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PART I

Acts, Ordinances, President's Orders and Regulations
NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 3rd February, 1975

The following Act of Parliament received the assent of the President on the 1st February, 1975, and is hereby published for general information :—

ACT No. XV OF 1975

An Act to provide for suppression of acts of sabotage, subversion and terrorism

WHEREAS it is expedient to make special provisions for the purposes of suppressing acts of sabotage, subversion and terrorism and to provide for speedy trial of offences committed in furtherance of or in connection with such acts ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Suppression of Terrorist Activities (Special Courts) Act, 1975.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898) ;

(b) "scheduled offence" means an offence specified in the Schedule ;
and

(c) "Special Court" means a Special Court constituted under section 3.

(27)

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3. Constitution of Special Courts.—(1) The Federal Government may, by notification in the official Gazette, constitute, for the whole or any part of Pakistan, Special Courts consisting of a person who—

- (a) has been, or is, or is qualified for appointment as, Judge of a High Court; or
- (b) has, for a total period of not less than three years, exercised, whether continuously or not, the powers under the Code, of a Sessions Judge or an Additional Sessions Judge.

(2) If so directed by the Federal Government, the Provincial Government shall constitute a Special Court or Courts each consisting of a person who is qualified under sub-section (1) to be appointed as Special Court.

(3) A Special Court shall sit at such place as the Government constituting it may, by notification in the official Gazette, specify in this behalf.

4. Jurisdiction of Special Court.—(1) Notwithstanding anything contained in the Code, the scheduled offences shall be triable exclusively by a Special Court:

Provided that this section shall not be construed to require the transfer to a Special Court of any case which may be pending in any court immediately before the constitution of the Court.

(2) If, in the course of a trial before the Special Court, the Court is of opinion that any of the offences which the accused is alleged to have committed is not a scheduled offence, the Court shall record such opinion and try the accused only for such offence, if any, as is a scheduled offence.

5. Procedure of Special Court.—(1) A Special Court may take cognizance of a scheduled offence without the accused being committed to it for trial.

(2) A Special Court shall not be bound to adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.

(3) A Special Court shall not, merely by reason of a change in its composition, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

(4) After an accused person has once appeared before it, a Special Court may try him in his absence if, in its opinion—

- (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 Court has on that account ordered his removal from the court.

(5) An accused who is tried in his absence under sub-section (4) shall be deemed not to have admitted commission of the offence stated to have been committed by him.

(6) An accused person shall not be released on bail by a Special Court, or by any other court, if there appear reasonable grounds for believing that he has been guilty of a scheduled offence; nor shall an accused person be so released unless the prosecution has been given notice to show cause why he should not be so released.

(7) A Special Court shall, in all matters with respect to which no procedure has been prescribed by this Act, follow the procedure prescribed by the Code for the trial of ~~summary~~ cases by Magistrates.

6. Powers of Special Court.—A Special Court may pass any sentence authorised by law, and shall have all the powers conferred by the Code on a court of session exercising original jurisdiction.

7. Appeals from sentences imposed by Special Court, etc.—(1) A person sentenced by a Special Court shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, ~~but save as aforesaid~~ and notwithstanding the provisions of the Code or of any other law for the time being in force or of anything having the force of law by whatsoever authority made or done, no court shall have authority to revise such sentence, or to transfer any case from a Special Court or to make any order under section 426 or section 491 or section 498 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Court.

(2) An appeal under sub-section (1) shall be preferred to the High Court within thirty days of the passing of the sentence, and shall be heard and decided by a Bench of not less than two Judges of the High Court.

(3) Chapter XXIX of the Code shall apply to the suspension, remission and commutation of sentences passed by a Special Court. *[For order or acquittal, as the case may be.]*

8. Burden of proof.—Where any person accused of having committed a scheduled offence is found to be in possession of, or to have under his control, any article or thing which is capable of being used for, or in connection with, the commission of such offence, or is apprehended, in circumstances which tend to raise a reasonable suspicion that he has committed such offence, he shall be presumed to have committed the offence unless he can prove that he had not in fact committed the offence.

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

10. Act to override other laws.—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.

11. Repeal.—The Suppression of Terrorist Activities (Special Court) Ordinance, 1974 (XVIII of 1974), and the Suppression of Terrorist Activities (Special Court) (Amendment) Ordinance, 1974 (XXIV of 1974), are hereby repealed.

THE SCHEDULE

[See section 2 (b)]

- (a) Any offence punishable under any of the following sections of the Pakistan Penal Code (XLV of 1860), namely:—
- (i) sections 121, 121A, 122, 123, 123A, 400 and 431;
 - (ii) section 216, if committed in relation to an offender who is accused of having committed any of the offences specified in this Schedule;

1. Add. Ins. by Act III of 1976.

- (iii) sections 392, 393, 394, 395, 396, 397, 398 and 399, if a cannon, grenade, bomb, rocket or an arm of a prohibited bore is used for, or any public property is stolen, destroyed or damaged in, the commission of the offence ; or
- (iv) sections 435, 436, 437, 438 and 440, if an explosive substance, mineral oil or any product of mineral oil is used for the commission of the offence ;
- (b) Any offence punishable under the Explosive Substances Act, 1908 (XI of 1908) ;
- (c) Any offence punishable under the Arms Act, 1878 (XI of 1878), or any offence punishable under any of the following sections of the West Pakistan Arms Ordinance, 1965 (W. P. Ordinance No. XX of 1965), namely, sections 8, 9 and 10, if committed in respect of a cannon, grenade, bomb or rocket ;
- (d) Any offence punishable under any of the following sections of the Railways Act, 1890 (IX of 1890), namely, sections 126, 127 and 128 ;
- (e) Any offence punishable under section 25 of the Telegraph Act, 1885 (XIII of 1885) ;
- (f) Any offence punishable under rule 29 of the Aircraft Rules, 1937 ;
- (g) Any offence punishable under rule 43 of the Defence of Pakistan Rules ;
- (h) Any offence punishable under sub-section (1) of section 13 of the Prevention of Anti-National Activities Act, 1974 (VII of 1974), if such offence constitutes anti-national activity within the meaning of sub-clause (i) or sub-clause (ii) of clause (a) of section 2 of that Act ; and
- (i) Any attempt or conspiracy to commit, or any abetment of, any of the aforesaid offences.

ASLAM ABDULLAH KHAN,
Secretary.