

Fugitive Economic Offenders Ordinance

Why in news?

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- The President recently promulgated the Fugitive Economic Offenders Ordinance.

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- Passage of Fugitive Economic Offenders Bill was delayed due to disruptions in the Parliament.

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- Click [here](#) to know more on the Bill.

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What are the key features?

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- The ordinance seeks to confiscate properties of economic offenders who have left the country to avoid facing criminal prosecution.

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- **Offender** - A fugitive economic offender is a person against whom an arrest warrant has been issued for committing offence like

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- i. counterfeiting government stamps or currency, cheque dishonour for insufficiency of funds

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- ii. money laundering

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- iii. transactions defrauding creditors

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- A fugitive economic offender is one who has left the country to avoid facing prosecution, or refuses to return to face prosecution.

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- **Provisions** - The provisions of the ordinance will apply for economic offenders with following conditions:

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- i. who refuse to return
- ii. persons against whom an arrest warrant has been issued for a scheduled offence
- iii. wilful bank loan defaulters with outstanding of over Rs.100 crore

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- It provides for confiscating assets even without a conviction.
- It also provides for paying off lenders by selling off the fugitive's properties.
- Such economic offenders will be tried under Prevention of Money Laundering Act (PMLA).

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What is the procedure?

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- **Application** - A director or deputy director, appointed under the PMLA, 2002, may file an application.
- This is to declare a person as a fugitive economic offender.
- It can be filed before a special court, designated under the 2002 Act.
- It will contain the reasons to believe that an individual is a fugitive economic offender.

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- Besides, it will have information about
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- i. the whereabouts of the offender
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- ii. list of properties believed to be proceeds of a crime for which confiscation is sought
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- iii. list of benami properties or foreign properties for which confiscation is sought
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- iv. list of persons having an interest in these properties
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- **Court** - Upon receiving the application, the special court will issue a notice to the individual.
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- It requires the person to appear at a specified place within 6 weeks.
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- If the person appears at the specified place, the special court will terminate its proceedings under the provisions of the Bill.
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- **Property** - Property belonging to the offender may provisionally be attached without the prior permission of the special court.
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- This is, provided that an application is filed before the court within 30 days.
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- **Appeals** against the orders of the special court will lie before the high court.
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What are the concerns?

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- A series of instances with absconding offenders has pressurised the government to take immediate action.
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- They include liquor baron Vijay Mallya's, IPL commissioner Lalit Modi, diamond merchants Nirav Modi and Mehul Choksi.

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- Government agencies have attached the diamond merchant duo's assets in India.
 - But an American court has disallowed the sale of their assets in other jurisdictions.
 - It's because India is yet to pass a model law mooted by the UN for cross-border insolvency cases.
 - It is not clear whether this ordinance can make up for this shortfall.
 - The ordinance route reflects the urgency to react to recent offences.
 - But the government needs to present a coherent vision about its plans to bring back those fugitives who have already got away.
 - The government has to plug many more legal loopholes in the whole system.
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Source: The Hindu

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