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EXTRAORDINARY

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REGISTERED NO

ABAD, MONDAY, NOVEMBER 16, 1987

ISLAM.

PART I

Acts, Ordinances, President's Orders and Regulations including Martisi Law

Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 15th November, 1987

The following Acts of Majlis-e-Shoora (Parliament) received the assent of the President on the 8th November, 1987, and are hereby published for general information :—

Acr No, TX or 1987

An Act further to amend the Suppression of Terrorist Activities (Special Courts) Act, 1975.

WHEREAS it is expedient further to amend the Suppression of Terroris: Activities (Special Courts) Act, 1975 (XV of 1975), for the purpose hercinafte appearing ;

It is hereby enacted as follows :—

1. Shoxt title and commencement.—(1) This Act may be called the Suppres- sion of Terrorist Activities (Special Courts) (Amendment) Act, 1987.

(2) ft shali come into force at once,

2, Amendment of Schedule, Act XV of 1975.--In the Suppression of Terrorist Activities (Special Courts) Act, 1975 (XV of 1975), in the Schedule, in paragraph (a), after sub-paragraph (ii), the following new sub-paragraph shali be inserted, namely :—

“ (iia) section 302 or section 307, if committed in the course of the same

transaction in which an offence specified in this paragraph or paragraphs (b) and (©) is committed, or in addition to, or in combination with, such offence ;*

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An Act to provide for the establishment of Special Courts for the speedy trial"
' : . ef offences. :

Wuereas it is expedient in the public iiterest to provide for the establishracnt
of Special Courts for speedy wial of certain offences and for cxecution of sentences
and for matters connected therewith ;

Atis hereby enacted as follows :—

1. Shoré dite, extent and commeticement,—(!) This Act may be called the
Special Courts tor Speedy Trials Act, 1987.

_ (2) Lt_exiends (0 the whole of Pakistan and shall remain in force for a
period of one year from the date on which it is assented to by the President :

Provided that Parliament may, by a resolution of each House, extend the
said period for @ simifar term or terms.

(3) It shall come into force on such date us the Prayincial Government may,
by notification in the official Gazette, appoint.

2, Definitions—in this Act, unless there is anything repugnant in the sub-
ject or context,—

(a) “* Code ny means the Code of Criminal Procedure, 1898 (Act V of
1898) ;

(b) “Government” means the Provincial Government ;

(c) “offence” means an offence specified in the Schedule which, in the
, opinion of the Government, is gruesome, brutal and sensational in
character or shocking, to public morality or has led to public outrage
or created panic oran atmosphere of fear or anxiety amongst the
public or a section thereof

(d) “Special Court means a Special Court constituted under this Act.

“3. Act to override other faws.—The provisions of this Act shall have effect
notwithstanding anything contained in the Code or in any other law for the time
being in force.

A Constitution of Speciat Court.—(i) The Government may. by notification
in the official Gazette, establish for the whole' or any part of the Province one
or more Special Courts.

(2) A Special Court shall consist of a person, to be appointed by the

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Goyernor in consultation with the Chief Justice of the High Court, who is, or has
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(3) A Special Court shall sit at such places as the Government may by order,
specily in that behalf.

5. Jurisdiction of Special Couri.--(1) If the Government is of the opinion
that a case relating to an offence which has been registered should in public ia-
terest be tried and decided speedily, the Government may order that the case shall
be tried by a Special Court.

(2) If the Government is of the opinion that a case relating to an offence
which is pending before any court should in the public interest be tried and decided
speedily, the Government may, by order in writing, transfer the case for trial to a
Special Court.

(3) As soon as an order is made under sub-section (1) or sub-section (2) in
respect of any case, no court other than the Special Court referred to in such order:
shall have any jurisdiction* or entertain any proceedings in respect thereof.

(4) The Special Cour, may convict and sentence an accused for any offence
of which he may be found guilty,

(5) The Special Court shall have, in respect of a case triable by it, all the
powers which a High Court has in relation to a trial before it under the Code, in-
cluding the powers relating to the grant or cancellation of bail or recall or amend-
ment of any orders, and shall follow the procedure provided in the Code for such
trial,

6. Transfer of cases.—Where two or more Special Courts have jurisdiction
wholly er partly in the same territorial mits and the High Court is satisfied that,
for the genera! convenience of the parties or witnesses, or for the ends of justice,
it is expedient to do so, the High Court may, by order in writing, transfer a case
specified in the order from one Special Court to. another. -

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

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

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' 2) Any default on the part of an officer incharge of a police station, an investigating officer or any other person required by law to perform any functions..in connection with the investigation, which results in, or has the effect of, delaying the investigation or the submission of the report under sub-section (1), shall be deemed to be a wilful disobedience of the order of the Special Court and dealt with under the law accordingly.

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

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

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

(3) A Special Court shall not, merely by reason of a change in its composition or transfer of a case under sub-section. (2) of section 5 or section 6, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded,

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

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

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

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

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

(5) The advocate appointed under the second proviso to sub-section (4) shall be a person selected by the Special Court for the purpose and he shall be engaged at the expense of Government and a notice of his appointment shall be

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published by the Special Court in the newspapers referred to in the first proviso to the said sub-section. :

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

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

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

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

10. Bail,—An accused shall not be released on bail if there appear reasonable grounds for believing that he has been guilty of the offence for which he has been charged ; nor shall an accused person be so released unless the prosecution has been given notice to show cause why he would not be released.

11.-Contempt of Court.—The Special Court shall have the power to punish with rigorous imprisonment for a term which may extend to one year and with fine any person who.—

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

(b) 'scandalizes the Special Court or otherwise does anything which tends to bring the Special Court or the person constituting the Special Court in relation to his office into hatred, ridicule or contempt ;

(c) does anything which tends to prejudice the determination of a matter pending before the Special Court ; and

(d) does any other thing which, by any other law, constitutes contempt of court.

12, Appeal—(1) An appeal shall lie to the High Court within seven days of the final judgment passed by the Special Court, and a copy of the judgment shall be supplied to the accused and the prosecutor, free of cost, on the day the judgment is pronounced.

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(2) The advocate-General may, and on being directed by the Government shall, present to the High Court an appeal against an order of acquittal passed, or for enhancement of a sentence awarded, by the Special Court within seven days from the order or sentence passed by the Special Court.

(3) The Supreme Court shall decide an appeal within such time as may be determined by rules made by the Supreme Court in that behalf keeping in view the Purposes of this Act. ‘

13. Indemnity—No suit, prosecution or other legal proceedings shall ‘lic

~~against any person in respect of anything which is in good faith done or intended to be done under this Act.

14. Power to make rules.—The Government may frame rules for carrying out the purposes of this Act,

15. Repeal,—(1) The Special Courts for Speedy Trials Ordinance, 1987 (II of 1987), is hereby repealed.

(2) The repeal of the aforesaid Ordinance shall not—

(a) affect the previous operation of the aforesaid Ordinance or anything duly done or suffered thereunder ; or

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the aforesaid Ordinance ; or

(c) affect any penalty, forfeiture or punishment incurred in respect of any offence ; or

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(3) Notwithstanding the aforesaid repeal, any appointment, notification, order, rule, made or issued under the aforesaid Ordinance shall be deemed to have been made or issued under this Act,

THE SCHEDULE

[See section 2(c)]

Offences punishable under the following sections of the Pakistan Penal Code (Act XLV of 1860), namely :—

Sections 302, 303, 396 and 397 and any other offence committed in the course of the same transaction in which any of the said offences is committed, or in addition to, or in combination with, such offence.

AZIZ AHMAD QURESHI,
Secretary.

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PRINTED BY THE MANAGER, PRINTING CORPORATION OF PAKISTAN PRESS, ISLAMABAD
PUBLISHED BY THE MANAGER OF PUBLICATIONS, KARACHI