

NATIONAL ASSEMBLY SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON INTERIOR AND NARCOTICS CONTROL ON THE ANTI-TERRORISM (AMENDMENT) BILL, 2013, (ORDINANCE NO.VII OF 2013)

I, the Chairman of the Standing Committee on Interior and Narcotics Control have the honor to present this report on the Bill further to amend the Anti-terrorism Act 1997 (XXVII of 1997) [The Anti-terrorism (Amendment) Bill, 2013] (Ordinance No. VII, 2013), referred to the Committee on the 7th November, 2013.

2. The Committee comprises the following members:

1. Rana Shamim Ahmed Khan	Chairman
2. Syed Javed Ali Shah	Member
3. Mr. Ghalib Khan	Member
4. Dr. Ibadullah	Member
5. Sheikh Muhammad Akram	Member
6. Syed Iftikhar-ul-Hassan	Member
7. Makhdoomzada Basit Bokhari	Member
8. Ms. Tahmina Daultana	Member
9. Mr. Nauman Islam Sheikh	Member
10. Mr. Ehsan-ur-Rehman Mazari	Member
11. Nawab Muhammad Yousuf Talpur	Member
12. Ms. Naeema Kishwer Khan	Member
13. Dr. Arif Alvi	Member
14. Syed Asif Hasnain	Member
15. Sardar Nabil Ahmed Gabol	Member
16. Mr. Sher Akber Khan	Member
17. Mian Shahid Hussain Khan Bhatti	Member
18. Sayed Essa Nori	Member
19. Makhdoom Syed Ali Hassan Gillani	Member
20. Minister for Interior and Narcotics Control	Ex-Officio Member

3. The Committee in its meetings held on 31st December, 2013, 8th and 13th January, 2014 considered the said Bill in detail and proposed the following amendments, therein:-

Clause 5

(a). (i) that in clause 5, for paragraph (i), the following shall be substituted namely:-

“(1) An investigating officer under this Act shall be an officer or Police Officer not below the rank of Inspector or equivalent or, if the Government deems necessary Joint Investigation Team to be constituted by the Government shall be headed by an Investigating Officer of Police not below the rank of Superintendent of Police,(BS-18) and other officers of JIT may include equivalent rank from Intelligence Agencies, Armed Forces and Civil Armed Forces. The JIT shall comprise five members and for the meeting purposes the quorum shall consists of three members.

The investigating officer or the JIT, as the case may be, shall complete the investigation in respect of cases triable by the court within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer of police directly to the court:

Provided that where the provisions of sections 4 and 5 have been invoked, the investigation shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies including an investigating officer of police not below the rank of Inspector who shall sign the report under section 173 of the Code and forward it to the Court:

Provided further that, where investigation is not completed within a period of thirty days from the date of recording of the first information report under section 154 of the code, the investigating officer or the JIT shall, within three days after expiration of such period, forward to the Court through the Public Prosecutor, an interim report under section 173 of the Code, stating therein the result of investigation made until then and the Court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial may not so commence. The interim report shall be signed by the investigating officer of police:

Provided that the head of Law Enforcement Agency having jurisdiction shall conduct an internal review of all actions initiated under this Act on monthly basis.”.

Clause 9

(b) that in clause 9, in the proposed section 27B, for the word, “solely” occurring twice, the words “may be done” shall be substituted.

4. The Committee in majority recommended that the Bill as reported by the Committee (Annex-B) may be passed by the National Assembly. The Bill as introduced in the National Assembly is at Annex "A". The Note of dissent submitted by Syed Asif Hasnain and Sardar Nabil Ahmed Gabol, MNAs is at Annex "C". The proposal submitted by Dr.Arif Alvi,MNA is at Annex "D". The Note of Dissent of Mrs. Naeema Kishwer Khan, MNA is at (Annexure-E).

Sd/-

(Rana Shamim Ahmed Khan)
Chairman

Sd/-

(Karamat Hussain Niazi)

Secretary

Islamabad, 29th January, 2014

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

A

Bill

further to amend the Anti-terrorism Act, 1997

WHEREAS it is expedient further to amend the Anti-terrorism Act 1997 (XXVII of 1997), for the purposes hereinafter appearing;

Short title and commencement.—(1) This Act may be called the Anti-terrorism (Amendment) Act, 2013.

(2) It shall come into force at once.

2. **Amendment of section 5, Act XXVII of 1997.**—In the Anti-terrorism Act, 1997 (XXVII of 1997), hereinafter referred to as the said Act, in section 5, in sub-section (2), in paragraph (i), for the words “when fired upon” the words and comma “after forming reasonable apprehension that death, grievous hurt or destruction of property may be caused by such act” shall be substituted.

3. **Amendment of section 11EEEE, Act XXVII of 1997.**—In the said Act, in section 11EEEE,—

(i) for sub-section (1), the following shall be substituted, namely,—

“(1) The Government or, where the provisions of section 4 have been invoked, the armed forces or civil armed forces, as the case may be, subject to the specific or general order of the Government in this regard, for period not exceeding three months and after recording reasons thereof, issue order for the preventive detention of any person who has been concerned in any offence under this Act relating to the security or defence of Pakistan or any part thereof, or public order relating to target killing, kidnapping for ransom, and extortion/bhatta, or the maintenance of supplies or services, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned, for purpose of inquiry:

Provided that further detention of such person if necessary shall be subject to provisions of Article 10 of the Constitution.”:

- (ii) in sub-section (2), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that where the detention order has been issued by the armed forces or civil armed forces under sub-section (1), the inquiry shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies, including a police officer not below the rank of Superintendent of Police; and

- (iii) after sub-section (2) amended as aforesaid, the following new sub-section shall be inserted, namely:—

“(2a) The provisions of sub-sections (1) and (2) amended as aforesaid shall remain in force for such period as may be notified by the Government from time to time:

Provided that such period shall not exceed two years from the commencement of the enactment of this Act by Parliament.”.

4. **Amendment of section 18, Act XXVII of 1997.**—In the said Act, in section 18, in sub-section (1), the word “Provincial” shall be omitted.

5. **Amendment of section 19, Act XXVII of 1997.**—In the said Act, in section 19,—

- (i) for sub-section (1), the following shall be substituted, namely:—

“(1) The offences under this Act shall be investigated by a police officer not below the rank of Inspector or, where the Government deems it necessary, by a Joint Investigation Team (JIT) to be constituted by the Government comprising the investigating officer of police not below the rank of Inspector, and officers from intelligence agencies and other law enforcement agencies. The investigating officer or the JIT, as the case may be, shall complete the investigation in respect of cases triable by the Court within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer of police directly to the Court:

Provided that where the provisions of section 4 and 5 have been invoked, the investigation shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies including an investigating officer of police not below the rank of Inspector who shall sign the report under section 173 of the Code and forward it to the Court:

Provided further that, where investigation is not completed within a period of thirty days from the date of recording of the first information report under section 154 of the code, the investigating officer or the JIT shall, within three days after expiration of such period, forward to the Court through the Public Prosecutor, an interim report under section 173 of the Code, stating therein the result of investigation made until then and the Court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial may not so commence. The interim report shall be signed by the investigating officer of police.”;

(ii) after sub-section (1A), the following new sub-section shall be inserted, namely:-

“(1B) Where any person has been arrested by the armed forces or civil armed forces under section 5, he shall be handed over to the investigating officer of the police station designated for the purpose by the Provincial Government in each District.”;

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

“(7) The Court shall, on taking cognizance of a case, proceed with the trial from day-to-day and shall decide the case within seven days, failing which the matter shall be brought to the notice of the Chief Justice of the High Court concerned for appropriate directions, keeping in view the facts and circumstances of the case.”;

(iv) in sub-section (8), for the words “consecutive adjournments during the trial of the case” the words “adjournments during the trial of the case and that too on imposition of exemplary costs” shall be substituted; and

(v) in sub-section (8a), after the word “sub-section” the brackets, figure and word “(7) or” shall be inserted.

6. **Insertion of new section, Act XXVII of 1997.**-In the said Act, after section 19A, the following new section shall be inserted, namely:-

“**19B Pre-trial scrutiny.**-Before commencement or the trial, the Prosecutor shall scrutinize the case file to ensure that all pre-trial formalities have been completed so that the actual trial proceeds uninterrupted from day-to-day.”

7. **Amendment of section 21, Act XXVII of 1997.**-In the said act, in section 21.-

(1) in sub-section (2), after the word “proceedings” and full-stop at the end, the following shall be inserted, namely:-

“These measures may include the following, namely:—

- (a) screens may be used during trial to shield witnesses, Judges and Prosecutors from public view;
- (b) trial may be held in jail premises or through video link
- (c) witness protection programmes may be established by the Government through law or rules.

The Provincial Government shall take necessary steps to ensure that prisoners in Jails do not have access to mobile phones.”; and

- (2) after sub-section (3), the following new sub-section shall be inserted, namely:—

“(4) The provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force, including the Qanun-e-Shahdat, 1984(P.O.No.10 of 1984).”.

8. **Amendment of section 27, Act XXVII of 1997.**—(1) Section 27 shall be renumbered as sub-section (1) thereof, and,—

- (i) in the short title, after word “investigation” the words “and reward for successful investigation” shall be added; and
- (ii) after sub-section (1) renumbered as aforesaid, the following new sub-section shall be inserted, namely,—

“(2) Incentive systems shall be introduced by the Provincial Governments providing for appropriate rewards to investigating officers who conduct successful investigation.”.

9. **Insertion of new section, Act XXVII of 1997.**—In the said Act, after section 27A, the following new section shall be inserted, namely:—

“**27B. Conviction solely on the basis of electronic or forensic evidence etc.**—Notwithstanding anything contained in this Act or Qanun-e-shahadat, 1984 (P.O.No.10 of 1984) or any other law for the time being in force, the conviction of an accused for an offence under this Act solely on the basis of electronic or forensic evidence or such other evidence that may have become available because of modern devices or techniques referred to in Article 164, of the Qanun-e-Shadat, 1984 (P.O.No.10 of 1984), shall be lawful.”.

10. **Amendment of section 28, Act XXVII of 1997.**—In the said Act, in section 28,—
 - (i) after sub-section (1), the following new sub-section shall be inserted, namely:—

“(1A) Where it appears to the Government that it would be in the interest of justice or expedient for protection and safety of judges, witnesses or prosecutors, it may apply to the Chief Justice of the High court concerned for transfer of a case from an Anti-terrorism Court falling within its jurisdiction to an Anti-terrorism Court in any other place in Pakistan and for this purpose shall also seek concurrence of the Chief Justice of the High Court concerned.”; and

(ii) after sub-section (2), the following new sub-sections shall be added, namely:-

“(3) The Federal Government may in the interests of justice and for protection and safety of witnesses and investigators, transfer the investigation of any case from one place to any other place in Pakistan.

(4) The investigating officer or the agency to which case is transferred under sub-section (3), may proceed from the stage the inquiry or investigation was left or may proceed with the case as if it had been originally entrusted to him or the agency, as the case may be.

(5) On completion of investigation and before submission of report under section 173 of the Code, the Federal Government may direct that the case falling in the jurisdiction of a particular Anti-terrorism court may be forwarded for trial to another Anti-terrorism court any where in Pakistan, as may be specified by the Federal Government in this behalf, in the public interests or for the safety and protection of judges, public prosecutors or witnesses.”.

STATEMENT OF OBJECTS AND REASONS

Due to the increasing terrorism in the country, more legislative measures are required to enhance the effectiveness of the law enforcing agencies in tackling heinous crime, specially conferring powers of investigation on Rangers, providing legal cover to Joint Investigation Team (JIT), enabling Police to become complainants in extortion cases, and special provisions for protection of witnesses (faceless) through video recording.

2. The Bill is designed to achieve the aforesaid purpose.

SHAIKH AFTAB AHMED
Minister of State for Parliamentary Affairs
Member-in-Charge

[AS REPORTED BY THE STANDING COMMITTEE]

A

Bill

further to amend the Anti-terrorism Act, 1997

WHEREAS it is expedient further to amend the Anti-terrorism Act 1997 (XXVII of 1997), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Anti-terrorism (Amendment) Act, 2014.

(2) It shall come into force at once.

2. **Amendment of section 5, Act XXVII of 1997.**—In the Anti-terrorism Act, 1997 (XXVII of 1997), hereinafter referred to as the said Act, in section 5, in sub-section (2), in paragraph (i), for the words “when fired upon” the words and comma “after forming reasonable apprehension that death, grievous hurt or destruction of property may be caused by such act” shall be substituted.

3. **Amendment of section 11EEEE, Act XXVII of 1997.**—In the said Act, in section 11EEEE,—

(i) for sub-section (1), the following shall be substituted, namely,—

“(1) The Government or, where the provisions of section 4 have been invoked, the armed forces or civil armed forces, as the case may be, subject to the specific or general order of the Government in this regard, for a period not exceeding three months and after recording reasons thereof, issue order for the preventive detention of any person who has been concerned in any offence under this Act relating to the security or defence of Pakistan or any part thereof, or public order relating to target killing, kidnapping for ransom, and extortion/bhatta, or the maintenance of supplies or services, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned, for purpose of inquiry:

Provided that further detention of such person if necessary shall be subject to provisions of Article 10 of the Constitution.”:

