VIII
OFFENCES AND PENALTIES

22. Making of false statement, declaration or delivering false accounts. — Any NGO/person, subject to this Act, who knowingly, —

- (a) gives false intimation; or
- (b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact, shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both.

23. Penalty for contribution obtained in contravention of the Act. — If any NGO/person, on whom any prohibitory order has been served, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any contribution, whether Pakistani or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, the court trying such contravention may also impose on the NGO/person convicted an additional fine equivalent to the market value of the contribution in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

24. Punishment for contravention of any provision of the Act.— Whoever accepts, or assists any NGO/person in accepting, any foreign contribution from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

25. Power to impose additional fine where article or currency or security is not available for confiscation. — Notwithstanding anything contained in the Code of Criminal Procedure, the court trying a NGO/person, who, in relation to any contribution, whether Pakistani or foreign, does or omits to do any act which act or omission would render such contribution liable to confiscation under this Act, may, in the event of the conviction of such NGO/person for the act or omission aforesaid, impose on such NGO/person a fine not exceeding five times the value of the contribution, if such contribution is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such NGO/person under this Act.

26. **Penalty for offences where no separate punishment has been provided.** — Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

27. **Prohibition of acceptance of foreign contribution.** — Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under the Act, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

28. **Offences by NGOs.** — (1) Where an offence under this Act or any rule or order made thereunder has been committed by an NGO, any person who, at the time the offence was committed, was in charge of, and was responsible to, the NGO for the conduct of the business of the NGO shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such NGO/person 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.

29. **Bar on prosecution of offences under the Act.** — No court shall take cognizance of any offence under this Act, except with the previous sanction of the Federal Government or any officer authorised by that Government in this behalf.

30. **Composition of certain offences.** — (1) Notwithstanding anything contained in the Code of Criminal Procedure, any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Federal Government may, by notification in the Official Gazette, specify in this behalf.

(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or NGO or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.— For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Federal Government.

(4) Every application for the compounding of an offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

CHAPTER IX MISCELLANEOUS

31. **Power to call for information or document.** — Any inspecting officer under this Act who is authorised in this behalf by the Federal Government may, during the course of any inspection of any account or record maintained by an NGO in connection with the contravention of any provision of this Act, —

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

32. **Investigation into cases under the Act.**— Notwithstanding anything contained in the Code of Criminal Procedure, any offence punishable under this Act may also be investigated into by such authority as the Federal Government may specify in this behalf 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.

33. **Returns by prescribed authority to Federal Government.**— The prescribed authority shall furnish to the Federal Government at such time and in such form and manner such returns and statements as may be prescribed.

34. **Protection of action taken in good faith.**— No suit or other legal proceedings shall lie against the Federal Government or the authority or any of its officers in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or, any rule or order made thereunder.

35. **Power of Federal Government to give directions.** — The Federal Government 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.

36. **Delegation of powers.** — The Federal Government may, by notification, direct that any of its powers or functions under this Act, except power to make rule, 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.

37. **Power to make rules.** — (1) The Federal Government may, by notification, make rules for carrying out the provisions of this Act.

38. **Orders and rules to be laid before Parliament.** — Every rule made by the Federal Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

39. **Power to exempt in certain cases.** — If the Federal Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or NGO 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.

40. **Act not to apply to certain Government transactions.** — Nothing contained in this Act shall apply to any transaction between the Government of Pakistan and the Government of any foreign country or territory.

41. **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.

42. **Power to remove difficulties.** — (1) If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, by order, published in the Official Gazette, make such provisions 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 section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

To consolidate the law to regulate the acceptance and utilisation of foreign contribution by Non-Governmental Organisations (NGOs), or individuals on behalf of NGOs, and to regulate acceptance and utilisation of foreign contribution for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

SENATOR TARIQ AZIM KHAN
Member-in-Charge