

IndiaCode

The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005

(ACT NO. 21 OF 2005)

[*As on the* 27*th September,* 2026]

AMENDING ACT

The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Amendment Act, 2022 (14 of 2022).

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LIST OF ABBREVIATIONS USED

Cl., cls.	*for*	Clause, clauses.
Ins.	,,	Inserted.
Notifn.	,,	Notification.
S., ss.	,,	Section, sections.
Sch.	,,	Schedule.
Subs.	,,	Substituted.
w.e.f.	,,	with effect from.

IndiaCode

THE WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS (PROHIBITION OF UNLAWFUL ACTIVITIES) ACT, 2005

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and commencement.
2. Act in addition to other laws.
3. Extent and application.
4. Definitions.
5. Power to identify, designate, categorise or regulate certain activities.
6. Power to appoint Advisory Committees.
7. Delegation of powers.
8. Prohibition relating to weapons of mass destruction.
9. Prohibition relating to non-State actor or terrorist.
10. Prohibition as regards intimidating acts.
11. Prohibition on export.
12. Prohibition on brokering.

12A. Prohibition on financing

13. Regulation of export, transfer, re-transfer, transit and trans-shipment.
14. Offences and penalties.
15. Punishment for aiding non-State actor or terrorist.
16. Punishment for unauthorised export.
17. Punishment for violation of other provisions of the Act.
18. Penalty for using false or making forged documents, etc.
19. Punishment for offences with respect to which no provision has been made.
20. Offences by companies.
21. Cognizance of offences.
22. Bar of jurisdiction of civil courts.
23. Effect of other laws.
24. Protection of action taken in good faith.
25. Special provisions as to Central Government.
26. Power to make rules.
27. Power to remove difficulties.

IndiaCode

THE WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS (PROHIBITION OF UNLAWFUL ACTIVITIES) ACT, 2005

ACT NO. 21 OF 2005

[6*th June*, 2005.]

An Act to prohibit unlawful activities, in relation to weapons of mass destruction and their delivery systems and for matters connected therewith or incidental thereto.

WHEREAS India is determined to safeguard its national security as a Nuclear Weapon State;

AND WHEREAS India is committed not to transfer nuclear weapons or other nuclear explosive devices, or to transfer control over such weapons or explosive devices, and not in any way to assist, encourage, or induce any other country to manufacture nuclear weapons or other nuclear explosive devices;

AND WHEREAS India is committed to prevent a non-State actor and a terrorist from acquiring weapons of mass destruction and their delivery systems;

AND WHEREAS India is committed to the objective of global nuclear disarmament;

AND WHEREAS India is committed to its obligations as a State Party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;

AND WHEREAS India is exercising controls over the export of chemicals, organisms, materials, equipment and technologies in relation to weapons of mass destruction and their delivery systems under other relevant Acts;

AND WHEREAS it is considered necessary to provide for integrated legal measures to exercise controls over the export of materials, equipment and technologies and to prohibit unlawful activities in relation to weapons of mass destruction and their means of delivery.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. Short title and commencement.—(*1*) This Act may be called the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

(*2*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

2. Act in addition to other laws.—Save as otherwise expressly provided in this Act, the provisions of this Act shall be in addition to any other relevant Act for the time being in force in relation to any matter covered under this Act.

3. Extent and application.—(*1*) It extends to the whole of India including its Exclusive Economic Zone.

(*2*) Every person shall be liable to punishment under this Act for every act or omission contrary to the provisions thereof, of which he is held guilty in India.

(*3*) Any person who commits an offence beyond India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India.

(*4*) The provisions of this Act shall also apply to—

(*a*) citizens of India outside India;

(*b*) companies or bodies corporate, registered or incorporated in India or having their associates, branches or subsidiaries, outside India;

1. 17th November, 2006, *vide* notification No. S.O. 1990(E), dated 17th November, 2006, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

(*c*) any ship, aircraft or other means of transport registered in India or outside India, wherever it may be;

(*d*) foreigners while in India;

(*e*) persons in the service of the Government of India, within and beyond India.

(*5*) Notwithstanding the applicability of the provisions of any other Central Act relating to any activity provided herein, the provisions of this Act shall apply to export, transfer, re-transfer, transit and trans-shipment of material, equipment or technology of any description as are identified, designated, categorised or considered necessary by the Central Government, as pertinent or relevant to India as a Nuclear Weapon State, or to the national security of India, or to the furtherance of its foreign policy or its international obligations under any bilateral, multilateral or international treaty, Covenant, Convention or arrangement relating to weapons of mass destruction or their means of delivery, to which India is a Party.

4. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "biological weapons" are—

(*i*) microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and

(*ii*) weapons, equipment or delivery systems specially designed to use such agents or toxins for hostile purposes or in armed conflict;

(*b*) "brought in transit" means to bring goods from any country into India by land, air, or amphibious means of transportation, where the goods are to be taken out from India on the same conveyance on which they are brought into India without any landing in India, but does not include a conveyance in innocent passage through Indian territory, Indian territorial waters or Indian airspace of a foreign conveyance carrying goods.

IndiaCode

Explanation I.—A conveyance is a foreign conveyance if it is not registered in India.

Explanation II.—A conveyance is in "innocent passage" if it is not engaged in relevant activity and passes through or above Indian territorial waters or airspace without stopping or anchoring in India;

(*c*) "chemical weapons" means,—

(*i*) the toxic chemicals and their precursors, except where intended for—

(*a*) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

(*b*) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

(*c*) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

(*d*) law enforcement including domestic riot control purposes;

as long as the types and quantities are consistent with such purposes;

(*ii*) the munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in sub-clause (*i*), which would be released as a result of the employment of such munitions and devices; and

(*iii*) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in sub-clause (*ii*),

together or separately;

(*d*) "export" shall have the meaning assigned to this expression in the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);

(*e*) "fissile material" and "radioactive material" shall have the meanings assigned to these expressions in the Atomic Energy Act, 1962 (33 of 1962);

(*f*) "item" means materials, equipment, and technology, of any description, notified under this Act or any other Act related to relevant activity;

(*g*) "non-State actor" is a person or entity not acting under the lawful authority of any country;

(*h*) "nuclear weapon or other nuclear explosive device" means any nuclear weapon or other nuclear explosive device as may be determined by the Central Government, whose determination in the matter shall be final;

(*i*) "public domain" means domain that has no restrictions upon dissemination of information within or from it; the existence of any legal rights to intellectual property in that information does not remove such information from being in public domain;

(*j*) "relevant activity" means,—

(*i*) the development, production, handling, operation, maintenance, storage or dissemination of a nuclear, chemical or biological weapon; or

(*ii*) the development, production, maintenance, storage or dissemination of missiles specially designed for delivering any such weapon;

(*k*) "re-transfer" means transfer of any item notified under this Act from any country or entity to which it has been exported from India, to yet another country or entity;

(*l*) "technology" means any information (including information embodied in software) other than information in the public domain, that is capable of being used in—

(*i*) the development, production or use of any goods or software;

(*ii*) the development of, or the carrying out of, an industrial or commercial activity or the provision of a service of any kind.

Explanation.—When technology is described wholly or partly by reference to the uses to which it (or the goods to which it relates) may be put, it shall include services which are provided or used, or which are capable of being used, in the development, production or use of such technology or goods;

(*m*) "terrorist" shall have the meaning assigned to this expression in the Unlawful Activities (Prevention) Act, 1967 (37 of 1967);

(*n*) "trans-shipment" means to remove goods from the conveyance on which they were brought into India and to place the goods on the same or another conveyance for the purpose of taking them out of India, where these acts are carried out on a "through bill of lading", "through airway bill" or "through manifest".

Explanation.—"through bill of lading", "through airway bill" and "through manifest" means respectively a bill of lading, airway bill and manifest, for the consignment of goods from a place outside India to a destination which is also outside India without a consignee in India;

(*o*) "unlawful" means without the authority of the Central Government and the expression "unlawfully" shall be construed accordingly;

(*p*) "weapons of mass destruction" means any biological, chemical or nuclear weapons.

5. Power to identify, designate, categorise or regulate certain activities.—(*1*) The Central Government may identify, designate, categorise or regulate, the export, transfer, re-transfer, trans-shipment, or transit of any item related to relevant activity in such manner as may be prescribed.

(*2*) The Central Government may, by order published in the Official Gazette, designate or notify any item related to relevant activity for the purposes of this Act.

IndiaCode

6. Power to appoint Advisory Committees.—For the purposes of this Act, the Central Government may appoint such Advisory Committees as it deems fit, and may appoint to them persons to exercise such powers and perform such duties as the Central Government may, by rules, prescribe.

7. Delegation of powers.—(*1*) Subject to the provisions of this Act and any other law for the time being in force, related to relevant activity, the Central Government shall have the power to direct or assign to any authority, in such manner as it may deem appropriate, such powers as may be necessary to implement the provisions of this Act.

(*2*) The Central Government may appoint a Licensing Authority and an Appellate Authority and make provisions relating to such authority and for licensing in such manner and in such form, as the Central Government may, by rules, prescribe.

(*3*) Without prejudice to the generality of the provisions contained in this Act, the authorities and mechanisms provided under other relevant Acts shall continue to deal with matters covered under those Acts:

Provided that in case of any doubt as to whether a matter falls within the scope of such relevant Acts or under this Act, the decision of the Central Government thereon shall be final.

8. Prohibition relating to weapons of mass destruction.—(*1*) No person shall unlawfully manufacture, acquire, possess, develop or transport a nuclear weapon or other nuclear explosive device and their means of delivery.

(*2*) No person shall unlawfully transfer, directly or indirectly, to any one a nuclear weapon or other nuclear explosive device, or transfer control over such a weapon, knowing it to be a nuclear weapon or other nuclear explosive device.

(*3*) No person shall unlawfully manufacture, acquire, possess, develop or transport a biological or chemical weapon or their means of delivery.

(*4*) No person shall unlawfully transfer, directly or indirectly, to any one biological or chemical weapons.

(*5*) No person shall unlawfully transfer, directly or indirectly, to any one missiles specially designed for the delivery of weapons of mass destruction.

9. Prohibition relating to non-State actor or terrorist.—No person shall, directly or indirectly, transfer to a non-State actor or terrorist, any material, equipment and technology notified under this Act or any other Act related to relevant activity:

Provided that such transfer made to a non-State actor shall not include a transfer made as such to any person acting under lawful authority in India.

10. Prohibition as regards intimidating acts.—No person shall transfer, acquire, possess, or transport fissile or radioactive material, which is intended to be used to cause, or in a threat to cause, death or serious injury or damage to property for the purpose of intimidating people or a section of the people in India or in any foreign country, or compelling the Government of India or the Government of a foreign country or an international organisation or any other person to do so or abstain from doing any act.

11. Prohibition on export.—No person shall export any material, equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon or other nuclear explosive device, or in their missile delivery systems.

12. Prohibition on brokering.—No person who is a resident in India shall, for a consideration under the terms of an actual or implied contract, knowingly facilitate the execution of any transaction which is prohibited or regulated under this Act:

Provided that a mere carriage, without knowledge, of persons, goods or technology, or provision of services, including by a public or private carrier of goods, courier, telecommunication, postal service provider or financial service provider, shall not be an offence for the purposes of this section.

IndiaCode

[1][**12A. Prohibition on financing**.—(*1*) No person shall finance any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 (43 of 1947) or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems.

(*2*) For prevention of financing by any person of any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 (43 of 1947) or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems, the Central Government shall have power to—

(*a*) freeze, seize or attach funds or other financial assets or economic resources—

(*i*) owned or controlled, wholly or jointly, directly or indirectly, by such person; or

(*ii*) held by or on behalf of, or at the direction of, such person; or

(*iii*) derived or generated from the funds or other assets owned or controlled, directly or indirectly, by such person;

(*b*) prohibit any person from making funds, financial assets or economic resources or related services available for the benefit of persons related to any activity which is prohibited under this Act, or under the United Nations (Security Council) Act, 1947 (43 of 1947) or any other relevant Act for the time being in force, or by an order issued under any such Act, in relation to weapons of mass destruction and their delivery systems.

(*3*) The Central Government may exercise its powers under this section through any authority who has been assigned the power under sub-section (*1*) of Section 7.]

13. Regulation of export, transfer, re-transfer, transit and trans-shipment.—(*1*) No item notified under this Act shall be exported, transferred, re-transferred, brought in transit or transhipped except in accordance with the provisions of this Act or any other relevant Act.

(*2*) Any transfer of technology of an item whose export is prohibited under this Act or any other relevant Act relating to relevant activity shall be prohibited.

(*3*) When any technology is notified under this Act or any other relevant Act, as being subject to transfer controls, the transfer of such technology shall be restricted to the extent notified thereunder.

*Explanation***.—**The transfer of technology may take place through either or both of the following modes of transfer, namely:—

(*a*) by a person or from a place within India to a person or place outside India;

(*b*) by a person or from a place outside India to a person, or a place, which is also outside India (but only where the transfer is by, or within the control of, person, who is a citizen of India, or any person who is a resident in India).

(*4*) The Central Government may notify any item as being subject to the provisions of this Act, whether or not it is covered under any other relevant Act; and when such item is exhibited, sold, supplied or transferred to any foreign entity or a foreigner who is resident, operating, visiting, studying, or conducting research or business within the territorial limits of India, or in its airspace or Exclusive Economic Zone, it shall constitute an offence.

1. Ins. by Act 14 of 2022, s. 2 (w.e.f. 10-11-2022).

14. Offences and penalties.—Any person who contravenes, or attempts to contravene or abets, the provisions of section 8 or section 10 of this Act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

15. Punishment for aiding non-State actor or terrorist.—(*1*) Any person who, with intent to aid any non-State actor or terrorist, contravenes the provisions of section 9 of this Act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(*2*) Any person who, with intent to aid any non-State actor or terrorist, attempts to contravene or abets, or does any act preparatory to contravention of sub-section (*1*), shall be deemed to have contravened that provision and the provision of sub-section (*1*) shall apply subject to the modification that the reference to "imprisonment for life" therein shall be construed as a reference to "imprisonment for ten years".

(*3*) While determining the punishment under this section, the court shall take into consideration whether the accused had the knowledge about the transferee being a non-State actor or not.

16. Punishment for unauthorised export.—(*1*) Any person who knowingly contravenes, abets or attempts to contravene, the provisions of sub-section (*4*) of section 13 of this Act, shall be punishable with fine which shall not be less than three lakh rupees and which may extend to twenty lakh rupees.

(*2*) If any person is again convicted of the same offence under sub-section (*1*), then he shall be punishable for the second and every subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to five years and shall also be liable to fine.

17. Punishment for violation of other provisions of the Act.—(*1*) Where any person contravenes, or abets or attempts to contravene, any provision of this Act other than the provisions under sections 8, 9, 10 and sub-section (*4*) of section 13 of this Act, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and shall also be liable to fine.

(*2*) If any person is again convicted of the same offence under sub-section (*1*), then he shall be punishable for the second and every subsequent offence with imprisonment for a term which shall not be less than one year but which may extend to seven years and shall also be liable to fine.

18. Penalty for using false or making forged documents, etc.—Where any person signs or uses, or causes to be signed or used, any declaration, statement or document submitted to the competent authority knowing or having reason to believe that such declaration, statement or document is forged or tampered with or is false in any material particular, and relates to items notified under this Act or any other relevant Act, including those related to relevant activity, he shall be punishable with fine which shall not be less than five lakh rupees or five times the value of the materials, equipment, technology or services, whichever is more.

19. Punishment for offences with respect to which no provision has been made.—Whoever contravenes any other provision of this Act or any rule or order made thereunder for which no specific punishment is provided, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

20. Offences by companies.—(*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other

officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate and includes a firm and other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

21. Cognizance of offences.—No Court shall take cognizance of any offence under this Act without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf.

22. Bar of jurisdiction of civil courts.—No action or proceedings taken under section 5 and sub-sections (*1*) and (*2*) of section 7 of this Act by the Central Government or any officer authorised by it in this behalf shall be called in question in any civil court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any civil court or other authority in respect of any action taken or to be taken in pursuance of any power conferred under those provisions.

23. Effect of other laws.—(*1*) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any other instrument having effect by virtue of any enactment other than this Act.

(*2*) Where any act or omission constitutes an offence punishable under this Act and also under any other relevant Act, then the offender found guilty of such offence shall be liable to be punished under that Act which imposes a greater punishment.

24. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or authority of the Central Government or any other authority on whom powers have been conferred pursuant to this Act, for anything which is in good faith done or purported to be done in pursuance of this Act or any rule or order made thereunder.

25. Special provisions as to Central Government.—Nothing in this Act shall affect the activities of the Central Government in the discharge of its functions relating to the security or the defence of India.

26. Power to make rules.—(*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) manner of regulating any item related to relevant activity under sub-section (*1*) of section 5;

(*b*) appointment of Advisory Committees, their powers and duties under section 6;

(*c*) appointment of Licensing and Appellate Authority and the manner of licensing under sub-section (*2*) of section 7; and

(*d*) any other matter which has to be, or may be, prescribed.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

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STATEMENT OF OBJECTS AND REASONS

India remains committed to safeguard its national security as a Nuclear Weapon State. At the same time, India's policy has always been not to assist, encourage or induce any other country to manufacture weapons of mass destruction (WMD) including nuclear weapons or other nuclear explosive devices. India continues to fulfil its international commitments under the Chemical Weapons Convention and the Biological and Toxin Weapons Convention, to which it is a State Party. India also remains committed to prevent non-State actors and terrorists from acquiring weapons of mass destruction and their means of delivery.

2. Over the years, India has enacted necessary legislations dealing with and having relevance to weapons of mass destruction, their means of delivery and related dual-use materials, equipment and technologies. It has also put in place administrative mechanisms to prevent any unlawful access to weapons of mass destruction and their means of delivery. Being conscious of its responsibilities, India has been exercising control over the export of WMD usable materials, equipment and technologies.

3. In view of India's status as a Nuclear Weapon State and its international commitments, it is felt necessary to introduce an over-arching legislation to prohibit unlawful activities in relation to weapons of mass destruction, their means of delivery and related dual-use materials, equipment and technologies. As such, this will provide an integrated legislative basis to our commitment to prevent proliferation of weapons of mass destruction. In addition, the envisaged control over the export of WMD usable materials, equipment and technologies will also fulfil our mandatory obligations pursuant to UN Security Council Resolution 1540 adopted under Chapter VII of the UN Charter on April 28, 2004.

4. The proposed Bill intends to achieve the above objectives.

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K. NATWAR SINGH.

NEW DELHI;
The 6*th May,* 2005.