

Bill No. 130 of 2019

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT
BILL, 2019

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BILL

further to amend the Unlawful Activities (Prevention) Act, 1967.

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

1. (1) This Act may be called the Unlawful Activities (Prevention) Amendment Act, 2019.

Short title
and
commencement.

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

37 of 1967.

2. In the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the principal Act), in section 2, in sub-section (1),—

Amendment
of section 2.

10 (i) in clause (d), for the word and figures "section 21", the word and figures "section 22" shall be substituted;

(ii) in clause (ha), for the words "the Schedule", the words "a Schedule" shall be substituted;

(iii) in clause (m), for the word "Schedule", the words "First Schedule" shall be substituted.

Amendment of section 25. **3.** In section 25 of the principal Act, in sub-section (I), for the words "in which such property is situated, make an order", the words "in which such property is situated, or where the investigation is conducted by an officer of the National Investigation Agency, with the prior approval of the Director General of National Investigation Agency, make an order" shall be substituted. 5

Amendment of heading of Chapter VI. **4.** In Chapter VI of the principal Act, for the Chapter heading, the following Chapter heading shall be substituted, namely:— 10

"TERRORIST ORGANISATIONS AND INDIVIDUALS".

Amendment of section 35. **5.** In section 35 of the principal Act,—

(i) in sub-section (1),—

(A) in clause (a), after the words "First Schedule", the words "or the name of an individual in the Fourth Schedule" shall be inserted; 15

(B) in clause (b), after the words "United Nations", the words "or the name of an individual in the Fourth Schedule" shall be inserted;

(C) in clause (c), after the words "First Schedule", the words "or the name of an individual from the Fourth Schedule" shall be inserted; 20

(D) in clause (d), after the words "First Schedule", the words "or the Fourth Schedule" shall be inserted;

(ii) in sub-section (2), for the words "an organisation only if it believes that it is", the words "an organisation or an individual only if it believes that such organisation or individual is" shall be substituted; 25

(iii) in sub-section (3), for the words "an organisation shall be deemed to be involved in terrorism if it", the words "an organisation or an individual shall be deemed to be involved in terrorism if such organisation or individual" shall be substituted.

Amendment of section 36. **6.** In section 36 of the principal Act,— 30

(i) in the marginal heading, for the words "a terrorist organisation", the words "terrorist organisation or individual" shall be substituted;

(ii) in sub-section (1), for the words "an organisation from the Schedule", the words "an organisation from the First Schedule, or as the case may be, the name of an individual from the Fourth Schedule" shall be substituted; 35

(iii) in sub-section (2),—

(A) in clause (b) for the words "Schedule as a terrorist organisation", the words "First Schedule as a terrorist organisation, or" shall be substituted;

(B) after clause (b), the following clause shall be inserted, namely:—

"(c) any person affected by inclusion of his name in the Fourth Schedule as a terrorist."; 40

(iv) in sub-section (5), for the words "an organisation from the Schedule", the words "an organisation from the First Schedule or the name of an individual from the Fourth Schedule" shall be substituted;

(v) in sub-section (6), after the words "an organisation", the words "or an individual" shall be inserted; 45

(vi) in sub-section (7), for the word "Schedule", the words "First Schedule or the name of an individual from the Fourth Schedule" shall be substituted.

7. In section 38 of the principal Act, in sub-section (1), in the proviso, in clause (b), for the word "Schedule", the words "First Schedule" shall be substituted. Amendment of section 38.

5 8. In section 43 of the principal Act,— Amendment of section 43.

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

"(ba) in the case of National Investigation Agency, below the rank of Inspector;"

10 (ii) in clause (c), after the words, brackets and letter "or clause (b)", the words, brackets and letters "or clause (ba)" shall be inserted.

9. In section 45 of the principal Act, in sub-section (1), in clause (ii), for the word "where", the word "if" shall be substituted. Amendment of section 45.

15 10. In the First Schedule to the principal Act, for the brackets, words, figures and letter "[See sections 2(1)(m) and 35]", the brackets, words, figures and letter "[See sections 2(1)(m), 35, 36 and 38 (1)]" shall be substituted. Amendment of First Schedule.

11. In the Second Schedule to the principal Act,— Amendment of Second Schedule.

(a) in item (v), the words "as amended from time to time" shall be inserted at the end;

(b) after item (ix), the following item shall be inserted, namely:—

20 "(x) International Convention for Suppression of Acts of Nuclear Terrorism (2005)."

12. After the Third Schedule to the principal Act, the following Schedule shall be added, namely:— Addition of Fourth Schedule.

"THE FOURTH SCHEDULE

25 [See sections 35(1) and 36]

Sl. No.	Name of Individuals
"	

STATEMENT OF OBJECTS AND REASONS

The Unlawful Activities (Prevention) Act, 1967 (the Act) was enacted to provide for more effective prevention of certain unlawful activities of individuals and associations, and for dealing with terrorist activities, and for matters connected therewith. The said Act has been amended in the years 2004, 2008 and 2013 to add certain provisions relating to various facets of terrorism.

2. Presently, the National Investigation Agency faces many difficulties in the process of investigation and prosecution of terrorism related cases. With a view to overcome such difficulties being faced by the National Investigation Agency in the investigation and prosecution of terrorism related cases due to certain legal infirmities and also to align the domestic law with the international obligations as mandated in several Conventions and Security Council Resolutions on the issue, the Government proposes to amend the said Act and for the said purpose, introduce the Unlawful Activities (Prevention) Amendment Bill, 2019.

3. The Unlawful Activities (Prevention) Amendment Bill, 2019, *inter alia*, provides for—

(i) empowering the Director General, National Investigation Agency to grant approval of seizure or attachment of property when the case is investigated by the said agency;

(ii) amending section 35 of the Act to empower the Central Government to add to or remove from the proposed Fourth Schedule, the name of an individual terrorist and other consequential amendments relating thereto;

(iii) inserting a new clause (ba) in section 43 of the Act to empower an officer of the rank of Inspector of National Investigation Agency to investigate the offences under Chapter IV and Chapter VI.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;

AMIT SHAH

The 28th June , 2019.

ANNEXURE

EXTRACTS FROM THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967

(37 OF 1967)

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2. (1) In this Act, unless the context otherwise requires,—

Definitions.

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(d) "court" means a criminal court having jurisdiction, under the Code, to try offences under this Act and includes a Special Court constituted under section 11 or under section 21 of the National Investigation Agency Act, 2008;

34 of 2008.

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

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(m) "terrorist organisation" means an organisation listed in the Schedule or an organisation operating under the same name as an organisation so listed;

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25. (1) If an officer investigating an offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism, he shall, with the prior approval in writing of the Director General of the Police of the State in which such property is situated, make an order seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Authority before whom the property seized or attached is produced and a copy of such order shall be served on the person concerned.

Powers of investigating officer and Designated Authority and appeal against order of Designated Authority.

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CHAPTER VI

TERRORIST ORGANISATIONS

35. (1) The Central Government may, by notification, in the Official Gazette,—

Amendment of Schedule, etc.

(a) add an organisation to the First Schedule;

(b) add also an organisation to the First Schedule, which is identified as a terrorist organisation in a resolution adopted by the Security Council under Chapter VII of the Charter of the United Nations, to combat international terrorism;

(c) remove an organisation from the First Schedule;

(d) amend the First Schedule in some other way.

(2) The Central Government shall exercise its power under clause (a) of sub-section (1) in respect of an organisation only if it believes that it is involved in terrorism.

(3) For the purposes of sub-section (2), an organisation shall be deemed to be involved in terrorism if it—

(a) commits or participates in acts of terrorism, or

(b) prepares for terrorism, or

- (c) promotes or encourages terrorism, or
- (d) is otherwise involved in terrorism.

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Denotification of a terrorist organisation.

36. (1) An application may be made to the Central Government for the exercise of its power under clause (c) of sub-section (1) of section 35 to remove an organisation from the Schedule.

(2) An application under sub-section (1) may be made by—

- (a) the organisation, or
- (b) any person affected by inclusion of the organisation in the Schedule as a terrorist organisation.

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(5) The Review Committee may allow an application for review against rejection to remove an organisation from the Schedule, if it considers that the decision to reject was flawed when considered in the light of the principles applicable on an application for judicial review.

(6) Where the Review Committee allows review under sub-section (5) by or in respect of an organisation, it may make an order to such effect.

(7) Where an order is made under sub-section (6), the Central Government shall, as soon as the certified copy of the order is received by it, make an order removing the organisation from the Schedule.

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Offence relating to membership of a terrorist organisation.

38. (1) A person, who associates himself, or professes to be associated, with a terrorist organisation with intention to further its activities, commits an offence relating to membership of a terrorist organisation:

Provided that this sub-section shall not apply where the person charged is able to prove—

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(b) that he has not taken part in the activities of the organisation at any time during its inclusion in the Schedule as a terrorist organisation.

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Officers competent to investigate offences under Chapters IV and VI.

43. Notwithstanding anything contained in the Code, no police officer,—

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(c) in any case not relatable to clause (a) or clause (b), below the rank of a Deputy Superintendent of Police or a police officer of an equivalent rank, shall investigate any offence punishable under Chapter IV or VI.

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Cognizance of offences.

45. (1) No court shall take cognizance of any offence—

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(ii) under Chapters IV and VI without the previous sanction of the Central Government or, as the case may be, the State Government, and where such offence is committed against the Government of a foreign country without the previous sanction of the Central Government.

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THE FIRST SCHEDULE

[See sections 2(1)(m) and 35]

TERRORIST ORGANISATIONS

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THE SECOND SCHEDULE

[See section 15(2)]

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

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LOK SABHA

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further to amend the Unlawful Activities (Prevention) Act, 1967.

(Shri Amit Shah, Minister of Home Affairs)