[AS PASSED BY THE NATIONAL ASSEMBLY]

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BILL

further to amend the Official Secrets Act, 1923

WHEREAS, it is expedient further to amend the Official Secrets Act, 1923 (XIX of 1923), in the manner and for the purposes hereinafter appearing;

It is hereby enacted as follows: -

1. **Short title and commencement.** - (1) This Act shall be called the Official Secrets (Amendment) Act, 2023.

(2) It shall come into force at once.

2. **Amendment of section 2, Act XIX of 1923.-** In the Official Secrets Act, 1923 (XIX of 1923), hereinafter referred to as the said Act, in section 2,-

(a) for clause (3), the following shall be substituted, namely:-

"(3) "document" includes any written, unwritten, virtual, electronic, digital, or any other tangible or intangible instrument, and includes part of such document, the plans, measures, activities, contracts, agreements, memorandums, etc. related to procurements of supplies of or sales of munitions and related services that relate to military capability and potential and would be needed by the state in time of peace and war:";

(b) after clause (3), amended as aforesaid, the following new clause (3A) shall be inserted, namely:-

"(3A) "intelligence agency" means, *inter alia*, the Directorate General of Inter-Services Intelligence and Intelligence Bureau;";

(c) for clause (5), the following shall be substituted, namely:-

"(5) "Munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank, vehicles or similar engine, arms and ammunition, torpedo, or mine intended or adopted for use in war, and any other article, equipment, material, device or capability, system or platform including digital, physical, virtual, electronic, vehicular use by the Armed Forces, whether actual or proposed, intended for such use;";

(d) in clause (8),-

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(i) in sub-clause (a), after the expression "establishment", the expressions "office, camp office or part of building", and after the words "in time of", the words "peace and" shall be inserted respectively;

(ii) in clause (c), after the words "ground that", the words "any access, intrusion, approach, attack or" shall be inserted;

(iii) in clause (d),-

(A) After the words "channel", the words "or any strategic infrastructure" shall be inserted;

(B) After the word "water", the words "or air" shall be inserted;

(C) After the words "any place used", the words "for modern communication means," shall be inserted; and

(D) After the word "munitions", the words "related to defence" shall be instered;

(iv) after clause (d), amended as aforesaid, the following new clauses (e) and (f) shall be inserted, namely:-

"(e) any place temporarily occupied by armed forces for the purpose of war games, exercises, training, research and development, movement of troops, in camera briefings;

(f) any place, any land, building or a property situated in Pakistan or anywhere in the world having physical or virtual custody or storage of protected information or an asset, the access to and use of which is prejudicial to the safety or interest of Pakistan.";

(e) after clause 8, amended as aforesaid, the following new clause (8A) be inserted, namely:-

"(8A) **Enemy**. For the purpose of this Act means "any person who is directly or indirectly, intentionally or unintentionally working for or engaged with the foreign power, foreign agent, Non-State Actor, organization, entity, association or group guilty of a particular act tending to show a purpose that is prejudicial to the safety and interest of Pakistan;";

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(f) in clause (9), at the end, the word "and", shall be omitted, and in clause (10), for full stop at the end, the expression ";and" shall be inserted and thereafter, the following new clause (11) shall be inserted, namely:-

"(11) "unauthorized access" means without authorization any physical, electronic, or virtual access or contact, direct or indirect, to a prohibited place, an information system, application, network, data, processed or derived, or any such document or resource or prohibited place which is not available for access by general public.".

3. **Amendment of section 3, XIX of 1923.-** In the said Act, in section 3,-

(a) for marginal heading and sub-section (1), the following shall be substituted, namely:-

"3. Offence. — (1) A person shall commit an offence under this section If he intentionally for any purpose prejudicial to public order, defence, safety or interests of the State,—

(a) approaches, inspects, passes over or is in the vicinity of, or enters, attacks, destroys or otherwise undermines any prohibited place; or

(b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

(c) obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any electronic or modern device, sketch, plan, model, article or note or other document or information, in any manner whatsoever, which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy of the State;

(d) gains unauthorized access to document or information from within or outside of Pakistan with or without use of electronic or modern devices;

(e) causes an unmanned vehicle or device to access, enter, inspect, pass over or under, approach or be in the vicinity of a prohibited place; and

(f) disclosure or retention of any activity, information, document, related to invention, research, development, production, maintenance, operation, storage and disposal of weapons, equipment or any capability of these forces, and access to or unauthorized disclosure of which is prejudicial to the safety and interest of Pakistan.".

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(b) in sub-section (2), after the words " anything such a", the words "prohibited place, related to work of defence during peace or war by land, sea or air " shall be inserted and after the expression "collected,", wherever occurring, the expression "retained," shall be inserted;or

(c) in sub-section (3), in clause (a), for the words "a foreign power", the word "enemy" shall be substituted, and after the expression "defence,", the word "military" shall be inserted.

4. **Amendment of section 3A, XIX of 1923.-** In the said Act, in section 3A, in sub-section (1), after the words "place or area", the expression "any document, work of defence, by using any digital, analogue or virtual device or means" shall be inserted

5. **Amendment of section 4, XIX of 1923.-** In the said Act, in section 4, for marginal heading and sub-section (2), the following shall be substituted, namely:-

"4. **Communications with enemy or foreign agents to be evidence of commission of certain offence.-**

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision, —

(a) a person may be presumed to have been in communication with enemy or a foreign agent if—

(i) he has, either within or without Pakistan visited the address of a foreign agent or consorted or associated with enemy or a foreign agent, or

(ii) either within or without Pakistan, the name or address of, an enemy or any other information regarding, an enemy foreign agent has been found in his possession, or has been obtained by him from any other person

(b) the expression "enemy or foreign agent" includes any person who is or has been or in respect of whom it appears that there are reasonable grounds for suspecting him of being or having been employed by, an enemy either directly or indirectly, for the purpose of committing an act, either within or without Pakistan, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Pakistan, committed, or attempted to commit, such an act in the interests of or an enemy;

(c) any address, whether within or without Pakistan, in respect of which it appears that there are reasonable grounds for suspecting it of being an address used for the receipt of communications intended for an enemy or a foreign agent; or any address at which an

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enemy or a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, may be presumed to be the address of a an enemy or a foreign agent, and communications addressed to such an address to be communications with an enemy or a foreign agent.".

6- **Amendment of section 5, XIX of 1923.-** In the said Act, in section 5, in sub-section (1),-

(a) after the words "prohibited place", the words "relates to the activities of Armed Forces during peace and war" shall be inserted;-

(b) after the words "has obtained", the words "or retained" shall be inserted; and

(c) in clause (b) for the words "foreign power" the word "enemy" shall be substituted

7. **Insertion of section 6A, Act XIX of 1923.-** In the said Act, after section 6, the following new section 6A, shall be inserted, namely:-

"6A. **Unauthorized disclosure of identities, etc.** — (1) A person shall commit an offence who intentionally acting in any manner prejudicial to public order, safety, interests or defence of Pakistan, or any part thereof, discloses in such a manner that exposes the identity of such undisclosed persons in any manners the identity of the members of the intelligence agencies, or the informants or sources thereof.

(2) Whoever commits an offence under sub-section (1) shall be liable to punishment of imprisonment for a term which may extend to three years, or with fine which may extend to one million rupees, or with both.

(3) Any person who abets, incites, conspires or attempts to commit the offence under sub-section (1) shall be liable to the same punishment provided for under sub-section (2).".

8. **Amendment of section 9, Act XIX of 1923.** - In the said Act, for section 9, the following shall be substituted, namely:

"9. **Attempts, incitements, etc.**- Any person who incites to commit, conspires to commit, attempts to commit, aids or abets the commission of an offence under this Act shall be punishable with the same punishment, and be liable to proceeded against in the same manner as if he had committed such offence.".

9. **Amendment of section 11, Act XIX of 1923,.-** In the said Act, in section 11, after sub-section (2), the following new sub-section (2A) shall be inserted, namely:-

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"(2A) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Intelligence Agencies may, at any time, enter and search any person or place, without warrant, and if necessary, by use of force, and seize any document, sketch, plan, model, article, note, weapon, ammunition, electronic or modern devices or anything of like nature, or anything which is or can be evidence of an offence committed, or suspecting of been committed, under this Act.".

10 **Amendment of section 12, Act XIX of 1923.-** In the said Act, in section 12,–

(A) the existing provision thereof shall be numbered as sub-section (1) thereof;

(B) in sub-section (1), numbered as aforesaid,–

(i) in clause (b), for the word "fourteen", the word "ten" shall be substituted; and

(ii) in clause (c),–

(a) after the word "Pakistan", the words "or an intelligence agency" shall be inserted;

(b) for the word "Magistrate", occurring twice, the word "Special Court" shall be substituted; and

(c) after the word "Code", the words "shall be" shall be inserted; and

(C) after sub-section (1), numbered and amended as aforesaid, the following new sub-section (2) shall be added, namely:-

"(2) the material seized during arrest of an accused by an officer of the intelligence agency shall be handed over by him to the investigating officer or the head of the Joint Investigating Team as the case may be".

11- **Insertion of new section 12A, Act XIX of 1923.-** In the said Act, after section 12, amended as aforesaid, the following new sections 12A and 12B shall be inserted, namely:-

"**12A. Investigation etc.-** (1) An investigating officer under this Act shall be an officer of the Federal Investigating Agency not below the rank of BPS-17 or equivalent. The said Officer shall be designated by the Director General, Federal Investigating Agency for the purposes of investigation. If the Director General, Federal Investigating Agency deems necessary, he may constitute a Joint Investigation Team, convene by such officer and consisting of such other officers of intelligence agencies as he may appoint. The Joint

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Investigation Team may co-opt any additional person from any Federal or Provincial institution or department as it deems appropriate for investigation:

Provided that the offence relates to civil espionage shall be investigated by Federal Investigation Agency or Joint Investigation Team, or as the case may be.

(2) The investigating officer or the JIT, as the case may be, shall complete the investigation in respect of cases triable by the Court established or designated under section 13 within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer appointed under sub-section (1) through public prosecutor to the court:

12B. Admissibility of material collected.– Notwithstanding anything contained in any other law for the time being in force, all material collected during the course of inquiry or investigation, including electronic devices, data, information, documents, or such other related material, which facilitates the commission of any offence under this Act, shall be admissible.".

12- **Insertion of new section 16, Act XIX of 1923.**– In the said Act, after section 15, the following new section 16 shall be inserted, namely:-

"Section 16. Power to make rules. The Federal Government may make rules to carryout the purpose and object of this Act.

STATEMENT OF OBJECTS AND REASONS

In view of the changing social milieu, it is quite imperative to amend the Official Secret Act, 1923 (XIX of 1923), to ensure safety and security of official documents to make this Act more effective.

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