

THE PREVENTION OF MONEY-LAUNDERING ACT, 2002

[Act, No. 15 of 2003]

[17th January, 2003]

PREAMBLE

An Act 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.

WHEREAS the Political Declaration and Global Programme of Action, annexed to the

resolution S-17/2 was adopted by the General Assembly of the United Nations at its

seventeenth special session on the twenty-third day of February, 1990;

AND WHEREAS the Political Declaration adopted by the Special Session of the United Nations

General Assembly held on 8th to 10th June, 1998 calls upon the Member States to adopt

national money-laundering legislation and programme;

AND WHEREAS it is considered necessary to implement the aforesaid resolution and the

Declaration.

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:--

Section 1 - Short title, extent and commencement

(1) This Act may be called the Prevention of Money-laundering Act, 2002.

(2) It extends to the whole of India.

(3) It shall come into force 1st of July, 2005.

Section 2 - Definitions

(1) In this Act, unless the context otherwise requires,--

(a) "Adjudicating Authority" means an Adjudicating Authority appointed under

sub-section (1) of section 6;

(b) "Appellate Tribunal" means the Appellate Tribunal established under section

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(c) "Assistant Director" means an Assistant Director appointed under sub-section

(1) of section 49;

(d) "attachment" means prohibition of transfer, conversion, disposition or

movement of property by an order issued under Chapter III;

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2[(da) "authorised person" means an authorised person as defined in clause (c) of

section 2 of the Foreign Exchange Management Act, 1999(42 of 1999);]

(e) "banking company" means a banking company or a co-operative bank to which

the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or

banking institution referred to in section 51 of that Act;

(f) "Bench" means a Bench of the Appellate Tribunal;

(g) "Chairperson" means the Chairperson of the Appellate Tribunal;

(h) "chit fund company" means a company managing, conducting or supervising,

as foreman, agent or in any other capacity, chits as defined in section 2 of the Chit

Funds Act, 1982 (40 of 1982);

(i) "co-operative bank" shall have the same meaning as assigned to it in clause

(dd) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act,

1961 (47 of 1961);

(j) "Deputy Director" means a Deputy Director appointed under sub-section (1) of

section 49;

2[(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;]

(k) "Director" or "Additional Director" or "Joint Director" means a Director or

Additional Director or Joint Director, as the case may be, appointed under

sub-section (1) of section 49;

(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 co-operative bank, a housing finance institution and 3[an

authorised person, a payment system operator and a non-banking financial

company]

(m) "housing finance institution" shall have the meaning as assigned to it in

clause (d) of section 2 of the National Housing Bank Act, 1987 (53 of 1987);

(n) "intermediary" means 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 and 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);

1 (na) "investigation" includes all the proceedings under this Act conducted by the

Director or by an authority authorised by the Central Government under this Act

for the collection of evidence;'

(o) "Member" means a Member of the Appellate Tribunal and includes the

Chairperson;

(p) "money-laundering" has the meaning assigned to it in section 3;

(q) "non-banking financial company" shall have the same meaning as assigned to

it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934)

2[and includes a person carrying on designated business or profession]

(r) "notification" means a notification published in the Official Gazette;

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2[(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 Moneylaundering

(Amendment) Act, 2009;

(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;]

(s) "person" includes--

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(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or

not,

(vi) every artificial juridical person not falling within any of the preceding

sub-clauses, and

(vii) any agency, office or branch owned or controlled by any of the above

persons mentioned in the preceding sub-clauses;

(t) "prescribed" means prescribed by rules made under this Act;

(u) "proceeds of crime" means any property derived or obtained, directly or

indirectly, by any person as a result of criminal activity relating to a scheduled

offence or the value of any such property;

(v) "property" means any property or assets of every description, whether

corporeal or incorporeal, movable or immovable, tangible or intangible and

includes deeds and instruments evidencing title to, or interest in, such property or

assets, wherever located;

(w) "records" include the records maintained in the form of books or stored in a

computer or such other form as may be prescribed;

(x) "Schedule" means the Schedule to this Act;

(y) "scheduled offence" means--

(i) the offences specified under Part A of the Schedule; or

4[(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.]

(z) "Special Court" means a Court of Session designated as Special Court under

sub-section (1) of section 43;

(za) "transfer" includes sale, purchase, mortgage, pledge, gift, loan or any other

form of transfer of right, title, possession or lien;

(zb) "value" means the fair market value of any property on the date of its

acquisition by any person, or if such date cannot be determined, the date on which

such property is possessed by such person.

(2) Any reference, in this Act or the Schedule, to any enactment or any provision

thereof shall, in relation to an area in which such enactment or such provision is not

in force, be construed as a reference to the corresponding law or the relevant

provisions of the corresponding law, if any, in force in that area.

1. Inserted vide the Prevention of Money-Laundering (Amendment) Act, 2005

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2. Inserted vide the Prevention of Money-Laundering (Amendment) Act, 2009 w.e.f. 01.06.2009.

3. Substituted by the Prevention of Money-Laundering (Amendment) Act, 2009 w.e.f. 01.06.2009 Previous

text was

"Non Banking financial company"

4. Substituted by the Prevention of Money-Laundering (Amendment) Act, 2009 w.e.f. 01.06.2009 Previous

text was

"(ii) the offences specified under Part B of the Schedule if the total value involved in such

offences is thirty lakh rupees or more;"

Section 3 - Offence of money-laundering

Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a

party or is actually involved in any process or activity connected with the proceeds of crime

and projecting it as untainted property shall be guilty of offence of money-laundering.

Section 4 - Punishment for money-laundering

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Whoever commits the offence of money-laundering shall be punishable with rigorous

imprisonment for a term which shall not be less than three years but which may extend to

seven years and shall also be liable to fine which may extend to five lakh rupees:

Provided that where the proceeds of crime involved in money-laundering relates to any

offence specified under paragraph 2 of Part A of the Schedule, the provisions of this

section shall have effect as if for the words "which may extend to seven years", the words

"which may extend to ten years" had been substituted.

Section 5 - Attachment of property involved in money-laundering

(1) Where 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 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;

(b) such person has been charged of having committed a scheduled offence; and

(c) 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

1[one hundred and fifty days] from the date of the order, in the manner provided in the

Second Schedule to the Income-tax Act, 1961 (43 of 1961) and the Director or the other

officer so authorised by him, as the case may be, shall be deemed to be an officer under

sub-rule (e) of rule 1 of that Schedule:

2[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 the Schedule, before a Magistrate or

court for taking cognizance of the scheduled offence, as the case may be:

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.]

(2) The Director, or any other officer not below the rank of Deputy Director, shall,

immediately after attachment under sub-section (1), forward a copy of the order, along with

the material in his possession, referred to in that sub-section, 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) Every order of attachment made under sub-section (1) shall cease to have effect after

the expiry of the period specified in that sub-section or on the date of an order made under

sub-section (2) of section 8, whichever is earlier.

(4) Nothing in this section shall prevent the person interested in the enjoyment of the

immovable property attached under sub-section (1) from such enjoyment.

Explanation.--For the purposes of this sub-section, "person interested", in relation to any

immovable property, includes all persons claiming or entitled to claim any interest in the

property.

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(5) The Director or any other officer who provisionally attaches any property under

sub-section (1) shall, within a period of thirty days from such attachment, file a complaint

stating the facts of such attachment before the Adjudicating Authority.

1. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f.

01.06.2009 Previous text was

"ninety days"

2. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f.

01.06.2009 Previous text was

"Provided that no such order of attachment shall be made unless, in relation to an

offence under--

(i) Paragraph 1 of Part A and Part B of the Schedule, a report has been

forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974); or

(ii) Paragraph 2 of Part A of the Schedule, a police report or a complaint has

been filed for taking cognizance of an offence by the Special Court constituted

under sub-section (1) of section 36 of the Narcotic Drugs and Psychotropic

Substances Act, 1985 (61 of 1985)"

Section 6 - Adjudicating Authorities, composition, powers, etc

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(1) The Central Government shall, by notification, appoint 1[an Adjudicating Authority] to

exercise jurisdiction, powers and authority conferred by or under this Act.

(2) An Adjudicating Authority shall consist of a Chairperson and two other Members:

Provided that one Member each shall be a person having experience in the field of law,

administration, finance or accountancy.

(3) A person shall, however, not be qualified for appointment as Member of an Adjudicating

Authority,--

(a) in the field of law, unless he--

(i) is qualified for appointment as District Judge; or

(ii) has been a member of the Indian Legal Service and has held a post in Grade I of

that service;

(b) in the field of finance, accountancy or administration unless he possesses such

qualifications, as may be prescribed.

(4) The Central Government shall appoint a Member to be the Chairperson of the

Adjudicating Authority.

(5) Subject to the provisions of this Act,--

(a) the jurisdiction of the Adjudicating Authority may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Adjudicating Authority with one

or two Members as the Chairperson of the Adjudicating Authority may deem fit;

(c) the Benches of the Adjudicating Authority shall ordinarily sit at New Delhi and at such

other places as the Central Government may, in consultation with the Chairperson, by

notification, specify;

(d) the Central Government shall, by notification, specify the areas in relation to which

each Bench of the Adjudicating Authority may exercise jurisdiction.

(6) Notwithstanding anything contained in sub-section (5), the Chairperson may transfer a

Member from one Bench to another Bench.

(7) If at any stage of the hearing of any case or matter it appears to the Chairperson or a

Member that the case or matter is of such a nature that it ought to be heard by a Bench

consisting of two Members, the case or matter may be transferred by the Chairperson or, as

the case may be, referred to him for transfer, to such Bench as the Chairperson may deem

fit.

(8) The Chairperson and every Member shall hold office as such for a term of five years from

the date on which he enters upon his office:

Provided that no Chairperson or other Member shall hold office as such after he has

attained the age of 2[sixty-five] years.

(9) The salary and allowances payable to and the other terms and conditions of service of the

Member shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of

service of the Member shall be varied to his disadvantage after appointment.

(10) If, for reasons other than temporary absence, any vacancy occurs in the office of the

Chairperson or any other Member, then, the Central Government shall appoint another

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person in accordance with the provisions of this Act to fill the vacancy and the proceedings

may be continued before the Adjudicating Authority from the stage at which the vacancy is

filled.

(11) The Chairperson or any other Member may, by notice in writing under his hand

addressed to the Central Government, resign his office:

Provided that the Chairperson or any other Member shall, unless he is permitted by the

Central Government to relinquish his office sooner, continue to hold office until the

expiry of three months from the date of receipt of such notice or until a person duly

appointed as his successor enters upon his office or until the expiry of his term of office,

whichever is the earliest.

(12) The Chairperson or any other Member shall not be removed from his office except by an

order made by the Central Government after giving necessary opportunity of hearing.

(13) In the event of the occurrence of any vacancy in the office of the Chairperson by reason

of his death, resignation or otherwise, the senior-most Member shall act as the Chairperson

of the Adjudicating Authority until the date on which a new Chairperson, appointed in

accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(14) When the Chairperson of the Adjudicating Authority is unable to discharge his functions

owing to absence, illness or any other cause, the senior-most Member shall discharge the

functions of the Chairperson of the Adjudicating Authority until the date on which the

Chairperson of the Adjudicating Authority resumes his duties.

(15) The Adjudicating Authority shall not be bound by the procedure laid down by the Code

of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice

and, subject to the other provisions of this Act, the Adjudicating Authority shall have powers

to regulate its own procedure.

1. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

"one or more Adjudicating Authorities"

2. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

"Sixty two"

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Section 7 - Staff of Adjudicating Authorities

(1) The Central Government shall provide each Adjudicating Authority with such officers and

employees as that Government may think fit.

(2) The officers and employees of the Adjudicating Authority shall discharge their functions

under the general superintendence of the Chairperson of the Adjudicating Authority.

(3) The salaries and allowances and other conditions of service of the officers and employees

of the Adjudicating Authority shall be such as may be prescribed.

Section 8 - Adjudication

(1) On receipt of a complaint under sub-section (5) of section 5, or applications made under

sub-section (4) of section 17 or under sub-section (10) of section 18, if the Adjudicating

Authority has reason to believe that any person has committed an offence under section 3

or is in possession of proceeds of crime] it may serve a notice of not less than thirty days on

such person calling upon him to indicate the sources of his income, earning or assets, out of

which or by means of which he has acquired the property attached under sub-section (1) of

section 5, or, seized under section 17 or section 18, the evidence on which he relies and

other relevant information and particulars, and to show cause why all or any of such

properties should not be declared to be the properties involved in money-laundering and

confiscated by the Central Government:

Provided that where a notice under this sub-section specifies any property as being held

by a person on behalf of any other person, a copy of such notice shall also be served

upon such other person:

Provided further that where such property is held jointly by more than one person, such

notice shall be served to all persons holding such property.

(2) The Adjudicating Authority shall, after--

(a) considering the reply, if any, to the notice issued under sub-section (1);

(b) hearing the aggrieved person and the Director or any other officer authorised by him

in this behalf; and

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(c) taking into account all relevant materials placed on record before him, by an order,

record a finding whether all or any of the properties referred to in the notice issued under

sub-section (1) are involved in money-laundering:

Provided that if the property is claimed by a person, other than a person to whom the

notice had been issued, such person shall also be given an opportunity of being heard

to prove that the property is not involved in money-laundering.

(3) Where the Adjudicating Authority decides under sub-section (2) that any property is

involved in money-laundering, he shall, by an order in writing, confirm the attachment of the property made under sub-section (1) of section 5 or retention of property or record seized under section 17 or section 18 and record a finding to that effect, such attachment or retention of the seized property or record shall--

(a) continue during the pendency of the proceedings relating to any scheduled offence before a court; and

(b) become final after the guilt of the person is proved in the trial court and order of such trial court becomes final.

(4) Where the provisional order of attachment made under sub-section (1) of section 5 has been confirmed under sub-section (3), the Director or any other officer authorised by him in this behalf shall forthwith take the possession of the attached property.

(5) Where on conclusion of a trial for any scheduled offence, the person concerned is acquitted, the attachment of the property or retention of the seized property or record under sub-section (3) and net income, if any, shall cease to have effect.

(6) Where the attachment of any property or retention of the seized property or record becomes final under clause (b) of sub-section (3), the Adjudicating Authority shall, after giving an opportunity of being heard to the person concerned, make an order confiscating such property.

1. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was "offence under section 3"

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Section 9 - Vesting of property in Central Government

Where an order of confiscation has been made under sub-section (6) of section 8 in respect

of any property of a person, all the rights and title in such property shall vest absolutely in

the Central Government free from all encumbrances:

Provided that where the Adjudicating Authority, after giving an opportunity of being

heard to any other person interested in the property attached under this Chapter, or

seized under Chapter V, is of the opinion that any encumbrance on the property or

lease-hold interest has been created with a view to defeat the provisions of this Chapter,

it may, by order, declare such encumbrance or lease-hold interest to be void and

thereupon the aforesaid property shall vest in the Central Government free from such

encumbrances or lease-hold interest:

Provided further that nothing in this section shall operate to discharge any person from

any liability in respect of such encumbrances which may be enforced against such person

by a suit for damages.

Section 10 - Management of properties confiscated under this Chapter

(1) The Central Government may, by order published in the Official Gazette, appoint as

many of its officers (not below the rank of a Joint Secretary to the Government of India) as it

thinks fit, to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the

property in relation to which an order has been made under sub-section (6) of section 8 in

such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Central Government may direct,

to dispose of the property which is vested in the Central Government under section 9.

Section 11 - Power regarding summons, production of documents and evidence, etc

(1) The Adjudicating Authority shall, for the purposes of this Act, have the same powers as

are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a

suit in respect of the following matters, namely:--

(a) discovery and inspection;

(b) enforcing the attendance of any person, including any officer of a banking company or

a financial institution or a company, and examining him on oath;

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(c) compelling the production of records;

(d) receiving evidence on affidavits;

(e) issuing commissions for examination of witnesses and documents; and

(f) any other matter which may be prescribed.

(2) All the persons so summoned shall be bound to attend in person or through authorised

agents, as the Adjudicating Authority may direct, and shall be bound to state the truth upon

any subject respecting which they are examined or make statements, and produce such

documents as may be required.

(3) Every proceeding under this section shall be deemed to be a judicial proceeding within

the meaning of section 193 and section 228 of the Indian Penal Code.

Section 12 - Banking companies, financial institutions and intermediaries to maintain

records

(1) Every banking company, financial institution and intermediary shall--

(a) maintain a record of all transactions, the nature and value of which may be

prescribed, whether such transactions comprise of a single transaction or a series of

transactions integrally connected to each other, and where such series of transactions

take place within a month;

(b) furnish information of transactions referred to in clause (a) to the Director within

such time as may be prescribed;

(c) verify and maintain the records of the identity of all its clients, in such manner as

may be prescribed:

Provided that where the principal officer of a banking company or financial institution

or intermediary, as the case may be, has reason to believe that a single transaction or

series of transactions integrally connected to each other have been valued below the

prescribed value so as to defeat the provisions of this section, such officer shall

furnish information in respect of such transactions to the Director within the

prescribed time

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[(2) (a) The records referred to in clause (a) of sub-section (1) 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 (1) 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.]

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1. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

"(2) The records referred to in sub-section (1) shall be maintained for a period of ten years from the date of

cessation of the transactions between the clients and the banking company or financial institution or intermediary, as

the case may be."

Section 13 - Powers of Director to impose fine

(1) The Director may, either of his own motion or on an application made by any authority,

officer or person, 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.

(2) If the Director, in the course of any inquiry, finds that a banking company, financial

institution or an intermediary or any of its officers has failed to comply with the provisions

contained in section 12, then, without prejudice to any other action that may be taken under

any other provisions of this Act, he may, by an order, levy a fine on such banking company

or financial institution or intermediary which shall not be less than ten thousand rupees but

may extend to one lakh rupees for each failure.

(3) The Director shall forward a copy of the order passed under sub-section (2) to every

banking company, financial institution or intermediary or person who is a party to the

proceedings under that sub-section.

Section 14 - No civil proceeding against banking companies, financial institutions, etc., in

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certain cases

Save as otherwise provided in section 13, the banking companies, financial institutions,

intermediaries and their officers shall not be liable to any civil proceedings against them for

furnishing information under clause (b) of sub-section (1) of section 12.

Section 15 - Procedure and manner of furnishing information by banking company,

financial institution and intermediary

The Central Government may, in consultation with the Reserve Bank of India, prescribe the

procedure and the manner of maintaining and furnishing information under sub-section (1)

of section 12 for the purpose of implementing the provisions of this Act.

Section 16 - Power of survey

(1) Notwithstanding anything contained in any other provisions of this Act, where an

authority, on the basis of material in his possession, has reason to believe (the reasons for such belief to be recorded in writing) that an offence under section 3 has been committed, he may enter any place--

- (i) within the limits of the area assigned to him; or
- (ii) in respect of which he is authorised for the purposes of this section by such other authority, who is assigned the area within which such place is situated,

at which any act constituting the commission of such offence is carried on, and may require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, such act so as to,--

- (i) afford him the necessary facility to inspect such records as he may require and which may be available at such place;
- (ii) afford him the necessary facility to check or verify the proceeds of crime or any transaction related to proceeds of crime which may be found therein; and
- (iii) furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceedings under this Act.

Explanation--For the purposes of this sub-section, a place, where an act which constitutes

the commission of the offence is carried on, shall also include any other place, whether

any activity is carried on therein or not, in which the person carrying on such activity

states that any of his records or any part of his property relating to such act are or is

kept.

(2) The authority referred to in sub-section (1) shall, after entering any place referred to in

that sub-section immediately after completion of survey, forward a copy of the reasons so

recorded along with material in his possession, referred to in that sub-section, to the

Adjudicating Authority in a sealed envelope, in the manner as may be prescribed and such

Adjudicating Authority shall keep such reasons and material for such period as may be prescribed.

(3) An authority acting under this section may--

(i) place marks of identification on the records inspected by him and make or cause to be

made extracts or copies therefrom,

(ii) make an inventory of any property checked or verified by him, and

(iii) record the statement of any person present in the place which may be useful for, or

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relevant to, any proceeding under this Act.

Section 17 - Search and seizure

(1) Where 1[the Director or any other officer not below the rank of Deputy Director

authorised by him for the purposes of this section], on the basis of information in his

possession, has reason to believe (the reason for such belief to be recorded in writing) that

any person---

(i) has committed any act which constitutes money-laundering, or

(ii) is in possession of any proceeds of crime involved in money-laundering, or

(iii) is in possession of any records relating to money-laundering, then, subject to the

rules made in this behalf, he may authorise any officer subordinate to him to--

(a) enter and search any building, place, vessel, vehicle or aircraft where he has

reason to suspect that such records or proceeds of crime are kept;

(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for

exercising the powers conferred by clause (a) where the keys thereof are not

available;

(c) seize any record or property found as a result of such search;

(d) place marks of identification on such record or make or cause to be made extracts

or copies therefrom;

(e) make a note or an inventory of such record or property;

(f) examine on oath any person, who is found to be in possession or control of any

record or property, in respect of all matters relevant for the purposes of any

investigation under this Act:

2[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) The authority, who has been authorised under sub-section (1) shall, immediately after

search and seizure, forward a copy of the reasons so recorded along with material in his

possession, referred to in that sub-section, to the Adjudicating Authority in a sealed

envelope, in the manner, as may be prescribed and such Adjudicating Authority shall keep

such reasons and material for such period, as may be prescribed.

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(3) Where an authority, upon information obtained during survey under section 16, is

satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for

reasons to be recorded in writing, enter and search the building or place where such

evidence is located and seize that evidence:

Provided that no authorisation referred to in sub-section (1) shall be required for search

under this sub-section.

(4) The authority, seizing any record or property under this section, shall, within a period of thirty days from such seizure, file an application, requesting for retention of such record or property, before the Adjudicating Authority.

1. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

"the Director"

2. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

"Provided that no search shall be conducted unless, in relation to an offence under--

(a) Paragraph 1 of Part A and Part B of the Schedule, a report has been forwarded to a Magistrate under section 173

of the Code of Criminal Procedure, 1973 (2 of 1974); or

(b) Paragraph 2 of Part A of the Schedule, a police report or a complaint has been filed for taking cognizance of an

offence by the Special Court constituted under sub-section (1) of section 36 of the Narcotic Drugs and Psychotropic

Substances Act, 1985 (61 of 1985)."

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Section 18 - Search of persons

(1) If an authority, authorised in this behalf by the Central Government by general or special

order, has reason to believe (the reason for such belief to be recorded in writing) that any

person has secreted about his person or in anything under his possession, ownership or

control, any record or proceeds of crime which may be useful for or relevant to any

proceedings under this Act, he may search that person and seize such record or property

which maybe useful for or relevant to any proceedings under this Act.

1[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(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.]

(2) The authority, who has been authorised under sub-section (1) shall, immediately after

search and seizure, forward a copy of the reasons so recorded along with material in his

possession, referred to in that sub-section, to the Adjudicating Authority in a sealed envelope,

in the manner, as may be prescribed and such Adjudicating Authority shall keep such

reasons and material for such period, as may be prescribed.

(3) Where an authority is about to search any person, he shall, if such person so requires,

take such person within twenty-four hours to the nearest Gazetted Officer, superior in rank to

him, or a Magistrate:

Provided that the period of twenty-four hours shall exclude the time necessary for the

journey undertaken to take such person to the nearest Gazetted Officer, superior in rank

to him, or Magistrate's Court.

(4) If the requisition under sub-section (3) is made, the authority shall not detain the person

for more than twenty-four hours prior to taking him before the Gazetted Officer, superior in

rank to him, or the Magistrate referred to in that sub-section:

Provided that the period of twenty-four hours shall exclude the time necessary for the

journey from the place of detention to the office of the Gazetted Officer superior in rank

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to him, or the Magistrate's Court.

(5) The Gazetted Officer or the Magistrate before whom any such person is brought shall, if

he sees no reasonable ground for search, forthwith discharge such person but otherwise shall

direct that search be made.

(6) Before making the search under sub-section (1) or sub-section (5), the authority shall call

upon two or more persons to attend and witness the search, and the search shall be made in

the presence of such persons.

(7) The authority shall prepare a list of record or property seized in the course of the search

and obtain the signatures of the witnesses on the list.

(8) No female shall be searched by any one except a female.

(9) The authority shall record the statement of the person searched under sub-section (1) or

sub-section (5) in respect of the records or proceeds of crime found or seized in the course of

the search:

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[***]

(10) The authority, seizing any record or property under sub-section (1) shall, within a period

of thirty days from such seizure, file an application requesting for retention of such record or

property, before the Adjudicating Authority.

1. Inserted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009.

2. Omitted by the Prevention Of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

Provided that no search of any person shall be made unless, in relation to an offence under--

(a) Paragraph 1 of Part A or Paragraph 1 or Paragraph 2 or Paragraph 3 or Paragraph 4 or Paragraph 5 of Part B of

the Schedule, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973

(2 of 1974); or

(b) Paragraph 2 of Part A of the Schedule, a police report or a complaint has been filed for taking cognizance of an

offence by the Special Court constituted under sub-section (1) of section 36 of the Narcotic Drugs and Psychotropic

Substances Act, 1985 (61 of 1985).

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Section 19 - Power to arrest

(1) If the Director, Deputy Director, Assistant Director or any other officer authorised in this

behalf by the Central Government by general or special order, has on the basis of material in

his possession, reason to believe (the reason for such belief to be recorded in writing) that

any person has been guilty of an offence punishable under this Act, he may arrest such

person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) The Director, Deputy Director, Assistant Director or any other officer shall, immediately

after arrest of such person under sub-section (1), forward a copy of the order along with the

material in his possession, referred to in that sub-section, 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) Every person arrested under sub-section (1) shall, within twenty-four hours, be taken to

a Judicial Magistrate or a Metropolitan Magistrate, as the case may be, having jurisdiction:

Provided that the period of twenty-four hours shall exclude the time necessary for the

journey from the place of arrest to the Magistrate's Court.

Section 20 - Retention of property

(1) Where any property has been seized under section 17 or section 18, 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 be retained for a period not exceeding three months from the end of the month

in which such property was seized.

(2) The officer authorised by the Director immediately after he has passed an order for retention of the property for purposes of adjudication under section 8 shall 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 unless the Adjudicating Authority permits retention of such property beyond the said period.

(4) The Adjudicating Authority, before authorising the retention of such property beyond the

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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 (6) of section 8, the

Adjudicating Authority shall direct the release of all properties other than the properties involved in money-laundering to the person from whom such properties were seized.

(6) Notwithstanding anything contained in sub-section (5), the Director or any officer

authorised by him in this behalf may withhold the release of any property until filing of

appeal under section 26 or forty-five days from the date of order under sub-section (5),

whichever is earlier, if he is of the opinion that such property is relevant for the proceedings

before the Appellate Tribunal.

Section 21 - Retention of records

(1) Where any records have been seized, under section 17, or section 18, 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,

he may retain such records for a period not exceeding three months from the end of the

month in which such records were seized.

(2) The person, from whom records were seized, shall be entitled to obtain copies of records

retained under sub section (1).

(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 unless the Adjudicating Authority permits

retention of such records beyond the said period.

(4) The Adjudicating Authority, before authorising the retention of such records beyond the

period mentioned 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 (6) of section 8, the

Adjudicating Authority shall direct the release of the records to the person from whom such

records were seized.

(6) Notwithstanding anything contained in sub-section (5), the Director or any officer

authorised by him in this behalf may withhold the release of any records until filing of appeal

under section 26 or after forty-five days from the date of order under sub-section (5),

whichever is earlier, if he is of the opinion that such records are relevant for the proceedings

before the Appellate Tribunal.

Section 22 - Presumption as to records or property in certain cases

(1) Where any records or property are or is found in the possession or control of any person

in the course of a survey or a search, it shall be presumed that--

(i) such records or property belong or belongs to such person;
(ii) the contents of such records are true; and
(iii) the signature and every other part of such records which purport to be in the
handwriting of any particular person or which may reasonably be
assumed to have been
signed by, or to be in the handwriting of, any particular person, are in
that person's
handwriting, and in the case of a record, stamped, executed or
attested, that it was
executed or attested by the person by whom it purports to have been
so stamped,
executed or attested.
(2) Where any records have been received from any place outside
India, duly authenticated
by such authority or person and in such manner as may be
prescribed, in the course of

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proceedings under this Act, the Special Court, the Appellate Tribunal
or the Adjudicating

Authority, as the case may be, shall--

(a) presume, that the signature and every other part of such record
which purports to be
in the handwriting of any particular person or which the court may
reasonably assume to
have been signed by, or to be in the handwriting of, any particular
person, is in that
person's handwriting; and in the case of a record executed or
attested, that it was
executed or attested by the person by whom it purports to have been
so executed or
attested;
(b) admit the document in evidence, notwithstanding that it is not
duly stamped, if such
document is otherwise admissible in evidence.

Section 23 - Presumption in inter-connected transactions

Where money-laundering involves two or more inter-connected
transactions and one or more

such transactions is or are proved to be involved in money-
laundering, then for the purposes

of adjudication or confiscation under section 8, it shall, unless otherwise proved to the satisfaction of the Adjudicating Authority, be presumed that the remaining transactions form part of such inter-connected transactions.

Section 24 - Burden of proof

When a person is accused of having committed the offence under section 3, the burden of proving that proceeds of crime are untainted property shall be on the accused.

Section 25 - Establishment of Appellate Tribunal

The Central Government shall, by notification, establish an Appellate Tribunal to hear

appeals against the orders of the Adjudicating Authority and the authorities under this Act.

Section 26 - Appeal to Appellate Tribunal

(1) Save as otherwise provided in sub-section (3), the Director or any person aggrieved by

an order made by the Adjudicating Authority under this Act, may prefer an appeal to the

Appellate Tribunal.

(2) Any banking company, financial institution or intermediary aggrieved by any order of the

Director made under sub-section (2) of section 13, may prefer an appeal to the Appellate

Tribunal.

(3) Every appeal preferred under sub-section (1) or sub-section (2) shall be filed within a

period of forty-five days from the date on which a copy of the order made by the Adjudicating

Authority or Director is received and it shall be in such form and be accompanied by such fee

as may be prescribed:

Provided that the Appellate Tribunal may, after giving an opportunity of being heard,

entertain an appeal after the expiry of the said period of forty-five days if it is satisfied

that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1) or sub-section (2), the Appellate Tribunal

may, after giving the parties to the appeal an opportunity of being heard, pass such orders

thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the

appeal and to the concerned Adjudicating Authority or the Director, as the case may be.

(6) The appeal filed before the Appellate Tribunal under sub-section (1) or sub-section (2)

shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to

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dispose of the appeal finally within six months from the date of filing of the appeal.

Section 27 - Composition, etc., of Appellate Tribunal

(1) The Appellate Tribunal shall consist of a Chair-person and two other Members.

(2) Subject to the provisions of this Act,--

(a) the jurisdiction of the Appellate Tribunal may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson with one or two Members as the

Chairperson may deem fit;

(c) the Benches of the Appellate Tribunal shall ordinarily sit at New Delhi and at such

other places as the Central Government may, in consultation with the Chairperson, by

notification, specify;

(d) the Central Government shall, by notification, specify the areas in relation to which

each Bench of the Appellate Tribunal may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson may transfer a

Member from one Bench to another Bench.

(4) If at any stage of the hearing of any case or matter it appears to the Chairperson or a

Member that the case or matter is of such a nature that it ought to be heard by a Bench

consisting of two Members, the case or matter may be transferred by the Chairperson or, as

the case may be, referred to him for transfer, to such Bench as the Chairperson may deem

fit.

Section 28 - Qualifications for appointment

(1) A person shall not be qualified for appointment as Chairperson unless he is or has

been a Judge of the Supreme Court or of a High Court or is qualified to be a Judge

of the High Court.

(2) A person shall not be qualified for appointment as a Member unless he--

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(b) has been a member of the Indian Legal Service and has held a post in Grade I

of that Service for at least three years; or

(c) has been a member of the Indian Revenue Service and has held the post of

Commissioner of Income-tax or equivalent post in that Service for at least three

years;

(d) has been a member of the Indian Economic Service and has held the post of

Joint Secretary or equivalent post in that Service for at least three years; or

(e) has been a member of the Indian Customs and Central Excise Service and has

held the post of a Joint Secretary or equivalent post in that Service for at least

three years; or

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(f) has been in the practice of accountancy as a chartered accountant under the

Chartered Accountants Act, 1949 (38 of 1949) or as a registered accountant under

any law for the time being in force or partly as a registered accountant and partly

as a chartered accountant for at least ten years:

Provided that one of the members of the Appellate Tribunal shall be from

category mentioned in clause (f); or

(g) has been a member of the Indian Audit and Accounts Service and has held the

post of Joint Secretary or equivalent post in that Service for at least three years.

(3) No sitting Judge of the Supreme Court or of a High Court shall be appointed under

this section except after consultation with the Chief Justice of India.

2 (4) The Chairperson or a Member holding a post as such in any other

Tribunal, established under any law for the time being in force, in addition to his

being a Chairperson or a Member of that Tribunal, may be appointed as Chairperson

or Member, as the case may be, of the Appellate Tribunal under this Act.

1. Substituted for the word "High Court" by The Prevention of Money Laundering (Amendment) Act, 2005

2. Inserted vide by The Prevention of Money Laundering (Amendment) Act, 2005

3. Omitted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

"(a) is or has been a Judge of a High Court; or"

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Section 29 - Term of office [Omitted]

1 [xxx]

1. Omitted by The Prevention of Money Laundering (Amendment) Act, 2005.

Previous text was "The Chairperson and every other Member shall hold office as such

for a term of five years from the date on which he enters upon his office: Provided

that no Chairperson or other Member shall hold office as such after he has attained,--

(a) in the case of the Chairperson, the age of sixty-eight years;

(b) in the case of any other Member, the age of sixty-five years

Section 30 - Conditions of service

The salary and allowances payable to and the other terms and conditions of service

(including tenure of office) of the Chairperson and other Members shall be such as

may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions

of service (including tenure of office) of the Chairperson or any other Member shall

be varied to his disadvantage after appointment.

1. Substituted for the words "terms and conditions of service" by The Prevention of Money Laundering

(Amendment) Act, 2005

Section 31 - Vacancies

If, for reason other than temporary absence, any vacancy occurs in the office of the

Chairperson or any other Member, then, the Central Government shall appoint another

person in accordance with the provisions of this Act to fill the vacancy and the proceedings

may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Section 32 - Resignation and removal

(1) The Chairperson or any other Member may, by notice in writing under his hand

addressed to the Central Government, resign his office :

Provided that the Chairperson or any other Member shall, unless he is permitted by

the Central Government to relinquish his office sooner, continue to hold office until

the expiry of three months from the date of receipt of such notice or until a person

duly appointed as his successor enters upon his office or until the expiry of his term of

office, whichever is the earliest.

(2) The Chairperson or any other Member shall not be removed from his office except by an

order made by the Central Government on the ground of proved misbehaviour or incapacity,

after an inquiry made by a person appointed by the President in which such Chairperson or

any other Member concerned had been informed of the charges against him and given a

reasonable opportunity of being heard in respect of those charges.

1[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.]

1. Inserted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009.

Section 33 - Member to act as Chairperson in certain circumstances

(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason

of his death, resignation or otherwise, the senior-most Member shall act as the Chairperson

until the date on which a new Chairperson, appointed in accordance with the provisions of

this Act to fill such vacancy, enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or

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any other cause, the senior-most Member shall discharge the functions of the Chairperson

until the date on which the Chairperson resumes his duties.

Section 34 - Staff of Appellate Tribunal

(1) The Central Government shall provide the Appellate Tribunal with such officers and

employees as that Government may think fit.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under

the general superintendence of the Chairperson.

(3) The salaries and allowances and other conditions of service of the officers and employees

of the Appellate Tribunal shall be such as may be prescribed.

Section 35 - Procedure and powers of Appellate Tribunal

(1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil

Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and,

subject to the other provisions of this Act, the Appellate Tribunal shall have powers to

regulate its own procedure.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this

Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908

(5 of 1908) while trying a suit, in respect of the following matters, namely:--

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872,

requisitioning any public record or document or copy of such record or document from

any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing a representation for default or deciding it ex parte;

(h) setting aside any order of dismissal of any representation for default or any order

passed by it ex parte; and

(i) any other matter, which may be, prescribed by the Central Government.

(3) An order made by the Appellate Tribunal under this Act shall be executable by the

Appellate Tribunal as a decree of civil court and, for this purpose, the Appellate Tribunal shall

have all the powers of a civil court.

(4) Notwithstanding anything contained in sub-section (3), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

(5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1874).

Section 36 - Distribution of business amongst Benches

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Where any Benches are constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

Section 37 - Power of Chairperson to transfer cases

On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson may transfer any case pending before one Bench, for disposal, to any other Bench.

Section 38 - Decision to be by majority

If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by 1[third Member] of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Appellate Tribunal who have heard the case, including those who first heard it.

1. Substituted by the Prevention of Money-Laundering (Amendment) Act 2009 w.e.f. 01.06.2009 Previous text was

"one or more of the other Members"

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Section 39 - Right of appellant to take assistance of authorised representative and of

Government to appoint presenting officers

(1) A person preferring an appeal to the Appellate Tribunal under this Act may either appear

in person or take the assistance of an authorised representative of his choice to present his

case before the Appellate Tribunal.

Explanation.--For the purposes of this sub-section, the expression "authorised

representative" shall have the same meaning as assigned to it under sub-section (2) of

section 288 of the income-tax Act, 1961.

(2) The Central Government or the Director may authorise one or more authorised

representatives or any of its officers to act as presenting officers and every person so

authorised may present the case with respect to any appeal before the Appellate Tribunal.

Section 40 - Members, etc., to be public servants

The Chairperson, Members and other officers and employees of the Appellate Tribunal, the

Adjudicating Authority, Director and the officers subordinate to him shall be deemed to be

public servants within the meaning of section 21 of the Indian Penal Code.

Section 41 - Civil court not to have jurisdiction

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any

matter which the Director, an Adjudicating Authority or the Appellate Tribunal is empowered

by or under this Act to determine and no injunction shall be granted by any court or other

authority in respect of any action taken or to be taken in pursuance of any power conferred

by or under this Act.

Section 42 - Appeal to High Court

Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to

the High Court within sixty days from the date of communication of the decision or order of

the Appellate Tribunal to him on any question of law or fact arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by

sufficient cause from filing the appeal within the said period, allow it to be filed within a

further period not exceeding sixty days.

Explanation.--For the purposes of this section, "High Court" means--

(i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides

or carries on business or personally works for gain; and

(ii) where the Central Government is the aggrieved party, the High Court within the

jurisdiction of which the respondent, or in a case where there are more than one

respondent, any of the respondents, ordinarily resides or carries on business or

personally works for gain.

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Section 43 - Special Courts

(1) The Central Government, in consultation with the Chief Justice of the High Court, shall,

for trial of offence punishable under section 4, by notification, designate one or more Courts

of Session as Special Court or Special Courts for such area or areas or for such case or class

or group of cases as may be specified in the notification.

Explanation.-- In this sub-section, "High Court" means the High Court of the State in

which a Sessions Court designated as Special Court was functioning immediately before

such designation.

(2) While trying an offence under this Act, a Special Court shall also try an offence, other

than an offence referred to in sub-section (1), with which the accused may, under the Code

of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial.

Section 44 - Offences triable by Special Courts

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of

1974),--

(a) the scheduled offence and the offence punishable under section 4 shall be triable only

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

(b) a Special Court may¹ upon a complaint made by an authority authorised in this behalf

under this Act take cognizance of the offence for which the accused is committed to it for

trial.

(2) Nothing contained in this section shall be deemed to affect the special powers of the High

Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974)

and the High Court may exercise such powers including the power under clause (b) of

sub-section (1) of that section as if the reference to "Magistrate" in that section includes also

a reference to a "Special Court" designated under section 43.

1. Omitted by The Prevention of Money Laundering (Amendment) Act, 2005. Previous text

was "upon perusal of police report of the facts which constitute an offence under this Act or".

Section 45 - Offences to be cognizable and non-bailable

1 (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2

of 1974), no person accused of an offence punishable for a term of imprisonment

of more than three years under Part A of the Schedule shall be released on bail or on

his own bond unless

(i) the Public Prosecutor has been given an opportunity to oppose the application

for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that

there are reasonable grounds for believing that he is not guilty of such offence and

that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years, or is a woman

or is sick or infirm, may be released on bail, if the Special Court so directs:

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Provided further that the Special Court shall not take cognizance of any offence

punishable under section 4 except upon a complaint in writing made by--

(i) the Director; or

(ii) any officer of the Central Government or a State Government

authorised in writing in this behalf by the Central Government by a general

or special order made in this behalf by that Government.

2 (1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,

or any other provision of this Act, no police officer shall investigate into an offence

under this Act unless specifically authorised, by the Central Government by a general

or special order, and, subject to such conditions as may be prescribed

(2) The limitation on granting of bail specified in 3 sub-section (1) is in addition to the

limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law

for the time being in force on granting of bail.

1. Substituted by The Prevention of Money Laundering (Amendment) Act, 2005. Previous text was

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for a term of imprisonment of more than three years

under Part A of the Schedule shall be released on bail or on his own bond unless--

2. Inserted vide The Prevention of Money Laundering (Amendment) Act, 2005.

3. Omitted by The Prevention of Money Laundering (Amendment) Act, 2005. Previous text was "clause

(b) of"

Section 46 - Application of Code of Criminal Procedure, 1973 to proceedings before Special

Court

(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure,

1973 (2 of 1974) (including the provisions as to bails or bonds), shall apply to the

proceedings before a Special Court and for the purposes of the said provisions, the Special

Court shall be deemed to be a Court of Session and the persons conducting the prosecution

before the Special Court, shall be deemed to be a Public Prosecutor:

Provided that the Central Government may also appoint for any case or class or group of

cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public

Prosecutor under this section unless he has been in practice as an advocate for not less than

seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this

section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section

2 of the Code of Criminal Procedure, 1973 (2 of 1974) and the provisions of that Code shall

have effect accordingly.

Section 47 - Appeal and revision

The High Court may exercise, so far as may be applicable, all the powers conferred by

Chapter XXIX or Chapter XXX of the Code of Criminal Procedure, 1973 (2 of 1974), on a

High Court, as if a Special Court within the local limits of the jurisdiction of the High Court

were a Court of Session trying cases within the local limits of the jurisdiction of the High

Court.

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Section 48 - Authorities under Act

There shall be the following classes of authorities for the purposes of this Act, namely:--

(a) Director or Additional Director or Joint Director,

(b) Deputy Director,

(c) Assistant Director, and

(d) such other class of officers as may be appointed for the purposes of this Act.

Section 49 - Appointment and powers of authorities and other officers

(1) The Central Government may appoint such persons as it thinks fit to be authorities for

the purposes of this Act.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may

authorise the Director or an Additional Director or a Joint Director or a Deputy Director or an

Assistant Director appointed under that sub-section to appoint other authorities below the

rank of an Assistant Director.

(3) Subject to such conditions and limitations as the Central Government may impose, an

authority may exercise the powers and discharge the duties conferred or imposed on it under

this Act.

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