

Offences in Respect of Electricity (Emergency Provisions) Ordinance, 1998

Ordinance XIX of 1998

An ordinance to make emergency provisions to combat stealing of electricity

WHEREAS the menace of stealing of electricity is rampant necessitating calling upon the Armed Forces of Pakistan to act in aid of civil power to suppress the said menace and to provide for speedy trial of offences relating to stealing of electricity and matters connected therewith;

AND WHEREAS the National Assembly is 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 power 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:-

1.

Short title, extent and commencement:-

(1)

This Ordinance may be called the Offences in respect of Electricity (Emergency Provisions) Ordinance, 1998.

(2)

It extends to such areas in which the Armed Forces are called upon to act in aid of civil power under Article 245 of the Constitution of the Islamic Republic of Pakistan to combat the menace of stealing of electricity.

(3)

It shall come into force at once.

2.

Trial of offences:-

Whoever commits any offence punishable under section 39, section 39A or section 44 of the Electricity Act, 1910 (IX of 1910), shall be tried in accordance with the provisions of this Ordinance.

3.

Convening of courts. -

The person or authority empowered to convene a court martial under Chapter IX of the Pakistan Army Act, 1952 (XXXIX of 1952), may convene as many trial courts as may be necessary to try offences triable under this Ordinance including convening of courts of appeals to hear appeals against the decisions made and sentences passed by the trial courts.

4.

Jurisdiction. -

Where the person or authority competent to convene a court under section 3 is of the opinion that it will be conducive to achieve the objects for which the Armed Forces have been called in the aid of the civil power that a person accused of any of the offences specified in section 2 should be tried in accordance with the provisions of this Ordinance, it may convene a court for the trial of such person.

5.

Powers of the court.-

(1)

A trial court convened under section 3 shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) (the Code) or any other law for the time being in force, have the power to try any person who has committed any offence specified in section 2 in any area in which the Armed Forces are called upon to act in aid of civil power to combat the menace of stealing of electricity.

(2)

Subject to the provisions of this Ordinance and the rules made under it, for trial of the offences under this Ordinance, the procedure provided for in the Pakistan Army Act, 1952 (XXXIX of 1952), and, subject to the rules made under this Ordinance, the rules made under the said Act shall apply.

6.

Investigation. -

(1)

Subject to sub-section (2), the investigation of the offence specified in section 2, shall be conducted in accordance with the provisions of the Code.

(2)

Notwithstanding anything contained in section 50 of the Electricity Act, 1910 (IX of 1910), and officer of the Armed Forces acting in aid of civil power for the purpose of this Ordinance may initiate or take over investigation of any case and in conducting investigation such officer shall have and exercise the powers of an officer-in-charge of a police station under the Code.

(3)

Where the investigation of the case has been taken over or initiated under sub-section (2), no other agency including the police shall, except to the extent authorised by the officer of the Armed Forces, investigate such offence.

7.

Appeal:-

(1)

An appeal against the final judgment of the trial court shall lie to the court of appeals.

(2)

Copies of the judgment of the trial court shall be supplied free of cost to the accused and the person prosecuting on the day the judgment is pronounced.

(3)

An appeal under-sub-section (1) may be preferred by a person sentenced by a trial court within thirty days of the passing of the sentence.

(4)

The person prosecuting the accused may with the approval of the Chief of the Army Staff file an appeal against an order of acquittal or inadequacy of the sentence passed by a trial court within thirty days of such order.

(5)

The trial court and the courts of appeals shall decide the case with utmost speed.

8.

Finality of judgment. -

A judgment or order passed, or sentence awarded by a trial court shall, subject to the result of an appeal under this Ordinance, be final and shall not be called in question in any court.

9.

Offences to be cognizable and non-bailable.

(1)

The offences triable under this Ordinance shall be cognizable and non-cognizable.

(2)

The trial court and court of appeals shall not release any accused on bail.

10.

Indemnity -

NO suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Ordinance.

11.

Ordinance to override other laws. -

The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

12.

Proceedings to be finalized under the Ordinance:-

Where a trial court has taken cognizance of a case under this Ordinance, the trial and appeal relating to such case shall be finalized in accordance with the provisions of this Ordinance notwithstanding that the direction calling upon the Armed Forces to act in aid of civil power to combat the menace of stealing of electricity has been withdrawn.

13.

Power to make rules

(1)

The Federal Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Ordinance.

(2)

Without prejudice to the generality of the powers conferred by sub-section (1) such rules may provide for the procedure to be observed by the courts convened under this Ordinance.