

PEC Bill As Modified by Expert Committee Constituted
by
National Assembly Standing Committee

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement.- (1) This Act may be called the Prevention of Electronic Crimes Act, 2015.

(2) It extends to the whole of Pakistan.

(3) It shall apply to every citizen of Pakistan wherever he may be, and also to every other person for the time being in Pakistan.

(4) It shall come into force at once.

2. Definitions.- (1) In this Act, unless there is anything repugnant in the subject or context:--

(a) "act" includes _

i) a series of acts or omissions contrary to the provisions of this Act; or

ii) causing an act to be done by a person either directly or through an automated information system or automated mechanism or self-executing, adaptive or autonomous device, and whether having temporary or permanent impact;

(b) "access to data" means gaining control or ability to read, use, copy, modify or delete any data held in or generated by any device or information system;

(c) "access to information system" means gaining control or ability to use any part or whole of an information system whether or not through infringing any security measure;

(d) "Authority" means the Pakistan Telecommunication Authority established under Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996);

(e) "authorisation" means authorisation by law or the person empowered to make such authorisation under the law;

(f) "authorised officer" means an officer of the special investigation agency authorised to perform any function on behalf of the special investigation agency by or under this Act;

(g) "content data" means any representation of fact, information or concept for processing in an information system including source code or a program suitable to cause an information system to perform a function;

(h) "Court" means the Court of competent jurisdiction designated under this Act;

(i) "critical infrastructure" includes:

(i) the infrastructure so vital to the State or other organs of the Constitution such that its incapacitation disrupts or adversely affects the national security, economy, public order, supplies, services, health, safety or matters incidental or related thereto or

- (ii) any other infrastructure so designated by the Government as critical infrastructure;
- (j) “critical infrastructure information system or data” means an information system, program or data that supports or performs a function with respect to a critical infrastructure;
- (k) “damage to an information system” means any unauthorised change in the ordinary working of an information system that impairs its performance, access, output or change in location whether temporary or permanent and with or without causing any change in the system;
- (l) “data” includes content data and traffic data;
- (m) “data damage” means alteration, deletion, deterioration, erasure, relocation, suppression, of data or making data temporarily or permanently unavailable;
- (n) “device” includes-
- (i) physical device or article;
 - (ii) any electronic or virtual tool that is not in physical form;
 - (iv) a password, access code or similar data, in electronic or other form, by which the whole or any part of an information system is capable of being accessed; or
 - (i) automated, self-executing, adaptive or autonomous devices, programs or information systems;
- (o) “electronic” includes electrical, digital, magnetic, optical, biometric, electrochemical, electromechanical, wireless or electromagnetic technology;
- (p) “identity information” means an information which may authenticate or identify an individual or an information system and enable access to any data or information system;
- (q) “information” includes text, message, data, voice, sound, database, video, signals, software, computer programs, codes including object code and source code;
- (r) “information system” means an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing any information;
- (s) “intelligence” includes any speech, sound, data, signal, writing, image or video;
- (t) “interference with information system or data” means and includes an unauthorised act in relation to an information system or data that may disturb its normal working or form with or without causing any actual damage to such system or data.
- (u) “minor” means, notwithstanding anything contained in any other law, any person who has not completed the age of eighteen years.
- (v) "offence" means an offence punishable under this Act except when committed by a person under seven years of age or by a person above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion.;
- (w) "rules" means rules made under this Act;
- (x) “seize” with respect to an information system or data includes taking possession of such system or data or making and retaining a copy of the data;
- (y) "service provider" includes a person who:
- (i) acts as a service provider in relation to sending, receiving, storing, processing or distribution of any electronic communication or the provision of other services in relation to electronic communication through an information system;

- (ii) owns, possesses, operates, manages or controls a public switched network or provides telecommunication services;
 - (iii) processes or stores data on behalf of such electronic communication service or users of such service; or
 - (iv) provides premises from where or facilities through which the public in general may access an information system and the internet such as cyber cafes;
- (z) “special investigation agency” means the law enforcement agency established by or designated under this Act;
- (aa) "subscriber information" means any information held in any form by a service provider relating to a subscriber other than traffic data;
- (bb) “traffic data” includes data relating to a communication indicating its origin, destination, route, time, size, duration or type of service;
- (cc) “unauthorised access” means access to an information system or data without authorisation or in violation of the terms and conditions of the authorisation;
- (dd) “unauthorised interception” shall mean in relation to an information system or data, any interception without authorisation;

(3) Any other expression used in this Act or rules framed thereunder but not defined in the Act, unless context provides otherwise, shall have meanings assigned to the expression in the Pakistan Penal Code, 1860 (XLV of 1860), the Code of Criminal Procedure, 1898 (V of 1898) and the Qanoon-e-Shahadat Order, 1984 (X of 1984), as the case may be.

CHAPTER II OFFENCES AND PUNISHMENTS

3. Unauthorised access to information system or data.- (1) Whoever intentionally gains unauthorised access to any information system or data shall be punished with imprisonment for a term which may extend to three months or with fine up to one fifty thousand rupees or with both.

4. Unauthorised copying or transmission of data.- Whoever intentionally and without authorisation copies or otherwise transmits or causes to be transmitted any data shall be punished with imprisonment for a term which may extend to six months, or with fine up to one hundred thousand rupees or with both.

5. Interference with information system or data.- Whoever intentionally interferes with or damages or causes to be interfered with or damaged any part or whole of an information system or data shall be punished with imprisonment which may extend to two years or with fine up to five hundred thousand rupees or with both.

6. Unauthorised access to critical infrastructure information system or data:- Whoever intentionally gains unauthorised access to any critical infrastructure information system or data shall be punished with imprisonment which may extend to three years or with fine up to one million rupees or with both.

7. Unauthorised copying or transmission of critical infrastructure data.- Whoever intentionally and without authorisation copies or otherwise transmits or causes to be transmitted any critical infrastructure data shall be punished with imprisonment for a term which may extend to five years, or with fine up to five million rupees or with both.

8. Interference with critical infrastructure information system or data.- Whoever intentionally interferes with or damages, or causes to be interfered with or damaged, any part or whole of a critical information system , or data , shall be punished with imprisonment which may extend to seven years or with fine up to ten million rupees or with both.

9. Cyber terrorism. – (1) Whoever commits or threatens to commit any of the offences under sections 6, 7 and 8 of this Act, by any means of communication, where the commission or threat is with the intent to:-

(a) coerce, intimidate, overawe or create a sense of fear, panic or insecurity in 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

(b) advance religious, ethnic or sectarian discord

shall be punished with imprisonment of either description for a term which may extend to fourteen years or with fine up to fifty million rupees or with both.

(2) Whoever commits glorification of an offence under sub-section (1) or the person accused or convicted of a crime under sub-section (1) shall be punished with imprisonment for a term which may extend to ten years or with fine up to fifty million rupees or with both.

Explanation: “Glorification” includes any form of praise or celebration or depiction in a desirable manner;

10. Electronic forgery.- (1) Whoever, interferes with or uses any information system, device or data, with intent to cause damage or injury to the public or to any person, or to make any illegal claim or title or to cause any person to part with property or to enter into any express or implied contract, or with intent to commit fraud by any input, alteration, deletion, or suppression of data, resulting in unauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless of the fact that the data is directly readable and intelligible or not shall be punished with imprisonment of either description for a term which may extend to three years, or with fine up to two hundred and fifty thousand rupees or with both.

(2) Whoever commits offence under sub-section (1) in relation to a critical infrastructure information system or data shall be punished with imprisonment for a term which may extend to seven years or with fine up to five million rupees or with both.

11. Electronic fraud.- Whoever for wrongful gain interferes with or uses any information system, device or data or induces any person to enter into a relationship or with intent to deceive any person, which act or omission is likely to cause damage or harm to that person or any other person shall be punished with imprisonment for a term which may extent to two years or with fine up to ten million rupees, or with both.

12. Making, obtaining, or supplying device for use in offence.- Whoever produces, makes, generates, adapts, exports, supplies, offers to supply or imports for use any information system, data or device intending it primarily to be used or believing that it is primarily to be used to commit or to assist in the commission of an offence under this Act shall, without prejudice to any other liability that he may incur in this behalf, be punished with imprisonment for a term which may extend to 6 months or with fine up to fifty thousand rupees or with both.

13. Unauthorised use of identity information.-(1) Whoever obtains, sells, possesses, transmits or uses another person’s identity information without authorisation shall be punished with imprisonment for a term which may extend to three years or with fine up to five million rupees, or with both.

(2) Any person whose identity information is obtained, sold, possessed, used or transmitted may apply to the Court for passing of orders as the Court may deem fit in the circumstances for securing, destroying or preventing transmission of such identity information.

14. Unauthorised issuance of SIM cards etc.- Whoever sells or otherwise provides subscriber

identity module (SIM) card, re-usable identification module (R-IUM) or other portable memory chip designed to be used in cellular mobile or wireless phone for transmitting and receiving intelligence without obtaining and verification of the subscriber's antecedents in the mode and manner for the time being approved by the Authority shall be punished with imprisonment for a term which may extend to three years or with fine up to five hundred thousand rupees or both.

15. Tempering etc. of communication equipment.- Whoever unlawfully or without authorisation changes, alters, tampers with or re-programs unique device identifier of any communication equipment including a cellular or wireless handset and starts using or marketing such device for transmitting and receiving intelligence shall be punished with imprisonment which may extend to three years or with fine up to one million rupees or both.

Explanation: A "unique device identifier" is an electronic equipment identifier which is unique to a mobile wireless communication device.

16. Unauthorised interception.- Whoever intentionally commits unauthorised interception by technical means of:-

- (a) any transmission that is not intended to be and is not open to the public, from or within an information system; or
- (b) electromagnetic emissions from an information system that are carrying data,

shall be punished with imprisonment of either description for a term which may extend to two years or with fine up to five hundred thousand rupees or with both:

17. Offences against dignity of natural person- (1) Whoever dishonestly and publicly exhibits or displays or transmits any false electronic communication, which is likely to harm or intimidate the reputation or privacy of a natural person shall be punished with imprisonment for a term which may extend to three years or with fine up to one million rupees or with both.

(2) Any aggrieved person or his guardian, where such person is a minor may apply to the Court for passing of such orders for removal, destruction or blocking access to such material referred to in sub-section (1) and the Court on receipt of such application may pass such orders as deemed proper for securing, destroying, blocking access or preventing transmission of such material.

18. Offences against modesty of a natural person and minor.- (1) Whoever intentionally and publicly exhibits or displays or transmits any electronic communication which:-

- a) superimposes a photograph of the face of a natural person over any sexually explicit image; or
- b) distorts the face of a natural person or includes a photograph or a video of a natural person in sexually explicit conduct; or
- c) intimidates a natural person with any sexual act:

shall be punished with imprisonment for a term which may extend to seven years or with fine up to five million rupees or both.

(2) Whoever commits an offence under sub-section (2) with respect to a minor shall be punished with imprisonment for a term which may extend to ten years, or with fine up to ten million rupees or with both.

(3) Any aggrieved person or his guardian, where such person is a minor may apply to the Court for passing of such orders for removal, destruction or blocking access to such material referred to in sub-section (1) and (2) and the Court on receipt of such application may pass such orders as deemed proper for securing, destroying, blocking access or preventing transmission of such material..

19. Malicious code.- Whoever willfully and without authorization writes, offers, makes available, distributes or transmits malicious code through an information system or device, with intent to cause harm to any information system or data resulting in the corruption, destruction, alteration, suppression, theft or loss of the information system or data shall be punished with imprisonment for a term which may extend to two years or with fine up to one million rupees or both.

Explanation.- For the purpose of this section the expression “malicious code” includes a computer program or a hidden function in a program that damages an information system or data or compromises the performance of such system or availability of data or uses it without proper authorisation.

20. Cyber stalking.- (1) Whoever with the intent to coerce or intimidate or harass any person uses information system, information system network, the Internet, website, electronic mail or any other similar means of communication to:-

- (a) communicate obscene, vulgar, contemptuous, or indecent intelligence; or
- (b) make any suggestion or proposal of an obscene nature; or
- (c) threaten any illegal or immoral act; or
- (d) take or distribute picture or photograph of any person without his consent or knowledge; or
- (e) display or distribute information in a manner that substantially increases the risk of harm or violence to any person, commits the offence of cyber stalking.

(2) Whoever commits the offence specified in sub-section (1) shall be punishable with imprisonment for a term which may extend to two years or with fine up to one million rupees, or with both:

Provided that if the victim of the cyber stalking under sub-section (1) is a minor the punishment may extend to five years or with fine upto ten million rupees, or with both.

(3) Any person may apply to the Court for issuance of a restraining order against an accused of cyber stalking and the Court upon receipt of such application may pass such order as deemed fit in the circumstances of the case including an order for removal or destruction of, or blocking access to, such material.

21. Spamming.- (1) Whoever intentionally transmits harmful, fraudulent, misleading, illegal or unsolicited intelligence to any person without the express permission of the recipient, or causes any information system to show any such intelligence commits the offence of spamming.

Explanation.- “Unsolicited intelligence” does not include:

- i. Advertisements authorized under the law;
- ii. Intelligence which has not been specifically blocked or unsubscribed by the recipient;

(2) A person engaged in direct marketing shall provide the option to the recipient of direct marketing to block or unsubscribe to such marketing.

(2) Whoever commits the offence of spamming as described in sub-section (1) or engages in direct marketing in violation of sub-section (2), for the first time, shall be punished with fine not exceeding fifty thousand rupees and for every subsequent violation shall be punished with imprisonment for a term which may extend to three months or with fine up to one million rupees or with both.

22. Spoofing.- (1) Whoever dishonestly, establishes a website or sends any intelligence with a counterfeit source intended to be believed by the recipient or visitor of the website, to be an authentic source commits spoofing.

(2) Whoever commits spoofing shall be punished with imprisonment for a term which may extend to three years, or with fine up to five hundred thousand rupees or with both.

23. Legal recognition of offences committed in relation to information system.- (1) Notwithstanding anything contained in any other law, an offence under this Act or any other law shall not be denied legal recognition and enforcement for the sole reason of such offence being committed in relation to, or through the use of an information system.

(2) References to "property" in any law creating an offence in relation to or concerning property, shall include information system and data.

24. Pakistan Penal Code 1860 to apply.- The provisions of the Pakistan Penal Code 1860 (XLV of 1860), to the extent not inconsistent with anything provided in this Act, shall apply to the offences provided in this Act.

CHAPTER III
ESTABLISHMENT OF INVESTIGATION AND PROSECUTION AGENCY AND
PROCEDURAL POWERS FOR INVESTGATION

23. Establishment of investigation agencies and prosecution.-(1) The Federal Government shall establish or designate a law enforcement agency as the special investigation agency for the purposes of investigation and prosecution of offences under this Act.

(2) Unless otherwise provided for under this Act, the special investigation agency, the authorised officer and prosecution shall in all matters follow the procedure laid down in the Code to the extent that it is not inconsistent with any provision of this Act.

(3) The Government shall organize specialized courses in digital forensics, information technology, computer science and other related matters for training of the officers and staff of the special investigation agency.

24. No warrant, arrest, search, seizure or other power not provided for in the Act.- (1) No person whether a police officer, investigation officer or otherwise, other than an authorised officer of the special investigation agency shall investigate an offence under this Act:

Provided that the Federal Government or the Provincial Government may, as the case may be, constitute one or more joint investigation teams comprising of the officers of special investigation agency and any other law enforcement agency including Police for investigation of offence under this Act and any other law for the time being in force.

(2) No person other than a prosecutor designated as such by the ~~competent authority~~ special investigation agency shall prosecute any offence under this Act.

25. Expedited Preservation of data.- (1) If an authroised officer is satisfied that-

(a) data stored in any information system or by means of an information system, is reasonably required for the purposes of a criminal investigation; and

(b) there is a risk or vulnerability that the data may be modified, lost, destroyed or rendered inaccessible, the authorised officer may, by written notice given to a person in control of the information system, require that person to ensure that the data specified in the notice be preserved and the integrity thereof is maintained for a period not exceeding ninety days as specified in the notice.

(2) The period provided in sub-section (1) for preservation of data may be extended by the Magistrate if so deemed necessary upon receipt of an application from the authorised officer in this behalf.

26. Retention of traffic data.---(1) A service provider shall, within its existing or required technical capability, retain its traffic data for a minimum period of ninety days or such period as the Authority may notify from time to time and provide that data to the special investigation agency or the authorised officer whenever so required.

(2) The service providers shall retain the traffic data under sub section (1) by fulfilling all the requirements of data retention and its originality as provided under sections 5 and 6 of the Electronic Transaction Ordinance, 2002 (LI of 2002).

(3) Any person who contravenes the provisions of this section shall be punished with imprisonment for a term which may extend to six months or with fine up to five hundred thousand

rupees or with both.

27. Warrant for search or seizure.-(1) Upon an application by an authorised officer that demonstrates to the satisfaction of the Court that there exist reasonable grounds to believe that there may be in a specified place an information system, data, device or other articles that-

(a) may reasonably be required for the purpose of a criminal investigation or criminal proceedings which may be material as evidence in proving a specifically identified offence made out under this Act; or

(b) has been acquired by a person as a result of the commission of an offence, the Court may issue a warrant which shall authorise an officer of the special investigation agency, with such assistance as may be necessary, to enter the specified place and to search the premises and any information system, data, device or storage medium relevant to the offence identified in the application and access, seize or similarly secure any information system, data or other articles relevant to the offence identified in the application.

28. Warrant for disclosure of data.-(1) Upon an application by an authorised officer that demonstrates to the satisfaction of the Court that there exist reasonable grounds to believe that specified data stored in an information system is reasonably required for the purpose of a criminal investigation or criminal proceedings with respect to an offence made out under this Act, the Court may, after recording reasons, order that a person in control of the information system or data to provide such data or access to such data to the authorised officer.

(2) The period of a warrant issued under sub-section (1) may be extended beyond seven days if, on an application, a Court authorises an extension for a further period of time as may be specified by the Court.

29. Powers of an authorised officer.-(1) Subject to provisions of this Act, an authorised officer shall have the powers to -

(a) have access to and inspect the operation of any specified information system;

(b) use or cause to be used any specified information system to search any specified data contained in or available to such system;

(c) obtain and copy any data, use equipment to make copies and obtain an intelligible output from an information system;

(d) have access to or demand any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such information system into readable and comprehensible format or plain version;

(e) require any person by whom or on whose behalf, the authorised officer has reasonable cause to believe, any information system has been used to grant access to any data within an information system within the control of such person;

(f) require any person having charge of or otherwise concerned with the operation of any information system to provide him reasonable technical and other assistance as the authorised officer may require for investigation of an offence under this Act; and

(g) require any person who is in possession of decryption information of an information system, device or data under investigation to grant him access to such decryption information necessary to decrypt data required for the purpose of investigating any such offence:

Explanation.- Decryption information means information or technology that enables a person to readily retransform or unscramble encrypted data from its unreadable form and from ciphered data to intelligible data.

(2) In exercise of the power of search and seizure of any information system, program or data the authorised officer at all times shall-

(a) act with proportionality;

(b) take all precautions to maintain integrity of the information system and data in respect of which a warrant for search or seizure has been issued;

(c) not disrupt or interfere with the integrity or running and operation of any information system or data that is not the subject of the offences identified in the application for which a warrant for search or seizure has been issued;

(d) avoid disruption to the continued legitimate business operations and the premises subjected search or seizure under this Act; and

(e) avoid disruption to any information system, program or data not connected with the information system that is not the subject of the offences identified in the application for which a warrant has been issued or is not necessary for the investigation of the specified offence in respect of which a warrant has been issued.

(3) When seizing or securing any information system or data, the authorised officer shall make all efforts to use technical measures while maintaining its integrity and chain of custody and shall only seize an information system, data, device or articles, in part or in whole, as a last resort, for sufficient reasons that do not make it possible under the circumstances to use such technical measures or where use of such technical measures by themselves would not be sufficient to maintain the integrity and chain of custody of the data being seized.

30. Dealing with seized data.-(1) The Federal Government may prescribe rules for dealing with the information system, data or other articles seized under this Act.

31. Power to issue directions for removal or blocking of access of any intelligence through any information system: (1) The Authority or any officer authorised by it in this behalf may direct any service provider, to remove any intelligence or block access to such intelligence, if it considers it necessary in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence.

(2) The Federal Government may prescribe rules for adoption of standards and procedure by the Authority to monitor and block access and entertain complaints under this section.

(3) Until such procedure and standards are prescribed, the Authority shall monitor and block intelligence in accordance with the directions issued by the Federal Government.

32. Limitation of liability of service providers.- (1) No service provider shall be subject to any civil or criminal liability, unless it is established that the service provider had actual notice, specific actual knowledge, willful and malicious intent and motive to proactively and positively participate, and not merely through omission or failure to act, and thereby facilitated, aided or abetted the use by any person of any information system, service, application, online platform or telecommunication system maintained, controlled or managed by a service provider in connection with a contravention of this Act, rules made thereunder or any other law:

Provided that the burden to prove that a service provider had notice, specific actual knowledge,

willful and malicious intent and motive to proactively and positively participate in any act that gave rise to any civil or criminal liability shall be upon the person alleging such facts and no interim or final orders, or directions shall be issued with respect to a service provider unless such facts have so been proved and determined;

Provided further that such allegation and its proof shall clearly identify with specificity the content, material or other aspect with respect to which civil or criminal liability is claimed including but not limited to unique identifiers such as the Account Identification (Account ID), Uniform Resource Locator (URL) Top Level Domain (TLD) Internet Protocol Addresses (IP Addresses) or other unique identifier and clearly state the statutory provision and basis of the claim.

(2) No service provider shall under any circumstance be liable under this Act, rules made thereunder or any other law for maintaining and making available the provision of their service in good faith.

(3) No service provider shall be subject to any civil or criminal liability as a result of informing a subscriber, user or end-users affected by any claim, notice or exercise of any power under this Act, rules made thereunder or any other law:

Provided however, the service provider, for a period not exceeding fourteen days, shall keep confidential and not disclose the existence of any investigation or exercise of any power under this Act when a notice to this effect is served upon it by an authorised officer, which period of confidentiality may be extended beyond fourteen days if, on an application by the authorised officer, the Court authorises an extension for a further specified period, upon being satisfied that reasonable cause for such extension exists.

(4) No service provider shall be liable under this Act, rules made thereunder or any other law for the disclosure of any data or other information that the service provider discloses only to the extent of and under sub-section (3) and sections 25, 27, 28 and 29.

(5) No service provider shall be under any obligation to proactively monitor, make inquiries about material or content hosted, cached, routed, relayed, conduit, transmitted or made available by such intermediary or service provider.

33. Information in cognizable cases.- (1) Information relating to the commission of a cognizable offence under this Act if given orally to an officer of the special investigation agency authorised in this behalf, shall be reduced in writing by him or under his direction and then read over to the informant and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Federal Government may prescribe in this behalf.

34. Information in non-cognizable cases: (1) When information is given to an officer of special investigation agency authorised in this behalf, about the commission of a non cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the information to the Court.

35. Investigation into cognizable cases: An authorised officer of the special investigation agency may, without the order of the Court, investigate any cognizable case.

36. Investigation into non-cognizable cases.- (1) No officer of the special investigation agency shall investigate a non cognizable case without the order of the Court.

(2) Any officer of the special investigation agency receiving such order under sub-section (1) may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in-charge of a police station may exercise in a cognizable case.

37. Real-time collection and recording of data.-(1) Notwithstanding anything contained in

Investigation for Fair Trials Act 2013 (Act I of 2013) or any other law for the time being in force, if a Court is satisfied on the basis of information furnished by an authorised officer that there are reasonable grounds to believe that the content of any intelligence or data is reasonably required for the purposes of a specific criminal investigation, the Court may order, with respect to intelligence or data held by or passing through a service provider, to the service provider to collect or record such data in real-time in coordination with the special investigation agency:

Provided that such real-time collection or recording shall not be ordered for a period beyond what is absolutely necessary and in any event for not more than seven days.

(2) The period of real-time collection or recording may be extended beyond seven days if, on an application, the Court authorises an extension for a further specified period.

(3) The Court may also require the service provider to keep confidential the fact of the execution of any power provided for in this section and any information relating to it.

(4) The application under sub-sections (1) and (2) shall in addition to substantive grounds and reasons also-

(a) explain why it is believed the data sought will be available with the person in control of an information system;

(b) identify and explain with specificity the type of data likely to be found on such information system;

(c) identify and explain with specificity the identified offence made out under this Act in respect of which the warrant is sought;

(d) if authority to seek real-time collection or recording on more than one occasion is needed, explain why, and how many; further disclosures are needed to achieve the purpose for which the warrant is to be issued;

(e) what measures shall be taken to prepare and ensure that the real-time collection or recording is carried out whilst maintaining the privacy of other users, customers and third parties and without the disclosure of data of any person not part of the investigation;

(f) why the investigation may be frustrated or seriously prejudiced unless the real time collection or recording is permitted; and

(g) why to achieve the purpose for which the warrant is being applied, real time collection or recording by the person in control of the information system is necessary.

CHAPTER IV INTERNATIONAL COOPERATION

38. International cooperation.-(1) The Federal Government may on receipt of request extend such cooperation to any foreign Government, 24 x 7 network, any foreign agency or any international organization or agency for the purposes of investigations or proceedings concerning offences related to information systems, electronic communication or data or for the collection of evidence in electronic form of an offence or obtaining expeditious preservation and disclosure of data by means of an information system or real-time collection of data associated with specified communications or interception of data under this Act.

(2) The Federal Government may, without prior request, forward to such foreign Government, 24 x 7 network, any foreign agency or any international agency or organization any information obtained

from its own investigations if it considers that the disclosure of such information might assist the other Government, agency or organization etc., as the case be in initiating or carrying out investigations or proceedings concerning any offence.

(3) The Federal Government may require the foreign Government, 24 x 7 network, any foreign agency or any international agency to keep the information provided confidential or use it subject to some conditions.

(4) The investigation agency shall be responsible for sending and answering requests for mutual assistance, the execution of such requests or their transmission to the authorities competent for their execution.

(5) The Federal Government may refuse to accede to any request made by such foreign Government, 24 x 7 network, any foreign agency or any international organization or agency if the request concerns an offence which is likely to prejudice its sovereignty, security, public order or other national interests.

(6) The Federal Government may postpone action on a request if such action would prejudice investigations or proceedings conducted by its special investigation agency.

CHAPTER – V PROSECUTION AND TRIAL OF OFFENCES

39. Offences to be compoundable and non-cognizable.- (1) All offences under this Act and abetment thereof, shall be non-cognizable, bailable and compoundable except the offences punishable with imprisonment for seven years or above.

Provided that offences under section 13 shall be cognizable by the special investigation agency on a written complaint by the Authority.

(2) All offences with imprisonment for seven years or above and abetment thereof shall be cognizable by special investigation agency, non-bailable and non-compoundable.

40. Cognizance and trial of offences.— (1) The Federal Government, in consultation with the Chief Justice of respective High Court, shall designate Presiding Officers of the Courts to try offences under this Act at such places as deemed necessary.

(2) Notwithstanding the provisions of provincial public service commission laws, the designated Presiding Officer under sub-section (1) shall have successfully completed training conducted by an entity notified by the Federal Government for training on cyber forensics, electronic transactions and data protection.

(3) Prosecution and trial of an offence under this Act committed by a minor shall be conducted under the Juvenile Justice System Ordinance, 2000.

(4) For all such matters not provided for under this Act, the Court, special investigation agency and prosecutors shall follow the procedure laid down under the Code of Criminal Procedure 1898 (V of 1898) and the Qanoon-e-Shahadat Order 1984 (X of 1984).

41. Order for payment of compensation.- (1) The Court may, in addition to ~~an~~ award of any punishment under this Act, make an order for payment of compensation to the victim for any damage or loss caused and the compensation so awarded shall be recoverable as arrears of land revenue:

Provided that the compensation awarded by the Court shall not prejudice any right to a civil remedy for the recovery of damages beyond the amount of compensation so awarded.

42. Appeal.- An appeal against the final judgment of a Court shall lie within thirty days from the date of provision of its certified copy free of cost.

CHAPTER VI MISCELLANEOUS

43. Relation of the Act with other laws.- (1) The provisions of this Act shall have effect not in derogation of the Protection of Pakistan Act, 2014 and Investigation for Fair Trials Act, 2013 (Act I of 2013).

(2) Subject to sub-section (1), the provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law on the subject for the time being in force.

44. Power to make rules.- (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out purposes of this Act.

(2) Without prejudice to the generality, of the foregoing powers, such rules may specify:-

- (a) qualifications of the officers and other staff of the special investigation agency and prosecutors;
- (b) powers, functions and responsibilities of the special investigation agency, its officers and prosecutors;
- (c) standard operating procedures of the special investigation agency;
- (d) mode and manner in which record of investigation under this Act may be maintained;
- (e) working of joint investigation teams;
- (f) standards and procedure to monitor and block access to content and entertain complaints by the Authority; and
- (g) manner of soliciting and extending international cooperation.÷

45. Removal of difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty.

46. Amendment of Electronic Transactions Ordinance, 2002 (LI of 2002) and pending proceedings: (1) On the commencement of this Act, Sections 36 and 37 of the Electronic Transactions Ordinance, 2002 (LI of 2002) shall stand deleted.

(2) Any actions taken by or with the approval of the authority or pending proceedings under the provisions of the Electronic Transactions Ordinance, 2002 (LI of 2002) repealed by sub-section (1) shall continue and be so deemed to have been taken or initiated under this Act.
