AS INTRODUCED IN LOK SABHA

Bill No. 75 of 2025

THE PREVENTION OF MONEY LAUNDERING (AMENDMENT) BILL, 2025

BY

SHRI ARVIND GANPAT SAWANT, M.P.

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BILL

further to amend the Prevention of Money Laundering Act, 2002.

BE it enacted by Parliament in the Seventy-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Prevention of Money Laundering (Amendment) Act, 2025.

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

2. In section 49 of the Prevention of Money Laundering Act, 2002, (hereinafter known as the principal Act), after sub-section (3), the following sub-section shall be inserted, namely:-

Amendment of section 49.

"(3A) The Director, while exercising powers under this Act, shall ensure that such powers are exercised in a transparent, just and accountable manner, without infringing upon the rights and dignity of individuals or entities under inquiry." .

3. For section 52 of the principal Act, the following section shall be substituted, namely,-

Substitution of new section for section 52.

"52. The Central Government may, from time to time, issue such administrative orders, instructions and directions to the authorities as it may deem fit for the proper administration of this Act and such authorities and all other persons employed in execution of this Act shall observe and follow such orders, instructions and directions of the Central Government:

Power of Central Government to issue directions, etc.

Provided that no such orders, instructions or directions shall be issued so as to—

(a) require any authority to decide a particular case in a particular manner; or

(b) interfere with the discretion of the Adjudicating Authority in exercise of his functions; or

(c) cause any political or extraneous influence on the authorities.".

4. After Chapter VIII of the Principal Act, the following new Chapter and sections thereunder shall be inserted:

Insertion of new Chapter VIIIA.

"CHAPTER VIIIA
OVERSIGHT and ACCOUNTABILITY

54A. (1) There shall be established an Oversight and Accountability Committee (hereinafter referred to as OAC), consisting of eminent legal experts, retired judges, and senior bureaucrats, to oversee the conduct of investigations and actions taken by the Authority under this Act to be appointed by the Central Vigilance Commission, in consultation with the Central Government, in such manner as may be prescribed.

Oversight and Accountability Committee.

(2) The OAC shall have the authority to review cases and actions taken by the authorities to ensure that they adhere to principles of justice, transparency and fairness.

(3) The OAC shall also investigate complaints related to any malpractices, abuse of power, inquiry beyond jurisdiction and the like by the authorities.

(4) The OAC shall submit an annual report to the Central Government which shall cause it to be laid before each House of Parliament, outlining its findings and recommendations.

(5) The authorities shall cooperate with and provide necessary information to the OAC to facilitate its oversight functions.

Explanation.- For the purposes of this section, the term "abuse of power" shall mean to include any action or practice by the Authority that contravenes the principles of justice, rule of law, and transparency, with the intent of harassing, intimidating, or creating undue influence over individuals or entities.

Appointment of the OAC.

54B. The OAC shall be established by the Central Vigilance Commission for a period of three years.

Powers of the OAC.

54C. The OAC shall have powers and administrative functions as prescribed by the Central Vigilance Commission, from time to time.".

Insertion of new section 62A.

5. After section 62 of the principal Act, the following section shall be inserted, namely,-

Punishment for Offences.

"62A. (1) Any authority or an officer found guilty of abuse of power, as per the provisions of this Act, shall be subject to disciplinary action and/or prosecution under the Prevention of Corruption Act, 1988 or any other relevant law for the time being in force.

(2) Where the OAC finds the authority or any of its officer guilty of exercising its powers beyond its jurisdiction or abusing its powers, then in accordance with the findings of the OAC and the damage incurred by individuals or entities as a result of the actions of the authority, the Central Government shall bear responsibility of providing compensation to address the damage relating to the individual's reputation, public image, and potential future employment or occupational opportunities.".

STATEMENT OF OBJECTS AND REASONS

The Enforcement Directorate (ED) was established in 1956 as an "Enforcement Unit" to investigate violations of the Foreign Exchange Regulation Act, 1947, under the Department of Economic Affairs. Subsequently, it was renamed the "Enforcement Directorate" and its administrative oversight shifted to the Department of Revenue in 1960. In 1973, the Act was replaced, leading to a shift to the Department of Personnel and Administrative Reforms. In 1977, it returned to the Department of Revenue. In 1999, the Foreign Exchange Management Act, 1999, replaced the earlier legislation. The ED's role expanded with the introduction of the Prevention of Money Laundering Act, 2002, and the Fugitive Economic Offenders Act, 2018, adding to existing foreign exchange laws, and it gained the authority to initiate cases of preventive detention under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA). Except for the Prevention of Money Laundering Act, 2002, which is criminal, the other laws are civil in nature.

At present, the Enforcement Directorate administers five enactments, with the Prevention of Money Laundering Act, 2002, being the most frequently utilized as it has stringent bail conditions. This Act empowers the ED to attach properties and assets of the accused, and it further makes the statements of an accused recorded before an investigating officer of the ED admissible in a court of law which otherwise is not the case with a police officer.

The government has introduced changes to the Prevention Of Money Laundering (Maintenance Of Records) Amendment Rules, 2023, mandating that banks and financial institutions must now document financial transactions of politically exposed persons (PEPs) under the Prevention of Money Laundering Act. PEPs are defined as individuals with significant public roles in foreign countries, such as heads of state, senior politicians, government and military officials, state-owned corporation executives, and key political party officials.

Despite the expansion of the Enforcement Directorate's powers in regulating politically exposed individuals, there remains a significant gap in establishing a regulatory framework for the Enforcement Directorate itself. Notably, the existing legal framework under the Prevention of Money Laundering Act, 2002, does not explicitly define penalties or disciplinary actions for officers of the Enforcement Directorate in cases of the misuse of their powers.

In light of these concerns and allegations, it is essential to introduce safeguards and criteria that prevent misuse of powers and ensure that the enforcement agency operates transparently, fairly, and in accordance with principles of justice. Therefore, this Bill seeks to amend the Prevention of Money Laundering Act, 2002, to establish an Oversight and Accountability Committee (OAC) to oversee the Enforcement Directorate's actions and investigations under the Act. Additionally, the Bill introduces punishment for any authority officer found guilty of abusing their power.

The aim is to bring about accountability, transparency, and fairness in the functioning of the Enforcement Directorate, and to prevent its misuse for political purposes or harassment. It is imperative that enforcement agencies operate within the boundaries of the law and uphold the principles of justice and individual rights.

Hence this Bill.

NEW DELHI; ARVIND GANPAT SAWANT

March 18, 2025.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides the constitution of the Oversight and Accountability Committee to oversee the task of reviewing the functioning of authorities under the Prevention of Money Laundering Act, 2002. The members of the Committee shall be appointed by the Central Vigilance Commission. The Bill, therefore, if enacted, is likely to be involved expenditure from the Consolidated Fund of India. At this point, it is not possible to assess the actual financial expenditure likely to be incurred.

ANNEXURE

EXTRACT FROM THE PREVENTION OF MONEY LAUNDERING ACT, 2002

(ACT NO. 15 of 2003)

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52. The Central Government may, from time to time, issue such orders, instructions and directions to the authorities as it may deem fit for the proper administration of this Act and such authorities and all other persons employed in execution of this Act shall observe and follow such orders, instructions and directions of the Central Government:

Power of Central Government to issue directions, etc.

Provided that no such orders, instructions or directions shall be issued so as to—

(a) require any authority to decide a particular case in a particular manner; or

(b) interfere with the discretion of the Adjudicating Authority in exercise of his functions.

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