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THE LAWYERS WELFARE AND PROTECTION ACT, 2023

ACT NO. XII OF 2023

[31st March, 2023]

An Act to make provision and make laws in respect of welfare and protection of advocates

WHEREAS it is necessary to provide welfare and protection of advocates through this legal framework and for the matters connected therewith or incidental thereto;

It is hereby enacted as follows:—

CHAPTER-I PRELIMINARY

1. Short title, extent and commencement.— (1) This Act shall be called the Lawyers Welfare and Protection Act, 2023.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.— (1) In this act, unless the context otherwise requires,—

(a)

“act of violence” means any act committed by any person against an advocate with the intent to prejudice, affect or derail the process of impartial, fair and fearless conduct of cases before any court, tribunal or authority by which such advocate is engaged and shall include the following:—

(i)

(ai)

(iii)

(iv)

(v)

(vi)

harassment, coercion, assault, criminal force or threat impacting the living or working conditions of such advocate and preventing him from discharging his duties;

harm, injury, hurt either grievous or simple, or danger to the life of such advocate, either within the premises of the courts or otherwise;

coercion by whatsoever means, by any person or authority to reveal or part with privileged communication or material which an advocate is bound to hold in confidence under the law;

coercion by whatsoever means of an advocate not to represent or to withdraw his Vakalatnama or appearance to act, plead or appear on

behalf of a client before any court, tribunal or authority;

loss or damage to any property or documents or material which such advocate is bound to hold under the law; or

usage of derogatory language during the course of the judicial and quasi-judicial proceedings.

(b) "advocate" shall have the same meaning as assigned thereto in the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973);

(c) "Bar Council" shall have the same meaning as assigned thereto in the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973);

(d) "Code" means the Code of Criminal Procedure, 1898 (Act No. V of 1898);

(e) "Court" means the court notified under section 5 or established under any other law;

(f) "Government" means the Federal Government or the Provincial Government,

as the case may be; and

(g) "offence" denotes any act made punishable under this Act or under any other law for the time being in force; and

(h) "privileged communication" shall have the same meaning as given in the Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984).

(2) Any expression or words used in this Act but not specifically defined shall have the same meaning as assigned thereto in the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973) and the Pakistan Penal Code, (Act XLV of 1860).

CHAPTER-II

OFFENCES AND PUNISHMENTS

3. Offences and Punishments— (1) Whoever commits or abets the commission of act of violence, except any act of violence covered by sub-clause (ii) of clause (a) of sub-section (1) of section 2, against an advocate shall be punishable with imprisonment for a term which may extend to three years or fine which may extend to hundred thousand rupees or with both.

(2) Whoever, having already been convicted of an offence under this Act is convicted for the second time for any subsequent offence under this Act, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years or fine which may extend to two hundred thousand rupees or with both.

(3) Notwithstanding anything contained in the Code or any other law for the time being in force, every offence committed under this Act shall be non-bailable, compoundable with permission of the Court and 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 the clause shall be construed accordingly.

4. Investigation — Notwithstanding anything contained in any other law for the time being in force,—

(a) any offence committed under this Act shall be investigated by the police officer not below the rank of an Inspector; and

(b) the investigation of the case registered under this Act shall be completed within a period of fourteen days from the day of registration of the case.

5. Establishment of Court— (1) The Federal Government may, in consultation with the Chief Justice of the High Court concerned, designate, throughout the country, as many courts of Additional Sessions Judges or such other courts, as it may deem necessary to try the offences under this Act.

6. Jurisdiction Notwithstanding anything contained in the Code or any other law for the time being in force, offences committed under this Act shall be tried by the Court notified under this Act.

7. Trial The Court upon taking cognizance of a case under this Act, shall decide the case expeditiously, preferable within six months and any adjournment in the case shall be followed by reasons:

Provided that where the trial is not concluded within the stipulated period of six months, the Court shall record reasons for the same.

8. Joint Trials.— (1) While trying an offence under this Act, the Court may also try, at the same trial, any other offence with which an accused may be charged under the Code, if the offence is connected with such other offence.

(2) Where in the course of trial of an offence under this Act, it is found that the accused person has also committed another offence under any other law for the time being in force, the Court may convict an accused for such other offence and pass sentence authorized by such other law.

9. Privileged communication of advocate.— Notwithstanding anything contained in any other law for the time being in force,—

(a) no person, public servant or any authority shall have the power to arrest, detain, investigate any advocate under any law for the time being in force to obtain any document, material or any information from such advocate pertaining to his professional duties; and

(b) the violation of the clause (a) shall be deemed as act of violence within the meaning of section 2.

CHAPTER-III WELFARE OF ADVOCATES

10. Legal advisory.— Every incorporated company having more than twenty million paid up capital, autonomous body, corporation or statutory authority shall have to engage at least one practicing advocate as legal advisor on retainer-ship basis, whereas no advocate shall serve more than three such entities as legal advisor simultaneously.

11. Provision of health facilities— The Government shall notify in relation to all the Government, and Semi Government hospitals, the right to every advocate, his spouse and dependent children for medical treatment at par with the gazetted Government officer, subject to presentation of their official cards and verification by the respective Bar Councils:

Provided that for the purpose of this section, the parents, minor children, spouse of the advocate shall also be entitled to the same facilities.

12. Financial Facilities — All financial institutions shall extend to the advocates the provision of financial facilities without discrimination in any manner whatsoever, and in case of any violation, on the complaint of aggrieved advocate, the concerned authority shall initiate appropriate action.

13. Shuhada Package— An advocate who is the victim of any act of terrorism or other aggression while performing his professional duty, whose assailants are unknown, his family shall be entitled to the Shuhada package as is admissible to gazetted officers in BPS-18 of the Government.

14. Power to make rules The Federal Government may make rules for carrying out the purpose of this Act.

15. Overriding effect — The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force.

16. Application of the Code.— The provisions of the Code, to the extent not inconsistent with anything contained in this Act, shall apply mutatis-mutandis.

17. Removal of difficulties Where any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may, by notification in the official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty.