

Bill Summary

The Unlawful Activities (Prevention) Amendment Bill, 2011

- The Unlawful Activities (Prevention) Amendment Bill, 2011 was introduced on December 29, 2011 by the Minister of Home Affairs. The Bill was referred to the Standing Committee on Home Affairs on January 13, 2012. The Committee is expected to table its report by March 31, 2012.
- According to the statement of objects and reasons, the Bill amends the Unlawful Activities (Prevention) Act, 1967 to make it more effective in preventing unlawful activities, and meet commitments made at the Financial Action Task Force (an intergovernmental organization to combat money laundering and terrorism financing).
- The Bill amends the original Act to include the definition of a 'person'. A 'person' shall include (i) an individual; (ii) a Hindu undivided family; (iii) a company; (iv) a firm; (v) an association of persons or a body of individuals; (vi) every artificial juridical person; (vii) any agency, office or branch owned or controlled by any person falling within any of the preceding sub-clauses.
- The original Act defined 'proceeds of terrorism' as:
 - Property derived from commission of any terrorist act or traceable to a terrorist act; and
 - Property which is being used or is intended to be used for the purpose of a terrorist organization or terrorist gang.

The Bill replaces the second part of the above definition with '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 organization'. It also clarifies that the 'proceeds of terrorism' include property intended to be used for terrorism.
- The Bill also expands the definition of 'property' by using the phrase 'instruments in any form including but not limited to' those listed in the original definition.
- The Bill increases the period for which an association can be declared as unlawful from two years to five years.
- It expands the definition of 'terrorist act' to include:
 - Acts that threaten the economic security of India and damage its monetary stability by production, smuggling or circulation of 'high quality' counterfeit currency. The security features that define 'high quality' are laid down in the Third Schedule.
 - Acts of demanding bombs, explosive/ inflammable substances, lethal weapons, poisonous chemicals or biological, radiological, nuclear material with the intention of aiding, abetting or committing terrorism.
 - Acts that involve detention, abduction, threats to kill or injure, or other actions so as to compel an international or inter-governmental organization to comply with some demand.
 - Acts within the scope of and defined in any of the treaties listed in the Second Schedule of the Bill.
- The Bill enlarges the scope of punishment for raising funds:
 - Under the original Act, if a person raises or provides funds, knowing that such funds are likely to be used to commit a terrorist act, he shall be punishable with imprisonment of not less than five years and a fine.
 - Under the Bill, raising funds likely to be used (*in full or in part*) to commit a terrorist act *or for the benefit of terrorists* shall be punishable *irrespective of whether the funds have been raised from legitimate or illegitimate sources*.
 - The Bill clarifies that raising funds shall include production or circulation of counterfeit Indian currency. It also states that 'participating, organising or directing' fund raising activities shall constitute an offence.
- The Bill inserts new sections to include offences by companies, societies or trusts. Every person who, at the time of the offence, was responsible for the conduct of the business shall be punishable with imprisonment for seven or more years and a fine between five to ten crore rupees.
- The Bill confers additional powers upon the court to provide for attachment or forfeiture of:
 - Property equivalent to the counterfeit Indian currency involved in the offence.
 - Property equivalent to the value of the proceeds of terrorism involved in the offence.
 - All or any of the property of an accused, based on evidence produced before the court, in cases where the trial cannot be concluded.

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