

## **The Anti Terrorism Act (ATA), 1997**

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# THE ANTI-TERRORISM ACT, 1997[1]

## ACT NO. XXVII OF 1997

[20<sup>th</sup> August, 1997]

No. F. 9(39)/97-Legis, dated 20<sup>th</sup> August, 1997. “The following Act of Majlis-e-Shoora (Parliament ) received the assent of the President on the 16<sup>th</sup> August, 1997, is hereby published for general information:

An Act to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences.

Whereas it is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto:

It is hereby enacted as follows:

### **1. Short title and commencement.**

- 1) This Act may be called the Anti-terrorism Act, 1997.
- 2) It extends to the whole of Pakistan.
- 3) It shall come into force at once. [Punjab Province]

### **Punjab Province**

For the purposes of the prevention and punishment of the commission of terrorist acts and scheduled offences to have resort to the provisions of the said Act for the whole of the Province of Punjab S.R.O. 662(1)/97, dated 21.8.1997[2]

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

- a) “armed forces” means the Military, Naval and Air Forces of Pakistan and the Reserves of such Forces;
- b) “civil armed forces” means Frontier Constabulary, Frontier Corps, Pakistan Coast Guards, Pakistan Rangers or any other civil armed force notified by the Federal Government as such;
- c) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898 );
- d) “Child” means a person who at the time of the commission of the offence has not attained the age of eighteen years;
- e) “court” means an Anti-terrorism Court established under section 13;
- f) “explosives” means any bomb, grenade, dynamite, or explosive, substance capable of causing any injury to any person or damage to any property an includes any explosive substance as defined in the Explosives Act, 1884(IV of 1884);
- g) “fire-arms ” means any or all types and gauges of handguns, rifles and shotguns, wether automatic, semi-automatic or bolt action, and shall

include all other fire-arms as defined in Arms Ordinance 1965 (W.P. Ordinance XX of 1965);

- h) “fine” means a pecuniary amount to be determined by the Court having regard to the facts and circumstances of the cases;
  - i) “Government” means the Federal Government or , as the case may be , the Provincial Government;
  - j) “grievous”, in relation to bodily injury means emasculation, mutilation, incapacitation disfigurement or serve harm or hurt: and in relation to property, means severe loss, damage or destruction;
  - k) “High Court” means the High Court having territorial jurisdiction has been established;
  - l) “hijacking” means any unlawful seizure or exercise of control, or any attempt at unlawful seizure or exercise of control, of an aircraft, by force, violence, threat or any form of abstruction, directly or through any other person, from within or outside the aircraft;
  - m) “hostage-taking” means the holding of a person captive with threats made to kill or harm that person if demands are not met.
  - n) “kidnapping for ransom” mean the action of conveying any person from any place, without his consent, or by force compelling or by any deceitful means inducing him, to go from any place, and unlawfully detaining him any demanding or attempting to demand, money, pecuniary or other benefit from him or from another person, as a condition of his release;
  - o) “meeting” means a meeting of two or more persons, whether in public or private;
  - p) “organization” means any group, combination or body of persons acting under a distinctive name;
  - q) “prescribed organization” means any organization using a name which is listed in the First Schedule under Section 11B;
  - r) “public servant” shall have the same meaning as in Section 21 of the Pakistan Penal Code 1860. or law for the time being in force;
  - s) “Schedule” means a Schedule to this Act;
  - t) “Schedule offence” means an offence as set out in the Third Schedule;
  - u) “sectarian” means pertaining to devoted to, peculiar to, or one which promotes interest of a religious sect or sects, in a bigoted or prejudicial manner;
  - v) “sectarian hatred” means hatred against a group of persons defined by reference to religion, religious sec, religious persuasion, or religious belief;
  - w) “serious” means dangerous to life or property;
  - x) “terrorism” or “act of terrorism ” act has the meaning as assigned to it in Section 6;
  - y) “terrorist” has the meaning as assigned to it in Section 6(5).
  - z) “Terrorist investigation” means an investigation of
- a. the commission, preparation or investigation of acts or terrorism under this Act;

- b. an act which appears to have been done for the purposes of terrorism;
  - c. the resources of a prescribed organization;
  - d. the commission, preparation or instigation of an offence under the Act;
  - or
  - e. any other act for which investigation may be necessary for the purposes of this Act.
- aa) “terrorist property” means”
- i. (a) Money or other property which is used or is likely to be used for the purposes of terrorism (including any resources of a prescribed organization).
  - (b) Proceeds the commission of acts of terrorism.
  - (c) Proceeds of acts carried out for the purposes of terrorism; and
- ii. In subsection (i) above
- (a) a reference to proceeds of an act, includes reference to any property which wholly or partly, and directly or indirectly, represents the proceeds of the act (including payments of other rewards in connection with the commission);
  - (b) The reference to an organization’s resources includes a reference to any money or other property which is applied or made available, or is to be applied or made available, for use by the organization and includes assets of any kind, whether tangible or intangible, movable or immovable, and legal documents or instruments in any form, whether written, electronic or digital and shares, securities, bonds, drafts and letters of credit; and
  - (c) a reference to money includes a reference to any cash which means any coins, notes in any currency, postal orders, money orders, and such other kinds of monetary instruments as the Federal Government may by order specify;
- bb. “weapon” means any item which can be used to injure or cause bodily harm, and includes any type of fire-arm, explosive, sword, dagger, knuckle-duster, stengun, bomb, grenade, rocket launcher, mortar or any chemical, biological thing which can be used for causing injury, hurt, harm or destruction of person or property, and includes “illicit arms” as defined in the Surrender Illicit Arms Act. 1991 (XXI of 1991); and
- cc. all other terms and expressions used but not defined in this Act, shall have the meanings as are assigned to them in the Pakistan Penal Code, 1860, or the Code of Criminal Procedure, 1898. Subs. By Ordinance XXXIX of 2001<sup>[3]</sup>

**3. Declaration of Intent.-** Omitted by Ordi. XXXIX of 2001.

**4. Calling in of armed forces and civil armed forces in aid of civil powers.-**

1) It shall be lawful for the Federal Government to order, and subject to sub-section (2) for the Provincial Government to secure, the presence of armed forces and civil armed forces in any area for the prevention and punishment of terrorist acts and scheduled offences in accordance with the provisions of this Act.

2) If, in the opinion of the Provincial Government, the presence of armed forces, or civil armed forces, is necessary in order to prevent the commission of terrorist acts or scheduled offences in any area, it may request the Federal Government to direct the presence or posting of units or personnel of the armed forces, or civil armed forces, in such numbers as may be deemed necessary for the prevention or control of terrorist acts or scheduled offences.

3) The Federal Government may decide whether the requirements of the situation call for the deployment of

- i. The civil armed forces; or
- ii. The armed forces,

And so deciding shall, by means of a notification in the official Gazette issued under clause (i) or (ii) authorize and direct the posting there of.

**5. Use of armed forces and civil armed forces to prevent terrorism.**

1) Any police officer, or member of the armed forces, or civil armed forces who is present or deployed in any area may, after giving sufficient warning, use the necessary force to prevent the commission of terrorist acts or scheduled offences, and in so doing shall, in the case of an officer of the armed forces or civil armed forces, exercise all the powers of a police officer under the Code.

2) In particular and without prejudice to generality of the provisions of sub-section(1) , an officer of the police, armed forces and civil armed forces may:--

- i. After giving prior warning use such force as may be deemed necessary or appropriate bearing in mind all the facts and circumstances of the situation, against and person who is committing<sup>[4]</sup> a terrorist act or a scheduled offence, and it shall be lawful for an such officer, or any superior officer, to fire, or order the firing upon any person or persons against whom he is authorized to use force in terms hereof:
- ii. Arrest, without warrant, any person who has committed an act of terrorism or a scheduled offence or against whom a reasonable suspicion exist that he has committed, or is about to commit, any such act or offence; and

iii. Enter and search, without warrant any premises to make any arrest or to take possession of any property, fire-arm, weapon or article used, or likely to be used, offence.

3) Nothing contained in sub-section (1) or (2) shall affect the provisions of Chapter IX of the Code and the provisions of section 132 of the Code shall apply to any person action under this section.

**6. Terrorism.-**

1) In this Act. "terrorism" means the use or threat of action where:

- (a) The action falls with the meaning of sub-section (2). And
- (b) The use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or
- (c) The use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause.

2) An "action" shall fall within the meaning of sub-section(1), if it:

- (a) Involves the doing or anything that causes death;
- (b) Involves grievous violence against a person or grievous body injury or harm to person;
- (c) Involves grievous damage to property;
- (d) Involves the doing of anything that is likely to cause death or endangers a person's life;
- (e) Involves kidnapping for ransom, hostage-taking or hijacking;
- (f) Incites hatred and contempt on religious, sectarian or ethnic basis to stir up violence or cause internal disturbance;
- (g) Involve stoning, brick-batting or any other from of mischief to spread panic;
- (h) Involves firing on religious congregations, mosques, imambargahs, churches, temples and all other places of worship, or random firing to spread panic, or involves any forcible takeover o mosques or other places of worship;
- (i) Creates a serious risk to safety of public Or a section of the public, or is designed to frighten the general public and thereby prevent them from coming out and carry8ing on their lawful trade and daily business, and disrupts civil (civic) life;
- (j) Involves the burning of vehicles or an other serious form of arson;
- (k) Involves extortion of money (bhatta) or property;
- (l) Is designed to seriously interfere with or seriously disrupt a communications system or public utility service;

- (m) Involves serious coercion or intimidation of a public servant in order to force him to discharge or to refrain from discharging his lawful duties; or
  - (n) Involves serious violence against a member of the police force, armed forces, civil armed forces, or a public servant.
- 3) The use or threat or use of any action falling within sub-section (2) which involves the use of fire-arms, explosives or any other weapon, is terrorism, whether or not subsection 1 (c) is satisfied.
  - 4) In this section “action” includes an act or a series of acts.
  - 5) In this Act, terrorism includes any act done for the benefit of a prescribed organization.
  - 6) A person who commits an offence under this section or any other provision of this Act, shall be guilty of an act of terrorism.
  - 7) In this Act, a “terrorist ” means:
    - (a) A person who has committed an offence or terrorism under this Act, and is or has been concerned in the commission, preparation or instigation of acts of terrorism;
    - (b) A person who is or has been, whether before or after the coming into force of this Act, concerned in the commission, preparation or instigation of acts of terrorism, shall also be included in the meaning given in Clause (a) above.

**7. [5] Punishment for acts of terrorism.-** whoever commits an act of terrorism under Section 6, whereby

- (a) death of any person is caused, shall be punishable, on conviction, with death or with imprisonment for life, and with fine; or
- (b) he does anything like to cause death or endangers life, but death or hurt is not caused, shall be punishable, on conviction, with imprisonment for description for a term which shall be not less than five years but may extend to fourteen years and with fine:
- (c) grievous bodily harm or injury is caused to any person, shall be punishable, on conviction, with imprisonment of either but may extend to imprisonment for life and shall also be liable to a fine; or
- (d) grievous damage to property is caused, shall be punishable on conviction, with imprisonment, of either description for a term not less than ten years and not exceeding fourteen years, and shall also be liable to a fine: or
- (e) the offence of kidnapping for ransom or hostage-taking has been committed, shall be punishable, on conviction, with death or imprisonment for life and shall be liable to forfeiture of property; or
- (f) the offence of hijacking, has been committed, shall be punishable, on conviction, with death or imprisonment for life, and shall also be liable to forfeiture of property and fine;



- (g) the act of terrorism committed falls under Section 6(2) (f) and (g), shall be punishable, on conviction, with imprisonment of not less than six months and not more than three years and with fine; or
- (h) the act of terrorism committed falls under clauses (h) to (n) of sub-section (2) of Section 6, shall be punishable, on conviction, to imprisonment of not less than one year and not more than ten years and with fine; and
- (i) any other act of terrorism not falling under Clauses (a) to (h) above or under any other provision of this Act, shall be punishable, and not less than six months and not more than five years or with fine or with both]

**8. prohibition of acts intended or likely to stir up sectarian hatred.-** A person who:-

- (a) uses threatening, abusive or insulting words or behavior; or
- (b) displays, publishes or distributes any written material which is threatening, abusive or insulting: or words or behavior; or
- (c) distributes or shows or plays a recording or visual images or sounds which are threatening, abusive or insulting: or
- (d) has in his possession written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another,

Shall be guilty of an offence if:--

- i. he intends thereby to stir up sectarian hatred; or
- ii. having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.

**9. Punishment for offence under section 8.-** Whoever contravenes contravenes any provision of section 8 shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both.

**10. Power to enter or search.-** If any officer of the police, armed forces or civil armed forces is satisfied that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 8 he may enter and search the premises where it is suspected the material or recording is situated and take possession of the same; [6][ Provided that the concerned, officer first record in writing his reasons and serve a copy thereof either on the person or on the premises.]

**11. Power to order forfeiture.-**

(1) [7](An Anti-Terrorism Court) by which a person is convicted of an offence under section 9 shall order to be forfeited any material or recording referred to therein.

(2) Where the person who collected the material or recording cannot be found or identified the Special Court on the application of the official seizing

the material or recording shall forfeit the material or recording to the State to be disposed of as directed by it.

**[8][11-A. Organizations concerned in terrorism.—**For the purposes of this Act, an organization is concerned in terrorism if it-

- a. Commits or participates in acts of terrorism;
- b. Prepares for terrorism;
- c. Promotes or encourages terrorism;
- d. Supports and assists any organization concerned with terrorism;
- e. Patronize and assists in the incitement of hatred and contempt on religious, sectarian or ethnic lines that stir up disorder;
- f. Fails to expel from its ranks or ostracize those who commit acts of terrorism and present them as heroic persons:- or
- g. Is otherwise concerned in terrorism.

**11-B. Prescription:**

(1) For the purposes of this Act, an organization is prescribed if-

- a. The Federal Government, having reason to believe that an organization is concerned in terrorism, by order, lists it in the First Schedule;
- b. It operates under the name as an organization listed in the First Schedule or it operates under a different name; or
- c. The First Schedule is amended by the Federal Government in any way to enforce prescription;

(2) The Federal Government may by order, add or remove an organization from the first Schedule or amend it in any other way.

**11-C. Right of Review.**

(1) Where any prescribed organization is aggrieved by the order of the Federal Government made under Section 11-B, it may, within thirty days of such order, file a review application in writing, before the Federal Government shall after hearing the applicant, decide the matter within ninety days;

(2) An organization whose review application has been refused under sub-section (1) may file an appeal on the High Court within thirty days of the refusal of the review application.

(3) The Federal Government shall appoint a Prescribed Organizations Review Committee to determine all review applications under sub-section.(1)

**11-D. Observation Order.** Where the Federal Government, has reason to believe that an organization is acting in a manner that it may be concerned in terrorism:

1. The organization may be kept under observation, if

- a. The name of the organization is listed in the Second Schedule by order of the Federal Government ; or
  - b. It operates under the same name as an organization listed in the second Schedule.
2. An organization or a person aggrieved by the observation order passed under subsection (1) may file a review application before the Federal Government, which shall, after hearing the applicant, decide the matter within sixty days.
  3. Where the organization is under observation, the Federal Government may further extend the period of observation, only after giving the organization an opportunity of being heard.
  4. Each observation period shall be for six months, and may be extended by the Federal Government only after giving an opportunity of being heard to the organization concerned.

#### **11-E. Measures to be taken against a prescribed organization.--**

Where any organization shall be prescribed .

- (1) Amongst other measures to be taken by the Federal Government-
  - a. Its offices, if any, shall be sealed;
  - b. Its accounts, if any shall be frozen;
  - c. All literature, posters, banners or printed, electronic, digital or other material shall be seized; and
  - d. Publication , printing or dissemination of any press statements, press conferences or public utterances or on behalf of or in support of a prescribed organization shall be prohibited.
- (2) The Prescribed Organization shall submit all accounts of its **Income and expenditure** for its political and social welfare activities and disclose all funding sources to the competent authority designated by the Federal Government.

#### **11-F. Membership, support and meetings relating to a Prescribed Organization.**

1. A person is guilty of an offence if he belongs or professes to belong to a prescribed organization.
2. A person is guilty of an offence under sub-section (1) shall be liable of conviction to a term not exceeding six months imprisonment and a fine.
3. A person commits an offence if he,
  - a. Solicits or invites support for a prescribed organization, and the support is not, restricted to, the provision of money or other property; or
  - b. Arranges, manages or assists in managing, or addressing a meeting which he know is—
    - i. To support a prescribed organization;
    - ii. To further the activities of a prescribed organization; or
    - iii. To be addressed by a person who belongs or professes to belong to a prescribed organization.
4. A person commit an offence if he addresses a meeting, or delivers a sermon to a religious gathering, by any means whether verbal, written, electronic, digital or otherwise, and the purpose of his address or sermon, is to encourage support for a prescribed organization or to further its activities.

5. A person commits an offence if he solicits, collects, or raises funds for a prescribed organization.
6. A person guilty of an offence under sub-sections (3), (4) and (5) shall be liable on conviction to a term of imprisonment not less than one year and not more than five and a fine.

**11-G. Uniform.**

- 1) A person commits an offence if he-
  - (a) Wears carries or displays any article, symbol, or any flag or banner connected with or associated with any prescribed organization; or
  - (b) Carries, wears or displays any uniform, item of clothing or dress in such away or in such circumstances as to arouse reasonable suspicion that he is a member or supporter of a prescribed organization.
- 2) A person who commit an offence under sub-section (1) shall be liable by way of summary procedure to simple imprisonment for a term not more exceeding three months or to a fine or to both

**11-H. Fund raising.**

- 1) A person commits an offence if he—
  - (a) Invites another to provide money or other property, and
  - (b) Intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism.
- 2) A person commits an offence if
  - (a) He received money or other property, and
  - (b) Intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.
- 3) A person commits an offence if he,
  - (a) Provides money or the property, and
  - (b) Knows or has reasonable cause to suspect that it will or may be used for the purposes of terrorism.
- 4) In this section a reference to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration.

**11-I. Use and possession.**

- 1) He uses money or other property for the purposes of terrorism; or
- 2) He-
  - (a) Possesses money or other property; and
  - (b) Intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.

**11-J. Funding Arrangements.**

- 1) A person commits an offence if he

- (a) Enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and
- (b) Has reasonable cause to suspect that it will be used for the purposes of terrorism.

**11-K. Money-laundering.**

- 1) A Person commits an offence if he enters into or becomes concerned in any arrangement which facilitates the retention or control, by or on behalf of another person, of terrorist property.
  - (a) By concealment,
  - (b) By removal from the jurisdiction.
  - (c) By transfer of nominees, or
  - (d) In any other way.
- 2) It is a defence for a person charged with an offence under sub-section (1) to prove that he did not know and had no reasonable cause to suspect that the arrangement related to terrorist property.

**11-L. Disclosure of Information.**

- (1) Where a person-
  - (a) Believes or suspects that another person has committed an offence under this Act; and
  - (b) Bases his belief or suspicion on information which comes to his
- 2) It is a defence for a person charged with an offence under sub-section (1) of this section to prove that he had a reasonable excuse for not making the disclosure:  
Provided that this sub-section does not require disclosure, by a professional legal advisor of any information which he obtains in privileged circumstances.
- 3) A person may disclose to a police officer
  - i) A suspicion or belief that any money or other property is terrorist property or is derived from terrorist property; or
  - ii) Any matter on which the suspicion is based.
- 4) Sub-section (3) shall have effect notwithstanding any restriction on the disclosure of information imposed by any law for the time being in force:

**11-M. Cooperation with Police.**

- 1) A person does not commit an offence under Section 11-K, if he is acting with the express consent of a police officer not below the rank of a Deputy Superintendent; and
- 2) Subject to sub-sections (3) and (4) under this section, a person does not commit an offence under Sections 11-H to 11-K by involvement in a transaction or arrangement relating to money or the property if he discloses to a police officer-

- (a) His suspicion or belief that the money or other property is terrorist property, and
  - (b) The information on which his suspicion or belief is based.
- 3) Sub-section (2) under this section applies only where a person makes a disclosure.
- (a) After he becomes concerned in the transaction concerned;
  - (b) On his own initiative; and
  - (c) As soon as is reasonably practicable.
- 4) Sub-section (2) under this section does not apply to a person if
- (a) A police officer forbids him to continue his involvement in the transaction or arrangement to which the disclosure relates, and
  - (b) He continues his involvement.
- 5) It is a defence for a person charged with an offence under Section 11-H to 11-J to prove that-
- (a) He intends to make a disclosure, and
  - (b) There is reasonable excuse for his failure to do so.

**11-N. Punishment under Sections 11-H to 11-K.** Any person who commits an offence under Sections 11-H to 11-K shall be punishable on conviction with imprisonment for a term no less than six months and not exceeding five years and with fine.

**11-O. Seizure and detention.** An officer authorized by the Provincial Government in this behalf, hereinafter referred to as the “authorized officer” may seize and detain any cash recovered, if he has reasonable grounds for suspecting that-

- (a) It is intended to be used for the purposes of terrorism,
- (b) It forms the whole or part of the resources of a prescribed organization, and includes any cash which is applied or made available, or is to be applied or made available, for use by organization whether being imported into, or exported from, Pakistan; or
- (c) It is terrorist property within the meaning given in Section 2(aa):  
Provided that any cash seized under this section shall be released not later than the end of the period of 48 hours beginning with the time when it is seized, unless an application has been made to the Court under Section 11-P and an order has been obtained for its detention for a further specified period.

**11-P. Application by authorized officer to a Court.**

- 1) An authorized officer may apply to a Court for an order under this section in relation to any cash seized under Section 11-O.
- 2) An order under this section-
  - (a) Shall authorize, the further detention, under Section 11-O of the case to which it relates for a period specified in the order, if the continued

detention of the cash is justified pending completion of an investigation of its origin or derivation;

- (b) Shall specify a period which ends not later than the period of three months beginning with the date of the order; and
- (c) Shall require notice to be given to the person from whom the cash was seized and to any other person who is affected by and specified in the order.

3) Any cash detained under Section 11O. if detained for a further specified period under this section shall be held in profit and loss account and the profit and the profit and loss so earned shall be added to it on its release or forfeiture.

### **11-Q. Forfeiture.**

1) The Court by or before which a person is convicted of an offence under any of the Sections 11-H to 11-M may make a forfeiture order in accordance with the provisions of this section.

2) Where a person is convicted of an offence under Section 11-1-1(1) or (2) or Section 11-1, the Court may order the forfeiture of any money or other property-

- (a) Which, at the time of the offence, he had in his possession or under his control; and
- (b) Which, at that time, he intended should be used, or had reasonable cause to suspect might be used, for the purposes of terrorism.

3) Where a person has been convicted under Section 11-H (3), the Court may order the forfeiture of any money or other property-

- (a) Which at the time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.
- (b) Which, at the time, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

4) Where a person is convicted of an offence under Section 11-J, the Court may order the forfeiture of the money or other property-

- (a) To which the arrangement in question related; and
- (b) Which, at the time of the offence, he knew or had reasonable cause to suspect would or might be used for the purposes of terrorism.

5) Where a person is convicted of an offence under Section 11-K, the Court may order the forfeiture of the money or other property to which the arrangement in question related.

6) Where a person is convicted of an offence under any of the Sections 11-H to 11-K the Court may order forfeiture of any money or other property

which wholly or partly, and directly or indirectly, is received by any person as a payment of other reward in connection with the commission of the offence.

**11-R. Authorized officer** may apply to Court for forfeiture.

- 1) Any authorized officer may apply to the Court for an order forfeiting the cash being detained under Sections 11-P and 11 Q.
- 2) The Court may grant an application only if satisfied on the balance of probabilities that the cash is cash of a kind as defined in section 11-Q, 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 cash which can be forfeited under this section.
- 3) An order may be made under this section, whether or not proceedings are brought against any person for an offence with which the cash is connected.

**11-S. Appeal against forfeiture order under Section 11-R.**

- 1) Any party to the proceedings in which a forfeiture order is made under Section 11-R, may appeal to the High Court against such an order.
- 2) An appeal must be brought before the end of the period of thirty days beginning with the date on which the forfeiture order was made.

**11-T. Deposit of Cash in a fund.**

- 1) Any cash to which a forfeiture order under Sections 11-R and 11-S applies, along with the profit and loss accrued, shall be deposited into a special fund to be notified by the Federal Government.
  - (a) After the expiry of the limitation period within which an appeal against the forfeiture order may be brought under Section 11-S (2), or
  - (b) Where an appeal brought under Section 11-S has been determined and disposed of.
- 2) Any fund constituted by the Federal Government under sub-section (1) may also be used to compensate victims of acts of terrorism or in the case of deceased victims of acts of terrorism or in the case of deceased victims, their dependents.

**11-U. Deproscription.**

- 1) After three years of the disposal of the 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 deproscription, the prescribed organization may apply in writing to the Federal Government for the exercise of its power under Section 11-B (d) to remove the organization from the First Schedule, where the prescribed organization feels that it can prove to the satisfaction of the Federal Government that the reasons for its proscription have ceased to exist.



2) The Federal Government shall decide such application within a period of ninety days, after providing a reasonable opportunity of hearing to the applicant.

**11-V. Directing terrorist activities.**

- 1) A person commits an offence if he—
  - (a) Directs, at any level, whilst resident in Pakistan or abroad, activities of an organization concerned with the preparation, instigation or commission of acts of terrorism; or
  - (b) Directs, from within the country or abroad connected with the commission, preparation or instigation of an act of terrorism.

2) A person guilty of an offence under sub-section (1) shall be liable on conviction to imprisonment for a maximum term of seven years and to forfeiture or confiscation of his assets within or outside Pakistan.

**11-W. Printing, publishing, or disseminating any material to incite hatred or giving projection to any person convicted for a terrorist act or any prescribed organization or an organization placed under observation or anyone concerned in terrorism.**

- 1) A person commits an offence if he prints, publishes or disseminates any material, whether by audio or video-cassettes or by written, photographic, electronic, digital, wall-chalking or any method which incites religious, sectarian or ethnic hatred or gives projection to any person convicted for a terrorist act, or any person or organization concerned in terrorism or any person organization or an organization placed under observation:

Provided that a factual news report, made in good faith, shall not be construed to mean "projection" for the purposes of this section.

- 2) Any person guilty of an offence under sub-section (1) shall be liable by way of summary procedure, on conviction, to a maximum term of six months imprisonment and a fine.

**11-X. Responsibility for creating civil commotion.**

- 1) A person commits an offence if he makes any call for action or shut-down, imposed through the use of threats or force resulting in damage or destruction of property or injury to person, to intimidate citizens and prevent them from carrying out their lawful trade or business activity.

2) A person guilty of an offence under sub-section (1) shall on conviction be punishable with imprisonment for a term not less than six months and not more than five years and shall pay compensation as may be determined by the Court, from the funds of the organization to which he belongs or from his own personal resources or assets for the hurt or damage or destruction caused as result of the commission of the offence under sub-section (1).

3) A person commits an offence if he addresses a meeting or gathering or delivers a sermon to religious gathering by any means whether verbal, written, electronic, digital or otherwise to incite religious, sectarian or ethnic hatred and contempt, and shall, on conviction, be punishable with imprisonment not less than six months and not more than three years or with both.

## 12. Jurisdiction of [9](Anti-Terrorism Court)-

1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in an area in a Province shall be triable only by the Special Court exercising territorial jurisdiction in relation to such area.

2) Notwithstanding anything contained in sub-section (1), if, in respect of a case involving a scheduled offence committed in any area, the Government having regard to the facts and circumstances of the case, is satisfied that in order to ensure a fair trial, or for the protection and safety of witnesses, that such offence should be tried by [10](Anti-Terrorism Court) established in the relation to any other area, the Government may make a declaration to that effect.

**Explanation.** Where a Special Court is established in relation to two or more areas, such Special Court shall be deemed, for the purpose of this sub-section, to have been established in relation to each of such areas.

3) Where a declaration is made in respect of an offence committed in an area in a Province, any prosecution in respect of such offence shall be instituted only in the Special Court established in relation to such area, and, if any prosecution in respect of such offence is pending immediately before such declaration in any other Court, the same shall stand transferred to such Special Court and such [11](Anti-Terrorism Court) shall proceed with such case from the stage at which it was pending at that time without the necessity of recalling any witnesses.

## [12][13. Establishment of (Anti-Terrorism Court)]-

1) For the purpose of providing for the speedy trial of the cases referred to in subsection (2) and subsection (3) of section 39-A, and of scheduled offences, the Federal Government, or if so directed by the Government, the Provincial Government may establish by notification one or more Anti-terrorism Courts in relation to [each territorial area as specified by the High Court][13]

2) Where more Anti-Terrorism Courts than one have been established in any area, the Government in consultation with the Chief Justice of the High Court shall [keeping in view the seniority and status of the member of various Court in that area, designate a member of any such Court to be an administrative member][14] and all cases of triable under this Act. Pertaining to the said area shall be filed before the [administrative Member and such Administrative member may either assign the case for trial to the Court of which he is a Member][15] or, assign any case, or cases for trial to any other Anti-Terrorism Court at any time

prior to the framing of the charge. The cases shall be assigned to a case at a time:

Provided that in order to ensure that the time of the Court is not wasted if for some reason a given case cannot proceed more than one case can be assigned to it at any time or from time to time.

3) In respect of a case assigned to a Court under subsection (2), all orders made or proceeding taken before the assignment shall be deemed to have been made or taken by the Court to which the case has been assigned

4) [16][Notwithstanding anything contained in sub-section (2) and sub-section (3), the Federal Government or if so directed by the Government, the Provincial Government shall in addition to the existing [Anti-Terrorism Court][17] or such other [Anti-Terrorism Courts][18] as may be established in area, establish one such additional [Anti-Terrorism Court][19] under this Act at the Principal seat of the [each High Court][20] and appoint a Judge of such High Court as a Judge of [Anti-Terrorism Court][21] in consultation with the Chief justice of the High Court concerned, and where a judge of High Court is appointed as a Judge for any area under this Act, he shall be the administrative Judge for that area and such administrative Judge, in addition to the powers exercisable under this Act, either suo motu or on the application of any party, at any stage of the proceedings whether before or after the framing of charge for sufficient cause including as mentioned in sub-s. (1) of S. 28, transfer, withdraw or recall any case pending before any other [Anti-Terrorism Court][22] in that area and may either try the case himself or make it over for trial in any other [Anti-Terrorism Court][23] in that area.

5) The [Anti-Terrorism Court][24] to which a case is transferred or recalled for trial under subs-s. (4), shall proceed with the case from the stage at which it was pending immediately before such transfer or recall and it shall not be bound to recall or rehear any witness who has given evidence and may act on the evidence already recorded ]

#### **14. Composition and appointment of presiding officers of [25](Anti-Terrorism Court)-**

- 1) (1) (Anti-Terrorism Court) shall consist of a Judge, being a person who:-
  - i) [26][is a Judge of High Court or is] is or has been Sessions Judge or an additional Sessions Judge; or
  - ii) has exercised the power of a District Magistrate or an Additional District Magistrate or and has successfully completed an advance course in Shariah, (Islamic Law )conducted by the International Islamic University Islamabad; or
  - iii) Has for a period of not less than ten years been an advocate [27](of High Court)

2) Subject to the provisions of subs. (4) the Federal Government or the Provincial Government if directed by the Federal Government to establish a Court under this Act, shall after consultation with the Chief Justice of the High Court appoint a judge of each Court.

3) A Judge shall hold office for a period of two and a half years but may be appointed for such further term or part of term or part of term as the Government appointing the Judge may determine

4) Judge may be removed from his office prior to the completion of the period for which he has been appointed after consultation with the Chief Justice of High Court.

**Explanation.** The qualification of being an advocate for a period of not less than ten years may be relaxed in the case of a suitable person who is a graduate from a Islamic University and has studied Islamic Shariah and Fiqah as a major subject.

5) [28][In a case a judge is on leave or for any other temporarily unable to perform his duties the Government making appointment of such judge may, after consultation with the Chief justice of High Court authorize the Sessions Judge, having jurisdiction at the principal seat of the Anti-Terrorism Court to conduct proceedings of urgent nature so long as such judge is unable to perform his duties]

#### 15. Place of sitting.

1) Subject to Sub-sections (2) and (3) a Special Court shall ordinarily sit at such place or places as the Government may, by order specify in the at behalf.

2) The Government may direct that for the trial of a particular case the Court shall sit at such place including the place of occurrence of an offence as it may specify.

3) Except in a case where a place of sitting has been specified under sub-section (2) a Special Court may, if it considers it expedient or desirable so to do either *suo motu* or on the application of the public prosecutor sit, for holding the trial of a case at any place including a mosque other than the ordinary place of its sitting.

#### 16. Oath by (Anti-Terrorism Court)

A [29][Member] of (Anti-Terrorism Court)[30] shall at the commencement of a proceeding under this Act, make oath, in the case of a Muslim, on the Holy Quran, to the effect that he shall decide the case honestly, faithfully and considering himself accountable to Almighty Allah, and in case of as non-Muslim in accordance with[31] “the constitution, law and his conscience”.

**17. Power of (Anti-Terrorism Courts) with respect to other offences.**

When trying any scheduled offence, a [32](Anti-Terrorism Court) may also try any offence other than the scheduled offence with which the accused may, under the Code, be charge at the same trial.

**18. Public Prosecutors.**

- 1) The Provincial Government shall appoint in relation to each Anti-Terrorism Court of Pakistan a proficient, diligent and professionally competent Public Prosecutors or Law Officers and may also appoint one or more Additional Prosecutors or Law Officers:  
Provided that the Government may also appoint, to any case or class of cases, a Special Public Prosecutor.][33]
- 2) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor shall be deemed to be a Public Prosecutor within the meaning of section 492 of the Code, and the provisions of the Code shall have effect accordingly.

**19. Procedure and powers of Anti-Terrorism Court.**

- 1) [(1) All offences under this Ordinance, except the offences in respect of which the investigation has already been completed and final report under Section 173 of the Code has been submitted in the Court, shall be investigated by a Joint Investigation team which shall comprise of a police officer not below the rank of an Inspector and an officer of any other investigating Agency, including an intelligence agency, whom the Federal Government, or as the case may be, the Provincial Government, may nominate for the purpose. The Joint Investigating Team shall complete the Investigation in respect of a case triable by an Anti-Terrorism Court within seven working days and forward directly to the Anti-Terrorism Court a report under Section 173 of the Code. (1A) The Joint Investigating Team referred to in sub-section (1) shall have and exercise same powers as are vested in an officer Incharge of a Police Station under the Code][34]
- 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, that result in, or has the effect of, delaying investigation or submission of the report under sub-section (1) shall be deemed to be a willful disobedience of the order of the Special Court and the person committing the default shall be liable to be punished for contempt of Court.
- 3) The (Anti-Terrorism 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.
- 4) [\*\*\*\*\*][35]
- 5) Where, in a case triable by a [36][Anti-Terrorism Court], an accused has been released from police custody under section 169 of the Code, or has been remanded to

judicial custody, the Special Court may, on good grounds being shown by a public Prosecutor or a Law Officer of the Government for reasons to be recorded in writing, make an order for placing him in police custody for the purpose of further investigation in the case.

6) [37](Anti-Terrorism Court) shall be deemed to be a Magistrate for purpose of [38]sub-section and (5)]

7) [39][ The Court shall on taking cognizance of a case, proceed with the trial from day to day and shall decide the case within seven working days failing which an application may be made to the Administrative Judge of the High Court concerned for appropriate directions for expeditious disposal of the case to meet the ends of justice.]

8) [40]( Anti-Terrorism 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, in any case be granted for more than two working days.

9) [41]( Anti-Terrorism Court) shall not, merely by reason of a change in its composition or transfer of a case under sub-section (3) of section 12, be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded.

10) Any accused person may be tried in his absence if the Anti-Terrorism Court, after such inquiry as in deems fit, is satisfied that such absence is deliberate and brought about with a view to impeding the course of justice:

Provided that, accused person shall not be tried under this sub-section unless a proclamation has been published in respect of him in at least three national daily newspapers out of which one shall be in the Urdu language requiring him to appear at a specified place within seven days failing which action may also be taken against him under section 88 of the Code:

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

**Explanation.-** An accused who is tried in his absence under sub-section shall be deemed not to have admitted the commission of any offence for which he has been charged.

#### **Sub-section (10) as substituted**

11) The advocate appointed under the second proviso to sub-section (10) shall be a person selected by [42]( Anti-Terrorism Court) for the purpose and he shall be engaged at the expense of the Government.

(11A) Nothing contained in sub-section (10) or sub-section 11 shall be construed to deny the accused the right to consult or be defended by a legal practitioner of his own choice.

12) If, within sixty days from the date of his conviction, any person tried under subsection (10) appears voluntarily, or is apprehended and brought before the Special Court, and proves to its satisfaction that he did not abscond or conceal himself for the purpose of avoiding the proceeding against him, the Special Court shall set aside his conviction and proceed to try him in accordance with law for the offence with which he is charged.

Provided that the [43](Anti-Terrorism Court) may exercise its powers under this subsection in a case in which a person as aforesaid appears before it after the expiration of the said period and satisfies it that he could not appear within the said period and satisfies it that he could not appear within the said period by reason of circumstances beyond his control.

13) [44][\*\*\*\*\*]

14) Subject to the other provisions of this Act, a Special Court shall for the purpose of trial of any offence, have all powers of a Court of Sessions and shall try such offence as if it were a Court of Sessions as far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Sessions.

[45][20. punishment:- \*\*\*\*\*]

**[46][21. protection of Judges, Counsel, Public Prosecutor, witnesses and persons concerned with Court proceedings-**

1) The Court may, subject to the availability of resources, make such necessary orders to take such measures, as it deems fit, within available resources, for the protection of a witness, judge, [Member][47] public prosecutor, counsel and other persons concerned in proceedings for an offence under this Act, which may also include the following measures:

- (a) Proceedings may be held in camera, or under restricted entry of members of the public, where necessary for the protection of the judge, [Member][48] witnesses or a victim's family members or to prevent persons from crowding or storming the Court to intimidate the judge or to create a threatening atmosphere; and
- (b) The names of judges, [Members][49] counsel, public prosecutor, witnesses and persons concerned with Court proceedings shall not be published; and
- (c) During any inquiry, investigation or Court proceedings, whenever the matter of the identification of the accused arises, adequate protection shall be provided to a witness identifying any accused, in order to protect the identity of the witness from the accused.

2) For purposes of protection of the judges, [Members][50] accused, witnesses, Prosecutor and defence counsel and anyone concerned with the Court proceedings, the Government may adopt such other measures as may be appropriate or may be prescribed [and the Armed Forces shall also provide comprehensive protection and securing to the judges, members, to the judges, members, accused, witnesses, prosecutors, Investigators, defence counsel and all those concerned in the Court proceedings][51]

3) The Government shall extend protection to a judge, [Members][52] a counsel, public prosecutor and the witnesses during investigation of an offence and proceedings under this Act. And thereafter, as may be considered necessary.]

**[53][21-A. Cordons for Terrorist Investigation. ]**

1) An area is a cordoned area for the purposes of a terrorist investigation under this Act, if it is so designated under this section.

2) A designation may be made only by an officer not below than rank of a [Deputy Superintendent of Police or a member of a Joint Investigation Team][54] if he considers it expedient for the purposes of a terrorist investigation.

3) If a designation is made orally, the officer making it shall confirm it in writing, as soon as it reasonably practicable.

4) The officer making a designation shall arrange for the demarcation of the cordoned area, so far as is reasonably.

5) An area may be designated a cordoned area for a maximum period of fourteen days, which may be extended in writing from time to time, with each extension specifying the additional period:

Provided that a designation shall have no effect after 28 days beginning with the days beginning with the day on which it was made.

6) Where a person knows or has reasonable cause to suspect that a terrorist investigation is being conducted or is proposed to be conducted, a person commits an offence if he.

(a) Discloses to another, anything which is likely to prejudice an investigation; or

(b) Interferes with material which is likely to be relevant to an investigation.

7) Whoever commits an offence under sub-section (6) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding two years, and fine.

8) It is a defence for a person charged with an offence under sub-section (6) to prove-

(a) That did not know and had no reasonable cause to suspect that the disclosure or interference was likely to affect a terrorist investigation; or

(b) That he had reasonable excuse for the disclosure or interference.

9) For the purposes of this-

(a) A reference to conducting a terrorist investigation includes a reference to taking part in the conduct of, a terrorist investigation; and

(b) A person interferes with any material if he falsifies it, conceals it, destroys it or disposes of it, or if he causes or permits another to do any of these things.



## **21-B. Terrorist investigation.-**

- 1) A policeman in uniform, [or a member of a Joint Investigating Team][55] may
  - (a) Order a person in a cordoned area to leave immediately,
  - (b) Order a person immediately to leave the premises which are wholly or partly in or adjacent to a cordoned area,
  - (c) Order the driver or person in charge of a vehicle in a cordoned area to move it from the area immediately.
  - (d) Arrange for the removal of a vehicle from the cordoned area.
  - (e) Arrange for the movement of a vehicle within a cordoned area;
  - (f) Prohibit or restrict access to a cordoned area by pedestrians or vehicles,
  - (g) Enter and search any premises in a cordoned area if he suspects anyone concerned with terrorism is hiding there,
  - (h) Search and arrest any person he reasonably suspects to be a person concerned in terrorism:

Provide that any search of a person shall be done by a Police person of the same sex; or

- i) Take possession to any property in a cordoned area he reasonably suspects is likely to be used for the purposes of terrorism.

## **21- C. Training.**

- 1) Weapon Training: A person commits an offence if he provides, without valid authorization from the competent authority, any
  - (a) Fire-arms;
  - (b) Explosives; or
  - (c) Chemical, biological and other weapons.
- 2) A person commits an offence if he provides without valid authorization from the competent authority, authority, any instruction or training to any child under sub-section (1) and, conviction, shall be liable to a term of imprisonment of not less than ten years and fine.
- 3) A person commits an offence if he receives instruction or training from anyone, without valid authorization from the competent authority, to give such instruction or training or invites another, specifically or generally, to receive such unauthorized instruction or training in the making or use of.
  - (a) Fire-arms;
  - (b) Explosives; or
  - (c) Chemical, biological, and other weapons.
- 4) A child commits an offence if he provides, without valid authorization from the competent authority, any instruction or training, or if he receives such unauthorized instruction, or training or invites another specifically or generally, to receive such unauthorized instruction or training in the making or use of –
  - a. Fire-arm;
  - b. Explosives; or
  - c. Chemical, biological, and other weapons.

5) A child guilty of an offence under sub-section (4) shall be liable on conviction to imprisonment for a term not less than six months and not exceeding five years.

6) A person guilty of an offence under sub-sections (1) to (3) shall be liable on conviction to imprisonment for a term not exceeding ten years, or fine or with both.

7) Training Terrorism.

(a) A person commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism.

(b) A person commits an offence if he receives any instruction or training in acts of terrorism or invites another, specifically or generally, to receive such instruction or training.

(c) A person guilty of an offence under sub-section (a) and (b) shall, on conviction, be liable to imprisonment of either description for a term of not less than one year and not more than ten years and fine.

(d) A person is guilty of an offence if he provides, any instruction or training in acts of terrorism to a child, and on conviction shall be liable on conviction to imprisonment of either description for a term not less than ten years and fine.

(e) A child commits an offence if he provides, generally or specifically, any instruction or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.

(f) A child commits an offence if he receives, generally or specifically, instructions or training in acts of terrorism, and on conviction, shall be liable to imprisonment for a term not less than six months and not more than five years.

8) A Court by which a person is convicted of an offence under this section, may order the forfeiture of any thing or property which it considers to have been in the person's possession for purposes connected with the offence, after giving any person, other than the convicted person who claims to be the owner or is otherwise interested, an opportunity of being heard.

#### **21-D. Bail.-**

1) Notwithstanding the provisions of Sections 439, 491, 496, 497, 498-A, and 561-A of the Code, no Court, other than an Anti-terrorism Court, a High Court or the Supreme Court of Pakistan, shall have the power or jurisdiction to grant bail to or otherwise release and accused. Person in a case triable by an Anti-terrorism Court.

2) All offences under this Act punishable with death or imprisonment [\*\*\*][\[56\]](#) exceeding three years shall be non-bailable.

Provided that if there appear reasonable grounds for believing that any person accused of non-bailable offence has been guilty of an offence punishable with death or

imprisonment for life or imprisonment for not less than ten years, such person shall not be released on bail.

3) Subject to sub-section (2), the Court may admit a person to bail unless satisfied that there are substantial grounds for believing that the person, if released on bail (whether subject to conditions or not), would-

- (a) Fail to surrender to custody ;
- (b) Commit an offence while on bail;
- (c) Interfere with a witness; otherwise obstruct or attempt to obstruct the course of justice, whether in relation to himself or another person; or
- (d) Fail to comply with the conditions of release (if any).

4) In exercising its powers in relation to a person seeking bail under this Act, the Court shall have regard to such of the following considerations (as well as to any others which it consider relevant)

- (a) The nature and seriousness of the offence with which the person is charged;
- (b) The character, antecedents, associations and community ties of the person;
- (c) The time which the person has already spent in custody and the time which he is likely to spend in custody if he is not admitted to bail; and
- (d) The strength of the evidence of his having committed the offence.

5) Without prejudice to any other power to impose conditions on admission to bail, the Court admitting a person to bail under this section may impose such conditions as it consider,

- (a) Likely to result in the person's appearance at the time and place required, or
- (b) Necessary in the interests of justice or for the prevention of crime.

6) It shall be lawful for the person to be held in military or police protective custody in accordance with the conditions of his bail.

7) The Government or the Court may, under this Section, at any time, in respect of a person charged of and offence under this Act, if it considers it necessary, by special or general order, direct special arrangements to be made as to the place at which the person is to be held in order.

- (a) To prevent his escape; or
- (b) To ensure his safety or the safety of others.

#### **21-E. Remand.-**

1) Where a person is detained for investigation , the Investigating Officer, within twenty-four hours of the arrest, excluding the time necessary for the journey from the place of arrest to the Court, shall produce the accused before the Court, and may apply for remand of the accused to police custody [or custody of any investigating Agency

joined in the investigation][57] M for which the maximum period allowed may be fifteen days;

Provided that, where an accused cannot within twenty-four hours be produced before the Court, a temporary order for police custody, [or custody of any other Investigating Agency joined in the investigation][58] not exceeding twenty-four hours may be obtained from the nearest Magistrate for the purposes of producing the accused before the Court within that period.

2) No extension of the time of the remand of the accused in police custody [or custody of any other Investigating Agency joined in the investigation ][59] shall be allowed, unless it can be shown by the Investigating Officer, to the satisfaction of the Court that further evidence may be available and the Court is satisfied that no bodily harm has been or will be caused to the accused;

Provided that the total period of such remand shall not exceed thirty days.

3) The court shall be deemed to be a Magistrate for purposes of sub-section (1).

**21-F. Remissions.-** Notwithstanding anything contained in any law or prison rules of the time being in force, no remission in any sentence shall be allowed to person, other than a child who is convicted and sentenced for any offence under this Act, unless granted by the Government.

**21-G. Trial of offences.** All offences under this Act shall be tried by the anti-Terrorism Court established under this Act.

**21-H. Conditional admissibility of confession.-** Notwithstanding any thing contained in the Qanoon-e-Shahadat, 1984 (President's Order No.10 of 1984) or any other law for the time being in force, where in any Court proceeding held under this Act the evidence (which include's circumstantial proceedings held under this Act the evidence ) produced raises the presumption that there is a reasonable probability that the accused has committed the offence, any confession made by the accused during investigation without being compelled, before a police officer not below the rank of a District Superintendent of Police, may be admissible in evidence against him if the Court so deems fit;

Provided that the District Superintendent of Police before recording any such confession, had explained to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against his and that no District Superintendent of Police has recorded such confession unless, upon questioning the person making it the District Superintendent of Police had reason to believe that it was made voluntarily; and that when he recorded the confession, he made a memorandum at the foot of such record to the following effect.

'I have explained to (...name...) that he is not bound to make a confession and that if he does so any confession he may make may be used as evidence against him and I believes that this confession was voluntarily made. It was taken in my presence, and

was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed)  
Superintendent of Police.

**21-I. Aid and abetment.** Whenever aids or abets any offence under this Act shall be punishable with the maximum term of same imprisonment provided for the offence or the fine provided for such offence or with both.

**21-J. Harboursing**

- 1) A person commits an offence if he harbours any person who has committed an offence under this Act.
- 2) A person guilty of an offence under sub-section (1) shall be liable on conviction to punishment as provided in Sections 216 and 216-A of the Pakistan Penal Code (Act XLV of 1860).

**21-K. Offences triable by way of summary procedure.**—All offences under this Act punishable with imprisonment for a term of not more than six months with or without fine shall be tried by way of summary procedure.

**21-L. Punishment for an Absconder.-** Whenever being accused of an offence under this Act, absconds and avoids arrest or evades appearance before any inquiry, investigation or Court proceeding or conceals himself, and obstructs the course of justice, shall be liable to imprisonment for a term of not less than six months and not more than five years or with fine or with both.

**21-M. Joint Trial**

- 1) While trying any offence under this act, a Court may also try and other offence which an accused may, under the Code of Criminal Procedure, 1898, be charged, at the same trial if the offence is connected with such other offence.
- 2) If, in the course of any trial under this Act of any offence it is found that the accused person has committed any other offence under this Act or any other law for the time being in force, the Court may convict an accused for such other law for the time being in force, the Court may convict an accused for such other offence and pass any sentence authorized by this Act or as the case may be, such other law, for the punishment thereof.

**22. Manner and place of execution of sentence.-** The Government may specify the manner, mode and place of execution of any sentence passed under this Act, having regard to the deterrent effect which such execution is likely to have.

**23. Power to transfer cases to regular Courts.-** Where, after taking cognizance of an offence, a Special Court is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case

for trial of such offence to any Court having jurisdiction under the Code, and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

**[60][24 Appellate Tribunal.** There shall be one or more Appellate Tribunals for each province consisting of one or two Judges of the High Court to be nominated by the Chief Justice of the said Court and notified by the Government.

**Explanation.-** In this section 'High Court' means the High Court of the Province for which Special Court has been constituted.]

## **25. Appeal.-**

- 1) An appeal against the final judgment of a Special Court shall be to [\[61\]](#) a High Court'
- 2) Copies of the Judgment of a Special Court shall be supplied to the accused and the Public prosecutor free of cost on the day the judgment is pronounced and the record of the trial shall be transmitted to the [\[62\]](#) "High Court" within three days of the decision.
- 3) An appeal under this section (1) may be preferred by a person sentenced by a Special Court to [\[63\]](#) "a High Court" within seven days of the passing of the sentence.
- 4) The Attorney General or an Advocate General may, on being directed by the Federal or a Provincial Government, file an appeal against an order of acquittal or a sentence passed by a Special Court within fifteen days of such order.
- 5) An appeal under this section shall be heard and decided by "a High Court" within seven working days.
- 6) [\[64\]](#) [Omitted by Ordi. IV of 1999 and XIII pf 1999, w.e.f. 27.4.1999].
- 7) Omitted by Ordi. IV of 1999 and XIII pf 1999, w.e.f. 27.4.1999
- 8) Pending the appeal "a High Court" shall not release the accused on bail.
- 9) [\[65\]](#) Any appeal being before an Appellate Tribunal immediately before the commencement of the Anti-Terrorism (Amendment) ordinance, 1998, on appeal reversed an order or judgment passed by a Special Court, an appeal may be filed against such order or judgment in the Special Court within thirty days of such commencement.

[\[66\]](#) **[26.** Omitted by Ordi. IV of 1999 and XIII pf 1999, w.e.f. 27.4.1999].

**27. Punishment for defective investigation.-** If a special Court or [\[67\]](#) "a High Court" comes to conclusion during the course of or at the conclusion of the trial that the investigating officer, or other concerned officers have failed to pursue the case properly and in breach of their duties it shall be lawful for such Court or, as the case may be [\[68\]](#) "High Court" to punish the delinquent officers with imprisonment which may extend to two years, or with fine or with both by resort to summary proceedings.

## **28. Transfer of cases.-**

- 1) Notwithstanding anything contained in this Act, the [\[69\]](#) High Court may if it considers it expedient so to do in the interest of justice, or where the convenience

or safety of the witnesses or the safety of the accused so requires transfer any case from one Special Court to another Special Court within or outside the area.

2) [70](An anti-Terrorism Court) to which a case is transferred under sub-section (1) shall proceed with the case from the stage at which it was pending Immediately before such transfer and It shall not be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded.

**29. Trial before (Anti-Terrorism Court) to have precedence.-** A trial under this Act of an offence by (An anti-Terrorism Court)[71] and the appearance of an accused before it, shall have precedence over the trial of any other case against the accused in any other Court, except on its original side.

**30. Modified application of certain provisions of the Code.-**

1) Notwithstanding anything contained in the Code or in any other law, every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (f) of section 4 of the Code and the words “cognizable case” as defined in that clause shall be construed accordingly.

2) Sections 374 to 379 of the Code shall apply in relation to a case involving a scheduled offence subject to the modification that the references to a “Court of Sessions” [72][ ] wherever occurring therein, shall be construed as reference to “Special Court” [73][ ].

3) [74] [(3)\*\*\*\*\*

4) \*\*\*\*\*]

**31. Finality of Judgment.-** A judgment or order passed, or sentence awarded, by a Special Court, subject to the result of an appeal under this Act shall be final and shall not be called in question in any Court.

**32. Overriding effect of Act.-**

1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law but, save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a special Court, and for the purpose of the said provisions of the Code, a Special Court shall be deemed to be a Court of Sessions.

2) In particular and without prejudice to the generality of the provisions contained in subsection (1), the provisions of section 350 of the Code shall, as far as may be, apply to the proceedings before a Special Court, and for this purpose any reference in those provision to a Magistrate shall be construed as reference to [75](An anti-Terrorism Court).

**33. Delegation.-** The Government may, by notification, delegate, subject to such conditions as may be specified therein, all or any of the powers exercisable by it under this Act.

**34. Power to amend the Schedule.-** The Government may, by notification, amend the [76][First, Second and Third Schedule] so as to add any entry there to or modify or omit any entry therein.

**34. Power to make rules.-** The Government may, by notification, make such rules, if any as It may deem necessary carrying out the purposes of this Act.

[77][**35. Power to make rules.-**

1) A high Court may make such rules, if any, as it may deem necessary for carrying out the purposes of this Act.

S. 35 as originally enforced was declared to be not valid being violative of Art. 175 and 203 of the Constitution. PLD 1998 S.C. 1445. The same has been substituted by Ord. IX of 1998. Not valid as it militates against the concept of independence of judiciary[78]

**36. Savings.-**

1) Nothing contained in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any Court or other authority under any law relating to the Naval, Military or Air Forces or any other armed force of the Government.

2) For the removal of any doubt, it is hereby declared that, for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a Court of ordinary criminal jurisdiction.

[79][**37. Contempt of Court.** A Special Court shall have the power to punish with imprisonment for a term which may extend to six months and with fine any person who-

(a) Abuses, interferes with or obstructs the process of the Court in any way or disobeys any order or direction of the Court ;

(b) Scandalizes the Court otherwise does anything which tends to bring the Court or a person constituting the Court into hatred, ridicule or contempt;

(c) Does anything which tends to prejudice the determination of a matter pending or most likely to come up before the Court; or

(d) Does anything which, by any other law, constitutes contempt of Court.

**Explanation.** In this section, "Court" means Special Court Notes: Section 37 has been substituted by Ord. IX of 1998.

**38. Punishment for terrorist act committed before this before this Act.-**

Where a person has committed an offence before the commencement of this Act which if committed after the date on which this Act comes into force would constitute a terrorist act hereunder he shall be tried under this Act but shall be liable to punishment as authorized by law at the time the offence was committed.

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



**[80][39-A. Removal of difficulties.-** If any difficulty arises in giving effect to any provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.]

**[39-B. Repeal and savings---**

- 1) The suppression of Terrorist Activities (Special Courts) Act, 1975 is hereby repealed.
- 2) Notwithstanding the repeal of the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975) and the amendment of the Anti-Terrorism Act, 1997 (XXVII of 1997), by the Anti-terrorism (Amendment) Ordinance, 2001.
  - (a) Every order, decision or judgment passed by any Anti-terrorism Court constituted under this Act or Special Court constituted under the Suppression of Terrorist Activities (Special Courts) Act 1975, or any appellate Court before such repeal or amendment shall remain in force and operative and the repeal or amendment shall not affect the previous operation of the law or any thing duly done or suffered or punishment incurred,
  - (b) Every case, appeal and legal proceedings whatsoever filed or pending before any Court under the Suppression of Terrorist Activities (Special Courts) Act, 1975, including the High Court and the Supreme Court shall continue to be proceeded with in accordance with law before the concerned Court of competent jurisdiction, including the Court established under this Act, and all orders passed, decisions made and judgments delivered hereafter by such concerned Court whether original, appellate or revisional, shall be deemed to have been validly and competently made;
  - (c) All convictions made, punishments or sentences awarded by the Anti-terrorism Court or Special Court or an appellate Court before such repeal or amendment shall be executed as if the said Acts were in force;
  - (d) Any investigation or inquiry under this Act or the Suppression of terrorist Activities (Special courts ) Act. 1975 made or instituted before the commencement of the Anti-terrorism (amendment) Ordinance, 2001, shall continue to be made and proceeded with in accordance with law;
  - (e) All cases pending before the Anti-terrorism Court or Special court immediately before the commencement of the Anti-terrorism (Amendment) Ordinance, 2001, if not covered by this act or clauses (a) and (b) above shall stand transferred to the respective Courts of Sessions of the area or such other Courts of competent jurisdiction where the cases were registered against the accused and such Courts shall proceed with the cases from the stage at which they were pending, without the necessity of recalling any witnesses; and
  - (f) The Court of Sessions or as the case may be, any other Court to which a case has been transferred from the Anti-terrorism Court or a Special

Court under Clause (d) shall try it in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), and the law applicable to such case.]

**40. Amendment of the Criminal Law Amendment Act, 1908 (XIV of 1908).**- In the Criminal law Amendment Act, 1908(XIV), the following amendments shall be made, namely--

- (I) In section 15 clause (2) in sub-clause (a) for the words “violence or intimidation” the words “terrorism stirring up sectarianism, violence or intimidation which endanger or threaten public order” shall be substituted.
- (II) For Section 16, the following shall be substituted namely:-
  - 1) Declaration of an association to be unlawful (1) If either the Federal Government or the Provincial Government is of the opinion that an association is an unlawful association it may call upon the association to show cause within fourteen days why it should not be declared as unlawful association for the purpose of this Act.
  - 2) If after hearing the association, the Federal Government or the Provincial Government is of the opinion that the association is an unlawful association it may declare such association to be an unlawful association.
  - 3) If the Federal Government or the Provincial Government is of the opinion or to prevent injury to the people it is just and necessary to take immediate action, it may, pending passing of order under sub-section (2), by an ad interim order, declare an association to be unlawful.
  - 4) An association aggrieved by an order under sub-section (2) may file an appeal before a Board appointed by the Chief Justice of the High Court of the Province consisting of a Chairman and two other persons each of whom is or has been Judge of a High Court.
  - 5) The Board shall decide the appeal within thirty days and may pass such order as it may deem fit.
- III) In section 17:
  - i) In sub-section (1) for the words “six months” the words “five years” shall be substituted; and
  - ii) In sub-section (2) for the words “three years” the words “seven years”
- (IV) In sections 17A, 17D and 17E, for the words “Provincial Government” wherever occurring the words v ”Federal Government or the Provincial Government” shall be substituted.

**[81][THE FIRST SCHEDULE]**  
(List of Prescribed Organizations)  
[See Section 11-B]

**THE SECOND SCHEDULE**  
(List of Organization under Observation)  
[See Section 11-D (1) and (a)]

## THE THIRD SCHEDULE

(Scheduled Offences)

See Section 2 (t)

- 1) Any act of terrorism within the meaning of this Act including those offences which may be added or amended in accordance with the provisions of Section 34 of this Act.
- 2) Any other offence punishable under this Act.
- 3) Any attempt to commit, or any aid or abetment of , or any conspiracy to commit, any of the aforesaid offences.]

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[1] PLD1997 Fed St 225.

[2] PLD 1998 Cent St. 3

[3] PLJ 2001 Fed. St. 445.

[4] Words "or" in all probability is likely to commit omitted by ord. No IX of 1998

[5] Subs. By Ordinance XXXIX of 2001;PLJ 2001 Fed. St. 445.

[6] Added by Ord. No IX of 1998.

[7] Subs. By Ordi. XIII pf 1999 w.e.f. 27.8.1999.

[8] Inserted by Ordinance XXXIX of 2001; PLJ 2001 Fed. St.445.

[9] Subs. By Ordi. XIII of 1999, w.e.f. 27.8.1999.

[10] Subs. By Ordi. XIII of 1999 w.e.f. 27.8.1999. for the word Special Court.

[11] Subs. By Ordi. Ibid.

[12] Subs. By Ordi. Ibid.

[13] Subs. By Ordi. VII of 2002, PLJ 2002 Fed. St. 167.

[14] Subs. By Ordi. VI of 2002, PLJ 2002 167.

[15] Subs. By Ordi. VI of 2002, PLJ 2002 167.

[16] Added by Ordi.XX of 1999 w.e.f. 1999 NLR 2.12.2000. Federal Statute 51.

[17] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167.

[18] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167.

[19] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167

[20] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167

[21] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167

[22] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167

[23] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167

[24] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167

[25] Subs. By Ordi. XIII of 1999 w.e.f 27.8.1999

[26] Subs. By Ordi. XX of 1999w.e.f.2.12.1999 NLR 20000 Federal Statute 51.

[27] Subs. By Ordi. XIII of 1999, w.e.f. 27.8.1999.

[28] Add. By Ordi.XXIX of 2000, dt. 24.7.2000; PLD 2001 Cent St.1.

[29] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167.

[30] Subs. By Ordi. XIII of 1999, w.e.f. 27.8.1999.

[31] Words his faith to the effect that he will decide the case honestly and faithfully according to his conscience and beliefs Subs. By Ord. No IX of 1998.

[32] Subs. By the ordi. Ibid.

- [33] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167.
- [34] Subs. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167.
- [35] Omitted by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [36] Subs. By Ordi. XIII of 1999, w.e.f. 27.8.1999.
- [37] Subs by ordi. Ibid.
- [38] Subs. by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [39] Omitted by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [40] Subs by ordi. Ibid.
- [41] Subs by ordi. Ibid.
- [42] Subs. By Ordi. XIII of 1999, w.e.f. 27.8.1999.
- [43] Subs by ordi. Ibid.
- [44] Omitted by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [45] Omitted by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [46] Subs. by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [47] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [48] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [49] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [50] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [51] Added by Ordi. VI of 2002, PLJ 2002 Fed. St. 167.
- [52] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [53] Inserted by Ordinance XXXIX of 2001; PLJ 2001 Fed. St.445.
- [54] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [55] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [56] Word “not “ Omitted by ordi. VI of 2002, PLJ 2002 Fed. St. 167.
- [57] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [58] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [59] Inst. By Ordi. VI of 2002, PLJ 2002 Fed. St. 167
- [60] Omitted by ord No IX of 1998. Declaration of the Supreme Court will not affect the trial already conducted and conviction recorded PLD 1998 S.C 1145.
- [61] Subs. For words an Appellate Tribunal by Ord. No IX of 1998.
- [62] Subs. For words Appellate Tribunal by Ord. No IX of 1998.
- [63] Subs. For words an Appellate Tribunal by Ord. No IX of 1998.
- [64] Omitted by ord. No. IX of 1998.
- [65] Added by Ord. No. IX o 1998.
- [66] Omitted by ord. No. IX of 1998.
- [67] Subs. For words an Appellate Tribunal by Ord. No IX of 1998.
- [68] Subs. For words Appellate Tribunal by Ord. No IX of 1998.
- [69] Subs. For words an Appellate Tribunal by Ord. No IX of 1998.
- [70] Subs. by the ordi. XIII of 1999, w.e.f. 27.8.1999. PLD2000 Cent. St.2.
- [71] Subs. By Ordi. Ibid.
- [72] Words and High Court- omitted by Ord. No IX of 1998.
- [73] Words and an Appellate Tribunal omitted by Ord. No. IX of 1996.
- [74] Omitted by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [75] Subs. by the ordi. XIII of 1999, w.e.f. 27.8.1999.
- [76] Subs. by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.
- [77] Subs by Ord. No IX of 1998.

[\[78\]](#) PLD 2000 S.C. 111.

[\[79\]](#) Subs by Ord. No IX of 1998.

[\[80\]](#) Inserted by Ordinance XXXIX of 2001; PLJ 2001 Fed. St.445.

[\[81\]](#) Subs. by the ordi. XXXIX of 2001: PLJ 2001 Fed. St. 445.