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ORDINANCE No. VI OF 2023

AN

ORDINANCE

*further to amend the Pakistan Penal Code 1860*

WHEREAS it is expedient further to amend certain provisions of the Pakistan Penal Code, 1860 (XLV of 1860), in the manner and for the purpose hereinafter appearing;

AND WHEREAS the Senate and National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exists which render it necessary to take necessary action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance shall be called the Criminal Law (Amendment) Ordinance, 2023.

(2) It shall come into force at once.

2. **Amendment in section 462O, Act No. XLV of 1860.**—(1) In the Pakistan Penal Code, 1860 (XLV of 1860), for section 462O, the following shall be substituted, namely:—

“462O. **Cognizance.**—(1) The offences punishable under this Chapter shall be cognizable however the police shall not take cognizance of an offence under this Chapter except where information of an offence under this Chapter is provided to the police in writing by a duly authorized officer (not below Grade 17) of the Government or by a person duly authorized by a Chief Executive Officer of a power distribution company as the case may be.”

## **STATEMENT OF OBJECTS AND REASONS**

Power Sector is beset with challenges of high losses and under recoveries. One of the primary reasons of losses is rampant theft. Primarily, this Phenomenon is result of weak legal and enforcement structure.

2. In the Criminal Procedure Code, offences are either cognizable by police, which means arrest can be made by police without warrant, or the Court decides whether or not to allow the police to investigate and arrest. This amendment was made through Criminal Law (Amendment) Ordinance, 2013 and then promulgated in 2014 as section 4620.

3. Although, through an amendment to the Schedule of Criminal Procedure Code, the offences relating to electricity were made cognizable by the police but Section 4620 has made them cognizable by the Court alone, Since the main Act prevails over the schedules, the Courts had held that direct FIRs to the Police by the DISCOs (i.e. without first a complaint to the Court which is the Session Court in this case) were void, and arrests made by the Police were unlawful. Resultantly there is practically no conviction in cases related with theft of electricity.

4. Power Division is of the view that an amendment in Section 4620 of the Pakistan Penal Code (PPC) is required to be made by which cognizance of the offence (electricity theft) may be taken by police once information of such offence is provided to the police in writing by a duly authorized officer of the Government or by an officer of an equivalent grade of a Distribution License.

  
**Minister-in-Charge**