

Parts of PMLA, 2002		
Part I	Part II	Part III
(i) Objectives of PMLA	(v) Obligations of Reporting Entity	(viii) Reciprocal Arrangements
(ii) Definitions	(Sec. 12-15)	(Sec. 55-61)
(iii) Offence of Money Laundering (Sec. 3 and 4)	(vi) Appellate Tribunal (Sec. 25-42)	(ix) Miscellaneous (Sec. 62-75)
(iv) Attachment, Adjudication & Confiscation (Sec. 5-11)	(vii) Special Courts (Sec. 43-47)	
(v) <u>Obligations of Reporting Entity (Secs. 12 to 15)</u>		
<u>Reporting Entity [Sec. 2(1)(wa)]</u> : a banking company, financial institution, intermediary or a person carrying on a designated business or profession.		
(a) <u>Obligations of Reporting Entity [Sec. 11A and 12]</u> :		
(i) <u>Verification of identity by reporting entity - Sec. 11A</u>		
Every Reporting entity shall verify identity of its clients & beneficial owner, by:		
(a) Authentication under the Aadhaar (Targeted Delivery of Financial & Other Subsidies, Benefits and Services) Act, 2016 in case of a Banking Company; or		
(b) Offline verification under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; or		
(c) Use of passport issued u/s 4 of the Passports Act, 1967; or		
(d) Use of any other officially valid document or modes of identification as may be notified by the C.G. in this behalf.		

**Note:** Use of modes of identification shall be a voluntary choice of every client or beneficial owner who is sought to be identified and no client or beneficial owner shall be denied services for not having an Aadhaar number.

**(ii) Maintenance of Records - Sec. 12**

Every reporting entity shall:

- (a) maintain a record of all transactions, including information as to transactions covered u/c (b), so as to enable it to reconstruct individual transactions;

**Note:** To be maintained for a period of 5 years from the date of transaction.

- (b) furnish to the Director, information relating to such transactions, whether attempted or executed, the nature and value of which may be prescribed;

- (c) Maintain record of documents evidencing identity of its clients and beneficial owners as well as account files and business correspondence relating to clients.

**Note:** To be maintained for a period of 5 years after the business relationship between a client and the reporting entity has ended or the account has been closed, whichever is later.

**Rule 3 of Prevention of Money-laundering (Maintenance of Records) Rules, 2005**

Every reporting entity shall maintain records of following:

- (i) Cash transactions of > ₹ 10 lakhs in foreign currency.  
 (ii) Series of cash transactions if monthly total > ₹ 10 lakhs in foreign currency.  
 (iii) Cash transactions where forged or counterfeit currency or bank notes have been used as genuine or where any forgery of a valuable security or a document has taken place facilitating the transactions.  
 (iv) Suspicious transactions: whether or not made in cash.  
 (v) All transactions involving receipts by non-profit organisations of value > ₹ 10 lakhs or its equivalent in foreign currency.

**Meaning of Suspicious transactions:** Self Study from Book

**Notes:**

- Records shall contain information about nature of transaction, amount of transaction, currency, date of transaction and parties to transaction.
- Records shall be maintained in hard and soft copies in prescribed manner.

**(b) Access to Information [Sec. 12A]**

- ⇒ Director may call from reporting entity, records referred to in Sec. 12 and any additional information as he considers necessary.
- ⇒ Reporting entity shall furnish the information within specified time and manner.
- ⇒ Information sought by the Director shall be kept confidential.

**(c) Enhanced Due Diligence [Sec. 12AA]**

- (1) Reporting entity shall, prior to the commencement of each specified transaction:
- (a) verify the identity of the clients undertaking such specified transaction
  - (b) take additional steps to examine the ownership and financial position, including sources of funds of the client;
  - (c) take additional steps to record the purpose behind conducting the specified transaction and the nature of the relationship between the transaction parties.
- (2) Reporting entity shall not allow the specified transaction, until conditions laid down u/s 12AA(1) are fulfilled.
- (3) Where any specified transaction undertaken by a client is considered suspicious or likely to involve proceeds of crime, the reporting entity shall increase the future monitoring of the business relationship with the client, including greater scrutiny.
- (4) Information obtained u/s 12AA(1) shall be maintained for a period of 5 years from the date of transaction between a client and the reporting entity.

**Meaning of specified transaction:**

Self Study from Book

**(d) Powers of Directors to impose Fine [Sec. 13]**

If Director, finds that a reporting entity or its director or employees has failed to comply with the obligations under this Chapter, then, he may by an order, impose a monetary penalty on such reporting entity or its director or its employees, which shall not be less than ₹ 10,000 but may extend to ₹ 1 lakh for each failure.

**(e) Immunity to Reporting Entity, Directors and its employees [Sec. 14]**

Reporting entity, its directors and employees shall not be liable to any civil or criminal proceedings against them for furnishing information u/s 12.

Do practice - Questions on Secs.12 to 15

<b>(vi)</b>	<b>Appellate Tribunal (Secs. 25 to 42)</b>
	Appellate Tribunal constituted u/s 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 shall be the Appellate Tribunal for hearing appeals under this Act.
	<b>(a) <u>Appeals to Appellate Tribunal (Sec. 26)</u></b>
	- Any person aggrieved by an order made by AA may prefer an appeal to Appellate Tribunal within a period of 45 days from the date on which a copy of the order made by AA is received
	- Appellate Tribunal may after giving an opportunity of being heard, entertain an appeal after the expiry of 45 days for sufficient cause.
	- On receipt of an appeal, Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, confirming, modifying or setting aside the order appealed against.
	- Appeal shall be dealt with as expeditiously as possible and endeavour shall be made by to dispose the appeal within 6 months from the date of filing of the appeal.
	<b>(b) <u>Powers of Appellate Tribunal (Sec. 35):</u></b> Self Study from Book
	<b>(c) <u>Decision to be by majority (Sec. 38)</u></b>
	If the Members of a Bench consisting of 2 Members differ in opinion on any point, they shall state the points on which they differ, and make a reference to the Chairman who shall either hear the points himself or refer the case for hearing on such points by 3rd Member of the Appellate Tribunal and such 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.
	<b>(d) <u>Appeal to High Court (Sec. 42)</u></b>
	⇒ Any person aggrieved by order of Appellate Tribunal may file an appeal to the High Court within 60 days from the date of communication of order to him on any question of law or fact arising out of such order.
	⇒ High Court may, for sufficient cause, allow appeal to be filed within a further period not exceeding 60 days.
	<b>Do practice - Questions on Secs. 25 to 42</b>

(viii)	<b>Special Courts (Sec. 43 to 47)</b>
	<b>(a) Special Courts - Sec. 43</b>
	⇒ C.G., in consultation with the Chief Justice of the High Court, shall, for trial of offence punishable u/s 4, designate one or more Courts of Session as Special Court for such area or case or group of cases as may be specified in the notification.
	⇒ While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred above, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.
	<b>(b) Offences triable by Special Courts - Sec. 44</b>
	⇒ An offence punishable u/s 4 and any scheduled offence connected to the offence under that section shall be triable by the Special Court constituted for the area in which the offence has been committed.
	⇒ Special Court while trying scheduled offence or the offence of money-laundering shall hold trial in accordance with provisions of Code of Criminal Procedure, 1973.
	⇒ If the court which has taken cognizance of scheduled offence is other than the Special Court which has taken cognizance of the complaint of the offence of money-laundering, it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed.
	<b>(c) Offences to be cognizable and non-bailable - Sec. 45</b>
	Offences under the Act shall be cognizable and non-bailable.
	<b>Cognizable offence:</b> An offence in which a police officer has the authority to make an arrest without a warrant and to start an investigation with or without the permission of a court.
	<b>Cognizance of offence by Special Court:</b>
	Special Court shall not take cognizance of any offence u/s 4, unless a complaint in writing is made by:
	(a) the director or
	(b) any officer of the C.G. or a S.G. authorised in writing in this behalf.

**Note:** 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 C.G. by a general or special order, and, subject to such conditions as may be prescribed.

**Release of accused on Bail:**

Person accused of an offence under this Act shall not be released on bail or on his own bond unless-

- (i) 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.

**Exceptions:** - In case of any person who is under the age of 16 years or  
 - in case of a woman or  
 - in case of a sick or infirm or  
 - is accused either on his own or along with other co-accused of money-laundering a sum of less than ₹ 1 crore,

↓  
 may be released on bail, if the Special Court so directs.

(d) **Other Provisions:**

Self Study from Book

Do Practice - Questions on Secs. 43 to 47