

DEWEAPONISATION
OF PAKISTAN BILL 2011

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BILL

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to provide measures for the creation of weapon free Pakistan by banning the production, proliferation, smuggling, import and use of firearms and ammunition and weapons and for the restoration of peace and public order throughout Pakistan;

WHEREAS it is expedient to provide measures for banning the unauthorized production, illicit trafficking, possession and use of arms and weapons, so as to eradicate killings, kidnapping for ransom and extortion by terrorists, criminals and anti-social elements for waging guerrilla war against the State, indulgence in vandalism, mass destruction, suicide bombing, desecration of places of worship, killings of the innocent citizens, and to restore peace, tranquility, sanity and public order in the country;

WHEREAS, the Preamble to the Constitution of the Islamic Republic of Pakistan states that “it is the will of the people of Pakistan to establish an order, wherein the State shall exercise its powers and authority through the chosen representatives of the people”, for safeguarding “the integrity of the territories of the Federation, its independence and all its rights, including the sovereign rights on land, sea and air”;

WHEREAS “inspired by the resolve to protect our national and political unity and solidarity by creating an egalitarian society through a new order”, the Constitution of the Islamic Republic of Pakistan 1973 “was adopted and enacted by our representatives in the National Assembly”;

WHEREAS the new order introduced by the Constitution is being jeopardized and throttled by the terrorists, criminals and anti-social elements unremittingly since the advent of the Russian-Afghan war that proliferated drug and Kalashnikov culture in Pakistan;

WHEREAS within a period of last four years alone, from 2006 to 2009, the terrorists and criminals made 6894 attacks by the use of illicit arms throughout the length and breadth of the country thereby killing, murdering and assassinating 9,643, injuring 18,788 persons, besides kidnapping thousands of citizens for ransom, and causing cold blooded-murders of the peace loving members of political parties, the military, Para-military forces, law enforcing agencies and the citizens at large;

WHEREAS it is imperative to control the use and proliferation of lethal weapons, arms, ammunitions and weapons and to curb vandalism and violence against the life and property of the peace-loving innocent citizens of Pakistan;

WHEREAS the subject “arms, firearms and ammunitions”, falls within the jurisdiction of the provinces, and the Provincial Governments are finding it difficult to control this menace which has assumed monstrous proportion throughout the length and breadth of the country;

WHEREAS like fatal viral diseases and epidemics that recognize no provincial barriers and which can be controlled and curbed by a centralized authority, similarly, the use of fire arms, explosives and lethal weapons by the criminals and anti-social elements can not be controlled and curbed by the solo efforts of one or two provinces alone;

WHEREAS under Article 144 of the Constitution the Provincial Assemblies have passed resolutions to enable the National Assembly to regulate the matter envisaged by the instant law;

WHEREAS the peace, stability and integrity of the country is under a constant threat, intimidation, dastardly and violent acts by the unrestrained are rampant and in view of the widespread use of firearms, explosives and lethal weapons by the criminals, land, arms and drug mafia, and the anti-state elements, it is expedient to eliminate this menace by the lead efforts of the chosen representatives of the National Parliament, by adopting and enacting a law as under:

1. Short title, extent and commencement._

- (1). This Act may be called the Deweaponisation of Pakistan Act, 2011.**
- (2). It extends to the Provinces of Baluchistan, Khyber Pakhtunkhwa, Punjab, Sindh, the Islamabad Capital Territory and the Federally and Provincially Administered Areas including Gilgit Baltistan.**
- (3). It shall come into force at once.**

2. Exception.---Nothing contained in this Act shall apply to---

- (a) arms, ammunitions or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment; or**
- (b) the manufacture, sale, maintenance, purchase, transport, bearing or possession of arms, ammunitions, weapons or military stores by and for the order of the Government or maintained by armed forces or , law-enforcing-agencies;**

Provided that no manufacture of the arms, weapons, explosives or military stores shall be undertaken except by the Government or the Army directly.

3. Definitions._ in this Act unless the context otherwise requires, the following shall have the meaning hereby respectively assigned to them, that is to say.---

- (a) “ammunition” includes---**
 - (i) ammunition of all type for light and heavy automatic weapon, revolver, pistol, rifles, including AK 47, muskets and shot-guns;**

(ii) ammunition constructed and modified for firing projectiles or gas or smoke containers;

(iii) gun wads, gun flints, percussion caps, fuses, friction tubes and detonators;

(iv) all types of grenades, bombs, rockets, mines and fuels for flame throwers;

(v) all types of explosives, fulminating material and propellants, including all articles specially designed for torpedo operation and depth charges;

(vi) any ammunition or part thereof not falling in the above;

(b). “arms” includes---

(i) cannon;

(ii) firearms of all type such as light and heavy automatic and semi automatic weapons, rifles including AK 47, carbines, muskets, shotguns(whether single or double barrel) revolvers, pistols and appliances the object of which is the silencing of fire arms;

(iii) air pistols, bayonets, swords, sword-sticks, daggers and knives with blades of four inches or more (but not kitchen knives or knives used in good faith for carrying of a profession);

(iv) knuckle dusters, spears, spear-heads, bows and arrows and parts of arms;

(c) “Canon” includes---

(i) all types of artillery, mortars, machines and sub-machine guns;

- (ii) silencers for all machines and sub-machine guns;**
 - (iii) anti-tank rifles and recoil-less guns or rifles and bazookas;**
 - (iv) revolvers or pistols over 46 inches bore;**
 - (v) nuclear weapons of all types;**
 - (vi) projectors, guided missiles and discharges for grenades, rockets, bombs and gas or smoke containers;**
 - (vii) flame throwers of all types;**
 - (viii) all carriages platforms and appliances for mounting or transporting canon; and**
 - (ix) any other canon or part thereof not falling in the above;**
- (d) “Committee” means committee constituted under Section 23 of this Act.**
- (e) “De-weaponisation” means a conscious government policy in curbing the manufacture, trade, spread, possession and use of arms and weapons and explosives;**
- (f). “Explosive” includes any bomb, grenade, dynamite or explosive substance capable of causing any injury or death to a person or damage to any property;**
- (g). “Government” means Federal Government, Provincial Government or Local Government;**
- (h) “Illicit trafficking including gun running” means smuggling and trading of guns, arms, weapons and ammunition into the country secretly and illegally;**
- (i). “Prescribed” means prescribed by rules under this Act.**

(j). **“Weapon” means and includes rocket-propelled grenade launchers, machine guns light mortars and land mines;**

(k). **“Terrorism” means use or threat of action where the use of or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society or action that causes injury or death, or use of firearms, explosives or other weapons for ulterior motives of the perpetrators.**

4. The Act to override other laws etc.--

(i) **The provisions of this Act and any rules or orders made there under, shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force, or any order or decree of a Court or Tribunal or other Authority or any rule, custom or usage, contract, instrument deed or other document.**

(ii) **It is clarified that other laws shall operate in addition to this Act.**

5. Ban on issuance of license.--

No arms license, of whatsoever nature, prohibited or non-prohibited, and for any purpose, shall be issued by the Government to any person with effect from the commencement of this Act.

6. Surrender and seizure of unlicensed arms and weapons.—

All persons who are in possession of arms, ammunition, and weapons without any authorization or valid license, are required to surrender such arms, ammunitions, weapons to the authorized person or agency designated by the Government in the district where they ordinarily reside, within three months from the events specified in Section 20.

7. Punishment

Whosoever contravenes the provisions of Section 6, the arms, ammunitions and weapons as mentioned in Section 6 shall be seized and forfeited by Government and he shall be punished with imprisonment for a term not less than seven years and not more than twelve years and shall also be liable to fine up to rupees five million. In case of default, he shall be punished with imprisonment for a further period of three year.

8. Cancellation of valid licenses and Punishment.--

(i) The licenses of all arms and ammunitions issued to individual persons, companies and dealers by the Government prior to the commencement of this Act shall stand cancelled without any notice after three months from the event specified in Section 20.

(ii) All the license holders whose licenses stand cancelled under Section 8(i) shall deposit such arms, with such authorized person or Agency in the District as may be prescribed, immediately upon the expiry of the three-month period specified in section 8(i), in default whereof the violators shall be punished in terms of section 7.

9 Prohibition on illicit manufacturing of arms and weapons.--

No person shall manufacture, produce and assemble arms and ammunitions illicitly anywhere in Pakistan after three months from the commencement of this Act.

10. Contravention of illicit manufacture

Whosoever contravenes the provisions of Section 10 shall be punished with imprisonment for a term of not less than twelve years and shall also be liable to fine not less than ten million. In case of non payment of fine he may be punished with further imprisonment up to a period of three year.

11. Prohibition of illicit trafficking in arms and weapons.--

Whosoever indulges in the illicit trade or trafficking in firearms, ammunitions, weapons and their parts and components within the territories of Pakistan shall be punished with imprisonment for a term not less than nine years and shall also be fined not less than rupees seven and a half million and in default of such payment shall under go imprisonment for a further period of three years.

12. Prohibition of display of arms.

Whosoever displays new, operational, old or ancestral non-operative arms or weapons in public shall be punished with imprisonment not exceeding seven years and fine not more than rupees five million only.

13. Abetment.--

Whosoever abets the persons who contravene the provisions of Sections 6,8,9,10,11 and 12 of the Act shall be punished in the same manner as the principal perpetrator(s).

14. Destroying the seized illicit arms and ammunitions.--

All the unlicensed arms, ammunitions and weapons seized or deposited Under Sections 6, 9 and 11 shall be destroyed in public on the orders of the Government

15. Disposal of arms, ammunitions and weapons deposited by licensees.

All licensed arms, ammunition and weapons deposited under section 8 of the Act shall be sold to the Government agencies at market price and the proceeds so received shall be paid to persons who had held the license and owned the said arms and weapons.

16. Bar of Jurisdiction.--

(1) No Court shall call into question or permit to be called into question any provision of the Act or of any rule made there under;

(2) No Court shall grant any injunction or make any order or entertain any proceedings, in relation to anything done or purported to be done under this Act.

17. Indemnity.--

No suit, prosecution or other legal proceedings shall lie against any public servant or any other person for anything done in good faith under the Act or any rule made there-under.

18. Searches and seizure in the case of offences how conducted.--

When a search or seizure is to be made for any of the purposes of this Act, such search shall be made under the provisions of the Code of Criminal Procedure (Act V of 1898).

19. Trial of offences:

(1) All offences under this Act shall be cognizable and triable by a Court of session in whose jurisdiction the offence takes place;

(2) All offences under this Act shall be non-bailable.

20. Specified event--

The “ specified event” mentioned in sections 6 and 8 shall mean:-

(1) the period of 2 years from the commencement of this Act when every effort shall be made to curb and eradicate the manufacture, trade, smuggling, import and proliferation of arms, ammunitions, explosives and weapons in the country;

(2) after the lapsed period of 2 years mentioned in sub-section(1) above, a Committee constituted under section 23 shall decide as to whether the manufacture, trade, smuggling, import and proliferation of arms has been eradicated or substantially curbed, in which case the provisions of sections 6 and 8 shall commence operation;

(3) in case the Committee specified in sub-section(2) above comes to the conclusion that the manufacturer, trade, smuggling, import and proliferation of arms, ammunition, explosives and weapons have not been eradicated or substantially curbed it shall specify or so through a report in writing to the Prime Minister; in which event commencement of the operation sections 6 and 8 shall be further delayed by a period of 2 years, during which period all efforts shall be made by the Government to achieve the purpose of this Act i.e. eradicate or substantially curb the manufacture, trade, smuggling, import and proliferation of arms, ammunitions, explosives and weapons in Pakistan;

(4) after every period of two years mentioned in sub-section (3) above, the exercise contemplated in the said sub-section (3) above shall be repeated, and at the discretion of the Committee the operation of sections 6 and 8 may be delayed for another years, whereafter the said sections 6 and 8 and all the provisions of this Act shall fully operated.

21. Implementation of the object and purpose--

In order to ensure the achievement of the object and purpose of the present Act whereby a weapon free Pakistan is brought into effect, the Committee will ensure and have regard to the following:-

- (i) the eradication and substantial curtailment of the manufacture, trade, smuggling, import and proliferation of arms, ammunitions, explosives and weapons would have to be pursued through a phase-wise plan and in order to achieve such a purpose the Committee itself will have the power to prescribe rules, which power shall be separate and distinct from the power of the Government to make rules under section 24 of this Act;**
- (ii) that a non discriminatory attitude is adopted vis-a-vis all ethnic , sectarian, religious, or political denominations, so that the object and purpose of this Act is achieved across the board without fear, favour or discrimination;**

- (iii) **The role of the area police in attempting to achieve the object and purpose of this Act shall be assessed and reassessed.**

22. Powers of the Committee

For the purpose of achieving the object of this Act the Committee shall have, inter alia, the following powers:

- (a) **all the powers of a Court under the Civil and Criminal Procedure Codes for the purpose of conducting search and seizure, enforcing the attendance of any person, or obtaining any document from any person;**
- (b) **making recommendations to any Government, whether federal, provincial or local for a better policing, including community policing or other police reforms so as to achieve the purpose of this Act:**
- (c)
 - (i) **recommending the transfer of any police or executive functionary from a particular post if the Committee, upon clear basis, comes to a conclusion that such member of the police or executive is hampering the achievement of the object and purpose of this Act;**
 - (ii) **the recommendations of the Committee shall be binding upon the Government except where reasons are given for not honoring the recommendations of the Committee in this regard.**

23. Constitution of the Committee

(1). **The Committee shall comprise eleven members of which one member shall be its Chairman, who shall be a retired Judge of any of the High Courts or the Supreme Court of Pakistan.**

(2). **The remaining ten members of the Committee shall be appointed in the manner that two persons each shall be nominated by the first five political parties in majority in the national Assembly.**

24. Power to make rules--

Government may prescribe rules for carrying out the purposes of this Act.