

Parts of PMLA, 2002		
Part I	Part II	Part III
(i) Objectives of PMLA	(v) Obligations of	(viii) Reciprocal
(ii) Definitions	Reporting Entity	Arrangements
(iii) Offence of Money Laundering (Sec. 3 and 4)	(Sec. 12-15)	(Sec. 55-61)
(iv) Attachment, Adjudication & Confiscation (Sec. 5-11)	(vi) Appellate Tribunal (Sec. 25-42)	(ix) Miscellaneous (Sec. 62-75)
	(vii) Special Courts (Sec. 43-47)	
<b>(i) Objectives of PMLA:</b>		
⇒ to prevent money-laundering;		
⇒ to provide for confiscation of property derived from, or involved in, money-laundering;		
⇒ to punish those who commit the offence of money laundering.		
<b>(ii) Definitions:</b>		
<b>(i) Money Laundering: [Sec. 2(1)(p)]</b>		
Money laundering has the meaning assigned to it in Sec. 3.		
<b>Sec. 3:</b> - 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 including its concealment, possession, acquisition or use		
- and projecting or claiming it as untainted property		
shall be guilty of offence of money laundering.		

	<b>(ii) <u>Proceeds of Crime:</u> [Sec. 2(10)(u)]</b>
	means any <b>property</b> derived or obtained, directly or indirectly, by any person
	as a result of <b>criminal activity</b> relating to a <b>scheduled offence</b>
	or
	where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.
	<b>(iii) <u>Property:</u> [Sec. 2(1)(v)]</b>
	means any property or assets of every description, whether
	⇒ <u>corporeal or incorporeal, movable or immovable, tangible or intangible</u>
	and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.
	<b>(iv) <u>Scheduled offence:</u> [Sec. 2(1)(y)]</b>
	(a) the offences specified under Part A of the Schedule; or
	(b) the offences specified under Part B of the Schedule if the total value involved in such offences are ₹ 1 Crore or more; or
	(c) the offences specified under Part C of the Schedule.
	<b>(v) <u>Other Definitions:</u></b> Self Study from Main Book
	Do practice - Questions on Sec.2 (Definitions)
	<b>(iii) <u>Punishment for Money Laundering:</u> (Sec. 4)</b>
	- Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term 3 years to 7 years and shall also be liable to fine.
	- However, where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2* of Part A of the Schedule, imprisonment may extend upto 10 years instead of 7 years.
	<b>*Offences under the Narcotic Drugs and Psychotropic Substances Act, 1985</b>
	Do practice - Questions on Secs.3 and 4

(iv)	<b><u>Attachment, Adjudication and Confiscation: (Sec. 5 - Sec. 11)</u></b>
	<b><u>Attachment:</u></b> Prohibition of transfer, conversion, disposition or movement of property.
	(i) <b><u>Attachment of property involved in Money Laundering (Sec. 5)</u></b>
	(a) <b><u>Order of Provisional Attachment - Sec. 5(1)</u></b>
	Director or other officer not below the rank of Deputy Director authorised by the Director, may, by written order, provisionally attach property for a period not exceeding 180 days from the date of the order, if he has reason to believe that:
	- any person is in possession of any proceeds of crime; and
	- 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.
	<i>Note: For the purposes of computing 180 days, period during which proceedings are stayed by the High Court, shall be excluded and a further period of 30 days from the date of order of vacation of such stay order shall be counted.</i>
	(b) <b><u>Forwarding Report to Adjudicating Authority - Sec. 5(2)</u></b>
	(c) <b><u>Validity of Attachment - Sec. 5(3)</u></b>
	Every order of attachment shall cease to have effect after the expiry of the specified period or on the date of an order made u/s 8(3), whichever is earlier.
	(d) <b><u>Rights of persons interested in the property - Sec. 5(4)</u></b>
	- Sec. 5 shall not prevent the person interested in the enjoyment of immovable property attached under this section, from such enjoyment.
	- Person Interested, in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.
	(e) <b><u>Filing of complaint in case of Provisional Attachment - Sec. 5(5)</u></b>
	Director or other officer who provisionally attaches any property shall, within a period of 30 days from such attachment, file a complaint stating the facts of such attachment before the Adjudicating Authority.

	<p>(ii) <u>Adjudicating Authorities, composition, powers, etc. (Sec. 6)</u>: Self Study from Book</p>
	<p>(iii) <u>Staff of Adjudicating Authorities (Sec. 7)</u> Self Study from Book</p>
	<p>(iv) <u>Adjudication (Sec. 8)</u></p>
	<p>(a) <u>Serving of Notice - Sec. 8(1)</u></p>
	<p>On receipt of a complaint u/s 5(5), if the Adjudicating Authority (AA) has reason</p>
	<p>to believe that any person has committed an offence u/s 3 or is in possession of</p>
	<p>proceeds of crime, it may serve a <u>notice of not less than 30 days</u> on such person</p>
	<p>calling upon him to indicate:</p>
	<ul style="list-style-type: none"> <li>- <u>sources of his income</u>, earning or assets, out of which or by means of which</li> </ul>
	<p>he has acquired the property attached u/s 5.</p>
	<ul style="list-style-type: none"> <li>- <u>evidence on which he relies</u> and other relevant information &amp; particulars.</li> </ul>
	<ul style="list-style-type: none"> <li>- to <u>show cause</u> why all or any of such properties should not be declared to be</li> </ul>
	<p>the properties involved in money-laundering and confiscated by the C.G.</p>
	<p>(b) <u>Findings by Adjudicating Authority - Sec. 8(2)</u></p>
	<p>AA shall, by an order, record a finding whether all or any of the properties</p>
	<p>referred to in the notice are involved in money-laundering, after-</p>
	<p>(a) considering the reply, if any, to the notice;</p>
	<p>(b) hearing aggrieved person &amp; the Director or concerned officer; and</p>
	<p>(c) taking into account all relevant materials placed on record before him.</p>
	<p>(c) <u>Confirmation of Attachment, seizure, etc. - Sec. 8(3)</u></p>
	<p>Where AA decides that any property is involved in money-laundering, he shall, by</p>
	<p>an order in writing, confirm the attachment of the property made u/s 5 and</p>
	<p>record a finding to that effect, whereupon such attachment shall:</p>
	<ul style="list-style-type: none"> <li>- continue during investigation for a period not exceeding 365 days; and</li> </ul>
	<ul style="list-style-type: none"> <li>- become final after an order of confiscation is passed.</li> </ul>
	<p><i>Note: For computing period of 365 days, period during which investigation is</i></p>
	<p><i>stayed by any court under any law shall be excluded.</i></p>

	<p><b>(d) <u>Possession of property on confirmation of provisional attachment - Sec. 8(4)</u></b></p> <p>Where the provisional order of attachment made u/s 5 has been confirmed, the Director or any other officer authorised by him in this behalf shall forthwith take the possession of the property attached u/s 5.</p>
	<p><b>(e) <u>Confiscation of property - Sec. 8(5)</u></b></p> <p>Where on conclusion of a trial of an offence, the Special Court finds that the offence of money-laundering has been committed; it shall order that such property involved in money laundering or which has been used for commission of offence of money laundering shall stand confiscated to the C.G.</p>
	<p><b>(f) <u>Release of property - Sec. 8(6)</u></b></p> <p>Where on conclusion of trial, Special Court finds that the offence of money laundering has not taken place or property is not involved in money-laundering, it shall order release of such property to the person entitled to receive it.</p>
	<p><b>(g) <u>Incomplete trial - Sec. 8(7)</u></b></p> <p>Where the trial under this Act cannot be conducted by reason of death of the accused or accused being declared a proclaimed offender or for any other reason the Special Court shall, on an application moved by the Director or a person claiming to be entitled to possession of a property, pass appropriate orders regarding confiscation or release of the property, as the case may be, involved in the offence of money-laundering after having regard to the material before it.</p>
	<p><b>(h) <u>Restoration of Confiscated property - Sec. 8(8)</u></b></p> <p>⇒ Where a property stands confiscated to C.G., Special Court, may also direct the C.G. to restore such confiscated property of a claimant with a legitimate interest in the property, who may have suffered a quantifiable loss as a result of the offence of money laundering.</p> <p>⇒ Special Court shall not consider such claim unless it is satisfied that claimant has acted in good faith and has suffered the loss despite having taken all reasonable precautions and is not involved in the offence of money laundering.</p>

(v) Vesting of property in C.G. (Sec. 9)

⇒ Where an order of confiscation has been made u/s 8 in respect of any property, all rights & title in such property shall vest absolutely in the C.G. free from all encumbrances.

⇒ However, where the Special Court or AA, as the case may be, after giving an opportunity of being heard to any other person interested in attached property, is of the opinion that any encumbrance on property or lease-hold interest has been created to defeat the provisions of this Chapter, it may, by order, declare such encumbrance or lease-hold interest to be void

and

thereupon this property shall vest in the C.G. free from such encumbrances.

Do practice - Questions on Secs.5 to 11