

ORDINANCE NO. LIX OF 2007

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ORDINANCE

*further to amend the Pakistan Penal Code*

WHEREAS it is expedient further to amend the Pakistan Penal Code (Act XLV of 1860) for the purposes 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, the President is pleased to make and promulgate the Following Ordinance:—

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

(2) It shall come into force at once.

2. **Amendment of section 331, Act XLV of 1860.**—In the Pakistan Penal Code (Act XLV of 1860), hereinafter referred to as the said Code, in section 331,—

(i) in sub-section (1), for the words “three years” the words “five years” shall be substituted; and

(ii) in sub-section (2),—

(a) after the word “security” the words “or surety” shall be inserted; and

(b) after the word “court” at the end, the words “or may be released on parole as may be prescribed in the rules” shall be added.

3. **Amendment of section 337X, Act XLV of 1860.**—In the said Code, in section 337X,—

(i) in sub-section (1), for the words “three years” the words “five years” shall be substituted; and

(ii) in sub-section (2),—

(a) after the word “security” the words “or surety” shall be inserted; and

(b) after the word “court” at the end, the words “or may be released on parole as may be prescribed in the rules” shall be added.

4. **Amendment of section 337Y, Act XLV of 1860.**—In the said Code, in section 337Y.—

- (i) after sub-section (1), the following new sub-section shall be inserted, namely:—

“(1a) The daman may be made payable in lump sum or in installments spread over a period of five years from the date of the final judgment”; and

- (ii) for sub-section (2) the following shall be substituted, namely:—

“(2) Where a convict fails to pay daman or any part thereof within the period specified in sub-section (1a), the convict may be kept in jail and dealt with in the same manner as if sentenced to simple imprisonment until daman is paid in full or may be released on bail if he furnishes security or surety equivalent to the amount of daman to the satisfaction of the court or may be released on parole as may be prescribed in the rules.”.

**5. Amendment of section 338G, Act XLV of 1860.**—In the said Code, in section 338G, sub-section (1) shall be renumbered as sub-section (1) thereof and after sub-section (1) renumbered as aforesaid, the following new sub-sections shall be added, namely:—

- “(2) Notwithstanding anything contained in sub-section (1), the Federal Government may, by notification in the official Gazette, make rules regarding the following matters, namely:—

- (i) providing mechanism for creation of a fund, which shall be non-lapsable and exempt from taxes, for the purpose of making payment of diyat, arsh and daman of the convicts, who on account of poverty and weak financial position are confined in jails for want of making the said payment;
- (ii) facility of extending soft loans out of the said fund to the convicts, enabling them to satisfy the claim of legal heirs of the deceased or victims in respect of diyat, arsh and daman.
- (iii) In appropriate cases release of such prisoners on parole by the court who after having served out the substantive sentence of imprisonment, if any, are confined in jails on account of non-payment of diyat, arsh or daman.
- (iv) Providing jobs to the said convicts, other than the Government Departments, in the work places/factories within jail premises

or in the places attached with the jails or through the social organizations or philanthropists, enabling the convicts to disburse the amount paid out of the fund or extended through loans.

- (v) Mechanism, protecting rights of the victims for the purpose of diyat, arsh and daman; and
- (vi) Any other matter for which the rules may be necessary to carry out the aforesaid purposes.”

#### STATEMENT OF OBJECTS AND REASONS

The Supreme Court of Pakistan in its Order dated 14<sup>th</sup> December, 2006 while examining the vires of section 331, 337X and 337Y of Pakistan Penal Code has required the Federal Government for undertaking certain steps such as framing of rules under section 338G PPC and evolving mechanism for providing a Fund, advancement of soft loan from that Fund and, enhancement of period of three years upto seven years under section 331, 337X and 337Y PPC enabling the convicts to pay, diyat, ursh and daman who are languishing in jails on account of non-payment of same due to poverty and weak financial position. In order to undertake these steps amendment is required in the aforesaid provisions.

Accordingly amendments are proposed in sections 331, 337X by enhancing the period from three years to five years for payment of diyat, ursh and daman. Similar amendment is also being proposed in section 337Y. Section 33G of Pakistan Penal Code is also proposed to be amended by empowering the Federal Government to make rules in pursuance of the Order of the Supreme Court. The rules *inter-alia* will provide mechanism for creation of a fund, which shall be non-lapsable and exempt from taxes, for the purpose of making payment of diyat, arsh and daman of the convicts, who on account of poverty and weak financial position are confined in jails for want of making the said payment.

The Bill is designed to achieve in aforesaid objectives

**( Muhammad Afzal Sandhu )**  
Minister of State  
for Law and Justice