

SUPPRESSION OF TERRORIST ACTIVITIES (SPECIAL COURTS) ACT, 1975

An Act to provide for suppression of acts of sabotage, subversion and terrorism

The following Act of Parliament received the assent of the Presidents the 1st February, 1975, and is hereby published for general information:-

Preamble.- Whereas it is expedient to make special provisions for the purposes of suppressing acts of sabotage, subversion and terrorism and to provide for speedy trial offence committed in furtherance of or in connection with such acts:

It is hereby enacted as follows:

1. Short title, extent and commencement.- This Act may be called the Suppression of Terrorist Activities (Special Courts) Act, 1975.

2. It extends to the whole of Pakistan.

3. It shall come into force at once.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,.

(a) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(b) "Scheduled offence" means an offence specified in the Schedule ; and

(c) "Special Court" means a Special Court constituted under section 3.

3. Establishment of Special Courts. (1) The Federal Government may, by notification in the official Gazette, establish, for the whole or any part of Pakistan, Special Courts appoint a Judge for each of such Court.

(2) A Judge of a Special Court shall be appointed after consultation with the Chief Justice of the High Court of the Province in which the Special Court is established, and no person shall be appointed a Judge of a Special Court unless he has been Judge of a High Court or is or has been a Session Judge or an Additional Sessions Judge.

(2A) A person to be appointed as Special Court under subsection (1) or subsection (2) shall be appointed in consultation with the High Court in which the Special court is established and shall hold office for a term of three years from the date on which he enters upon his office.

(2B) a person, not being a Judge of a High Court, appointed as Special Court under this, by notice in writing under his hand addressed to the appropriate government resign from his office or may be removed from his office on the ground of misconduct.

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(3) If so directed by the Federal Government, Provincial Government shall establish a Special Court or Courts and appoint a Judge for each of such Court who is qualified, to be appointed as a Judge under sub-section (2).

(4) A Judge of Special Court, not being a Sessions Judge or an Additional Sessions Judge, shall be appointed for a term of three years from the date on which he enters upon his office.

(4A) Transfer of case. — Where two or more Special Courts have jurisdiction wholly or partly in the same territorial limits, the High Court may, if it considers expedient, do so in the interest of justice or for the convenience of the parties or of the witnesses, transfer any case from one Special Court to another.

(5) The salary, allowance and other terms and conditions of service of a person appointed as a Judge of Special Court shall be such as may be determined by the Government establishing such Court.

(6) A Special Court shall hold its sittings at such place within its territorial limits as may be determined by the Government establishing such Court.

(7) A person, not being a Sessions judge or an Additional Sessions Judge, appointed as a Judge of the Special Court, may, by notice in writing under his hand resign his office.

(8) A person appointed as a Judge of a Special Court may be removed from his office in consultation with the Chief Justice of the High Court.

4. Jurisdiction of Special Court.-

(1) Notwithstanding anything contained in the Code, the scheduled offences shall be triable exclusively by a Special Court:

Provided that this section shall not be construed to require the transfer to a Special Court of any case which may be pending in any Court immediately before the constitution of the Court.

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(2) If, in the course of a trial before the Special Court, the Court is of opinion that any of the offences which the accused is alleged to have committed is not a scheduled offence, the Court shall record such opinion and try the accused only for such offence, if any, as is a scheduled offence.

5. Taking of cognizance.-

(1) The officer-in-charge of a police station shall complete the investigation and forward directly to the Special Court a report under section 173 of the Code within fourteen days in respect of a case triable by such Court:

Provided that the Special Court may extend the time ,within which such report is to be forwarded in a case where good reasons are shown for not doing so within the time specified in this sub-section.

(2) Any default on the part of an officer-in-charge of a police station, an investigating officer or any other person required by law to perform any functions in connection with the investigation, which results in, or has the effect of delaying the investigation or the submission of the report under sub-section (I), shall be deemed to be a willful disobedience of the order of the Special Court and dealt with under the law accordingly.

(3) The Special Court may directly take cognizance of a case triable by such Court without the case being sent to it under section 190 of the Code.

5-A. Procedure of Special Court.-

(1) On taking cognizance of a case the Special Court shall proceed with the trial from day to day and shall decide the case speedily.

(2) A Special Court shall not adjourn any trial for any purpose, unless such adjournment is in its opinion, necessary in the interest of justice and no adjournment shall be granted for, more than two days.

(3) A Special Court shall not, merely by reason of a change in its composition or transfer of a case under section 4A, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded.

(4) An accused person may be tried in his absence, if the Special Court, after such inquiry as it deem fit, is satisfied

(a) such absence is deliberate and brought about with a view to impeding the course of justice ; or

(b) the behavior of the accused in court has been such as to impede the course of justice and the Special Court has on that account ordered his removal from the Court:

Provided that, in a case referred to in clause (a), the accused person shall not be tried unless a proclamation in accordance with the provisions of section 87 of the Code has been published in respect of him, which proceedings shall be completed by the Special Court within seven days, and until the Proclamation has been published in at least three national daily newspapers out of which two shall be in the Urdu language:

Provided further that the Special Court shall proceed with the trial after taking necessary steps to appoint an advocate to defend the accused person who is not before the Court.

(5) The advocate appointed under the second proviso to Sub-section (4) shall be a person selected by the Special Court for the purpose as far as may be, with the consent of the accused and he shall be engaged at the expense of Government and a notice of his appointment shall be published by the Special Court in the newspapers referred to in the first proviso to the said sub-section.

(6) An accused who is tried in his absence under subsection (4) shall be deemed not to have admitted commission of any offence for which he has been charged.

(7) If, within sixty days from the date of his conviction, any person tried under sub-section (4) appears voluntarily or is apprehended and brought before the Special Court, and proves to its satisfaction that he did not abscond or conceal himself the purpose of avoiding the proceedings against him, the offence for which he is charged:

Provided that the Special Court may exercise its powers under this sub-section in a case in which a person as aforesaid appears before it after the expiration of the said period and satisfies it that he was prevented from appearing within the safe period by circumstances beyond his control.

(8) Notwithstanding anything contained in sections 439, 491, 496, 497, 498, 498A and 561-A of the Code, no Court other than the Special Court shall have the power or jurisdiction to grant bail to any accused person.

Provided that the Special Court shall not release the accused on bail, if there appear reasonable grounds for believing that he has been guilty of the offence for which he has been charged, nor shall an accused person be so released unless the prosecution has been given notice to show cause why he should not be so released; and

(8A) Notwithstanding anything contained in the Code or any other law for the time being in force or any judgment of any Court, the provisions of sub-section (8) shall apply with immediate effect to bail applications and proceedings in respect thereof pending in any Court immediately before coming into force of this Ordinance.

(9) A Special Court shall in all matters with respect to which no procedure has been prescribed by this Act, follow the procedure prescribed by the Code for the trial of cases by "Magistrates."

6. Powers of Special Court.- (1) A Special Court may pass any sentence authorized by law, and shall have all the powers conferred by the Code on a Court of Sessions exercising original jurisdiction.

(2) A Special Court shall have the same power as the High Court has to punish any person who:-

- (a) abuses, interferes with or obstructs the process the Court in any way or disobeys any order of the Court;
- (b) scandalizes the Court or otherwise does anything which tends to bring the Court or the person constituting the court in relation to his office into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the determination of a matter pending before the court; or
- (d) does any other thing which, by any other law, constitutes contempt of Court;

Provided that fair comment made in good faith and in the, public interest on the working of the Court or any of its firm: decisions after the expiry of the period of limitation for appeal shall not constitute contempt of Court.

7. Appeals from Sentences Imposed by Special Courts.-

(1) A person sentenced by a Special Court shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, (1) (and the Provincial Government may direct any person appointed by it for the purpose to present an appeal to the High Court from an order of acquittal passed by a Special Court;) but save as aforesaid and notwithstanding the provision of the Code or any other law for the time being in force or of anything having the force of law by whatsoever authority made or done, no court shall have authority to revise such sentence, or to transfer any case from a Special Court or to make any order under section 426 or section 491 or section 498 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Court.

(2) An appeal under sub-section (1) shall be preferred to the High Court within thirty days of the passing of the sentence (or order of acquittal, as the case may be), and shall be heard and decided by a Bench of not less than two Judges of the High Court (within three months).

(3) Chapter XXIX of the Code shall apply to the suspension, remission and commutation of sentences passed by a Special Court.

8. Burden of Proof.- Where any person accused of having committed a scheduled offence is found to be in Possession of, or to have under his control, any article or thing Which is capable of being used for, or in connections with, the Commission of such offence, or is apprehended, in circumstances which lead to raise a reasonable suspicion that he has committed. such offence, he shall be presumed to have committed the offence unless he can prove that he had not in fact committed the offence.

8 A. Notwithstanding anything contained in the Code or any other Law for the time being in force or any judgments of any Court, the provisions of sub-section (8) shall apply with

immediate effect to bail applications and proceedings in respect thereof pending in any Court immediately before coming into force of this Ordinance.

9. Indemnity.- No suit, precaution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

10. Act to override other laws.- The provisions of this Act shall have effect notwithstanding anything contained in the Code or in any other law for the time being in force.

11. Repeal.-The Suppression of Terrorist Activities (Special Court) Ordinance, 1974 (XVIII of 1974), and the Suppression of Terrorist Activities Special Court) (Amendment) Ordinance, 1974 (XXIV of 1974), are hereby repealed.

THE SCHEDULE

(See Section 2 (b))

(a) Any offence punishable under any of the following sections of the Pakistan Penal Code, 1860 (XLV of 1860) , namely:-

(i) Sections 121, 121-A, 122, 123, 123-A, 124-A, 203, 365, A, 400, [02-A, 402-B, 402-C] 147 and 431.

(ii) section 216, if committed in relation to an offender who is accused of having committed any of the offences specified in this Schedule;

(ii) (a) section 302 or section 307, if committed in the course of the same transaction in which an offence-specified in this paragraph or paragraphs (b) and (c) is committed, or in addition to or in combination with such offence]"

(iii) sections 392, 393, 394, 395, 396, 397, 398 and 399, if a cannon, grenade, bomb, rocket or an arm of a prohibited bore is used for, or any public property is stolen, destroyed or damaged in, the commission of the offence ; or

(iv) section 435, 436, 437, 438 and 440, if an explosive substance, mineral oil or any product of mineral oil is used for the commission of the offence;

(b) Any offence punishable under the Explosive Substances Act, 1908 (XI of 1908);

(c) any offence punishable under the Arms Act, 1878 (XI of 1878), or any offence punishable under any of the following sections for the West Pakistan Arms Ordinance, 1965 (West Pakistan Ordinance No.XX of 1965), namely, sections 8,9 and 10, if committed in respect of a cannon, grenade, bomb or rocket;"208 or a light or heavy automatic or semi-automatic weapon such as Kalashnikov, a G-III rifle or any other type of assault rifle".

(cc) Any offence punishable under section 13-A or section 13-B of the Pakistan Arms Ordinance, 1965 (W.P. Ordinance, No.XX of 1965).

(d) Any offence punishable under any of the following sections of the Railways Act, 1890 (IX of 1890), namely sections 126,127 and 128.

(e) Any offence punishable under section 25 of the Telegraph Act, 1885 (XIII of 1885);

(f) Any offence punishable under rule 29 of the Aircraft Rules, 1937;

(g) Any offence punishable under rule 43 of the Defense of Pakistan Rules,

(h) Any offence punishable under sub-section (1) of section 13 of the Prevention of Anti-National Activities Act, 1974 (VII of 1974), if such offence constitutes anti-national activity within the meaning of sub-clause (i) or sub-clause (ii) of clause (a) of section 2 of that Act ; and

(iii) Any attempt or conspiracy to commit, or any abetment of, any of the aforesaid offences.

Suppression of terrorist activities (special courts), act, 1975

(Application of Acts to the Provincially Administered Tribal Areas of Balochistan)

Gazette of Balochistan, Extraordinary, 10th May, 1994

No. SOI (TA) 3-1-93/3271-345, dated 10.5.1994.- In exercise of the powers conferred by clause (3) of Article 247 of the Constitution of Islamic Republic of Pakistan the Governor Balchistan with the approval of the President is pleased to direct that the following Acts of Majlis-e-Shoora Administered Tribal Areas of Balochistan with immediate effect namely:--

(i) The Suppression of Terrorist Activities (Special Courts)Act, 1975 (XV of 1975)

(ii) The Special Courts for Speedy Trials At, 1992 (IX of 1992).

(iii) The Terrorist Affected Areas (Special Courts) Act, 1992 (X of 1992).