

Prevention of Money-Laundering (Amendment) Act, 2012

UNION OF INDIA

India

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Act 2 of 2013

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1. [Repealed by The Repealing and Amending Act, 2016 (Act 23 of 2016) on 6 May 2016]

Prefatory Note-Statement of Object and Reasons.-The Prevention of Money-Laundering Act, 2002 was enacted to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto. The aforesaid Act also addresses the International obligations under the Political Declaration and Global Programme of Action adopted by the General Assembly of the United Nations to prevent money-laundering. The Act was amended in the Year 2005 and 2009 to remove the difficulties arisen implementation of the Act.[In *Nikesh Tarachand Shah v Union of India*, the Supreme Court struck down the 2012 Amendment to the Prevention of Money Laundering Act 2002.

Money-laundering is one of the heinous crimes, which not only affects the social and economic fabric of the nation, but also tends to promote other heinous offences, such as terrorism, offences related to NDPS Act, etc., the three judges bench headed by Justice AM Khanwilkar observed. Prior to 2018 amendment, instead of 'under this Act', it was 'punishable for a term of imprisonment of more than three years under Part A of the Schedule'. In *Nikesh Tarachand Shah vs. Union of India* (2018) 11 SCC 1, the Supreme Court declared such conditions to be unconstitutional being violative of Articles 14 and 21 of the Constitution.

(<https://lawtimesjournal.in/nikesh-tarachand-shah-vs-union-of-india/>,
<https://indiankanoon.org/doc/117859307/>)]

2. The problem of money-laundering is no longer restricted to the geo political boundaries of any country. It is a global menace that cannot be contained by any nation alone. In view of this, India has become a member of the Financial Action Task Force and Asia Pacific Group on money-laundering, which are committed to the effective implementation and enforcement of internationally accepted standards against money-laundering and the financing of terrorism. Consequent to the submission of an action

plan to the Financial Action Task Force to bring anti money-laundering legislation of India at par with the international standards and to obviate some of the deficiencies in the Act that have been experienced by the implementing agencies, the need to amend the Prevention of Money-Laundering Act, 2002 has become necessary.

3. The Prevention of Money-Laundering (Amendment) Bill, 2011, inter alia, seeks to-

(a)introduce the concept of ‘corresponding law’ to link the provisions of Indian law with the laws of foreign countries and provide for transfer of the proceeds of the foreign predicate offence in any manner in India;(b)introduce the concept of ‘reporting entity’ to include therein a banking company, financial institution, intermediary or a person carrying on a designated business or profession;(c)enlarge the definition of offence of money-laundering to include therein the activities like concealment, acquisition, possession and use of proceeds of crime as criminal activities and remove existing limit of five lakh rupees of fine under the Act;(d)make provision for attachment and confiscation of the proceeds of crime even if there is no conviction so long as it is proved that offence of money-laundering has taken place and property in question is involved in money-laundering;(e)confer power upon the Director to call for records of transactions or any additional information that may be required for the purposes of the Prevention of money-laundering and also to make inquiries for non-compliance of reporting obligations cast upon them;(f)make the reporting entity, its designated directors on the Board and employees responsible for omissions or commissions in relation to the reporting obligations under Chapter IV of the Act;(g)provide that in any proceedings relating to proceeds of crime under the aforesaid Act, unless the contrary is proved, it shall be presumed that such proceeds of crime is involved in money-laundering;(h)provide for appeal against the orders of the Appellate Tribunal directly to the Supreme Court;(i)provide for the process of transfer of the cases of Scheduled offence pending in a court which had taken cognizance of the offence to the Special Court for trial of offence of money-laundering and also provide that the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed;(j)putting all the offences listed in Part A and Part B of the Schedule to the aforesaid Act into Part A of that Schedule instead of keeping them in two Parts so that the provisions of monetary threshold does not apply to the offences.

4. The Bill seeks to achieve the above objects.

1. Short title and commencement.-(1) This Act may be called the Prevention of Money-laundering (Amendment) Act, 2012.

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

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

(i)after clause (f), the following clause shall be inserted, namely-‘(fa) "beneficial owner" means an individual who ultimately owns or controls a client of a reporting entity or the person on whose behalf a transaction is being conducted and includes a person who exercises ultimate effective control over a juridical person;’;(ii)after clause (h), the following clause shall be inserted, namely-‘(ha) "client" means a person who is engaged in a financial transaction or activity with a reporting entity and includes a person on whose behalf the person who engaged in the transaction or activity, is acting;’;(iii)after clause (i), the following clauses shall be inserted, namely-‘(ia) "corresponding law" means any law of any foreign country corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the scheduled offences;(ib)"dealer" has the same meaning as assigned to it in clause (b) of Section 2 of the Central Sales Tax Act, 1956 (74 of 1956);’;(iv)clause (ja) shall be omitted;(v)for clause (l), the following clause shall be substituted, namely-‘(l) "financial institution" means a financial institution as defined in clause (c) of Section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934) and includes a chit fund company, a housing finance institution, an authorised person, a payment system operator, a non-banking financial company and the Department of Posts in the Government of India;’;(vi)for clause (n), the following clause shall be substituted, namely-‘(n) "intermediary" means,-(i)a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee to a trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser or any other intermediary associated with securities market and registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992); or(ii)an association recognised or registered under the Forward Contracts (Regulation) Act, 1952 (74 of 1952) or any member of such association; or(iii)intermediary registered by the Pension Fund Regulatory and Development Authority; or(iv)a recognised stock exchange referred to in clause (f) of Section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);’;(vii)in clause (q), the words "and includes a person carrying on designated business or profession" shall be omitted;(viii)in clause (ra), in sub-clause (i), for the word "remits", the words "transfers in any manner" shall be substituted;(ix)after clause (s), the following clauses shall be inserted, namely-‘(sa) "person carrying on designated business or profession" means,-(i)a person carrying on activities for playing games of chance for case of kind, and includes such activities associated with casino;(ii)a Registrar or Sub-Registrar appointed under Section 6 of the Registration Act, 1908 (16 of 1908), as may be notified by the Central Government;(iii)real estate agent, as may be notified by the Central Government;(iv)dealer in precious metals, precious stones and other high value goods, as may be notified by the Central Government;(v)person engaged in safekeeping and administration of cash and liquid securities on behalf of other persons, as may be notified by the Central Government; or(vi)person carrying on such other activities as the Central Government may, by notification, so designate, from time to time;(sb)"precious metal" means gold, silver, platinum, palladium or rhodium or such other metal as may be notified by the Central Government;(sc)"precious stone" means diamond, emerald, ruby, sapphire or any such other stone as may be notified by the Central Government;’;(x)after clause (v), the following shall be inserted, namely-‘Explanation.-For the removal of doubts, it is hereby clarified that the term "property" includes property of any kind used in the commission of an offence under

this Act or any of the scheduled offences;(va)"real estate agent" means a real estate agent as defined in clause (88) of Section 65 of the Finance Act, 1994 (32 of 1994);;(xi)after clause (w), the following clause shall be inserted, namely-“(wa) "reporting entity" means a banking company, financial institution, intermediary or a person carrying on a designated business or profession;’.

3. Amendment of Section 3.-In Section 3 of the principal Act, for the words "proceeds of crime and projecting", the words "proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming" shall be substituted.

4. Amendment of Section 4.-In Section 4 of the principal Act, the words "which may extend to five lakh rupees" shall be omitted.

5. Amendment of Section 5.-In Section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely-

"(1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that-(a)any person is in possession of any proceeds of crime; and(b)such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime under this Chapter,he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in such manner as may be prescribed: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 (2 of 1974), or a complaint has been filed by a person authorised to investigate the offence mentioned in that Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be, or a similar report complaint has been made or filed under the corresponding law of any other country: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."

6. Amendment of Section 8.-In Section 8 of the principal Act,-

(i)in sub-section (1), after the words and figure "Section 5, or, seized", the words "or frozen" shall be inserted;(ii)in sub-section (3),-(a)in the opening portion, for the words and figures "record seized under Section 17 or Section 18 and record a finding to that effect, such attachment or retention of the seized property", the words and figures "record seized or frozen under Section 17 or Section 18

and record a finding to that effect, whereupon such attachment or retention or freezing of the seized or frozen property" shall be substituted;(b)in clause (a), for the words "scheduled offence before a court; and", the words "offence under this Act before a court or under the corresponding law of any other country, before the competent court of criminal jurisdiction outside India, as the case may be; and" shall be substituted;(c)for clause (b), the following clause shall be substituted, namely-"(b) become final after an order of confiscation is passed under sub-section (5) or sub-section (7) of Section 8 or Section 58-B or sub-section (2-A) of Section 60 by the Adjudicating Authority";(iii)in sub-section (4), for the words "possession of the attached property", the following shall be substituted, namely-"possession of the property attached under Section 5 or frozen under sub-section (1-A) of Section 17, in such manner as may be prescribed:Provided that if it is not practicable to take possession of a property frozen under sub-section (1-A) of Section 17, the order of confiscation shall have the same effect as if the property had been taken possession of.";(iv)for sub-sections (5) and (6), the following sub-sections shall be substituted, namely-"(5) Where on conclusion of a trial of an offence under this Act, the Special Court finds that the offence of money-laundering has been committed, it shall order that such property involved in the money-laundering or which has been used for commission of the offence of money-laundering shall stand confiscated to the Central Government.(6)Where on conclusion of a trial under this Act, the Special Court finds that the offence of money-laundering has not taken place or the property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.(7)Where the trial under this Act cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Special Court shall, on an application moved by the Director or a person claiming to be entitled to possession of a property in respect of which an order has been passed under sub-section (3) of Section 8, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the offences of money-laundering after having regard to the material before it."

7. Amendment of Section 9.-In Section 9 of the principal Act,-

(i)in the opening portion, for the words, brackets and figures "sub-section (6) of Section 8", the words, brackets, figures and letter "sub-section (5) or sub-section (7) of Section 8 or Section 58-B or sub-section (2-A) of Section 60" shall be substituted;(ii)in the first proviso,-(a)for the words "Adjudicating Authority", the words "Special Court or the Adjudicating Authority, as the case may be," shall be substituted;(b)after the words "or seized", the words "or frozen" shall be inserted.

8. Amendment of Section 10.-In Section 10 of the principal Act, in sub-section (2), for the words, brackets and figures "sub-section (6) of Section 8", the words brackets, figures and letters "sub-section (5) or sub-section (6) or sub-section (7) of Section 8 or Section 58-B or sub-section (2-A) of Section 60" shall be substituted.

9. Substitution of new section for Section 12.-For Section 12 of the principal Act, the following section shall be substituted, namely-

"12. Reporting entity to maintain records.-(1) Every reporting entity shall-(a)maintain a record of all transactions, including information relating to transactions covered under clause (b), in such manner as to enable it to reconstruct individual transactions;(b)furnish to the Director within such time as may be prescribed, information relating to such transactions, whether attempted or executed, the nature and value of which may be prescribed;(c)verify the identity of its clients in such manner and subject to such conditions, as may be prescribed;(d)identify the beneficial owner, if any, of such of its clients, as may be prescribed;(e)maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to its clients.(2)Every information maintained, furnished or verified, save as otherwise provided under any law for the time being in force, shall be kept confidential.(3)The records referred to in clause (a) of sub-section (1) shall be maintained for a period of five years from the date of transaction between a client and the reporting entity.(4)The records referred to in clause (e) of sub-section (1) shall be maintained for a period of five years after the business relationship between a client and the reporting entity has ended or the account has been closed, whichever is later.(5)The Central Government may, by notification, exempt any reporting entity or class of reporting entities from any obligation under this Chapter."

10. Insertion of new Section 12-A.-After Section 12 of the principal Act, the following section shall be inserted, namely-

"12-A. Access to information.-(1) The Director may call for from any reporting entity any of the records referred to in sub-section (1) of Section 12 and any additional information as he considers necessary for the purposes of this Act.(2)Every reporting entity shall furnish to the Director such information as may be required by him under sub-section (1) within such time and in such manner as he may specify.(3)Save as otherwise provided under any law for the time being in force, every information sought by the Director under sub-section (1), shall be kept confidential."

11. Amendment of Section 13.-In Section 13 of the principal Act,-

(i)in sub-section (1), for the words, brackets and figures "call for records referred to in sub-section (1) of Section 12 and may make such inquiry or cause such inquiry to be made, as he thinks fit", the words "make such inquiry or cause such inquiry to be made, as he thinks fit to be necessary, with regard to the obligations of the reporting entity, under this Chapter" shall be substituted;(ii)after sub-section (1), the following sub-sections shall be inserted, namely-"(1-A) If at any stage of inquiry or any other proceedings before him, the Director having regard to the nature and complexity of the case, is of the opinion that it is necessary to do so, he may direct the concerned reporting entity to get its records, as may be specified, audited by an accountant from amongst a panel of accountants, maintained by the Central Government for this purpose.(1-B) The expenses of, and incidental to, any audit under sub-section (1-A) shall be borne by the Central Government.";(iii)for sub-section (2), the following sub-section shall be substituted, namely-"(2) If the Director, in the course of any

inquiry, finds that a reporting entity or its designated director on the Board or any of its employees has failed to comply with the obligations under this Chapter, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may-(a)issue a warning in writing; or(b)direct such reporting entity or its designated director on the Board or any of its employees, to comply with specific instructions; or(c)direct such reporting entity or its designated director on the Board or any of its employees, to send reports at such interval as may be prescribed on the measures it is taking; or(d)by an order, impose a monetary penalty on such reporting entity or its designated director on the Board or any of its employees, which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.";(iv)after sub-section (3), the following Explanation shall be inserted, namely-"Explanation.-For the purpose of this section, "accountant" shall mean a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949).".

12. Substitution of new section for Section 14.-For Section 14 of the principal Act, the following section shall be substituted, namely-

"14. No civil or criminal proceedings against reporting entity, its directors and employees in certain cases.-Save as otherwise provided in Section 13, the reporting entity, its directors and employees shall not be liable to any civil or criminal proceedings against them for furnishing information under clause (b) of sub-section (1) of Section 12."

13. Substitution of new section for Section 15.-For Section 15 of the principal Act, the following section shall be substituted, namely-

"15. Procedure and manner of furnishing information by reporting entities.-The Central Government may, in consultation with the Reserve Bank of India, prescribe the procedure and the manner of maintaining and furnishing information by a reporting entity under sub-section (1) of Section 12 for the purpose of implementing the provisions of this Act."

14. Amendment of Section 17.-In Section 17 of the principal Act,-

(i)in sub-section (1),-(a)in clause (iii), after the word "money-laundering,", the word "or" shall be inserted;(b)after clause (iii), the following clause shall be inserted, namely-"(iv) is in possession of any property related to crime,";(c)in clause (d), after the words "such record or", the words "property, if required or" shall be inserted;(d)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 (2 of 1974) 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, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as

the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.";(ii)after sub-section (1), the following sub-section shall be inserted, namely-"(1-A) Where it is not practicable to seize such record or property, the officer authorised under sub-section (1), may make an order to freeze such property whereupon the property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned:Provided that if, at any time before its confiscation under sub-section (5) or sub-section (7) of Section 8 or Section 58-B or sub-section (2-A) of Section 60, it becomes practical to seize a frozen property, the officer authorised under sub-section (1) may seize such property.";(iii)in sub-section (2), after the words, "immediately after search and seizure" the words "or upon issuance of a freezing order" shall be inserted;(iv)for sub-section (4), the following sub-section shall be substituted, namely-"(4) The authority seizing any record or property under sub-section (1) or freezing any record or property under sub-section (1-A) shall, within a period of thirty days from such seizure or freezing, as the case may be, file an application, requesting for retention of such record or property seized under sub-section (1) or for continuation of the order of freezing served under sub-section (1-A), before the Adjudicating Authority."

15. Amendment of Section 18.-In Section 18 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, 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 157 of the Code of Criminal Procedure, 1973 (2 of 1974), 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, or in cases where such report is not required to be forwarded, a similar report of information received or otherwise has been submitted by an officer authorised to investigate a scheduled offence to an officer not below the rank of Additional Secretary to the Government of India or equivalent being head of the office or Ministry or Department or Unit, as the case may be, or any other officer who may be authorised by the Central Government, by notification, for this purpose.";

16. Substitution of new sections for Section 20 and Section 21.-For Sections 20 and 21 of the principal Act, the following sections shall be substituted, namely-

"20. Retention of property.-(1) Where any property has been seized under Section 17 or Section 18 or frozen under sub-section (1-A) of Section 17 and the officer authorised by the Director in this behalf has, on the basis of material in his possession, reason to believe (the reason for such belief to be recorded by him in writing) that such property is required to be retained for the purposes of adjudication under Section 8, such property may, if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such property was seized or frozen, as the case may be.(2)The officer authorised by the Director shall,

immediately after he has passed an order for retention or continuation of freezing of the property for purposes of adjudication under Section 8, forward a copy of the order along with the material in his possession, referred to in sub-section (1), to the Adjudicating Authority, in a sealed envelope, in the manner as may be prescribed and such Adjudicating Authority shall keep such order and material for such period as may be prescribed.(3)On the expiry of the period specified in sub-section (1), the property shall be returned to the person from whom such property was seized or whose property was ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such property beyond the said period.(4)The Adjudicating Authority, before authorising the retention or continuation of freezing of such property beyond the period specified in sub-section (1), shall satisfy himself that the property is prima facie involved in money-laundering and the property is required for the purposes of adjudication under Section 8.(5)After passing the order of confiscation under sub-section (5) or sub-section (7) of Section 8, the Court or the Adjudicating Authority, as the case may be, shall direct the release of all property other than the property involved in money-laundering to the person from whom such property was seized or the persons entitled to receive it.(6)Where an order releasing the property has been made by the court under sub-section (6) of Section 8 or by the Adjudicating Authority under Section 58-B or sub-section (2-A) of Section 60, the Director or any officer authorised by him in this behalf may withhold the release of any such property for a period of ninety days from the date of such order, if he is of the opinion that such property is relevant for the appeal proceedings under this Act.

21. Retention of records.-(1) Where any records have been seized, under Section 17 or Section 18 or frozen under sub-section (1-A) of Section 17 and the Investigating Officer or any other officer authorised by the Director in this behalf has reason to believe that any of such records are required to be retained for any inquiry under this Act, such records may if seized, be retained or if frozen, may continue to remain frozen, for a period not exceeding one hundred and eighty days from the day on which such records were seized or frozen, as the case may be.

(2)The person, from whom records seized or frozen, shall be entitled to obtain copies of records.(3)On the expiry of the period specified under sub-section (1), the records shall be returned to the person from whom such records were seized or whose records were ordered to be frozen unless the Adjudicating Authority permits retention or continuation of freezing of such records beyond the said period.(4)The Adjudicating Authority, before authorising the retention or continuation of freezing of such records beyond the period specified in sub-section (1), shall satisfy himself that the records are required for the purposes of adjudication under Section 8.(5)After passing of an order of confiscation under sub-section (5) or sub-section (7) of Section 8, the Adjudicating Authority shall direct the release of the records to the person from whom such records were seized.(6)Where an order releasing the records has been made by the court under sub-section (6) of Section 8 or by the Adjudicating Authority under Section 58-B or sub-section (2-A) of Section 60, the Director or any other officer authorised by him in this behalf may withhold the release of any such record for a period of ninety days from the date of such order, if he is of the opinion that such record is relevant for the appeal proceedings under this Act."

17. Amendment of Section 22.-In Section 22 of the principal Act, in sub-section (1), after the words "a survey or a search," the words "or where any record or property is produced by any person or has been resumed or seized from the custody or control of any person or has been frozen under this Act or under any other law for the time being in force," shall be inserted.

18. Amendment of Section 23.-In Section 23 of the principal Act, for the words and figure "under Section 8, it shall, unless otherwise proved to the satisfaction of the Adjudicating Authority", the words and figure "under Section 8 or for the trial of the money-laundering offence, it shall unless otherwise proved to the satisfaction of the Adjudicating Authority or the Special Court" shall be substituted.

19. Amendment of Section 24.-For Section 24 of the principal Act, the following section shall be substituted, namely-

"24. Burden of Proof.-In any proceeding relating to proceeds of crime under this Act,-(a)in the case of a person charged with the offence of money-laundering under Section 3, the Authority or court shall, unless the contrary is proved, presume that such proceeds of crime are involved in money-laundering; and(b)in the case of any other person the Authority or court, may presume that such proceeds of crime are involved in money-laundering."

20. Amendment of Section 26.-In Section 26 of the principal Act, in sub-section (2), for the words "banking company, financial institution or intermediary", the words "reporting entity" shall be substituted.

21. Amendment of Section 44.-In Section 44 of the principal Act, in sub-section (1),-

(i)for clause (a) the following clause shall be substituted, namely-"(a) an offence punishable under Section 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed:Provided that the Special Court, trying a scheduled offence before the commencement of this Act, shall continue to try such scheduled offence; or";(ii)in clause (b), for the words "cognizance of the offence for which the accused is committed to it for trial", the words and figure "cognizance of offence under Section 3, without the accused being committed to it for trial" shall be substituted;(iii)after clause (b), the following clauses shall be inserted, namely-"(c) if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the

stage at which it is committed.(d)a Special Court while trying the scheduled offence or the offence of money-laundering shall hold trial in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), as it applies to a trial before a Court of Session."

22. Amendment of Section 50.-In Section 50 of the principal Act, in sub-section (1), in clause (b), for the words "banking company or a financial institution or a company," the words "reporting entity" shall be substituted.

23. Amendment of Section 54.-In Section 54 of the principal Act,-

(i)in the opening portion, for the word "officers", the words "officers and others" shall be substituted;(ii)for clause (d), the following clause shall be substituted, namely-"(d) members of the recognised stock exchange referred to in clause (f) of Section 2 and the officers of the stock exchanges recognised under Section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);(iii)after clause (h), the following clauses shall be inserted, namely-"(ha) officers of the Insurance Regulatory and Development Authority established under Section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);(hb)officers of the Forward Markets Commission established under Section 3 of the Forward Contracts (Regulations) Act, 1952 (74 of 1952);(hc)officers and members of the recognised association recognised under Section 6 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952);(hd)officers of the Pension Fund Regulatory and Development Authority;(he)officers of the Department of Posts in the Government of India;(hf)Registrars or sub-registrars appointed by the State Governments under Section 6 of the Registration Act, 1908 (16 of 1908);(hg)registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988);(hh)officers and members of the Institute of Chartered Accountants of India constituted under Section 3 of the Chartered Accountants Act, 1949 (38 of 1949);(hi)officers and members of the Institute of Cost and Works Accountants of India constituted under Section 3 of the Cost and Works Accountants Act, 1959 (23 of 1959);(hj)officers and members of the Institute of Company Secretaries of India constituted under Section 3 of the Company Secretaries Act, 1980 (56 of 1980);";(iv)in clause (j), for the words "banking companies", the words "reporting entities" shall be substituted.

24. Insertion of new Sections 58-A and 58-B.-After Section 58, the following sections shall be inserted, namely-

"58-A. Special Court to release the property.-Where on closure of the criminal case or conclusion of a trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering has not taken place or the property in India is not involved in money-laundering, the Special Court may, on an application moved by the concerned person or the Director, after notice to the other party, order release of such property to the person entitled to receive it.

58.

-B. Letter of request of a contracting State or authority for confiscation or release the property.-Where the trial under the corresponding law of any other country cannot be conducted by reason of the death of the accused or the accused being declared a proclaimed offender or for any other reason or having commenced but could not be concluded, the Central Government shall, on receipt of a letter of request from a court or authority in a contracting State requesting for confiscation or release of property, as the case may be, forward the same to the Director to move an application before the Special Court and upon such application the Special Court shall pass appropriate orders regarding confiscation or release of such property involved in the offence of money-laundering."

25. Amendment of Section 60.-In Section 60 of the principal Act,-

(i)in sub-section (1), for the words and figures "property under Section 5 or where an Adjudicating Authority has made an order confirming such attachment or confiscation of any property under Section 8", the words, figures, brackets and letter "property under Section 5 or for freezing under sub-section (1-A) of Section 17 or where an Adjudicating Authority has made an order relating to a property under Section 8 or where a Special Court has made an order of confiscation relating to a property under sub-section (5) or sub-section (6) of Section 8" shall be substituted;(ii)in sub-section (2),-(a)for the words "attachment or confiscation", the words "attachment, seizure, freezing or confiscation" shall be substituted;(b)for the words and figure "Section 3", the words "a corresponding law" shall be substituted;(iii)after sub-section (2), the following sub-section shall be inserted, namely-"(2-A) Where on closure of the criminal case or conclusion of trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering under the corresponding law of that country has been committed, the Adjudicating Authority shall, on receipt of an application from the Director for execution of confiscation under sub-section (2), order, after giving notice to the affected persons, that such property involved in money-laundering or which has been used for commission of the offence of money-laundering stand confiscated to the Central Government."

26. Amendment of Section 63.-In Section 63 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely-

"(4) Notwithstanding anything contained in clause (c) of sub-section (2), a person who intentionally disobeys any direction issued under Section 50 shall also be liable to be proceeded against under Section 174 of the Indian Penal Code (45 of 1860)."

27. Substitution of new section for Section 69.-For Section 69 of the principal Act, the following section shall be substituted, namely-

"69. Recovery of fine or penalty.-Where any fine or penalty imposed on any person under Section 13 or Section 63 is not paid within six months from the day of imposition of fine or penalty, the

Director or any other officer authorised by him in this behalf may proceed to recover the amount from the said person in the same manner as prescribed in Schedule II of the Income Tax Act, 1961 (43 of 1961) for the recovery of arrears and he or any officer authorised by him in this behalf shall have all the powers of the Tax Recovery Officer mentioned in the said Schedule for the said purpose."

28. Amendment of Section 70.-In Section 70 of the principal Act, the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely-

"Explanation 2.-For the removal of doubts, it is hereby clarified that a company may be prosecuted, notwithstanding whether the prosecution or conviction of any legal juridical person shall be contingent on the prosecution or conviction of any individual."

29. Amendment of Section 73.-In Section 73 of the principal Act, in sub-section (2),-

(i)after clause (a), the following clause shall be inserted, namely-"(aa) the manner of provisional attachment of property under sub-section (1) of Section 5;"(ii)after clause (e), the following clause shall be inserted, namely-"(ee) the manner of seizing or taking possession of property attached under Section 5 or frozen under sub-section (1-A) of Section 17 or under sub-section (4) of Section 8;"(iii)clause (h) shall be omitted;(iv)in clause (i), for the words "the time within which", the words "the nature and value of transactions and the time within which" shall be substituted;(v)for clause (j), the following clauses shall be substituted, namely-"(j) the manner and the conditions in which identity of clients shall be verified by the reporting entities under clause (c) of sub-section (1) of Section 12;(jj)the manner of identifying beneficial owner, if any, from the clients by the reporting entities under clause (d) of sub-section (1) of Section 12;(jjj)the period of interval in which the reports are sent by the reporting entities or any of its employees under clause (c) of sub-section (2) of Section 13;"(vi)after clause (p), the following clause shall be inserted, namely-"(pp) the manner in which the forwarding of the order for retention or continuation of freezing of the property and the period of keeping such order and material under sub-section (2) of Section 20;"

30. Amendment of the Schedule.-In the Schedule to the principal Act,-

(i)for Part A, the following Part shall be substituted, namely-

Section	Description of offence
120-B	Criminal conspiracy.
121	Waging or attempting to wage war or abetting waging of war, against the Government of India.
121-A	Conspiracy to commit offences punishable by Section 121 against the State.

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.
364-A	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 property.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
422	Dishonestly or fraudulent 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.
- 489-A Counterfeiting currency notes or bank notes.
- 489-B Using as genuine, forged or counterfeit currency notes or bank notes.

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.
- 22 Contravention in relation to psychotropic substances.
- 23 Illegal import into India, export from India to transshipment of narcotic drugs and psychotropic substances.
- 24 External dealings in narcotic drugs and psychotropic substances in contravention of Section 12 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
- 25-A Contravention of orders made under Section 9-A of the Narcotic Drugs and Psychotropic Substances Act, 1985.
- 27-A Financing illicit traffic and harbouring offenders.
- 29 Abetment and criminal conspiracy.

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.

Section Description of offence

- 10 read with Section 3 Penalty for being member of an unlawful association, etc.
- 11 read with Section 3 Penalty for dealing with funds of an unlawful association.
- 13 read with Section 3 Punishment for unlawful activities.
- 16 read with Section Punishment for terrorist act.
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- 16-A Punishment for making demands of radioactive substances, nuclear devices, etc.
- 17 Punishment for raising fund for terrorist act.

18	Punishment for conspiracy, etc.
18-A	Punishment for organising of terrorist camps.
18-B	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.
39	Offence relating to support given to a terrorist organisation.
40	Offence of raising fund for a terrorist organisation.

Section Description of offence

25	To manufacture, sell, transfer, convert, repair or test or prove or expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of Section 5 of the Arms Act, 1959. To acquire, have in possession or carry any prohibited arms or prohibited ammunition in contravention of Section 7 of the Arms Act, 1959. Contravention of Section 24-A of the Arms Act, 1959 relating to prohibition as to possession of notified arms in disturbed areas, etc. Contravention of Section 24-B of the Arms Act, 1959 relating to prohibition as to carrying of notified arms in or through public places in disturbed areas. Other offences specified in Section 25.
26	To do any act in contravention of any provisions of Sections 3, 4, 10 or Section 12 of the Arms Act, 1959 in such manner as specified in sub-section (1) of Section 26 of the said Act. To do any act in contravention of any provisions of Sections 5, 6, 7 or Section 11 of the Arms Act, 1959 in such manner as specified in sub-section (2) of Section 26 of the said Act. Other offences specified in Section 26.
27	Use of arms or ammunition in contravention of Section 5 or use of any arms or ammunition in contravention of Section 7 of the Arms Act, 1959.
28	Use and possession of fire arms or imitation fire arms in certain cases.
29	Knowingly purchasing arms from unlicensed person or for delivering arms, etc., the person not entitled to possess the same.
30	Contravention of any condition of a licence or any provisions of the Arms Act, 1959 or any rule made thereunder.

Section	Description of offence
51 read with Section 9	Hunting of wild animals.
51 read with Section 17-A	Contravention of provisions of Section 17-A relating to prohibition of picking, uprooting, etc., of specified plants.
51 read with Section 39	Contravention of provisions of Section 39 relating to wild animals, etc., to be Government property.

51 read with Section 44	Contravention of provisions of Section 44 relating to dealings in trophy and animal articles without licence prohibited.
51 read with Section 48	Contravention of provisions of Section 48 relating to purchase of animal, etc., by licensee.
51 read with Section 49-B	Contravention of provisions of Section 49-B relating to prohibition of dealings in trophies, animals articles, etc., derived from scheduled animals.

Section Description of offence

5	Procuring, inducing or taking person for the sake of prostitution.
6	Detaining a person in premises where prostitution is carried on.
8	Seducing or soliciting for purpose of prostitution.
9	Seducing of a person in custody.

Section Description of offence

7	Public servant taking gratification other than legal remuneration in respect of an official act.
8	Taking gratification in order, by corrupt or illegal means, to influence public servant.
9	Taking gratification for exercise of personal influence with public servant.
10	Abetment by public servant of offences defined in Section 8 or Section 9 of the Prevention of Corruption Act, 1988.
13	Criminal misconduct by a public servant.

Section Description of offence

9-B	Punishment of certain offences.
9-C	Offences by companies.

Section Description of offence

25 read with Section 3	Contravention of export trade in antiquities and art treasures.
28	Offences by companies.

Section Description of offence

12-A read with Section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial.
24	Acquisition of securities or control.

Section Description of offence

135	Evasion of duty or prohibitions.
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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.

Section Description of offence

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

- 18 Punishment for removal of human organ without authority.
- 19 Punishment for commercial dealings in human organs.
- 20 Punishment for contravention of any other provisions of this Act.

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.

Section Description of offence

- 24 Offences and penalties.

Section Description of offence

- 12 Offences by penalties.

Section Description of offence

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

Section Description of offence

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

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 trade mark or false trade description is applied.
- 105 Enhanced penalty on second or subsequent conviction.
- 107 Penalty for falsely representing a trade mark as registered.
- 120 Punishment of abetment in India of acts done out of India.

Section Description of offence

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

Section Description of offence

- 55 read with Section 6 Penalty for contravention of Section 6, etc.

Section Description of offence

- 70 read with Section 68 Penalty for applying false denomination, etc.

71 read with Section 68 Penalty for selling varieties to which false denomination is applied.

72 read with Section 68 Penalty for falsely representing a variety as registered.

73 read with Section 68 Penalty for subsequent offence.

Section	Description of offence
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15 read with Section 7	Penalty for discharging environmental pollutants, etc., in excess of prescribed standards.
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15 read with Section 8	Penalty for handling hazardous substances without complying with procedural safeguards.
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Section	Description of offence
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41(2)	Penalty for pollution of stream or well.
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43	Penalty for contravention of provisions of Section 24.
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Section	Description of offence
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37	Failure to comply with the provisions for operating industrial plant.
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Section	Description of offence
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3	Offences against ship, fixed platform, cargo of a ship, maritime navigational facilities, etc.";
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