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ORDINANCE NO. I OF 2014

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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;

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 is pleased to make and promulgate the following Ordinance, namely:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Protection of Pakistan (Amendment) Ordinance, 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) “Combatant Enemy” means any person who raises arms against Pakistan, its citizens, the Armed Forces or 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 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”;

(b) in clause (d), after the word “Pakistan”, occurring for the first time, the words “or who has been deprived of his acquired citizenship by the Federal Government” 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 a Combatant 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, combatant 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 appeal mechanisms 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 this Ordinance shall be deemed to have been arrested or detained pursuant to the provisions of this Ordinance."

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

- “(1A) 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.

- (1B) Subject to the Constitution 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 Combatant 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, for the full stop, at the end, the following shall be substituted, namely:—

“The Special Court may also deprive the offender of his citizenship.”.

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 Ordinance, 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 Ordinance 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 Ordinance 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 Ordinance, the President may make such order, not inconsistent with the provisions of this Ordinance, 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 was 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.

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Broadcasting and National Heritage
Minister-in-Charge