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ORDINANCE NO. LXVI OF 2007

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ORDINANCE

further to amend the Pakistan Army Act, 1952

WHEREAS it is expedient further to amend the Pakistan Army Act, 1952 (XXXIX of 1952), for the purpose hereinafter appearing;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan read with Proclamation of Emergency of the third day of November, 2007 and the Provisional Constitution Order No 1 of 2007, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Army (Amendment) Ordinance, 2007.

(2) It shall come into force at once and shall be deemed to have taken effect on the 1st day of January, 2003.

2. **Amendment of section 2, Act XXXIX of 1952.**—In the Pakistan Army Act, 1952 (XXXIX of 1952), in section 2, in sub-section (1), in clause (d), in sub-clause (ii), for the semi-colon at the end a comma and the word “,or” shall be substituted and after sub-clause (ii) amended as aforesaid, the following new sub-clause shall be inserted, namely:—

“(ia) any offence, if committed in relation to defence or security of Pakistan or any part thereof or Armed Forces of Pakistan, punishable under the Explosive Substances Act, 1908 (VI of 1908), Prejudicial conduct under the Security of Pakistan Act, 1952 (XXXV of 1952), the Pakistan Arms Ordinance, 1965, (W.P. Ord. XX of 1965), the Prevention of Anti-national Activities Act, 1974 (VII of 1974) or Anti-terrorism Act, 1997 (XXVII of 1997), sections 109, 117, 120B, 121, 121-A, 122, 123, 123-A, 124, 124-A, 148, 302, 353 and 505 of the Pakistan Penal Code, or attempt to commit any of the said offences.”.

Statement of Objects and Reasons

1. At present, the entire nation is confronted with multiple challenges at the national/international level. The reality of the terrorism threat that we are currently facing is so horrendous in terms of its implications that the whole society is in a state of utter shock and confusion. There is a serious and grave threat to high profile officials, army personnel and important installations of the defence forces and other important Govt./private entities. In order to meet the challenges of this serious threat to the security of Pakistan and its citizens, a dire need is felt to formulate new legislation that ensures an apt and effective legal response. To cope with such a situation certain countries, such as UK and USA have formulated special legislation, such as Homeland Security Laws and Anti-terrorist Act, respectively.

2. The terrorists have deliberately targeted Law Enforcement Agencies, Police and Civil Armed Forces and the personnel within the judicial system, by physical action and threats/intimidation. The aim and intent very clearly are to demoralize and degrade the Law Enforcement Agencies and the Judicial system whereby the ability to ensure enforcement of law & order, writ of the State and holding to account perpetrators of terrorism through the country's normal judicial system, are severely compromised. In certain areas the normal system in any case does not exist, such as in FATA and PATA. Here a near vacuum of law enforcement and judicial back up is prevalent. It is in the backdrop of such a dire situation that the Armed Forces, particularly the Army, have been called upon by the State to wrest the areas out of the control of terrorists and to re-establish the writ of the State. Realizing that this is the last instrument of the State that can effectively enforce law and order, terrorists have proceeded to deliberately target the Army, its personnel and its infrastructure. The attempt is the same i.e. to demoralize and deter the Army from undertaking this most serious task and onerous responsibility reposed

on it by the State. Upon their success depends the State's future prospects of development and the safety and welfare of its citizens. However, a serious legal deficiency exists, whereby, unlike the Police, which is vested with legal coverage to undertake given tasks, the Armed Forces are not similarly legally supported. It is, therefore, imperative that appropriate and adequate legislation is enacted to provide this legal support to the Armed Forces.

3. Keeping in view the above, a dire need is felt to formulate legislation in the form of amendment in PAA Section 2(1) (d), for individuals involved or suspected to be involved in terrorist activities/abetment, who are otherwise not subject to the provisions of PAA, be made subject to the provisions of PAA, as is applicable to individuals accused of seducing or attempting to seduce any person subject to PAA from duty or allegiance to Government and an offence under the Official Secrets Act, 1923, in the light of PAA Sec 2(1) (d) (i) and (ii) of 1952.

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