

A
BILL

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to provide for the control of narcotic substances, narcotic drugs and psychotropic substances in order to eliminate the evils of these substances, more effectively and more forcefully for socioeconomic wellbeing of the people of the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the control of narcotic substances, narcotic drugs, psychotropic substances, and control substances and the production, processing, trafficking and transportation of such drugs and substances and for matters ancillary thereto and connected therewith;

It is hereby enacted as follows:

CHAPTER-I
PRELIMINARY

1. **Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2017.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. **Definitions.**---In this Act, unless there is anything repugnant in the subject or context,-

(a) "accused" means an accused, who is charged for the commission of an offence under this Act;

(b) "addict" means a person who is physically or mentally dependent or habitually uses narcotic substances;

(c) "asset" means any property owned, controlled or belonging to an accused, whether directly or indirectly, or in the name of relatives or associates whether within or outside the Province, for which they cannot reasonably account;

(d) "associate" in relation to an accused, means-

(i) any individual who is knowingly assisting narcotics related activities or has, at the relevant time, been residing in the residential premises, including out houses and servant-quarters of an accused for assisting the accused in narcotic activities; or

(ii) any individual who is or has, at the relevant time, been knowingly managing the affairs or keeping the accounts of an accused, relating to narcotics activities, or

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- (iii) any individual, who is or has been, at the relevant time, a member, partner or director of any association of persons, body of individuals, firm or a private limited company involved in dealing with narcotics business.; or
- (iv) a trustee, knowingly involve in narcotics activities or trade of any trust created by an accused in order to cover up narcotics trade or activities; or
- (v) where the Special Court, for reasons to be recorded, considers that any property of an accused is held on his behalf by any other person knowingly involved in narcotics trade, activities or business and generating income for its further expansion, such other person;

(e) "cannabis " means-

- (i) cannabis resin (charas) that is the separated resin, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;
- (ii) the flowering or fruiting tops of the cannabis plant (excluding the seed and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated or known; and
- (iii) any mixture with or without natural materials of any of the above forms of cannabis or any drink prepared there from;

(f) "cannabis plant" means any plant of the genus cannabis;

(g) "coca bush" means the plant of any species of the genus erythroxyton;

(h) "coca derivative" means-

- (i) crude cocaine i.e any extract of coca leaf which can be used, directly or indirectly, for the manufacture or production of cocaine;
- (ii) ecgonine, that is, leavo-ecgonine having chemical formula $C_9H_{15}NO_3 \cdot H_2O$ and all chemical derivatives of leavo-ecgonine including benzoylecgonine from which it can be recovered;
- (iii) cocaine, that is, methyl-benzoyl-leavo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$ and its salts; and
- (iv) all preparations containing more than 0.1 percent of cocaine;

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- (i) "coca leaf" means-
- (i) the leaf of the coca bush except a leaf from which all ecgonine, cocaine or any other ecgonine alkaloids have been removed; and
 - (ii) any mixture thereof, with or without neutral material, but does not include any preparation containing not more than 0.1 percent of cocaine;
- (j) "controlled substance" means any substance which may be used for the production or manufacture of narcotic substances;
- (k) "conveyance" means a conveyance of any description whatsoever and includes, any aircraft, vehicle, vessel, railways or animal;
- (l) "Department" means the Excise, Taxation and Narcotics Control Department of Government;
- (m) "Director" means Director, Narcotics Control Wing, established under sub-section (1) of section 3 of this Act;
- (n) "Director General" means the Director General of the Directorate General;
- (o) "Directorate General" means the Director of the Narcotics Control Wing, established under sub-section (1) of section 3 of this Act;
- (p) "foreign court" means a court of competent jurisdiction of a foreign country, recognized by the Federal Government from time to time;
- (q) "freezing" means prohibiting by an order made by the Special Court or an officer authorized under this Act the transfer, conversion, disposal or movement of any assets and includes the holding, controlling, assuming custody or managing any assets in pursuance of such order and, in the case of assets which are perishable, the disposal thereof;
- (r) "Government" means the Government of the Khyber Pakhtunkhwa;
- (s) "manufacture" in relation to narcotic substances, includes-
- (i) all processes by which such drugs or substances may be obtained;
 - (ii) refining of such drugs or substances;
 - (iii) transformation of such drugs or substances; and
 - (iv) making or preparing such drugs or substances;

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- (t) "manufactured drug" includes-
- (i) all coca derivatives, medicinal hemp, opium derivatives, cannabis in any form and any mixture of stalks and flowering or fruiting tops of the Indian hemp plant (*cannabis sativa* L.), Acetic Anhydride; and
 - (ii) any other narcotic substance which Government may, by notification in the official Gazette declare to be manufactured drug or which the Federal Government, from time to time, declares to be a manufactured drug;
- (u) "medicinal hemp" means any extract or tincture of hemp;
- (v) "methamphetamine" means a highly addictive central nervous system stimulant that is synthetic or semi-synthetic compound $C_{10}H_{15}N$.
- (w) "narcotic drug" means coca leaf, cannabis, heroin, opium, and all manufactured drugs;
- (x) "narcotic substance" means and includes the narcotic drugs, psychotropic substances and controlled substances;
- (y) "opium" means-
- (i) poppy straw, that is to say, all parts of the poppy plant (*papaversomniferum* or any other species of *papaver*) after moving, other than the seeds;
 - (ii) the spontaneously coagulated juice of capsules of poppy which has not been submitted to any manipulations other than those necessary for packing and transportation; and
 - (iii) any mixture, with or without natural materials, of any of the above forms of opium, but does not include any preparation containing not more than 0.2 percent of morphine;
- (z) "opium derivative" includes-
- (i) medicinal opium, that is, opium which has undergone the process necessary to adapt it for medicinal use;
 - (ii) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;

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- (iii) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$ and its salts;
- (iv) diacetylmorphine, that is, the semi-synthetic substance, also known as diamorphine or heroin, having the chemical formula $C_{21}H_{23}NO_5$ and its salts; and
- (v) all preparations containing more than 0.2 percent of morphine or containing any diacetylmorphine;
- (aa) "opium poppy" means the plant of the species *papaver somniferum*;
- (ab) "poppy straw concentrate" means the material obtained after the poppy straw has been subjected to a process for the concentration of its alkaloids;
- (ac) "prescribed" means prescribed by rules;
- (ad) "property" includes-
 - (i) all forms of property, whether corporeal or incorporeal, movable, tangible or intangible, real estate or personal property of every description;
 - (ii) property used to commit, or to abet the commission of, an offence punishable under this Act;
 - (iii) all kinds of shares or interest in any corporate body, company registered under company ordinance, firm, business concern, society or fund; and
 - (iv) all documents of title to land, goods or property wherever situated; money or valuable security issued by Government of Pakistan;
- (ae) "Province" means the Province of the Khyber Pakhtunkhwa;
- (af) "psychotropic substance" means the substance, specified in the Schedule appended to this Act and such substances as Government may, by notification in the official Gazette, declare to be a psychotropic substance;
- (ag) "resident" means the bonafide resident of the Province;
- (ah) "rules" mean rules made under this Act;
- (ai) "relative" in relation to an accused, means any lineal descendant of the accused and includes any other person holding property for or on his behalf;

- (aj) "Special Court" means the Special Court, established under section 22 of this Act;
- (ak) "tracing" means the finding out the true nature, source, disposition, movement or ownership of assets and includes determining the movement or conversion of assets by any means; and
- (al) "transportation" means to bring in to the Province, bring out of the Province or transport within the Province any narcotics substances, otherwise than across National frontiers.

3. Narcotics Control Wing.---(1) There shall be Narcotics Control Wing, within the Directorate General, dealing with all matters concerning narcotics provided under this Act.

(2) The Narcotics Control Wing shall be headed by a Director under the supervision and control of the Director General, who shall be assisted by such officers and staff members of the Department, as Government may appoint from time to time.

(3) The officers and members of the staff mentioned in sub-section (2) shall be civil servants within the meaning of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

CHAPTER -II
PROHIBITION AND PUNISHMENT

4. Prohibition on cultivation.---No one shall cultivate any cannabis plant, coca bush or opium poppy:

Provided that Government may, subject to such conditions as it may specify, permit under a license cultivation or gathering of any such narcotic plant, coca bush or opium poppy or any portion thereof exclusively for medical, scientific or industrial purposes.

5. Punishment for contravention of section 4.---Whoever contravenes the provisions of section 4 shall be punishable with imprisonment which may extend to seven year or with fine or with both.

6. Prohibition of narcotics substance.---No one shall produce, manufacture, extract, prepare, possess, offer for sale, sell, purchase, distribute, deliver on any terms whatsoever, transport, dispatch, any narcotic substances, except for medical, scientific or industrial purposes in the manner and subject to such conditions as may be specified by or under this Act.

7. Prohibition of interprovincial carriage of narcotic substances, etc.---No one shall-

- (a) bring into the Province; or
- (b) bring out of the Province; or
- (c) transport within the Province,

any narcotic substances, save in accordance with the conditions provided in the proviso of section 4 of this Act.

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8. Prohibition on trafficking or financing the trafficking of narcotic substances, etc.---No one shall-

- (a) organize, manage, traffic in, or finance the transportation, manufacturing or trafficking of any narcotic substance; or
- (b) use violence or arms for committing or attempt to commit an offence punishable under this Act.

9. Punishment for contravention of sections 6, 7 and 8.---(1) Whoever contravenes the provisions of sections 6, 7 and 8 shall be punishable with-

- (a) imprisonment, which may extend up to two years and with fine which may extend upto rupees one lac but shall not be less than rupees fifty thousand, if the quantity of the narcotic substance exceeds ten grams but does not exceed one hundred grams; or
- (b) imprisonment, which may extend up to seven years and with fine, which may extend upto rupees three lacs but shall not be less than rupees one lac, if the quantity of the narcotic substance exceeds one hundred grams but does not exceed one kilogram; or
- (c) death, imprisonment for life or imprisonment for a term which may extend to fourteen years and with fine which may extend be up to rupees one million and not less than five lacs, if the quantity of narcotic substance exceeds the limits of one kilogram:

Provided that if the quantity exceeds ten kilograms, the punishment shall not be less than imprisonment for life in any case.

(2) In case of non-payment of fine, as specified in clauses (a), (b) and (c) of sub-section (1), the accused shall undergo for further imprisonment for such term as the Special Court may deem fit.

10. Prohibition of methamphetamine.---No one shall produce, manufacture, extract, prepare, possess, offer for sale, sell, purchase, distribute, deliver on any terms whatsoever, transport, dispatch, methamphetamine, except for medical, scientific or industrial purposes in the manner and subject to such conditions, as may be specified by Government.

11. Punishment for contravention of section 10.---Whoever, contravenes the provisions of section 10 shall be punishable with-

- (a) imprisonment, not less than seven (07) years and shall also be liable to fine not less than rupees three (03) lac., if the quantity of methamphetamine does not exceed 100 grams;

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- (b) imprisonment, not less than ten (10) years and shall also be liable to fine not less than rupees five (05) lac, if the quantity of methamphetamine exceeding 100 grams, but does not exceed one (01) kilogram;
- (c) death, imprisonment for life or imprisonment for a term which may extend upto fourteen (14) years and with a fine which may extend to rupees one (01) million, if the quantity of methamphetamine exceeds one (01) kilogram:

Provided that if the quantity of methamphetamine exceeds five (05) kilograms, the punishment shall not be less than imprisonment for life in any case.

12. Prohibition on owning, operating premises or machinery for manufacture of narcotic substances, methamphetamine etc.---No one shall own, manage, operate or control any premises, place, equipment or machinery for the purpose of manufacture or production of cannabis, cocaine, opium, opium derivatives, narcotic substances, methamphetamine, save as otherwise provided in the license, permit or authorization, as the case may be.

13. Punishment for contravention of section 12.---Whoever contravenes the provision of section 12 shall be punishable with imprisonment which may extend to twenty-five years but shall not be less than ten years and shall also be liable to fine which may extend to rupees five million but shall not be less than rupees one million.

14. Prohibition of acquisition and possession of assets derived from narcotic substances, methamphetamine etc.---No one shall knowingly-

- (a) possess, acquire, use, convert, assign or transfer any assets which have been derived, generated or obtained, directly or indirectly, either in his own name or in the name of his associate, relative or any other person through an act or omission relating to narcotic substances and methamphetamine, which constitutes an offence punishable under this Act, the Prohibition (Enforcement of Hadd) Order, 1979 or under any other relevant law for the time being in force;
- (b) hold or possess on behalf of accused any assets referred to in clause (a); and
- (c) conceal or disguise the true nature, source, location, disposition, movement, title or ownership of such assets by making false declaration in relation thereto.

15. Punishment for contravention of section 14.---Whoever contravenes the provisions of section 14 shall be punishable with imprisonment, which may extend to fourteen years but shall not be less than five years and shall also be liable to fine, which shall not be less than the prevailing value of the assets and such assets shall also be liable to forfeiture to Government.

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16. Prohibition on aiding, abetment or associating in narcotic offences.---(1) No one shall, within or outside the Province, participate in, associate or conspire to commit, attempt to commit, aid, abet, facilitate, incite, induce or counsel the commission of an offence punishable under this Act.

Explanation: For the purpose of this section, a person shall be deemed to have associated with, conspired, aided, abetted, facilitated, incited, induced or counseled an offence within the meaning of this section if he does anything in a place beyond the Province which-

- (a) would constitute an offence as if committed within the Province; or
- (b) under the laws of such other place, is an offence relating to narcotic substances, having all the legal or analogous conditions required to constitute it as an offence punishable under this Act.

17. Punishment for contravention of section 16.---Whoever participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, incites, induces or counsels the commission of an offence in contravention of section 16 shall, whether such offence committed or not in consequence of such participation, association, conspiracy, aid, abetment, facilitation, incitement, inducement or counseling, and notwithstanding anything contained in section 116 of the Pakistan Penal Code 1860 (XLV of 1860), be punishable with the punishment provided for the offence or such lesser punishment as may be awarded by the Special Court.

18. Punishment for offence for which no punishment is provided.---Whoever contravenes any provision of this Act or rules or any order made under this Act, or any license, permit or authorization issued thereunder, for which no punishment is separately provided in this chapter, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to rupees one lac but shall not be less than rupees fifty thousand or with both.

19. Obstruction to officers.---Whoever hinders or obstructs any officer of the Narcotics Control Wing or the Special Court, as the case may be, from any proceedings, under this Act or willfully furnishes to such officer or Special Court, as the case may be, any information, which, to his knowledge or belief, false in material particulars, shall be punishable with rigorous imprisonment for a term, which may extend to three years or with fine or with both.

20. Limit of fine, etc.---Where for any offence under this Act no amount of maximum or minimum fine has been fixed, the Special Court shall impose the fine keeping in view the quality and quantity of the narcotic substances and methamphetamine, involved in commission of such offence.

21. Offence cognizable and non-bailable.---All the offences under this Act shall be cognizable and non-bailable.

**CHAPTER -III
SPECIAL COURTS**

22. Establishment of the Special Courts.---(1) Government shall, by notification in the official Gazette, establish as many Special Courts as it considers necessary and appoint, after consultation with the Chief Justice of the Peshawar High Court, the Judges for each of such Special Court and where it establishes more than one Special Court, it shall specify in the notification the place of sitting of each Special Court and the territorial limits within which it shall exercise jurisdiction under this Act.

(2) There shall be two classes of Special Courts to try offences under this Act, namely:

- (a) Special Courts having the power to try all offences, except as referred in clause (a) of section 9 and clause (a) of section 11 of this Act; and
- (b) Special Courts having the power to try offences, as referred to in clause (a) of section 9 and clause (a) of section 11 of this Act.

(3) No person shall be appointed as a Judge of the Special Court unless,-

- (a) in clause (a) of sub-section (2), he is a District and Sessions Judge or Additional District and Sessions Judge of the district concerned; and
- (b) in clause (b) of sub-section (2), he is a Judicial Magistrate of the district concerned.

23. Jurisdiction to try offences.---The Special Court shall have the exclusive jurisdiction to try all offences cognizable under this Act.

24. Appeal.---An appeal, under this Act, shall be made against the decision of the Special Courts in the following manner:

- (a) against the decision of the Special Court, as specified in clause (a) of sub-section (2) of section 22, to the Peshawar High Court; and
- (b) against the decision of the Special Court, as specified in clause (b) of sub-section (2) of section 22, to the Court of the District and Sessions Judge or Additional District and Sessions Judge of the district concerned.

25. Transfer of cases.---(1) Where more Special Courts than one are established within the territorial jurisdiction of Peshawar High Court, it may, by order in writing, transfer a case, at any stage, from one Special Court to another Special Court, in accordance with section 526 of the Code of Criminal Procedure, 1898 (V of 1898), as if the Special Court was a Court of Sessions.

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(2) On the establishment of Special Courts under section 22, all cases where the sentence of an offence is two years or less, shall stand transferred to the respective Special Courts comprising a Judicial Magistrate and all other cases to the respective Special Courts comprising of District and Sessions Judges or Additional District and Sessions Judges of the district concerned.

(3) Notwithstanding anything hereinbefore contained, a remand may be granted by the nearest Special Court comprising a Judicial Magistrate of the district concerned.

26. **Application of the Code of Criminal Procedure, 1898.**---Except as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply, to trials and appeals before a Special Court under this Act.

CHAPTER -IV
WARRANT OF SEARCH AND ARREST
AND INVESTIGATION

27. **Power to issue warrants.**---(1) The Special Court may issue to an officer of the Narcotics Control Wing, not below the rank of Sup-Inspector, a warrant for the arrest of any person whom it has reason to believe to have committed an offence punishable under this Act or for the search, whether by day or by night, of any building, place, premises, dwelling house or conveyance in which he has reason to believe that any narcotic substance is kept or concealed:

Provided that the officer, to whom a search warrant is issued, shall, in case of a dwelling house, be accompanied by lady constables and an opportunity to the women of such dwelling house shall be given to observe pardah in order to maintain the dignity and modesty of the women and dwelling house.

(2) The officer, to whom a warrant under sub-section (1), is addressed, shall have all the powers of an officer acting under sections 29 and 30 of this Act.

28. **Power of entry, search, seizure and arrest without warrant.**---(1) Where an officer of Narcotics Control Wing, not below the rank of Sub-Inspector or any other officer of equivalent rank duly authorized by the Director General, in this behalf, who from his personal knowledge or from information given to him by any person, is of opinion that any narcotic substance is kept or concealed in any building, place, premises, dwelling house or conveyance and warrant for the search or arrest cannot be obtained from the Special Court against such person without affording him an opportunity for the concealment of evidence or facility for his escape, such officer may-

- (a) enter into any such building, place, premises, dwelling house subject to the proviso of sub-section (1) of section 27 of this Act;
- (b) break open any door and remove any other obstacle to such entry in case of resistance;

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- (c) seize such narcotic substances, methamphetamine and other materials used in the manufacturing thereof and any other article or documents which he has reason to believe to be liable for confiscation or may furnish evidence of the commission of an offence punishable under this Act; and
- (d) search and, if he thinks proper, arrest any person whom he has reason to believe to have committed an offence punishable under this Act.

(2) Before or immediately after taking any action under sub-section (1), the officer, mentioned in sub-section (1), shall record the grounds and basis of his information and take immediate necessary action and forthwith send a copy of the same to the Director General.

29. Power of seizure and arrest in public places.---An officer authorized under this Act shall-

- (a) seize, in any public place or in transit, any narcotic substance and documents or other articles; and
- (b) search and arrest any person whom he has reason to believe to have committed an offence punishable under this Act.

Explanation.---For the purpose of this section, the expression "public place" includes any public conveyance, hotel, shop or any other place intended for use by or accessible to the public irrespective of any discrimination or class distinction.

30. Power to stop and search conveyance.---An officer referred to in sub-section (1) of section 27 of this Act, may, if he has reason to suspect that any conveyance is or is about to be used for the transportation of any narcotic substance, at any time, stop such conveyance and-

- (a) search and examine the conveyance, person and goods or part thereof laying in such conveyance;
- (b) seize the narcotic substances recover during search and arrest the accused; and
- (c) if it becomes necessary to stop the conveyance, he may use all reasonable force for stopping it.

31. Mode of making searches and arrest.---The provisions of the Code of Criminal Procedure, 1898 (V of 1898), except those of section 103, shall, mutatis mutandis, apply to all searches and arrests:

Provided that section 103 of Code of Criminal Procedure, 1898 (Act No. V 1898) shall, in case of search of dwelling house, be strictly observed.

32. **Punishment for vexatious entry, search, seizure or arrest.**---An officer authorized under section 27 of this Act, who,-

- (a) without reasonable grounds of suspicion, enters or searches or causes to be entered or searched any building, place, premises, dwelling house or conveyance;
- (b) vexatious and unnecessarily seizes the property of any person on the pretence of seizing or searching for any narcotic substances or any other article or document relating to any offence under this Act;
- (c) enters into dwelling house without compliance of section 103 of the Code of Criminal Procedure, 1898 (V of 1898) or does not give an opportunity to the women of such dwelling house to observe pardah, as provided in sub-section (1) of section 27; and
- (d) vexatious and unnecessarily, searches or arrests any person;

shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lac but shall not be less than rupees fifty thousand.

33. **Disposal of articles seized and person arrested.**---(1) Any person arrested and articles seized under this Act, shall be produced, within twenty-four (24) hours of the arrest or seized, before the Special Court by whom the warrant was issued.

(2) The Special Court to whom the accused and articles etc.; are produced under sub-section (1), shall, with all convenient dispatch, take such measures as may be necessary for the disposal of the article so seized and person arrested.

34. **Power to call for information.**---An officer authorized under section 27 of this Act, may, during the course of an inquiry or investigation, as the case may be,-

- (a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or rules made thereunder; or
- (b) require any person to produce or deliver any document or thing useful or relevant to the inquiry or investigation; or
- (c) examine any person acquainted with the facts and circumstances of the case; or
- (d) require any institution including a bank or financial institution for the purpose as may be required.

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CHAPTER-V
TRACING, FREEZING, FORFEITURE AND
CONFISCATION OF ASSETS

35. Freezing of assets, etc.---(1) Where the Special Court trying an offence punishable under this Act is satisfied that there appear reasonable grounds for believing that the accused has committed such an offence, it may order the freezing of the assets of the accused, his relatives and associates.

(2) Where, in the opinion of the Director General or an officer authorised under this Act, an offence is being or has been committed, he may freeze the assets of such accused and within seven days of the freezing shall place before the court the material on the basis of which the freezing was made and further continuation of the freezing or otherwise shall be decided by the Court.

(3) The said officer shall trace, identify and freeze the assets during the investigation or trial for the purpose of forfeiture by the Special Court:

Provided that the director-General, or as the case may be, the officer freezing any asset shall, within three days, inform the Special Court about such freezing and the Special Court shall, after notice to the person whose assets have been frozen, by an order in writing, confirm, rescind or vary such freezing.

36. Tracing of assets.---(1) On receipt of a complaint or credible information or where reasonable suspicion exists about any person that he has acquired assets through illicit involvement in narcotics or methamphetamine within or without Pakistan, an officer, duly authorized by the Director General under this Act shall proceed to trace and identify such assets.

(2) On receipt of authenticated information from a foreign court of competent jurisdiction that a citizen of Pakistan has been charged for an offence which is also an offence under this Act, an officer empowered under section 27 shall proceed to trace and identify the assets of the said person, and subject to the provision of sub-section (3) may freeze the said assets.

(3) Information about such assets, when collected by the officer so authorized, shall forthwith be laid before the Special Court for the purpose of its forfeiture under this Act.

(4) The actions referred to in sub-sections (1) and (2) may include any inquiry, investigation or survey in respect of any person, premises, place, property, conveyance, documents and books of accounts.

37. Order for forfeiture of assets.---(1) Where the Special Court convicts an accused under this Act, the Director General or an officer authorised by him may request the said court by an application in writing alongwith a list of the assets of the convict or, as the case may be, his associates, relatives or any other person holding or possessing such assets on his behalf, for forfeiture thereof.

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(2) Where the Special Court is satisfied that any assets specified in the list referred to in sub-section (1) were derived, generated or obtained in contravention of this Act, it may order that such assets shall stand forfeited to the Federal Government, in case of conviction by foreign court and Government, in case of conviction by Special Court:

Provided that no order under this section shall be made without issuing a notice to show cause and providing a reasonable opportunity of being heard to the person being affected by such order:

Provided further that if such person fails to tender any explanation or defaults in making appearance before the Special Court on any date appointed by it, the Special Court may proceed to record an order ex-parte on the basis of the evidence available before it.

(3) Where any shares in a company are forfeited to the Federal government under sub-section (2), notwithstanding anything contained in the Companies ordinance, 1984 (XLVII of 1984), or any other law for the time being in force or Articles of Association of the Company, such shares shall be registered in the name of the Federal Government.

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38. Forfeiture of assets of person convicted abroad.---(1) Notwithstanding anything contained in any other law for the time being in force, where a citizen of Pakistan is convicted by a foreign Court for an offence which is also an offence punishable under this Act, the Special Court may, on an application made by the Director-General or any other officer authorised by the Federal Government, order that the assets acquired in Pakistan by such citizen shall be forfeited to the Federal Government.

(2) The Special Court shall presume, upon the production of any document purporting to be a certified copy of a foreign judgment that such judgment was pronounced by a court of competent jurisdiction, unless the contrary appears on the record, but such presumption may be displaced by proving want of jurisdiction:

Provided that the judgment or order of conviction-

- (a) is passed by the foreign Court of competent jurisdiction;
- (b) has been pronounced on the merits of the case;
- (c) has not been obtained by fraud;
- (d) has not been made in contravention of any law in force in Pakistan;
- (e) has assumed finality through appeal, revision or review and is not sub-judiced before any appellate forum:

Provided further that no order under this section shall be made without providing an opportunity of being heard to such citizen:

Provided also that, notwithstanding anything contained in clauses (a) to (e) of the first proviso, during the pendency of the application the court may, by an order, freeze all or any of the assets or restrain such citizen, his associates and relatives from alienating such assets by lease, sale, gift, transfer or in any other manner.

Explanation.---For the purpose of this section, the expression "Court" means the High Court of the Province where the assets or any part thereof are located.

39. Prohibition of alienation of freezed property.---(1) Where any order under section 35 or section 38 is made for freezing of any asset, any alienation or transfer of such asset by any manner or mode shall, till the conclusion of the proceedings under this Act, or until such order is vacated be void, and if such asset is subsequently forfeited to the Federal Government, any such alienation or transfer of assets shall be deemed to be of no effect whatsoever.

(2) Any person who knowingly alienates or transfers any assets in respect whereof an order has been made under section 35 or section 38 shall be guilty of an offence punishable, on conviction, with imprisonment for a term which may extend to three years, or with fine, or with both.

40. Punishment for acquiring property in relation to which proceedings have been taken under this Act.---Any person who knowingly acquires any assets which have been frozen under this act shall be punishable with imprisonment for a term which may extend to three years and with fine.

41. Power to take possession.---(1) Where any asset is ordered to be forfeited to the Federal Government under section 37, the Special Court may direct the person holding or possessing such asset to surrender or deliver its possession to the Administrator, appointed under section 40 or any other person authorised by the Special Court in this behalf, within such time as may be directed by it.

(2) If any person refuses or fails to comply with a direction issued under subsection (1), the Special Court may require the Superintendent of police of the district where such assets are located to provide police assistance to the Administrator of securing a possession thereof, and it shall be the duty of the superintended of police to comply with such requisition.

42. Management of assets frozen or forfeited under the Act.---(1) The Federal Government may, by a notification in the official Gazette, appoint any officer of the Federal Government or a provincial Government as it may think fit to perform the functions of an Administrator of the assets frozen or forfeited under this order.

(2) The Administrator appointed under sub-section (1) shall take such actions and exercise such powers as the Federal Government may direct for the maintenance and disposal of the assets which are frozen or forfeited to the Federal Government.

CHAPTER -VI
ESTABLISHMENT OF THE ACADEMY, FORENSIC AND SCIENCE LABORATORIES, CENTERS AND FUNDS FOR TREATMENT OF ADDICTS AND CONTROL OF DRUG ABUSE

43. The Academy.---As soon as, after the commencement of this Act, Government shall establish an Academy, under its administrative control, to be known as the Khyber Pakhtunkhwa Narcotics Control Training and Awareness Academy for the purpose of capacity building, mass awareness, community development training and other relevant training or programs for the officers and staff members of the Narcotics Control Wing.

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44. Establishment of investigation offices.---(1) Government shall, by notification in the official Gazette, designate the regional, divisional and district offices of the Department, as investigation offices for the purposes of this Act, hereinafter referred to as the investigation offices.

(2) The officer-in-charge of the investigation offices shall be vested with such powers and functions as may be prescribed.

(3) The investigation offices shall establish such interrogation cells, lockups and warehouses for the purposes of keeping the accused and holding of seized assets and vehicles etc therein in such form and in such manner as may be prescribed.

(4) The other law enforcement agencies operating in the designated areas shall provide assistance to the officer-in-charge of the investigation offices for the purpose of raids, searches and seizures under this Act, if required.

45. Powers to invest.---(1) Government may invest officers of the Narcotics Control Wing, within their respective jurisdiction, with the powers for the investigation of offences, under this Act.

(2) In case, any police officer arrests an accused with narcotics substances, such accused alongwith the recovered narcotic substances shall be handed over to the Narcotics Control Wing or investigation office, as the case may be, with immediate effect.

(3) The Anti-Narcotics Force, established under the Anti-Narcotics Force Act, 1997 (Act No. III of 1997), shall have no jurisdiction in the offences under this Act, except the transportation of the narcotics substances from and to Pakistan or beyond the frontiers of the Province.

46. Khyber Pakhtunkhwa Narcotics and Forensics Science Laboratory.---(1) Government shall, as soon as may be after the commencement of this Act, establish a laboratory to be known as the Khyber Pakhtunkhwa Narcotics and Forensic Science Laboratory and may establish such other institutes and narcotics testing research centers, as it deem fit, or notify any other laboratory or institute to be a Provincial Narcotics Testing Laboratory or centre, as the case may be, for carrying out the purposes of this Act.

47. Narcotics Analyst.---Government may, for carrying out the purposes of this Act, appoint Narcotics Analysts, on such terms and conditions, as may be prescribed.

48. Reports of Narcotics Analyst.---(1) The Narcotics Analyst, to whom a sample of any narcotic substances, has been sent for examination, test and analysis, shall deliver to the person submitting it, a signed report in quadruplicate in the prescribed form and forward one copy thereof who shall report the same to the Director, Narcotics Control Wing and the Director, Narcotics Control Wing shall submit the said report to the Director General.

(2) Notwithstanding anything contained in any other law for the time being in force, any document purporting to be a report signed by a Narcotics Analyst shall be admissible as evidence of the facts stated therein without formal proof and such evidence shall, unless rebutted, be conclusive.

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**CHAPTER -VII
MUTUAL CO-OPERATION
AND ASSISTANCE**

49. Mutual legal assistance by Federal Government and Governments of the Provinces.---(1) Subject to the provisions of any other law, rules or regulations which are uniformly applicable across the Country, Government shall establish close liaison with Federal Government and Governments of other Provinces in order to carry out the purposes of this Act and to extend facilitation to and receive facilitation from such Governments in order to reduce the evils of narcotic substances.

(2) Government or an officer of the Department, duly authorized by Government, may request the Governments of other Provinces or the Federal Government, as the case may be, or authorities, entities or public offices to-

- (a) have evidence taken, documents or other articles produced;
- (b) obtain and execute search warrants or other lawful instruments authorizing a search for things relevant to investigations or proceedings being undertaken in the Province, believed to be located in Islamabad capital territory or other Province, as the case may be, and if found, seize them;
- (c) freeze assets, by whatever process are lawfully available in the Islamabad capital territory or other Province to the extent to which the assets are believed on reasonable grounds to be located in the Islamabad capital territory or other Province, as the case may be;
- (d) confiscate articles and forfeit assets, to the extent to which the articles or assets, as the case may be, are believed to be located in the Islamabad capital territory or other Province, as the case may be;
- (e) transmit to the Province, any such evidence, documents, things, articles, assets or proceeds realized from the disposal of such articles or assets; and
- (f) transfer in custody to the Province, a person detained in Islamabad capital territory or other Province, as the case may be, who consents to assist Government in the relevant investigation or proceedings.

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50. Request of Federal Government and other Provinces for assistance.---(1) Government may, upon request, authorize the giving of mutual legal assistance to Federal Government or Governments of the other Provinces, as the case may be, in investigations or proceedings instituted therein.

(2) Government shall assist the Federal Government, upon duly received request from any foreign states, subject to the Diplomatic Policy of the Federal Government, with regard to narcotics related investigation being

carried out in a foreign state, where an offence has been committed or is suspected on reasonable grounds to have been committed against the laws of the requesting foreign states, which, if committed in Pakistan, would have constituted an offence under this Act.

- (3) The requests referred to in sub-sections (1) and (2) shall-
- (a) give the name of the authority concerned with the criminal matter to which the request relates;
 - (b) give a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws;
 - (c) give a description of the purpose of the request and of the nature of the assistance being sought;
 - (d) in the case of a request to freeze or forfeit assets believed on reasonable grounds to be located in the Province, give details of the offence particulars of any investigation or proceedings commenced in respect of the offence and be accompanied by a copy of any relevant freezing or forfeiture order of the Special Court and in case of a foreign state, the same having been duly attested by the Ministry of Foreign Affairs, Government of Pakistan;
 - (e) give details of any procedure that Federal Government or other Province, as the case may be, intends to be followed by Government in giving effect to the request, particularly in the case of a request to take evidence;
 - (f) contain a statement setting out any intention of Federal Government, other Province or the foreign state, as the case may be, concerning any confidentiality relating to the request and the reasons for those wishes;
 - (g) give details of the period within which the Federal Government, other Provinces or the foreign state, as the case may be, wish the request to be complied with;
 - (h) state, where applicable, the grounds for believing that the relevant assets or things to be traced, frozen or seized are located in the Province; and
 - (i) contain any other information that may assist in giving effect to the request.

(4) Notwithstanding anything contained in sub-section (3), a request may be accepted, after consultation, that the request, as originally made, does not comply with the said sub-section.

51. Request for an evidence-gathering order or a search warrant.---

(1) Notwithstanding anything contained in any other law for the time being in force, where Government receives a request of the Federal Government or

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other Province, as the case may be, to obtain evidence in the Province or be able to be given by a person believed to be in the Province, the Director General, Narcotics Control, may approach the Special Court to grant:

- (a) a search warrant; or
- (b) an evidence-gathering order.

(2) The Special Court, upon an application made under sub-section (1), may issue a search warrant or an evidence-gathering order, as the case may be, where it is satisfied that there are reasonable grounds to believe that-

- (a) an offence has been committed or is suspected on reasonable grounds to have been committed; or
- (b) evidence of the commission of an offence committed in the Islamabad capital territory or other Province, as the case may be, the accused or information that would reveal the whereabouts of the accused who is suspected of committing the offence to be found in a building, receptacle or place in the Province;

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(3) An evidence-gathering order-

- (a) shall provide for the manner in which the evidence is to be obtained in order to give proper effect to the request of the Federal Government or other Province, as the case may be, and in particular, may require any person named therein to-
 - (i) make a record from data or make a copy of record;
 - (ii) attend Special Court to give evidence on oath or otherwise; and
 - (iii) produce to Special Court or to any person designated by it, anything, including any record or copy thereof; and
- (b) may include such terms and conditions as Government may deem it fit, including those relating to the interests of the person named therein or of third party.

52. Requests to recover fines.---(1) Where Government approves a request from the Federal Government or other Province, as the case may be, to enforce the payment of a fine imposed by a court of competent jurisdiction on the accused, the Special Court shall ensure such recovery from the accused.

Explanation.---For the purpose of this section the expression "fine" shall include any pecuniary penalty determined by the court of competent jurisdiction of the Federal Government or other Province, as the case may be, based on the value of any property, benefit, advantage, obtained or derived directly or immediately as a result of the commission of an offence relating to narcotic substances.

(2) No proceedings under sub-section (1), shall be instituted after the expiry of five years, from the date the fine was imposed.

53. Sharing forfeited property with Federal Government or other Provinces.---Government may enter into an arrangement with the competent authorities, entities or public offices of the Federal Government or other Province, as the case may be, for the reciprocal sharing of such part of any asset realized pursuant to investigations carried out by such authorities, entities or public offices, realized in the Federal Government or other Province, as a result of action taken by Government.

CHAPTER -IX
GENERAL

54. Presumption to the assets acquired through dealing in narcotics substances and methamphetamine.---Where there is reasonable ground to believe that the assets or any part thereof were acquired before or at the time of or after the commission of an offence under this Act and there was no other likely source of acquiring such assets or part thereof, it shall be presumed, unless the contrary is proved, that such assets or part thereof were acquired, generated or obtained through cultivation, manufacture, production, sale, purchase, dealing or trafficking of narcotic substances.

55. Notice or order not to be invalid for error in description.---No notice issued or order, passed under this Act, shall be invalid by reason of any error in the description of the accused or assets specified therein if such accused or assets are otherwise identifiable from the description specified in such notice or order.

56. Indemnity.---No suit, prosecution or other proceedings shall lie against Government or any officer of the Directorate General for anything, in good faith, done or intended to be done in pursuance of this Act or the rules.

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

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) the administration, management and disposal of the property forfeited and articles seized under this Act;
- (b) the license, permit and authorization, the fee that may be charged etc and other matters relating thereto ;
- (c) terms and conditions of Special Prosecutors;
- (d) permitting and regulating the bringing in and bringing out or transportation within the Province and trans-shipment of narcotic substances, the places at which any kind of narcotic substances may be brought in, brought out, transported within the Province or trans-shipped, other matter required to have effective control of Government over such movement and transportation; and
- (e) any other matter which is not inconsistent, but in continuation to this Act.

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58. **Removal of difficulties.**---If there arises any difficulty in the interpretations and applications of this Act, Government shall be competent authority for the removal of the same and to issue appropriate directions.

59. **Repeal and savings.**---(1) The Control of Narcotics Substances Act, 1997 (Act No. XXV of 1997), to the extent of cultivation, possession, selling, purchasing, delivery and transportation etc within the Province, to the extent of the Khyber Pakhtunkhwa is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rule made and notification or order issued under the aforesaid Act, shall, so far not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under the Act and shall have effect accordingly.

STATEMENT OF OBJECTS AND REASONS

It is desirable to provide for the control of narcotic substances, narcotic drugs and psychotropic substances in order to eliminate the evils of these substances, more effectively and more forcefully for socioeconomic wellbeing of the people of the Province of the Khyber Pakhtunkhwa. Hence, this Bill.


MINISTER-IN-CHARGE. 3/7/11

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Govt. of Khyber Pakhtunkhwa
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SCHEDULE
(see section 2)

PSYCHOTROPIC SUBSTANCES

INTERNATIONAL NON-PROPRIETARY NAMES.		OTHER NON-PROPRIETARY OR TRIVAL NAMES.	CHEMICAL NAMES.
1.		2.	3.
1.	AMFETAMINE.	Amphetamine.	(+/-)-a-methyphenethylamine.
2.	AMOBARBITAL.		5-ethyl-5-barbituric acid.
3.	ALLOBARBITAL.		5,5-deallybarturic acid.
4.	ALPRAZOLAM.		8-chloro-1-methyl-6-phenyl-eH-s-triazolo [4, 3-a] 11,4] benzodiazepine.
5.	AMPHEPRAMONE.		2-(diethylamino) propiolphenone.
6.	BROLAMFETAMINE.		(+/-)4-bromo-2, 5-dimethoxy-amethyphenethylamine.
7.	BUPRENORPHINE.		21-cyclopropyl-7-a-[(s)-l-hydroxy-1,2,2-trimethylporpyl]-6, 14-endoethano-6, 7, 8, 14-tetrahydrooripavine.
8.	BUTALBITAL.		5-allyl-5-isobutylbarbituric acid.
9.	BARBITAL.		5,5-diethylbarbituric acid.
10.	BENZFETAMINE.	Benzphetamine.	N-benzyl-N, a-dimethylphenethylmine.
11.	BROMAZEPAM.		7-bromo-1, 3-dihydro-5 (2-pyridyl) 2H-1, 4-benzodiazepin-2-one.
12.	CATHINONE.		(-)-(s)-2 aminopropiophenone.
		DET.	3-[2(diethyl amine) ethyl] indole.
		DMA.	(+/-)-2, 5-dimethoxy-amethyphenethy-lamine.
		DMHP.	3-(1,2-dimethypheptye)-7,8,9,10-tetrahydro-6,6,9-trimethyl-6h-dibenzo[b,d][pyram-1-01].

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13.	CATHINE.	(+)-norpseudo ephedrine.	(+)-(R)-a-[(Ro-1-1 amino ethyl] benzyl alcohol.
		DMT.	3-[2-dimethylaminethyl] indole.
		DOET.	(+)/-4-ethyl-2,5-dimthyxy-a- Phenethly-amine.
14.	CYCLOBARBITAL.		5-(1-cychlohexen-1-yl)-5-ethylbar- bituric acid.
15.	CAMAZEPAM.		5-Phenyl-2H-1, 4-benzodiazepin-2- one dimethylcarbamate (ester).
16.	CHLORDIAZEPOXIDE.		7-chloro-2-(methylmino)-5-phenyl-1 H-1, 5-bezodiazepine-4-oxide.
17.	CLOBAZAM.		7-chloro-1-methylmino)5-phenyl-I H-5-benzodiazepine-2.4 (3H. 4H)- dione.
18.	CLONAZEPAM.		5-(0-chlorophgenyl)-1.3-dihydro-7- nitro-211-1.4-benzodiazpine-2-one.
19.	CLORAZEPATE.		7-chloro-2,3-dihydro-2-oxo-5- phenyl-Ih-1.4-bezodiazpine-3- carbxylic acid.
20.	CLOTIAZEPAM.		5-(o-chlorphenyl)-7-ethyl-1.3- dihydro-I-methyl-2H-thieno [2.3.-e) 1.4-diazepin-2-one.
21.	CLOXAZOLAM.		10-chloro-Iib-chlorphenyl)-2- 3,7,11B-tetrahydroozazolo [3.2.-d] [1.4] benzodiazepin-6-5H)- one.
22.	DEXAMPHETAMINE.	Dexamphetamine.	(+)-a-methylphenethylamine.
23.	DELORAZEPAM.		7-Chloro-5-(o-chlorophyenyl)-1.3- dihydro 2-H-1.4-bezodiazepin-2- one.
24.	DIAZEPAM.		7-chloro-2.3-dihydro-I-methyl-5- phenyl-2H-1.4-benzodiazpine-2- one.
25.	ESTAZOLAM.		8-chloro-6ipenyl-4h-Sitriazolo- [4.3a] [1.4] benezodiazepine.
26.	ETHCHLORVYNOL.		1-chloro-3-ethyl-I-penten-4yn-301.
27.	ETHYL LOFLAZEPATE.		Ethyl 7-chloro-5-(0ifluorphenyl)- 2.3-dihydro-2-oxo-IH, 4- benzodiazepine-3-carboxyylate.

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28.	ETILAMFETAMINE.	N-ethylamfetamine.	N-ethyl-1-a-methylphenethylamine.
29.	ETHINAMATE.		1-eithynycyclohexanol-carbamate.
30.	ETICYCLIDINE.	PCE.	N-ethyl-1-phenylcyclohexylamine.
31.	FENETYLLINE.		7-[2-[a methylphenthyl-amino] ethyl] the ophyylline.
32.	FENCAMFAMIN.		N-ethyl-3-phenyl-2-norbomanamine.
33.	FENPROPOREX.		[+/-]-3-(a-methlyphenthyl] amino] propionitriale.
34.	FLUDIAZEPAM.		7-chloro-5-(0-fluorophenyl)- 1,3-dihydro-1-methyl-2H-1, 4-benzodiazepin-2-one.
35.	FLUNITRAZEPAM.		5-(0-fluorophenyl)-1,3-dihydro-1-methyl-7-mitro-2H-1,4-benzodiazepin-2-one.
36.	FLURAZEPAM.		7-chloro-1-[2-diethylamino) ethyl] 5-0-fluorophenyl)-1.3-dihydro-2H-1.4-benzodiazepine-2-one.
37.	GLUTETHIMIDE.		2-ethyl-2-phenylglutarimide 4-benzodiazepin-2-one.
38.	HALAZEPAM.		7-chloro-1.3-dihydro-5-phenyl-1(2,2,2-trifluoroethyl)-2h-1,4-beznodiazepine-6H(5H)-one.
39.	HALAXAZOLAM.		10-bromo-11b(0-fluoraphenyl)-2.8-dimethyl-12b-phenyl-4H-[1,3]oxazino [3,2-d] [1,4] benzodiazepine-6 (5H)-one.
40.	METHAMPHETAMINE	Ice/Chalk/Crystal	N-Methyl-1- phenylpropan-2-amine

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