

Unlawful Activities (Prevention) Amendment Act, 2012

3 of 2013

[03 January 2013]

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Unlawful Activities (Prevention) Amendment Act, 2012

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An Act further to amend the Unlawful Activities (Prevention) Act, 1967. Be it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:--

1. Short Title And Commencement :-

- (1) This Act may be called the Unlawful Activities (Prevention) Amendment Act, 2012.
- (2) It shall come into force on such 1date as the Central Government may, by notification in the Official Gazette, appoint.

1. Effective from 01.02.2013 vide Notification No. SO294(E) dated

31.01.2013.

2. Amendment Of Section 2 :-

In section 2 of the Unlawful Activities (Prevention) Act, 1967(37 of 1967) (hereinafter referred to as the principal Act),--

(i) clause (ea) shall be renumbered as clause (eb) and before clause (eb) as so renumbered, the following clause shall be inserted, namely:--

(ea) "economic security" includes financial, monetary and fiscal stability, security of means of production and distribution, food security, livelihood security, energy security, ecological and environmental security;;

(ii) after clause (eb) as so renumbered, the following clause shall be inserted, namely:--

(ec) "person" includes--

(i) an individual,

(ii) a company,

(iii) a firm,

(iv) an organisation or an association of persons or a body of individuals, whether incorporated or not,

(v) every artificial juridical person, not falling within any of the preceding sub-clauses, and

(vi) any agency, office or branch owned or controlled by any person falling within any of the preceding sub-clauses;;

(iii) for clause (g), the following clause shall be substituted, namely:--

(g) "proceeds of terrorism" means,--

(i) all kinds of properties which have been derived or obtained from commission of any terrorist act or have been acquired through funds traceable to a terrorist act, irrespective of person in whose name such proceeds are standing or in whose possession they are found; or

(ii) any property which is being used, or is intended to be used, for a terrorist act or for the purpose of an individual terrorist or a terrorist gang or a terrorist organisation.

Explanation,--For the purposes of this Act, it is hereby declared that the expression "proceeds of terrorism" includes any property intended to be used for terrorism;;

(iv) in clause (h), for the words instruments in any form including", the words "instruments in any form including but not limited to" shall be substituted.

3. Amendment Of Section 6 :-

In section 6 of the principal Act, in sub-section (1), for the words "two years", the words "five years" shall be substituted.

4. Amendment Of Section 15 :-

Section 15 of the principal Act shall be renumbered as sub-section (1) thereof and in sub-section (1) as so renumbered,--

(i) in the opening portion, after the word "security", the words "economic security," shall be inserted;

(ii) in clause (a), after sub-clause (iii), the following sub-clause shall be inserted, namely:--

"(iiia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material; or";

(iii) in clause (c), for the words "any other person to do or abstain from doing any act,", the words "an international or inter-governmental organisation or any other person to do or abstain from doing any act; or" shall be substituted;

(iv) for the Explanation, the following Explanation shall be substituted, namely:--

Explanation -- For the purpose of this sub-section,--

(a) "public functionary" means the constitutional authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary;

(b) "high quality counterfeit Indian currency" means the counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule.;

(v) after sub-section (1), the following sub-section shall be inserted, namely:-

"(2) The terrorist act includes an act which constitutes an offence within the scope of and as defined in any of the treaties specified in the Second Schedule."

5. Omission Of Section 16A :-

Section 16A of the principal Act shall be omitted.

6. Substitution Of New Section For Section 17 :-

For section 17 of the principal Act, the following section shall be substituted, namely:- -

"17. Punishment for raising funds for terrorist act.--

Whoever, in India or in a foreign country, directly or indirectly, raises or provides funds or collects funds, whether from a legitimate or illegitimate source, from any person or persons or attempts to provide to, or raises or collects funds for any person or persons, knowing that such funds are likely to be used, in full or in part by such person or persons or by a terrorist organisation or by a terrorist gang or by an individual terrorist to commit a terrorist act. notwithstanding whether such funds were actually used or not for commission of such act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Explanation.--For the purpose of this section,--

(a) participating, organising or directing in any of the acts stated therein shall constitute an offence;

(b) raising funds shall include raising or collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency; and

(c) raising or collecting or providing funds, in any manner for the benefit of, or, to an individual terrorist, terrorist gang or terrorist organisation for the purpose not specifically covered under section 15 shall also be construed as an offence."

7. Insertion Of New Sections 22A. 22B And 22C :-

After section 22 of the principal Act, the following sections shall be inserted, namely:-

"22A. Offences by companies.--

(1) Where an offence under this Act has been committed by a company, every person (including promoters of the company) who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, 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 any such person (including promoters) liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised reasonable care to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any promoter, director, manager, secretary or other officer of the company, such promoter, director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. -For the purposes of this section, --

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

22B. Offences by societies or trusts.--

(1) Where an offence under this Act has been committed by a society or trust, every person (including the promoter of society or settlor of the trust) who at the time the offence was committed was in charge of, and was responsible to, the society or trust for the conduct of the business of the society or the trust, as well as the society or trust, 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 any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised reasonable care to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a society or trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any promoter, director, manager, secretary, trustee or other officer of the society or trust, such promoter, director, manager, secretary, trustee or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purpose of this section,--

(a) "society" means any body corporate registered under the Societies Registration Act, 1860(21 of 1860) or any other State Act governing the registration of societies;

(b) "trust" means any body registered under the Indian Trusts Act, 1882(2 of 1882) or any other State Act governing the registration of trusts;

(c) "director", in relation to a society or trust, means a member of

its governing board other than an ex officio member representing the interests of the Central or State Government or the appropriate statutory authority.

22C. Punishment for offences by companies, societies or trusts.--

Where any offence under the Act has been committed by a company or a society or a trust, as the case may be, every person (including promoter of company or trust or settlor of the trust) who at the time of the offence was either in charge or responsible for the conduct of the business shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable with fine which shall not be less than five crore rupees and which may extend to ten crore rupees..

8. Amendment Of Section 23 :-

In section 23 of the principal Act, in sub-section (1), for the words "chemical substance of warfare, he shall", the words "chemical substance of warfare or high quality counterfeit Indian currency, he shall" shall be substituted.

9. Amendment Of Beading Of Chapter V :-

In CHAPTER V of the principal Act, in the heading thereof, after the word "TERRORISM", the words "OR ANY PROPERTY INTENDED TO BE USED FOR TERRORISM" shall be inserted.

10. Substitution Of New Sections For Section 24 :-

For section 24 of the principal Act, the following sections shall be substituted, namely:--

24. Reference to proceeds of terrorism to include any property intended to be used for terrorism.--

In this Chapter, unless the context otherwise requires, all references to "proceeds of terrorism" shall include any property intended to be used for terrorism.

24A. forfeiture of proceeds of terrorism.--

(1) No person shall hold or be in possession of any proceeds of terrorism.

(2) Proceeds of terrorism, whether held by a terrorist organisation or terrorist gang or by any other person and whether or not such terrorist or other person is prosecuted or convicted for any offence under Chapter IV or Chapter VI. shall be liable to be forfeited to

the Central Government or the State Government, as the case may be, in the manner provided under this Chapter.

(3) Where proceedings have been commenced under this section, the court may pass an order directing attachment or forfeiture, as the case may be, of property equivalent to, or, the value of the proceeds of terrorism involved in the offence..

11. Amendment Of Section 33 :-

In section 33 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:--

"(3) Where any person is accused of an offence concerning high quality counterfeit Indian currency, the court may pass an order directing attachment or forfeiture, as the case may be, of property equivalent to the value of such high quality counterfeit Indian currency involved in the offence including the face value of such currency which are not defined to be of high quality, but are part of the common seizure along with the high quality counterfeit Indian currency.

(4) Where a person is accused of an offence punishable under Chapter IV or Chapter VI, the court may pass an order directing attachment or forfeiture, as the case may be, of property equivalent to or the value of the proceeds of terrorism involved in the offence.

(5) Where any person is accused of an offence under Chapter IV or Chapter VI, it shall be open to the court to pass an order that all or any of the property, movable or immovable or both, belonging to him shall, where the trial under the Act cannot be concluded on account of the death of the accused or being declared a proclaimed offender or for any other reason, be confiscated on the basis of material evidence produced before the court.

12. Amendment Of Section 35 :-

In section 35 of the principal Act, --

(a) in sub-section (1),---

(i) for the word "order", the word "notification" shall be substituted;

(ii) for the word "Schedule", wherever it occurs, the words "First Schedule" shall be substituted;

(b) after sub-section (3), the following sub-sections shall be inserted, namely:--

"(4) The Central Government may, by notification in the Official Gazette, add to or remove or amend the Second Schedule or Third

Schedule and thereupon the Second Schedule or the Third Schedule, as the case may be, shall be deemed to have been amended accordingly.

(5) Every notification issued under sub-section (1) or sub-section (4) shall, as soon as may be after it is issued, be laid before Parliament."

13. Amendment Of Section 40 :-

In section 40 of the principal Act, in sub-section (1), for Explanation, the following Explanation shall be substituted, namely:--

"Explanation.--For the purposes of this sub-section, a reference to provide money or other property includes--

(a) of its being given, lent or otherwise made available, whether or not for consideration; or

(b) raising, collecting or providing funds through production or smuggling or circulation of high quality counterfeit Indian currency."

14. Amendment Of Schedule :-

In the principal Act, the existing Schedule shall be renumbered as the First Schedule thereof, and after the First Schedule as so renumbered, the following Schedules shall be inserted, namely:---

"THE SECOND SCHEDULE

[See section 15(2)]

(i) Convention for the Suppression of Unlawful Seizure of Aircraft (1970);

(ii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (3971);

((iii) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973);

(iv) International Convention against the Taking of Hostages (1979);

(v) Convention on the Physical Protection of Nuclear Material (1980);

(vi) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);

(vii) Convention for the Suppression of Unlawful Acts against the

safety of Maritime Navigation (1988);

(viii) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988);

and

(ix) International Convention for the Suppression of Terrorist Bombings (1997).

THE THIRD SCHEDULE

[See clause (b) of Explanation to section 15(1)]

Security features to define high quality counterfeit Indian currency notes

(a) watermark;

(b) latent image; and

(c) see through registration in the currency notes."