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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 21st October, 2016

No. F. 23(13)2015-Legis.—The following Acts of Majlis-e-Shoora

(Parliament) received the assent of the President on the 19th October, 2016 are hereby published for general information:—

Act No. XLIII of 2016

An Act further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898) in order to deter and prevent offences in the name or on pretext of honour in Pakistan, which claim the lives of hundreds of victims every year;

(787)

Price Rs. 10.50
[3885(2016)/Ex. Gaz.]

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Criminal Law (Amendment) (Offences in the Name or on pretext of Honour) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 299, Act XLV of 1860.—In the Pakistan Penal Code, 1860 (XLV of 1860), hereinafter referred to as the Penal Code, in section 299, after clause (e), the following new clause shall be inserted, namely:—

“(ee) “fasad-fil -arz” includes the past conduct of the offender or whether he has any previous conviction or the brutal or shocking manner in which the offence has been committed which is outrageous to the public conscience or if the offender is considered a potential danger to the community or if the offence has been committed in the name or on the pretext of honour.”.

3. Amendment of section 302, Act XLV of 1860.—In the Penal Code, in section 302, in clause (c), for the full stop at the end, a colon shall be substituted and thereafter for the existing proviso, the following shall be substituted, namely:—

“Provided that nothing in clause (c) shall apply where the principle of fasad-fil-arz is attracted and in such cases only clause (a) or clause (b) shall apply.”;

4. Amendment of section 309, Act XLV of 1860.—In the Penal Code, in section 309, in sub-section (1), in clause (b), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided further that where the principle of fasad-fil-arz is attracted, waiver of gisas shall be subject to the provisions of section 311.”.

5. Amendment of section 310, Act XLV of 1860.—In the Penal Code, in section 310, in sub-section (1), in the proviso, for the full stop at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:—

“Provided further that where the principle of fasad-fil-arz is attracted, compounding of the right of gisas shall be subject to the provisions of section 311.”.

6. Amendment of section 311, Act XLV of 1860.—In the Penal Code, for section 311, the following shall be substituted, namely:—

“311. Ta'uir after waiver or compounding of right of gisas in

qatl-i-amd_—Where all the wali do not waive or compound the right of qgisas, or if the principle of fasad-fil-arz is attracted, the court may, having regard to the facts and circumstances of the case, punish an offender against whom the right of gisas has been waived or compounded with death or imprisonment for life or imprisonment of either description for a term of which may extend to fourteen years as ta'zir:

the
7

Provided that if the offence has been committed in the name or on pretext of honour, the punishment shall be imprisonment for life.”.

Amendment of section 338E, Act XLV of 1860.—In the Penal

Code, in section 338E, in sub-section (1),—

{a)

(b)

&

for the word and figure “and 310”, the comma, word and figures «310 and 311” shall be substituted; and

for the second proviso, the following shall be substituted, namely:—

“Provided further that where an offence under this Chapter has been committed and the principle of fasad-fil-arz is attracted, the court having regard to the facts and circumstances of the case shall punish an offender with imprisonment or fine as provided for that offence.”

Amendment of section 345, Act V of 1898.—In the Code of

Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the Code, in section 345,—

(a)

{b)

{c)

9.

in sub-section (1), in the Table, against the offence Qatl-i-amd, in the third column, for the existing entry, the following shall be substituted, namely:—

“ by the heirs of the victim, subject to the provisions of section 31;

in sub-section (2), for the word “The”, occurring for the first time, the expression “Subject to sub-section (7), the” shall be substituted; and

for sub-section (7), the following shall be substituted, namely: —

“(7) No offence shall be waived or compounded save as provided by this section and section 311 of the Pakistan Penal Code, 1860 (Act V of 1860).”.

Amendment of Schedule-II, Act V of 1898.—In the Code, in

Schedule-I, in column 1, against section 311, for the entry in column 7, the following shall be substituted, namely:-

“Death or imprisonment for life or imprisonment of either description for a term which may extend to fourteen years as ta’zir, or if the offence has been committed in the name or on the pretext of honour, imprisonment for life.”.

Act No. XLIV of 2016

An Act further to amend the Pakistan Penal Code, 1860, the Code of Criminal Procedure, 1898 and the Qanun-e-Shahadat, 1984

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898) and the Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement—(1) This Act may be called the Criminal Law (Amendment) (Offences Relating to Rape) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 55, Act XLV of 1860.—In the Pakistan Penal Code, 1860 (Act XLV of 1860), hereinafter referred to as the Penal Code, in section 55, in the proviso, for full stop at the end, a colon shall be substituted and thereafter the following second proviso shall be added, namely:—

“Provided further that in a case in which the sentence of imprisonment for life has been passed against an offender convicted for an offence punishable under sections 354A, 376, 376A, 377 or 377B, or where the principle of fasad-fil-arz is attracted, such punishment shall not be commuted.”.

3. Amendment of section 166, Act XLV of 1860—In the Penal Code, in section 166, the existing provision shall be re-numbered as sub-section (1) of that section and after sub-section (1), re-numbered as aforesaid, the following new sub-section shall be added, namely: —

“(2) Whoever being a public servant entrusted with the investigation of a case fails to carry out the investigation properly or diligently or fails to pursue the case in any court of law properly and in breach of his duties shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.”