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THE CRIMINAL LAW AMENDMENT ACT, 1908

'ACT No. XIV OF 1908

[11th December, 1908]

An Act to provide for the more speedy trial of certain offences, and for the Prohibition of associations dangerous to the public peace.

WHEREAS it is expedient to provide for the more speedy trial of certain offences, and for the prohibition of associations dangerous to the public peace; It is hereby enacted as follows:-

1. Short title and extent.—(1) This Act may be called the 7* Criminal Law Amendment Act, 1908.

3[(2) It may, at any time, by notification in the official Gazette, be extended by a

Provincial Government to the whole or any part of the Province.]

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PART I—{SPECIAL PROCEDURE.] Rep. by the Indian Criminal Law Amendment Repealing Act, 1922 (V of 1922), s.3.

PART II

UNLAWFUL ASSOCIATIONS

15. Definitions. In this Part— (1) “association” means any combination or body of Persons, whether the same be known by any distinctive name or not; and

(2) “unlawful association” means an association—

(a) which encourage or aids persons to commit acts of *[terrorism, stirring up sectarianism, violence or intimidation which endanger or threaten public order] or of which the members habitually commit such acts, or

(b) which has been declared to be unlawful by the °[Provincial Government] under the Powers here by conferred.

'For Statement of Objects and Reasons, see Gazette of India, 1908, Pt. IV, p.203; and for Proceedings in

The Act has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is appli

Excluded Area of Upper Tanawal (N.W.F.P) other than Phulera with effect from such date and subject to N.W.F.P (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has been extended to the Khairpur State by the Khairpur (Federal Laws) (Extension) Order, 1953 (G.G

It has been applied to the Baluchistan, by the Baluchistan Laws Reg. 1913 (2 of 1913), s.3 as amended b

It has also been extended to the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (Areas of Baluchistan, see. Gazette of India, 1937, Pt. I. p. 1499.

It has also been extended to the whole of the Province of West Pakistan by Notification No. S.O. Spl. 1(1 of W.P., 1964, Extraordinary, P.73.

For notification under section 16(1) and 17-A(1) of this Act relating to the cancellation and withdrawal of the Home Department

Notification No. S.O.Spl. 1(2)/64, dated. 6th January, 1964 in respect of Jammāt-i-Islāmī as the unlawful association see the G.O. No. 1964, Ext. p. 2989.

This Act, which was rep. by Ordinance 29 of 1973, s.21, shall stand revived and shall have effect and shall be deemed always to have had never been rep. by the said Ordinance, see Act VII of 1974.

The word "Indian" omitted by A.O., 1949.

3Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and Second Sch., for sub-section (2) which had been amended by various enactments from time to time.

4Sub-section (3) omitted by the Indian Criminal Law Amendment Repealing Act, 1922 (5 of 1922), s.3.

*Subs. by Act. XXVII of 1997, s.40.

Subs. by A. O., 1937, for "L. G." which had been subs. by Devolution Act, 1920 (38 of 1920).

1116. 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 that in the interest of the maintenance of public order 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 a 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.]

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17. Penalties. —(1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to '[five years] or with fine, or with both.

(2) Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to '[seven years], or with fine, or with both.

3[(3) An offence under sub-section (1) shall be cognizable by the police, and notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), shall be non-bailable.]

4[17A. Power to notify and take possession of places used for the purposes of an unlawful association.—(1) The °[Federal Government or the] *[Provincial Government] may, by notification in the “[official Gazette], notify any place which in its opinion used for the purposes of an unlawful association.

Explanation.—For the purposes of this section “place” includes a house or building, or part thereof, or a tent or vessel.

'Subs. by Act. XXVII of 1997, s.40.

?Sub-section (2), which was ins. by the Criminal Law Amendment Act, 1932 (23 of 1932), s.11, omitted b

3Sub-section (3) ins. by Act 23 of 1932, s.12.

4s. 17A to 17F ins. by the Criminal Law Amendment Act, 1932 (23 of 1932), s.13.

For notification under section 16(1) and 17A (1) of this Act relating to the cancellation and withdrawal of the Poll (III) and 16-Poll (III), dated 6th January, 1964, in respect of Jamat-e-Islami as an unlawful association p.2357.

*Subs. by A.O., 1937, for "L.G.".

°Subs. *ibid.*, for "local official Gazette"

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(2) The District Magistrate ** * *, or any officer authorised in this behalf in writing by the District Magistrate °* * *, as the case may be, may thereupon take possession of the notified place and evict there from any person found therein and shall forthwith make a report of the taking possession of the '[Federal Government or the] *[Provincial Government];

Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under subsection (1) in respect thereof remains in force.

'17B. Moveable property found in a notified place—(1) The District Magistrate °* * * or officer taking Possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof in the presence of two respectable witnesses.

(2) If, in the opinion of the District Magistrate, “* * *, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed subject to the provisions hereafter contained in this section to order such articles to be forfeited to [Government].

(3) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as the District Magistrate °* * *, may direct.

(4) The District Magistrate °* * * shall publish, as nearly as may be in the manner

provided in section 87 of the Code of Criminal Procedure, 1898 (V of 1898), for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article.

(5) Where any such representation is accepted by the District Magistrate °* * * he shall deal with the article concerned in accordance with the provisions of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, '°* * * and no order of forfeiture shall be made until the District Judge '!* * * has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (3).

(7) In making an adjudication under sub-section (6) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908 (V of), for the investigation of claims so far as it can be made to apply, and the decision of the District Judge '!* * *, shall be final.

'Subs. by Act XXVII of 1997, s.40.

?Subs. by A.O., 1937, for “L.G.”.

*Subs. *ibid.*, for “local official Gazette”

“The words “or in a Presidency-town the Commissioner of Police” omitted by A.O., 1949.

‘The words “or Commissioner of Police” omitted, *ibid.*

©The words “Commissioner of Police” omitted, *ibid.*

7Subs. by A.O., 1961, Art.2 and Sch., for “His Majesty” (with effect from the 23rd March, 1956).

‘The words “or Commissioner of Police, as the case may be” omitted by A.O., 1949.

°The words “or Commissioner of Police” repealed by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s.3

'Certain words omitted by A.O., 1949.

"The words “or Chief Judge of the Small Cause Court, as the case may be” omitted, *ibid*.

(8) If the article seized is livestock or is of a perishable nature, the District Magistrate !* * *, may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles.

°17C. Trespass upon notified places. Any person who enters or remains upon a notified place without the permission of the District Magistrate, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass.

17D. The relinquishment of property. Before a notification under sub-section (1) of section 17A is cancelled, the *[Federal Government or the] “[Provincial Government] shall give such general or special directions as it may deem requisite regulating the relinquishment by Government or possession of notified places.

°17E. Power to forfeit funds of an unlawful association.—(1) Where the *[Federal Government or the] “[Provincial Government] is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the *[Federal Government or the] “[Provincial Government] may, by order in writing, declare such monies, securities or credits to be forfeited to *[Government].

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the *[Federal Government or the] [Provincial Government]:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the *[Federal Government or the] *[Provincial Government] may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Before an order of forfeiture is made under sub-section (1) the *[Federal Government or the] “[Provincial Government] shall give written notice to the person (if any) in whose custody the monies, securities or credits are found of its intention to forfeit, and any person aggrieved there by may within fifteen days from the issue of such notice file an application to the District Judge °* * *, to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies, securities or credits concerned until such application has been disposed of and unless the District Judge 7* * *has decided that the monies securities or credits are liable to forfeiture.

(4) In disposing of an application under sub-section (3) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908 (V of 1908), for the investigation of claims so far as it can be made to apply, and the decision of the District Judge °* * *, shall be final.

'The words “or Commissioner of Police” omitted, *ibid*.

28s. 174 to 17F ins. by the Criminal Law Amendment Act, 1932, (23 of 1932), s. 13

3Subs. by Act. XXVII of 1997, s.40.

'Subs. by A.O., 1937, for “L.G.”.

'Subs. by A.O., 1961, Art. 2 and Sch., for “His Majesty” (with effect from the 23rd, March, 1956).

'The words “in a District, or to the Chief Judge of the Small Cause Court in a Presidency-town” omitted by
The words “or Chief Judge of the Small Cause Court” omitted by A.O., 1949.

'The words "or Chief Judge of the Small Cause, Court as the case may be" omitted, *ibid.*

(5) Where the '[Federal Government or the] 7[Provincial Government] has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the '[Federal Government or the] 7[Provincial Government] may by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the '[Federal Government or the]

*[Provincial Government]. A copy of such order shall be served upon the person to whom it is directed.

(6) The '[Federal Government or the] [Provincial Government] may endorse a copy of an order under *[sub-section (5)] for investigation to any officer it may select, and such copy shall be warrant where under such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(7) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1898 (V of 1998), for the service of a summons, or, where the person to be served is a Corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office at the place where it carries on business.

(8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under “[sub-section (5)], such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall payor deliver the whole of the monies, securities, or credits forfeited, to the order of the '[Federal Government or the] [Provincial Government]

(9) Where any person liable under this section to payor deliver any monies, securities, or credits to the order of the '[Federal Government or the] ?[Provincial Government] refuses or fails to comply with any direction of the '[Federal Government or the] *[Provincial Government] in this behalf, the 'Federal Government or the] *[Provincial Government] may recover from such person, as arrears of land revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(10) In this section, “security” includes a document whereby any person acknowledges that he is under a legal liability to pay money, or where under any person obtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by the '[Federal Government or the] >[Provincial Government] in this behalf.

(11) Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (6) shall be divulged by any officer of Government, without the consent of the '[Federal Government or the] *[Provincial Government].

‘Subs. by Act XXVII of 1997, s.40.

*Subs. by A.O., 1937, for “L. G.”.

3Subs. by the Repealing and Amending Act, 1934 (24 of 1934), s. 2 and First Sch., for “sub-section (3)”.
‘Subs. by the Repealing and Amending Act, 1934 (24 of 1934), 2 and First Sch., for “sub-section (3)”.

'17F. Jurisdiction barred. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made, under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in sections 17B and 17E no proceeding purporting to be taken under section 17A,

17B, 17C, 17D, or 17E shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act.]

18. Continuance of association. An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

THE SCHEDULE.-Rep. by the Indian Criminal Law Amendment Repealing Act, 1922 (V of 1922), s. 3.

'Ss. 17A to 17F ins. by the Criminal Law Amendment Act, 1932, (23 of 1932), s. 13