

## NATIONAL ASSEMBLY SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON INTERIOR AND NARCOTICS CONTROL ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2013, (ORDINANCE NO. VIII OF 2013)

I, the Chairman of the Standing Committee on Interior and Narcotics Control have the honor to present this report on the Bill further to amend the Anti-terrorism Act, 1997 (XXVII of 1997) [The Anti-terrorism (Amendment) Bill, 2013] (Ordinance No. VIII, 2013), referred to the Committee on the 7<sup>th</sup> November, 2013.

2. The Committee comprises the following members:

1. Rana Shamim Ahmad Khan	Chairman
2. Syed Javed Ali Shah	Member
3. Mr. Ghalib Khan	Member
4. Dr. Ibadullah	Member
5. Sheikh Muhammad Akram	Member
6. Syed Iftikhar-ul-Hassan	Member
7. Makhdoomzada Basit Bokhari	Member
8. Ms. Tahmina Daultana	Member
9. Mr. Nauman Islam Sheikh	Member
10. Mr. Ehsan-ur-Rehman Mazari	Member
11. Nawab Muhammad Yousuf Talpur	Member
12. Ms. Naeema Kishwer Khan	Member
13. Dr. Arif Alvi	Member
14. Syed Asif Hasnain	Member
15. Sardar Nabil Ahmed Gabol	Member
16. Mr. Sher Akber Khan	Member
17. Mian Shahid Hussain Khan Bhatti	Member
18. Sayed Essa Nori	Member
19. Makhdoom Syed Ali Hassan Gillani	Member
20. Minister for Interior and Narcotics Control	Ex-Officio Member

[AS REPORTED BY THE STANDING COMMITTEE]

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;

WHEREAS it is expedient to address short-comings relating to the terrorism financing provisions in the Anti-terrorism Act, 1997 (XXVII of 1997), covering all aspects of the offence in the light of international standards and to provide for more effective measures for law enforcement agencies to investigate the offences;

WHEREAS the provisions of freezing, seizing and forfeiture of property involved in the terrorism financing offence have been strengthened to ensure that the funding of the terrorism financing offence is detected and seized after due process of law;

It is hereby enacted as follows:—

1. **Short title 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 2, Act XXVII of 1997.**— In the Anti-terrorism Act, 1997 (XXVII of 1997), hereinafter referred to as the said Act, in section 2,—

(a) after clause (h), the following new clause shall be inserted, namely: —

“(ha) “freeze” means to prohibit the transfer, conversion, disposition or movement of any money or other property;”;

(b) after clause (q), the following new clause shall be inserted, namely: —

“(qa) “proscribed organization” means any organization which is listed in the First Schedule under section 11B;”;

(c) after clause (v), the following new clause shall be inserted, namely: —

“(va) “seize” means to take custody or control of money or other property in order to prohibit its transfer, conversion, disposition or movement;”.



3. **Substitution of section 11B, Act XXVII of 1997.**—In the said Act, for section 11B, the following shall be substituted, namely:—

**“11B. Proscription of organizations.**— The Federal Government may, by order published in the official Gazette, list an organization as a proscribed organization in the First Schedule on an *ex parte* basis, if there are reasonable grounds to believe that it is—

- (a) concerned in terrorism; or
- (b) owned or controlled, directly or indirectly, by any individual or organization proscribed under this Act; or
- (c) acting on behalf of, or at the direction of, any individual or organization proscribed under this Act.

*Explanation.* —The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign.”.

4. **Amendment of section 11C, Act XXVII of 1997.**—In the said Act, in section 11C, for sub-section (1), the following shall be substituted, namely:—

“(1) Where any proscribed organization is aggrieved by the order of the Federal Government, made under section 11B, it may, within thirty days of such order, file a review application, in writing, before the Federal Government, stating the grounds on which it is made and the Federal Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.”.

5. **Amendment of section 11D, Act XXVII of 1997.**—In the said Act, in section 11D, in sub-section (1), for the word “reason” the words “reasonable grounds” shall be substituted.

6. **Amendment of section 11E, Act XXVII of 1997.**—In the said Act, in section 11E, in sub-section (1), clause (b) shall be omitted.

7. **Amendment of section 11EE, Act XXVII of 1997.**—In the said Act, in section 11EE,—

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

“(1) The Federal Government may, by order published in the official Gazette, list a person as a proscribed person in the Fourth Schedule on an *ex-parte* basis, if there are reasonable grounds to believe that such person is—

- (a) concerned in terrorism;

- (b) an activist, office bearer or an associate of an organization kept under observation under section 11D or proscribed under section 11B; and
- (c) in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organization proscribed under this Act:

*Explanation.*—The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign.”;

- (ii) for sub-section (3), the following shall be substituted, namely:—

“(3) Where any person is aggrieved by the order of the Federal Government made under sub-section (1), he may, within thirty days of such order, file a review application, in writing, before the Federal Government stating the grounds on which it is made and the Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.”; and

- (iii) after sub-section (3), substituted as aforesaid, the following new sub-sections shall be inserted, namely:—

“(3A) A person whose review application has been refused under sub-section (3) may file an appeal to the High Court within thirty days of the refusal of the review application.

(3B) The Federal Government shall form a Proscription Review Committee to determine all review applications under sub-section (3).”.

8. **Amendment of section 11J, Act XXVII of 1997.**— In the said Act, section 11J shall be re-numbered as sub-section (1) of that section and after sub-section (1), re-numbered as aforesaid, the following new sub-section shall be added, namely:—

“(2) Any person in Pakistan or a Pakistani national outside Pakistan shall commit an offence under this Act, if he knowingly or recklessly makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person.”.



9. **Substitution of section 11O, Act XXVII of 1997.**—In the said Act, for section 11O, the following shall be substituted, namely:—

**“11O. Seizure, freeze and detention.**—(1) On proscription made under section 11B or, as the case may be, section 11EE,—

- (a) the money or other property owned or controlled, wholly or partly, directly or indirectly, by a proscribed organization or proscribed person shall be frozen or seized, as the case may be;
- (b) the money or other property derived or generated from any property referred in clause (a) shall be frozen or seized, as the case may be;
- (c) no person shall use, transfer, convert, dispose of or remove such money or other property with effect from proscription; and
- (d) within forty-eight hours of any freeze or seizure, the person carrying out the freeze or seizure shall submit a report containing details of the property and the persons affected by the freeze or seizure to such office of the Federal Government as may be notified in the official Gazette.

(2) Any person who violates any provision of sub-section (1) shall be liable to penalty of fine not exceeding ten million rupees.

(3) If a legal person violates any provision of sub-section (1), such person shall be liable to penalty of fine not exceeding ten million rupees and every director, officer or employee of such person found guilty of the violation shall be punished in terms thereof.

(4) On an application made by any affected person, the Federal Government shall inquire into the ownership and control of any money or other property that has been frozen or seized and, if it is satisfied that the money or other property has inadvertently been frozen or seized, the same shall be ordered to be released immediately.

(5) No prosecution, suit or other proceedings shall lie against the Government or any other person complying or purporting to comply with sub-section (1) for anything done in good faith to effect freeze or seizure.”.

10. **Insertion of section 11OO, Act XXVII of 1997.**—In the said Act, after section 11O, the following new section shall be inserted, namely:—

**“11OO. Access to services, money or other property.**—(1) The Federal Government may permit a person to make available to a proscribed organization or proscribed person such services, money or other property as may be prescribed and such person shall not be liable for any offence under this Act on account of provision of the prescribed services, money or other property.

(2) On an application made by a proscribed organization or proscribed person, the Federal Government may authorize such organization or person to access such money or other property or avail such services as may be prescribed.”

11. **Substitution of section 11P, Act XXVII of 1997.**—In the said Act, for section 11P, the following shall be substituted, namely:—

**“11P. Application by investigating officer to Court.**—(1)An investigating officer may apply to a court for an order under this section for attachment of a terrorist property.

(2) An order under this section, shall—

- (a) provide for attachment of the terrorist property for a period specified in the order or pending completion of the investigation; and
- (b) require notice to be given to the person from whom such property was attached and to any other person who is affected by and specified in the order.

(3) Any cash attached under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture.”

12. **Substitution of section 11R, Act XXVII of 1997.**—In the said Act, for section 11R, the following shall be substituted, namely:—

**“11R. Evidentiary standard for forfeiture.**—(1) The court may pass an order for forfeiture under section 11Q upon conviction and only if satisfied on the balance of probabilities that the money or other property is a terrorist property and before so doing must give an opportunity to be heard to any person,—

- (a) who is not a party to the proceedings; and
- (b) who claims to be the owner of or otherwise interested in any of the money or other property which can be forfeited under this section.

(2) An order may be made under section 11Q, whether or not proceedings are brought against all the persons for an offence with which the money or other property is connected.”

13. **Amendment of section 11S, Act XXVII of 1997.** —In the said Act, in section 11S, the words and figure “or section 11R” shall be omitted.



14. **Substitution of section 11, Act XXVII of 1997.**—In the said Act, for section 11U, the following shall be substituted, namely:—

**“11U. De-proscription.**—(1) The Federal Government may, by notification in the official Gazette, at any time remove any organization or person from the First Schedule or Fourth Schedule, as the case may be, on the basis that no reasonable ground for proscription exists.

(2) After three years of the disposal of appeal, if any, or where no appeal was filed, from the date of the order of proscription, or from the date of any refusal of an application of de-proscription,—

(a) the Federal Government shall conduct review of the proscriptions to determine whether any proscription may be cancelled on the basis provided for under sub-section (1); and

(b) until a proscription is cancelled, any money or other property frozen or seized on account of the proscription shall remain frozen or seized, as the case may be.

(3) On cancellation of the proscription under this Act, any money or other property that has been frozen or seized shall be released in a timely manner.”.

15. **Amendment of section 34, Act XXVII of 1997.**—In the said Act, in section 34, for the words and commas “First, Second, Third and Fifth Schedules” the word “Schedules” shall be substituted.

---

#### STATEMENT OF OBJECTS AND REASONS

The Bill reflects the Government’s resolve to constantly review and strengthen counter terrorism financing regime and to bring it at par with International standards.

The Bill addresses shortcomings that relate to provision on terrorist financing in the Anti-Terrorism Act, 1997 and were highlighted by the Financial Action Task Force. FATF is an international body comprising many countries and international organizations that set and monitor international standards on anti-money laundering (AML) and counter-financing of terrorism (CFT). FATF publicly identifies countries with non-compliant AML/CFT standards.

The Bill aims at addressing shortcomings on terrorism financing in the Anti-terrorism Act, 1997. In particular, the Bill strengthens provisions relating to the offence of terrorism financing that cover all aspects of the offence at par with international standards. It provides for effective measure for law enforcement agencies to investigate such offences.

**CH. NISAR ALI KHAN**  
Minister for Interior and Narcotics Control  
Member-in-Charge



ORDINANCE NO. VIII of 2013  
COMMENTS FROM MNA DR ARIF ALVI  
MEMBER INTERIOR AND NARCOTICS CONTROL COMMITTEE


Pakistan Tehreek-e-Insaf recognizes from the very outset that as a nation, Pakistan is under special circumstances that require extraordinary measures on behalf of the Government (both Federal and Provincial). As a party we believe that the Anti-terrorism laws need to be framed/amended to curb terrorism and to close any loopholes that may currently exist within the Anti-terror legislation framework. Furthermore, it is imperative that convicted terrorists do not go free after committing crimes of such heinous nature.

However, there is also no denying of the logic that such extra ordinary measures must not only be temporary but also capable of bringing about the required results. It is important that the amended anti-terrorism laws do not ordain wide unchecked discretion which results in misuse of powers and provides scope for carrying out acts based on poor judgment of investigating and arresting officers or are used in extortion of bribes at the lower levels.

The proposed Anti-terrorism (Amendment) Ordinance 2013 needs to strike a balance between the two competing rights, the right of the state to protect the citizens of Pakistan from the threat of terrorism and, the right of protection of fundamental rights as provided by the Constitution of Islamic Republic of Pakistan 1973.

The suggestions detailed below were verbalized at the meeting very strongly by myself but no change was made in the ordinance and I was asked to submit the same in writing which is as follows:

1. In Section 11B subsection 3, in respect of the word "Credible Source" *note as under:—*
  - (a) "Any Credible Source": The words '**credible source**' are used in the foregoing section in the context of listing an organization as '**proscribed organization**' on an ex-parte basis if there are *reasonable grounds to believe* the criteria as provided therein. It is pertinent to note that the opinion concerning the '**reasonable grounds**' to believe/form a decision in respect of the criteria listed in section 11B, *may be formed on the basis of information received from any 'credible source', whether domestic source.*


  
Dr. Arif Alvi, MNA  
Member Standing Committee on  
Interior & Narcotics Control.



- (b) There are a number of important aspects in respect of the language used in section 11B. Firstly, the use of the word 'may' signifies the discretion which may be exercised by the Federal Government when considering the information received from the 'credible source'. Although, it is within the ambit of the Federal Government to exercise such discretion, the same will be correctly exercised when it is identifiable as to which types of sources are 'credible' for the purposes of this section/Ordinance. Secondly, the word 'credible source' is not defined under the Ordinance. This vagueness/lack of clarity in respect of the words 'credible sources' is particularly important in light of the fact that the opinion concerning the reasonable grounds to believe the criteria listed in section 11B, may be based on the information received from 'credible sources'. Thirdly, since the order detailed in section 11B is being made on an ex-parte basis and without giving the concerned organization an opportunity of being heard, it is imperative that the same is based on information received from identifiable credible sources.
- (c) For the sake of clarity and in order to provide for an effective piece of legislation, it is suggested that the following amendment may be made:

**That the term credible source means "information received from any credible source which includes *inter alia* International and domestic financial institutions, domestic and foreign intelligence agencies and/or international and domestic regulatory bodies like the Securities and Exchange Commission Pakistan (SECP)."**

2. Section 11EE subsection 3 and 3B pertain to hearing of a review application of the concerned proscribed person. It is pertinent to note that section 11EE(3B) provides a mandatory obligation on the Federal Government to form a 'Proscription Review Committee' but lacks clarity and detail in respect of the composition and powers of the same. i.e. the number of individuals (government employees) which shall form the committee, hierarchy of the same, conduct of review hearing and the powers to hear and consider evidence. In view of the foregoing, it is recommended as follows:
- (a) An amendment should be made in the foregoing section and the matters detailed hereinabove should be defined with clarity.

  
Dr. Arif Alvi, MNA  
Member Standing Committee on  
Interior & Narcotics Control.



- (b) By way of example, the proposed amendment could be as follows: the following new sub-section shall be included 'The Proscription Review Committee **The Proscription Review Committee formed under sub-section 3 shall comprise of at least five (5) members, who shall be Government employees of not less than Grade 18 and above officers. The members shall be selected from a pool of candidates which have not been involved directly or indirectly in the ex-parte order passed under section 11EE (1). The decision of the Proscription Review Committee shall be made by majority decision.**
- (c) The concerns highlighted earlier in respect of the words 'credible sources' apply in respect of the ex-parte proposed to be made under section 11EE (1). However, it is particularly important in light of the fact that the proposed ex-parte order now concerns the *proscription of an individual* instead of an organization.
3. Section 11O relates to the seizure, freeze and detention of the money and/or property of the proscribed person/organization against whom an order has been passed under section 11B or 11EE as the case maybe. There are a number of concerns in respect of the foregoing section, which are noted as under:
- (a) Section 11O(1) details the type of actions which may be taken against the proscribed organization/person but lacks clarity in terms of the '*government departments/offices of the Federal Government/individuals/government employees*' which shall carry out the same. Furthermore, it is unclear as to how the same will 'determine' that money and/or property is owned and/or controlled by the proscribed person/organization.
- (b) Section 11O(3) states that "if a legal person violates...." It is important to note that the foregoing section creates a distinction between a violation by a legal and non-legal person but does not attempt to define as to what constitutes as a 'legal person' for the purposes of this section/ordinance. It is proposed that the following amendment shall be made: a legal person means '**a person which includes *inter alia*...**'
- (c) 11O (4) is silent in respect of the total time period within which an application under the same shall be disposed of.



Dr. Arif Alvi, MNA  
Member Standing Committee on  
Interior & Narcotics Control.



- (d) Section 11(5) serves as indemnity clause against the Government and/or person purporting to comply with 11O (1). However, it is pertinent to note that the insertion of the same leaves the aggrieved individual, against whom discretion has been exercised wrongfully, with no remedy. This is particularly important in light of the fact that the person/organization shall be deprived of money/and or property for an indefinite period as there is no defined time limit under the section 11O (1).
4. Section 11OO purports to be a 'humanitarian' clause whereby access is being provided to seized property or money but it was only verbally stated by the officials to me. It is being requested the circumstances under which access to services, money or services shall be provided there under should be defined clearly by way of providing examples.
- (a) The following amendment may be made: a new sub-section 3 shall be inserted as follows: that the provisions of section **11OO(1)(2) shall apply in circumstances which include *inter alia* the need/requirement to pay school fee of children, urgent or routine medical costs and/or day-to-day living expenses of family etc.**
- (b) The foregoing amendment is important as it is feared that without the presence of clearly defined circumstances, the access to services/money and/or property may be used as a bargaining tool and lead to corruption.
5. Section 11P relates to the 'attachment of terrorist property'. However, the same does not purport to define as to what 'constitutes as 'terrorist property' for the purposes of this section/ordinance. It is proposed which items fall under the definition of 'terrorist property' should be defined under the ordinance.
6. **Pakistan Tehreek-e-Insaf believes very strongly that the Anti Terrorism Act as modified, should come under yearly review of Parliament.**



Dr. Arif Alvi, MNA  
Member Standing Committee on  
Interior & Narcotics Control.

MRS.NAEEMA KISHWAR KHAN,MNA

NOTE OF DISSENT (ORDINANCE NO. 2 & 8)

1. The words "reasonable complaint" and "reasonable doubt" used in Ordinance No. 2 , 8, 9 of 2013 i.e. in Anti Terrorism Act are required to be clearly defined so that innocent persons may not get affected thereby.
2. In this Ordinance/Anti Terrorism Act, under sub-clause 1 of clause 3, security body would be authorized to keep in its custody any person on the basis of suspicion for upto 3 months. If the accused dies during the course of time due to violence or any other cause, nobody would be held responsible. Therefore we do not agree with it. The persons may be kept in custody upto 90 days but he should be produced before the court after every fortnight and their due remand be sought from the court. The clause 5 of the said Ordinance provides that JIT would complete the investigation in thirty days then what's the need to detain upto 90 days? Under clause 9 of the said Ordinance, conviction would be passed only on the basis of electronic or Forensic evidence. It is also unjust because there exists all the probability of forgery. Hence it be deleted.

Thanks,

**Mrs.Naeema Kishwer Khan**  
MNA