

AS PASSED BY THE RAJYA SABHA
ON 19TH FEBRUARY, 2009

Bill No. XXXI-C of 2008

THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT)
BILL, 2009

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further to amend the Prevention of Money-laundering Act, 2002.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Money-laundering (Amendment) Act, 2009. Short title and
commence-
ment.

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

15 of 2003. 2. In section 2 of the Prevention of Money-laundering Act, 2002 (hereinafter referred to as the principal Act), in sub-section (1),— Amendment
of section 2.

(i) after clause (d), the following clause shall be inserted, namely:—

42 of 1999. 10 ‘(da) “authorised person” means an authorised person as defined in clause (c) of section 2 of the Foreign Exchange Management Act, 1999;’;

(ii) after clause (j), the following clause shall be inserted, namely:—

‘(ja) “designated business or profession” means carrying on activities for playing games of chance for cash or kind, and includes such activities associated with casino or such other activities as the Central Government may, by notification, so designate, from time to time;’;

(iii) in clause (l), for the words “a non-banking financial company”, the words “an authorised person, a payment system operator and a non-banking financial company” shall be substituted;

(iv) in clause (q), after the words and figures “Reserve Bank of India Act, 1934”, the words “and includes a person carrying on designated business or profession” shall be inserted; 2 of 1934.

(v) after clause (r), the following clauses shall be inserted, namely:—

‘(ra) “offence of cross border implications”, means—

(i) any conduct by a person at a place outside India which constitutes an offence at that place and which would have constituted an offence specified in Part A, Part B or Part C of the Schedule, had it been committed in India and if such person remits the proceeds of such conduct or part thereof to India; or

(ii) any offence specified in Part A, Part B or Part C of the Schedule which has been committed in India and the proceeds of crime, or part thereof have been transferred to a place outside India or any attempt has been made to transfer the proceeds of crime, or part thereof from India to a place outside India.

Explanation.—Nothing contained in this clause shall adversely affect any investigation, enquiry, trial or proceeding before any authority in respect of the offences specified in Part A or Part B of the Schedule to the Act before the commencement of the Prevention of Money-laundering (Amendment) Act, 2008.’

‘(rb) “payment system” means a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them.

Explanation.—For the purposes of this clause, “payment system” includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations;

(rc) “payment system operator” means a person who operates a payment system and such person includes his overseas principal.

Explanation.—For the purposes of this clause, “Overseas principal” means,—

(A) in the case of a person, being an individual, such individual residing outside India, who owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;

(B) in the case of a Hindu undivided family, Karta of such Hindu undivided family residing outside India who owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;

(C) in the case of a company, a firm, an association of persons, a body of individuals, an artificial juridical person, whether incorporated or not, such company, firm, association of persons, body of individuals, artificial juridical person incorporated or registered outside India or existing as such and which owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;’.

(vi) in clause (y), for sub-clause (ii), the following clauses shall be inserted, namely:—

"(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is thirty lakh rupees or more; or

(iii) the offences specified under Part C of the Schedule.".

3. In section 5 of the principal Act, in sub-section (I),—

Amendment
of section 5.

(a) for the words "ninety days", the words "one hundred and fifty days" shall be substituted;

(b) for the proviso, the following proviso shall be substituted, namely:—

"Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be:

2 of 1974.

Provided further that, notwithstanding anything contained in clause (b), any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act."

4. In section 6 of the principal Act,—

Amendment
of section 6.

(i) in sub-section (I), for the words "one or more Adjudicating Authorities", the words "an Adjudicating Authority" shall be substituted;

(ii) in the proviso to sub-section (8), for the word "sixty-two", the word "sixty-five" shall be substituted.

5. In section 8 of the principal Act, in sub-section (I), for the words and figure "offence under section 3", the words and figure "offence under section 3 or is in possession of proceeds of crime" shall be substituted.

Amendment
of section 8.

6. In section 12 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment
of section 12.

"(2)(a) the records referred to in clause (a) of sub-section (I) shall be maintained for a period of ten years from the date of transactions between the clients and the banking company or financial institution or intermediary, as the case may be;

(b) the records referred to in clause (c) of sub-section (I) shall be maintained for a period of ten years from the date of cessation of transactions between the clients and the banking company or financial institution or intermediary, as the case may be."

7. In section 17 of the principal Act, in sub-section (I),—

Amendment
of section 17.

(i) in the opening portion, for the words "the Director" the words, "the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section," shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that no search shall be conducted unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person authorised to investigate the offence mentioned in the Schedule before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be." 2 of 1974.

Amendment
of section 18.

8. In section 18 of the principal Act,—

(i) in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that no search of any person shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be."; 2 of 1974.

(ii) in sub-section (9), the proviso shall be omitted.

Amendment
of section 28.

9. In section 28 of the principal Act, in sub-section (2), clause (a) shall be omitted.

Amendment
of section 32.

10. In section 32 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that the Chief Justice of India shall be consulted before removal of the Chairperson or a Member who was appointed on the recommendation of the Chief Justice of India.".

Amendment
of section 38.

11. In section 38 of the principal Act, for the words "one or more of the other Members", the words "third Member" shall be substituted.

Amendment
of section 60.

12. In section 60 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) When any property in India is confiscated as a result of execution of a request from a contracting State in accordance with the provisions of this Act, the Central Government may either return such property to the requesting State or compensate that State by disposal of such property on mutually agreed terms that would take into account deduction for reasonable expenses incurred in investigation, prosecution or judicial proceedings leading to the return or disposal of confiscated property.".

Amendment
of Schedule.

13. In the principal Act, in the Schedule,—

(i) in Part A,—

(a) in Paragraph 1, after section 121A and the entry relating thereto, the following sections and the entries shall be inserted, namely:—

Section	Description of offence
"489A	Counterfeiting currency notes or bank notes.
489B	Using as genuine, forged or counterfeit currency notes or bank notes.";

(b) in Paragraph 2, for sections 15, 18 and 20 and the entries relating thereto, the following sections and the entries shall be substituted, namely:—

Section	Description of offence
"15	Contravention in relation to poppy straw.
16	Contravention in relation to coca plant and coca leaves.
17	Contravention in relation to prepared opium.
18	Contravention in relation to opium poppy and opium.
19	Embezzlement of opium by cultivator.
20	Contravention in relation to cannabis plant and cannabis.
21	Contravention in relation to manufactured drugs and preparations.";

(c) after Paragraph 2, the following Paragraphs shall be inserted, namely:—

PARAGRAPH 3

OFFENCES UNDER THE EXPLOSIVE SUBSTANCES ACT, 1908

Section	Description of offence
3	Causing explosion likely to endanger life or property.
4	Attempt to cause explosion, or for making or keeping explosives with intent to endanger life or property.
5	Making or possessing explosives under suspicious circumstances.

PARAGRAPH 4

OFFENCES UNDER THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

Section	Description of offence
10 read with section 3	Penalty for being member of an unlawful association, etc.
11 read with sections 3 and 7	Penalty for dealing with funds of an unlawful association.
13 read with section 3	Punishment for unlawful activities.
16 read with section 15	Punishment for terrorist act.
16A	Punishment for making demands of radioactive substances, nuclear devices, etc.
17	Punishment for raising fund for terrorist act.
18	Punishment for conspiracy, etc.
18A	Punishment for organising of terrorist camps.
18B	Punishment for recruiting of any person or persons for terrorist act.
19	Punishment for harbouring, etc.
20	Punishment for being member of terrorist gang or organisation.
21	Punishment for holding proceeds of terrorism.
38	Offence relating to membership of a terrorist organisation.

Section	Description of offence
39	Offence relating to support given to a terrorist organisation.
40	Offence of raising fund for a terrorist organisation.";

(ii) in Part B,—

(a) for Paragraph 1, the following Paragraph shall be substituted, namely:—

“PARAGRAPH 1

OFFENCES UNDER THE INDIAN PENAL CODE

Section	Description of offence
120B	Criminal conspiracy.
255	Counterfeiting Government stamp.
257	Making or selling instrument for counterfeiting Government stamp.
258	Sale of counterfeit Government stamp.
259	Having possession of counterfeit Government stamp.
260	Using as genuine a Government stamp known to be counterfeit.
302	Murder.
304	Punishment for culpable homicide not amounting to murder.
307	Attempt to murder.
308	Attempt to commit culpable homicide.
327	Voluntarily causing hurt to extort property, or to constrain to an illegal act.
329	Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
364A	Kidnapping for ransom, etc.
384 to 389	Offences relating to extortion.
392 to 402	Offences relating to robbery and dacoity.
411	Dishonestly receiving stolen property.
412	Dishonestly receiving property stolen in the commission of a dacoity.
413	Habitually dealing in stolen property.
414	Assisting in concealment of stolen property.
417	Punishment for cheating.
418	Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
419	Punishment for cheating by personation.
420	Cheating and dishonestly inducing delivery of properties.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

Section	Description of offence
422	Dishonestly or fraudulently preventing debt being available for creditors.
423	Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
424	Dishonest or fraudulent removal or concealment of property.
467	Forgery of valuable security, will, etc.
471	Using as genuine a forged document or electronic record.
472 and 473	Making or possessing counterfeit seal, etc., with intent to commit forgery.
475 and 476	Counterfeiting device or mark.
481	Using a false property mark.
482	Punishment for using a false property mark.
483	Counterfeiting a property mark used by another.
484	Counterfeiting a mark used by a public servant.
485	Making or possession of any instrument for counterfeiting a property mark.
486	Selling goods marked with a counterfeit property mark.
487	Making a false mark upon any receptacle containing goods.
488	Punishment for making use of any such false mark.”.

(b) in Paragraph 3, before section 51 read with section 17A and the entry relating thereto, the following section and the entry shall be inserted, namely:—

Section	Description of offence
"51 read with section 9	Hunting of wild animals.";

(c) in Paragraph 5, after section 10 and the entry relating thereto, the following section and the entry shall be inserted, namely:—

Section	Description of offence
"13	Criminal misconduct by a public servant.";

(d) after Paragraph 5, the following Paragraphs shall be inserted, namely:—

"PARAGRAPH 6

OFFENCES UNDER THE EXPLOSIVES ACT, 1884

Section	Description of offence
9-B	Punishment for certain offences.
9-C	Offences by Companies.

PARAGRAPH 7

OFFENCES UNDER THE ANTIQUITIES AND ARTS TREASURES ACT, 1972

	Section	Description of offence
5	25 read with section 3.	Contravention of export trade in antiquities and art treasures.
	28	Offences by Companies.

PARAGRAPH 8

OFFENCES UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

10	Section	Description of offence
	12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

PARAGRAPH 9

OFFENCES UNDER THE CUSTOMS ACT, 1962

	Section	Description of offence
	135	Evasion of duty or prohibitions.

PARAGRAPH 10

OFFENCES UNDER THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

20	Section	Description of offence
	16	Punishment for enforcement of bonded labour.
	18	Punishment for extracting bonded labour under the bonded labour system.
	20	Abetment to be an offence.

25 PARAGRAPH 11

OFFENCES UNDER THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

	Section	Description of offence
30	14	Punishment for employment of any child to work in contravention of the provisions of section 3.

PARAGRAPH 12

OFFENCES UNDER THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994

	Section	Description of offence
35	18	Punishment for removal of human organ without authority.
	19	Punishment for commercial dealings in human organs.
	20	Punishment for contravention of any other provision of this Act.

PARAGRAPH 13

OFFENCES UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

Section	Description of offence
23	Punishment for cruelty to juvenile or child.
24	Employment of juvenile or child for begging.
25	Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.
26	Exploitation of juvenile or child employee.

PARAGRAPH 14

OFFENCES UNDER THE EMIGRATION ACT, 1983

Section	Description of offence
24	Offences and penalties.

PARAGRAPH 15

OFFENCES UNDER THE PASSPORTS ACT, 1967

Section	Description of offence
12	Offences and penalties.

PARAGRAPH 16

OFFENCES UNDER THE FOREIGNERS ACT, 1946

Section	Description of offence
14	Penalty for contravention of provisions of the Act, etc.
14B	Penalty for using forged passport.
14C	Penalty for abetment.

PARAGRAPH 17

OFFENCES UNDER THE COPYRIGHT ACT, 1957

Section	Description of offence
63	Offence of infringement of copyright or other rights conferred by this Act.
63A	Enhanced penalty on second and subsequent convictions.
63B	Knowing use of infringing copy of computer programme.
68A	Penalty for contravention of section 52A.

PARAGRAPH 18

OFFENCES UNDER THE TRADE MARKS ACT, 1999

Section	Description of offence
103	Penalty for applying false trade marks, trade descriptions, etc.
104	Penalty for selling goods or providing services to which false trademark or false trade description is applied.

	Section	Description of offence
	105	Enhanced penalty on second or subsequent conviction.
	107	Penalty for falsely representing a trade mark as registered.
5	120	Punishment of abetment in India of acts done out of India.

PARAGRAPH 19

OFFENCES UNDER THE INFORMATION TECHNOLOGY ACT, 2000

	Section	Description of offence
10	72	Penalty for breach of confidentiality and privacy.
	75	Act to apply for offence or contravention committed outside India.

PARAGRAPH 20

OFFENCES UNDER THE BIOLOGICAL DIVERSITY ACT, 2002

	Section	Description of offence
15	55 read with 6	Penalties for contravention of section 6, etc.

PARAGRAPH 21

OFFENCES UNDER THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001

	Section	Description of offence
20	70 read with 68	Penalty for applying false denomination, etc.
	71 read with 68	Penalty for selling varieties to which false denomination is applied.
25	72 read with 68	Penalty for falsely representing a variety as registered.
	73 read with 68	Penalty for subsequent offence.

PARAGRAPH 22

OFFENCES UNDER THE ENVIRONMENT PROTECTION ACT, 1986

	Section	Description of offence
30	15 read with 7	Penalty for discharging environmental pollutants.
	15 read with 8	Penalty for handling hazardous substance.

PARAGRAPH 23

OFFENCES UNDER THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

	Section	Description of offence
35	41(2)	Penalty for pollution of stream or well.
	43	Penalty for contravention of provisions of section 24.

PARAGRAPH 24

OFFENCES UNDER THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

Section	Description of offence	
37	Failure to comply with the provisions for operating industrial plant.	5

PARAGRAPH 25

OFFENCES UNDER THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF MARITIME NAVIGATION AND FIXED PLATFORMS ON CONTINENTAL SHELF ACT, 2002

Section	Description of offence	
3	Offences against ship, fixed platform, cargo of a ship, maritime navigational facilities, etc."	10

(iii) after Part B, the following Part shall be inserted, namely:—

"PART C

An offence which is the offence of cross border implications and is specified in,—

(1) Part A; or

(2) Part B without any monetary threshold; or

(3) the offences against property under Chapter XVII of the Indian Penal Code."

RAJYA SABHA

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further to amend the Prevention of Money-laundering Act, 2002.

(As passed by the Rajya Sabha)