

NATIONAL ASSEMBLY SECRETARIATREPORT OF THE STANDING COMMITTEE ON INTERIOR AND NARCOTICS CONTROL ON THE PROTECTION OF PAKISTAN (AMENDMENT) BILL, 2014 (ORDINANCE NO.1 OF 2014).

I, the Chairman, Standing Committee on Interior and Narcotics Control, have the honour to present this report on the Bill to amend the Protection of Pakistan Ordinance, 2013 (No. IX of 2013) [The Protection of Pakistan (Amendment) Ordinance, 2014] (No.1 of 2014) referred to the Standing Committee on 30-01-2014.

2. The composition of the Committee is as under: -

1.	Rana Shamim Ahmad Khan,	Chairman
2.	Syed Javed Ali Shah	Member
3.	Mr. Ghalib Khan	Member
4.	Begum Majeeda Wyne	Member
5.	Sheikh Muhammad Akram	Member
6.	Syed Iftikhar-ul-Hassan	Member
7.	Makhdoomzada Basit Bokhari	Member
8.	Ms. Tahmina Daultana	Member
9.	Mian Shahid Hussain Khan Bhatti	Member
10.	Makhdoom Syed Ali Hassan Gillani	Member
11.	Mr. Nauman Islam Shaikh	Member
12.	Mr. Ehsan-ur-Rehman Mazari	Member
13.	Nawab Muhammad Yusuf Talpur	Member
14.	Ms. Naema Kishwer Khan	Member
15.	Dr. Arif ur Rehman Alvi	Member
16.	Syed Asif Hasnain	Member
17.	Sardar Nabil Ahmed Gabol	Member
18.	Mr. Sher Akber Khan	Member
19.	Mr. Essa Noori	Member
20.	Col. (Retd) Dr. Amir Ullah Marwat	Member
21.	Ch. Nisar Ali Khan	Ex-Officio Member
	Minister Incharge for Interior and Narcotics Control	

3. The Committee in its meeting held on 01-04-2014 considered the said Bill in detail and approved with overwhelming majority. The Committee proposed the following amendments therein:-

(1)

Clause 2

In clause 2,-

(1) in paragraph (a), in the proposed clause (ca),—

- (i) The word "Combatant" occurring in the beginning shall be omitted;
- (ii) after the word "any" and before the word "act" the word "such" shall be inserted;

(iii) after the word "committed" at the end the words "and includes an act of aiding or abetting such offence" shall be added; and

(2) in paragraph (b) in clause (d), for the words "of his acquired citizenship by the Federal Government" the words "by the Federal Government of his citizenship acquired by naturalization" shall be substituted;

(2)

Clause 3

In clause 3, in the proposed substituted section 6,—

- (i) in sub-section (1), in the second proviso, for letter and words "a Combatant Enemy" the words "an Enemy" shall be substituted;
- (ii) in sub-section (2), the word "Combatant" shall be omitted;
- (iii) in sub-section (4), for the words "appeal mechanisms" the words "mechanisms for representation" shall be substituted; and
- (iv) in sub-section (5), for the words "this Ordinance shall be deemed to have been arrested or detained pursuant to the provisions of this Ordinance" the words, brackets and figures "the Protection of Pakistan Ordinance, 2013 (No. IX of 2013) shall be deemed to have been arrested or detained pursuant to the provisions of this Act if the offence in respect of which such arrest or detention was made also constitutes an offence under this Act" shall be substituted.

(3)

Clause 4

For clause 4, the following shall be substituted; namely:-

"4. Amendment of section 9, Ordinance IX of 2013.— In the said Ordinance, in section 9, after sub-section (1), the following new sub-section shall be inserted, namely;—

(1A) Subject to the Constitution,—

- “(a) the Government, Joint Investigation Team and Civil and Armed Forces may, in the interest of the security of its personnel or for the safety of the detainee or accused or intern, as the case may be, or for any other reasonable cause withhold the information regarding the location of the detainee or accused or intern or internment centre established or information with respect to any detainee or accused or intern or his whereabouts; and
- (b) the Government may not in the interest of the security of Pakistan disclose the grounds for detention or divulge any information relating to a detainee, accused or interne who is an Enemy Alien or Enemy.”.

(4)

Clause 6

In clause 6, in the amendment of section 15, for the words “his citizenship” at the end the words “the citizenship acquired by him by naturalization” shall be substituted.

4. The Standing Committee recommends that the Bill as reported by the Standing Committee placed at Annex “A” may be passed by the Assembly. The Bill as introduced in the National Assembly is placed at Annex “C”. The Note of dissent jointly given by Syed Asif Hasnain and Sardar Nabeel Ahmed Gabool, MNAs is at (Annexure-B).

sd/-
(KARAMAT HUSSAIN NIAZI)
Secretary

sd/-
(RANA SHAMIM AHMAD KHAN)
Chairman

Islamabad, the 1st April, 2014

[AS REPORTED BY THE STANDING COMMITTEE]

A

BILL

to amend the Protection of Pakistan Ordinance, 2013

WHEREAS it is expedient to amend the Protection of Pakistan Ordinance, 2013 (IX of 2013) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.—(1) This Act may be called the Protection of Pakistan (Amendment) Act, 2014.

(2) It shall come into force at once.

2. Amendment of section 2, Ordinance IX of 2013.—In the Protection of Pakistan Ordinance, 2013 (IX of 2013), hereinafter referred to as the said Ordinance, in section 2,—

(a) after clause (c), the following new clause shall be inserted, namely:—

“(ca) “Enemy” means any person who raises arms against Pakistan, its citizens, the armed forces / civil armed forces or aids or abets the raising of arms or waging of war against Pakistan or threatens the security and integrity of Pakistan or commits or threatens to commit any Scheduled Offence and includes a person who commits any such act outside territory of Pakistan for which he has used the soil of Pakistan for preparing to commit an act that constitutes an offence under the laws of Pakistan and the laws of the state where such offence has been committed and includes an act of aiding or abetting such offence;”;

(b) in clause (d), after the word “Pakistan”, occurring for the first time, the words “or who has been deprived by the Federal Government of his citizenship acquired by naturalization” shall be inserted; and

(c) in clause (f), after the word “Governments” the words “or the Federal Government” shall be inserted.

3. Substitution of section 6, Ordinance IX of 2013.—In the said Ordinance, for section 6 the following shall be substituted, namely:—

“6. **Preventive Detention.**—(1) The Government may, by an order in writing, authorize the detention of a person for a period specified in the order that shall not exceed ninety days if in the opinion of the Government such person is acting in a manner prejudicial to the integrity, security, defense of Pakistan or any part thereof or external affairs of Pakistan or public order or maintenance of supplies and services:

Provided that detention of such person shall be in accordance with the provisions of Article 10 of the Constitution:

Provided further that without prejudice to the above, an Enemy Alien or an Enemy may be detained by the Government for such period as may be determined by it from time to time in accordance with Article 10 of the Constitution.

Explanation.—A person connected or reasonably believed to be connected with the commission of a Scheduled Offence or a person falling under sub-section (5) of section 5 shall be deemed to be a person acting in the manner stated above.

(2) In areas where the Federal Government or the Provincial Government has called armed forces in aid of civil power under Article 245 of Constitution or where any civil armed force has been called by the Federal Government or Provincial Government in aid of civil power under Anti-Terrorism Act, 1997, the said requisitioned force may detain any enemy alien, enemy, or any person connected or reasonably believed to be connected with the commission of a Scheduled Offence in designated internment camps after a notification to that effect:

Provided that detention of such person shall be in accordance with the provisions of Article 10 of the Constitution.

(3) At any time during the said notifications or upon their withdrawal, such internee may be handed over to Police or any other investigating agency for formal investigation and prosecution.

(4) The Federal Government shall make Regulations to regulate the internment orders, internment camps, and mechanisms for representation against the internment orders.

(5) Any person arrested or detained by the armed forces or civil armed forces and kept under arrest or detention before the coming into force of the Protection of Pakistan Ordinance, 2013 (No. IX of 2013)

shall be deemed to have been arrested or detained pursuant to the provisions of this Act if the offence in respect of which such arrest or detention was made also constitutes an offence under this Act.”

4. Amendment of section 9, Ordinance IX of 2013.—In the said Ordinance, in section 9, after sub-section (1), the following new sub-section shall be inserted, namely:—

“(1A) Subject to the Constitution,—

- (a) the Government, Joint Investigation Team, armed forces or civil armed forces may, in the interest of the security of its personnel or for the safety of the detainee or accused or intern, as the case may be, or for any other reasonable cause withhold the information regarding the location of the detainee or accused or intern or internment centre established or information with respect to any detainee or accused or intern or his whereabouts; and
- (b) the Government may not in the interest of the security of Pakistan disclose the grounds for detention or divulge any information relating to a detainee, accused or interne who is an Enemy Alien or Enemy.”.

5. Insertion section 9A, Ordinance IX of 2013.—In the said Ordinance, after section 9, the following new section shall be inserted, namely:—

“9A. **Exclusion of public from proceedings of Special Court.**— In addition, and without prejudice, to any powers which a Special Court may have by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of the trial of any person before a Special Court, an application is made by the prosecution on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the public safety, and that, for that reason, all or any portion of the public should be excluded during any part of the hearing, the Special Court may make an order to that effect, but the passing of sentence shall in any case take place in public.”.

6. Amendment of section 15, Ordinance IX of 2013.—In the said Ordinance, in section 15, the following shall be added at the end, namely:—

“The Special Court may also deprive the offender of the citizenship acquired by him by naturalization.”.

7. **Amendment of section 16, Ordinance IX of 2013.**—In the said Ordinance, in section 16, after sub-section (2), the following new sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in any other law for the time being in force, the Government may apply to any court of law or tribunal that any case involving any Scheduled Offence punishable under this Act, pending before such a court or tribunal be transferred to a Special Court, then such other court or tribunal shall transfer the said case to a Special Court and it shall not be necessary for the Special Court to recall any witness or again record any evidence that may have been recorded.”.

8. **Addition of new sections 21 and 22, Ordinance IX of 2013.**—In the said Ordinance, after section 20, the following new sections shall be added, namely:—

“21. Overriding effect.—The provisions of this Act shall have effect notwithstanding anything contained in any law for the time being in force. In case there is any conflict between the provisions of this Act and any other law for the time being in force the provisions of this Ordinance shall prevail to the extent of inconsistency.

22. Removal of difficulties.—If any difficulty arises in giving effect to any provision of this Act, the President may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing such difficulty.”.

STATEMENT OF OBJECTS AND REASONS

The Protection of Pakistan Ordinance, 2013 promulgated to provide for protection against waging of war against Pakistan, prevention of acts threatening the security of Pakistan and for speedy trial of certain offences. However, in order to curb the threats of terrorism and to protect the law abiding citizens, it becomes necessary to immediately further strengthen the mechanism provided in that Ordinance.

2. The bill designed to achieve the aforesaid object.

MR. PERVAIZ RASHID
Minister for information,
Broadcasting and National Heritage
Minister-in-Charge

MUTAHIDA QUAMI MOVEMENT (PAKISTAN)

DISSENT NOTE

I hereby submit my dissent note to Ordinance 1 of 2014

1. In clause 3 a proviso shall be inserted namely:
“(i), provided further that any person is arrested or detained under this Act shall be provided compulsory medical checkup by the Government every fortnightly by a qualified doctor and detainee shall be produced every fortnightly before the special court to ensure that appropriate medical treatment and medical supervision is provided to the detainee.

(ii) in clause 3 Sub-clause (3) and (5) may be omitted.
2. The Sub-section (1A) and (1B) may be omitted.
3. In clause 5 new section (9A) may be omitted.
4. In clause 6 substitution is opposed.
5. In clause 7 new sub-section is opposed.

sd/-

(SYED ASIF HASNAIN)
Member
Standing Committee on
Interior and Narcotics Control

Sd/-
(SARDAR NABEEL AHMED GABOOL)
Member
Standing Committee on
Interior and Narcotics Control

AS INTRODUCED IN THE STANDING COMMITTEE
[Published in the Gazette of Pakistan, Extraordinary,
Part-I, dated the 22nd January, 2014]

ORDINANCE NO. I OF 2014

AN

ORDINANCE

*to amend the Protection of Pakistan Ordinance,
2013*

WHEREAS it is expedient to amend the Protection of Pakistan Ordinance, 2013 (IX of 2013) for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

