

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

further to amend the Anti-terrorism Act, 1997

WHEREAS it is expedient further to amend the Anti-terrorism Act, 1997 (XXVII of 1997), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be called the Anti-terrorism (Amendment) Act, 2014.

(2) It shall come into force at once.

2. Amendment of section 5, Act XXVII of 1997.— In the Anti-terrorism Act, 1997 (XXVII of 1997), hereinafter referred to as the said Act, in section 5, in sub-section (2), in paragraph (i),-

- (i) for the words "when fired upon", the words and comma "after forming reasonable apprehension that death or grievous hurt may be caused by such act or offence", shall be substituted;
- (ii) for the semi-colon at the end, a colon shall be substituted, and thereafter the following provisos shall be added, namely:-

"Provided that the decision to fire or order firing shall be taken only by way of last resort, and shall in no case extend to the inflicting of more harm than is necessary to prevent the terrorist act or scheduled offence which has given rise to the reasonable apprehension of death or grievous hurt:

Provided further that all cases of firing which have resulted in death or grievous injury shall be reviewed by an internal inquiry committee constituted by the head of the law enforcement agency concerned.

3. Amendment of section 11EEEE, Act XXVII of 1997.— In the said Act, in section 11EEEE,-

- (i) for sub-section (1), the following shall be substituted, namely,-

“(1) The Government or, where the provisions of section 4 have been invoked, the armed forces or civil armed forces, as the case may be, subject to the specific or general order of the Government in this regard, for a period not exceeding three months and after recording reasons thereof, issue order for the preventive detention of any person who has been concerned in any offence under this Act relating to the security or defence of Pakistan or any part thereof, or public order relating to target killing, kidnapping for ransom, and extortion/bhatta, or the maintenance of supplies or services, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned, for purpose of inquiry:

“Provided that the detention of such person, including detention for further period after three months, shall be subject to the provisions of Article 10 of the Constitution.”:

(ii) in sub-section (2), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that where the detention order has been issued by the armed forces or civil armed forces under sub-section (1), the inquiry shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies, including a police officer not below the rank of Superintendent of Police.”; and

(iii) after sub-section (2), amended as aforesaid, the following new sub-section shall be inserted, namely:-

“(2A) The provisions of sub-sections (1) and (2) shall remain in force for such period as may be notified by the Government from time to time:

Provided that such period shall not exceed two years from the commencement of the Anti-terrorism (Amendment) Act, 2014 (of 2014).”.

4. Amendment of section 18, Act XXVII of 1997.— In the said Act, in section 18, in sub-section (1), the word “Provincial” shall be omitted.

5. Amendment of section 19, Act XXVII of 1997.— In the said Act, in section 19,—

(i) for sub-section (1), the following shall be substituted, namely:—

"(1) An investigating officer under this Act shall be an officer or Police Officer not below the rank of Inspector or equivalent or, if the Government deems necessary Joint Investigation Team' to be constituted by the Government shall be headed by an Investigating Officer of Police not below the rank of Superintendent of Police, (BS-18) and other officers of JIT may include equivalent rank from Intelligence Agencies, Armed Forces and Civil Armed Forces. The JIT shall comprise five members and for the meeting purposes the quorum shall consists of three members.

The investigating officer or the JIT, as the case may be, shall complete the investigation in respect of cases triable by the court within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer of police directly to the court:

Provided that where the provisions of sections 4 and 5 have been invoked, the investigation shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies including an investigating officer of police not below the rank of Inspector who shall sign the report under section 173 of the Code and forward it to the Court:

Provided further that, where investigation is not completed within a period of thirty days from the date of recording of the first information report under section 154 of the code, the investigating officer or the JIT shall, within three days after expiration of such period, forward to the Court through the Public Prosecutor, an interim report under section 173 of the Code, stating therein the result of investigation made until then and the Court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial may not so commence. The interim report shall be signed by the investigating officer of police;

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

"(1B) Where any person has been arrested by the armed forces or civil armed forces under section 5, he shall be handed over to the investigating officer of the police station designated for the purpose by the Provincial Government in each District.";

(iii) for sub-section (7), the following shall be substituted, namely:—

"(7) The Court shall, on taking cognizance of a case, proceed with the trial from day-to-day and shall decide the case within seven days, failing which the matter shall be brought to the notice of the Chief Justice of the High Court concerned for appropriate directions, keeping in view the facts and circumstances of the case.";

(iv) in sub-section (8), for the words "consecutive adjournments during the trial of the case" the words "adjournments during the trial of the case and that also on imposition of exemplary costs" shall be substituted; and

(v) in sub-section (8a), after the word "sub-section" the brackets, figure and word "(7) or" shall be inserted.

6. Insertion of new section, Act XXVII of 1997.— In the said Act, after section 19A, the following new section shall be inserted, namely:—

"19B Pre-trial scrutiny.— Before commencement of the trial, the Prosecutor shall scrutinize the case file to ensure that all pre-trial formalities have been completed so that the actual trial proceeds uninterrupted from day-to-day."

7. Amendment of section 21, Act XXVII of 1997.— In the said Act, in section 21.—

(i) in sub-section (2), after the full-stop, at the end, the following shall be inserted, namely:—

"These measures may include the following, namely:—

- (a) screens may be used during trial to shield witnesses, Judges and Prosecutors from public view;
- (b) trial may be held in jail premises or through video link;
- (c) witness protection programmes may be established by the Government through law or rules.

The Provincial Government shall take necessary steps to ensure that prisoners in Jails do not have access to mobile phones."; and

(ii) after sub-section (3), the following new sub-section shall be inserted, namely:—

"(4) The provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force, including the Qanun-e-Shahdat, 1984 (P.O.No.10 of 1984)."

8. Amendment of section 27, Act XXVII of 1997.— (I) In the said Act, in section 27. —

(i) in the short title, after word "investigation" the words "and reward for successful investigation" shall be added;

(ii) sub-section(1) shall be re-numbered as sub-section (1) of the said section; and

- (iii) after (1) re-numbered as aforesaid, the following new sub-section shall be inserted, namely:-

“(2) Incentive systems shall be introduced by the Provincial Governments providing for appropriate rewards to investigating officers who conduct successful investigation.”.

9. Insertion of new section, Act XXVII of 1997.— In the said Act, after section 27A, the following new section shall be inserted, namely:—

“27B. Conviction may be done on the basis of electronic or forensic evidence etc.— Notwithstanding anything contained in this Act or Qanun-e-shahadat, 1984 (P.O.No. 10 of 1984) or any other law for the time being in force, the conviction of an accused for an offence under this Act may be done on the basis of electronic or forensic evidence or such other evidence that may have become available because of modern devices or techniques referred to in Article 164, of the Qanune-Shahadat, 1984 (P.O.No.10 of 1984).

“Provided that the Court is fully satisfied as to the genuineness of such evidence.”.

10. Amendment of section 28, Act XXVII of 1997.— In the said Act, in section 28,—

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

“(1A) Where it appears to the Government that it would be in the interest of justice or expedient for protection and safety of judges, witnesses or prosecutors, it may apply to the Chief Justice of the High court concerned for transfer of a case from, an Anti-terrorism Court falling within its jurisdiction to an Anti-terrorism Court in any other place in Pakistan and for this purpose shall also seek concurrence of the Chief Justice of the High Court concerned.”; and

- (ii) after sub-section (2), the following new sub-sections shall be added, namely:—

- “(3) The Federal Government may in the interests of justice and for protection and safety of witnesses and investigators, transfer the investigation of any case from one place to any other place in Pakistan.
- (4) The investigating officer or the agency to which case is transferred under sub-section (3), may proceed from the stage the inquiry or investigation was left or may proceed with the case as if it had been originally entrusted to him or the agency, as the case may be.
- (5) On completion of investigation and before submission of report under section 173 of the Code, the Federal Government may direct that the case falling in the jurisdiction of a particular Anti-terrorism court may be forwarded for trial to another Anti-terrorism Court anywhere in Pakistan, as may be specified by the Federal Government in this behalf, in the public interests or for the safety and protection of judges, public prosecutors or witnesses.”.

STATEMENT OF OBJECTS AND REASONS

Due to the increasing terrorism in the country, more legislative measures are required to enhance the effectiveness of the law enforcing agencies in tackling heinous crime, specially conferring powers of investigation on Rangers, providing legal cover to Joint Investigation Team (JIT), enabling Police to become complainants in extortion cases, and special provisions for protection of witnesses (faceless) through video recording.

2. The Bill is designed to achieve the aforesaid purpose.

SHAIKH AFTAB AHMED

Minister of State for Parliamentary Affairs
Member-in-Charge