



THE INVESTIGATION FOR FAIR TRIAL ACT, 2013



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THE INVESTIGATION FOR FAIR TRIAL ACT, 2013

ACT NO. I OF 2013

No. F. 9(21)/2012-Legis.— The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on 20th February, 2013, is hereby published for general information:—.

An Act to provide for investigation for collection of evidence by means of modern techniques and devices to prevent and effectively deal with scheduled offences and to regulate the powers of the law enforcement and intelligence agencies and for matters connected therewith or ancillary thereto

WHEREAS in order to prevent the law enforcement and intelligence agencies from using their powers arbitrarily it is necessary regulate the said powers and provide for their permissible and fair uses in accordance with law and under proper executive and judicial oversight;

AND WHEREAS further being mindful that the existing laws neither comprehensively provide for nor specifically regulate advance and modern investigative techniques such as covert surveillance and human intelligence, property interference, wire tapping and communication interception that are used extensively in other jurisdictions to successfully prevent the offences and as an indispensable aid to the law enforcement and administration of justice;

AND WHEREAS in order to neutralize and prevent the threat or any attempt to carry out scheduled offenses it is necessary that the law enforcement and other agencies be given certain specific authorizations to obtain evidence in time and only in accordance with law;

AND WHEREAS it is also in order to declare the admissibility and use of the material obtained during lawful investigation under the present law, in judicial proceedings and all other legal proceedings or processes to ensure fair trial:

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Investigation for Fair Trial Act, 2013.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Application.—(1) The provisions of this Act shall apply to—

(a) all citizens of Pakistan within or outside Pakistan;

(b) all persons within Pakistan or on board on any ship or aircraft registered in Pakistan wherever it may be; and

(c) all transactions or communications originated or concluded within Pakistan or originated or concluded outside Pakistan by any person.

(2) Any person liable for investigation under the provisions of this Act for a scheduled offence committed partly or fully outside Pakistan shall be dealt with according to the provisions of this Act in the same manner as if such an offence had been committed within Pakistan.

CHAPTER I

DEFINITIONS

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) 'applicant' means, Directorate General Inter Services Intelligence, the three Services Intelligence Agencies, Intelligence Bureau and Police;
- (b) 'authorized officer', means any officer not below the rank of BPS-20 or equivalent who is working with the applicant and is notified under Section 4 to represent the applicant when making application or taking up any proceedings under this Act;
- (c) 'competent authority' includes the Judge;
- (d) 'Court' means the High Court;
- (e) 'Designated Agency or Body' means any one or more Agency or Body designated by the Federal Government through notification for the purposes of this Act, having capability for implementing warrant of interception;
- (f) 'expert', means a person qualified or trained or experienced in conducting surveillance or interception who is nominated by the applicant or the Federal Government as an expert for analysis of the intercepted materials;
- (g) 'Intercepted material' means evidence collected under Section 17 and will refer,—
 - (i) for the purposes of 'Surveillance' to include,—
 - (a) data, information or material in any documented form, whether written, through audio visual device, CCTV, still photography, observation or any other mode of modern devices or techniques obtained under this Act; and
 - (b) documents, papers, pamphlets, booklets; and
 - (ii) for the purposes of 'Interception' to, include-emails, SMS, IPDR (internet protocol detail record) or CDR (call detail record) and any form of computer based or cell phone based communication and voice analysis. It also includes any means of communication using wired or wireless or IP (internet protocol) based media or gadgetry;

- (h) 'Judge' means a Judge of the High Court;
- (i) 'Minister' means the Federal Minister for Interior;
- (j) 'register' means the register maintained under Sub-Section (2) of Section 9 by the Judge, containing the serial number of the file received by the Judge in Chambers which has been returned to the applicant for safe custody, and the register shall also contain name, contact, address of the authorized person and the applicant;
- (k) 'suspect' means a person in respect of whom there is a suspicion that he may be involved in any scheduled offence and includes foreigners and groups as well as organizations;
- (l) 'Schedule' means schedule to this Act;
- (m) 'Scheduled offence' means an offence specified in Schedule I;
- (n) 'service provider' means any person, entity or company related to any equipment, technology, data, circumstances that gives it ability or power or control to implement the warrants issued under Sections 11 and 21; and
- (p) 'warrant' means warrant of surveillance or interception, and includes warrant issued under Sections 11 whereby the applicant is allowed by the Judge to collect evidence through interception, recording through audio or video or any means of Communication or surveillance of movements and actions through minimum interference in property and privacy of any person including human intelligence.

CHAPTER-2

APPLICATION FOR WARRANT

4. Notification of authorized officer.—The applicant shall, before making an application, first notify an appropriate officer not below BPS-20 or equivalent, duly authorized by him to represent the said applicant for making an application under this Act.

5. Record of suspicious conduct.—In case where any official of an applicant has reasons to believe that any person is likely to be associated with or is beginning to get associated with, any act leading to a scheduled offence, or is in the process of beginning to plan such an act, or is indulging in such a conduct or activity that arises suspicion that he is likely to plan or attempt to commit any scheduled offence and, therefore, it may be necessary to obtain warrant of surveillance or interception, he shall prepare a report thereof with supporting material.

6. Material to be placed before the Minister.—An official of the applicant who has prepared the report under section 5 shall present the same through the Head of the Department to the Minister for permission to make application to the Judge for issuance of the warrant of surveillance or interception.
