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PART-IV

PROVINCIAL ASSEMBLY OF SINDH NOTIFICATION KARACHI, THE 04TH FEBRUARY, 2016.

NO.PAS/Legis-B-43/2015-The Sindh Criminal Prosecution Service (Constitution, Functions and Powers) (Amendment) Bill, 2015 having been passed by the Provincial Assembly of Sindh on 15th January, 2016 and assented to by the Governor of Sindh on 2nd February, 2016 is hereby published as an Act of the Legislature of Sindh.

THE SINDH CRIMINAL PROSECUTION SERVICE (CONSTITUTION, FUNCTIONS AND POWERS) (AMENDMENT) ACT, 2015.

SINDH ACT NO. II OF 2016.

AN ACT

to amend the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009.

WHEREAS it is expedient to amend the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009 in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) (Amendment) Act, 2015. Short title and commencement.

(2) It shall come into force at once.

**Amendment of
Section 2 of Sindh
Act No. IX of 2010.**

2. In the Sindh Criminal Prosecution Service (Constitution, Functions and Powers) Act, 2009, hereinafter referred to as the said Act, in section 2 -

(i) in sub-section (1) -

(a) in clause (b), after the semi colon, the words "and Judicial District" shall be added.

(b) for clause (i), the following shall be substituted:-

"(i) "members of the service" means and includes Prosecutors, officers and other staff of the service;"

(c) in clause (i), after the word "Act" the words "or Code" shall be inserted;

(ii) in sub-section (2), for the word "Order", the words "Police Act 1861" shall be substituted with.

**Amendment of
Section 4 of Sindh
Act No. IX of 2010.**

3. In the said Act, in section 4, after the words "Assistant District Public Prosecutors" the words "and any other Public Prosecutor" shall be added.

**Amendment of
Section 5 of Sindh
Act No. IX of 2010.**

4. In the said Act, for section 5, the following shall be substituted:-

"5.(1) Government shall exercise general superintendence over the Service to ensure achievement of the objectives of this Act.

(2) The administration of the Service shall vest in the Prosecutor General.

(3) The Prosecutors and all other members of the service shall perform their functions under the control and supervision of the Prosecutor General.

(4) Subject to the sub-section (2), all Prosecutors within a District shall work under the supervision of the District Public Prosecutor.

(5) The Prosecutor General shall have power to assign work and order the transfer and posting of any of the Prosecutor and members of the service."

**Amendment of
Section 6 of Sindh
Act No. IX of 2010.**

5. In the said Act, in section 6 -

(i) in sub-section (4), the words "during the tenure of his office" shall be omitted;

(ii) sub-section (5) shall be omitted and sub-sections (6) and (7) shall be renumbered as sub-section (5) and sub-section (6);

(iii) for renumbered sub-section (6), the following shall be

“(6) The Prosecutor General may delegate any of his powers or functions to any Prosecutor or officer of the Service.”

6. In the said Act, in section 8, in sub-section (1), for the words “or any other Special Court”, the comma and words “Special Court, Tribunal, Lower Court or any other Court” shall be substituted.

**Amendment of
Section 8 of Sindh
Act No. IX of 2010.**

7. In the said Act, after section 9 -

**Amendment of
section 9 of Sindh
Act No. IX of 2010.**

- (i) after sub-section (1), the following new sub-section (1-A) shall be inserted:-

“(1-A) The Prosecutor General or any Prosecutor authorized by him shall distribute work to the Prosecutors in the Supreme Court, High Court, Federal Shariat Court or a Special Court, Tribunal established under any law for the time being in force.

- (ii) for sub-section (6), the following shall be substituted:-

“(6) The Prosecutor may forward the report under section 173 of the Code, to the Court and applicability of offences against all or any of the accused as per facts and circumstances of the case.”

8. After section 9, the following new section 9-A shall be inserted:-

**Insertion of new
section 9-A of Sindh
Act No. IX of 2010.**

“9-A. (1) The Prosecutor General may issue general guidelines of the Prosecutors or officers responsible for investigation for effective and efficient prosecution.

(2) The Prosecutor General or the District Public Prosecutor may refer to the authority competent to initiate disciplinary proceedings under any law for the time being in force, to take disciplinary action against any public servant working in connection with investigation or prosecution, for any act committed by him and is prejudicial to the prosecution.

- (3) A Prosecutor may -

- (a) exercise all or any of the powers mentioned in section 9;
- (b) call for a report within a specified time from any officer of law enforcing agency in relation to an investigation;
- (c) call for record or any other document within a specified time from a law enforcement agency and, if necessary, from any other Government department or agency as may be necessary for the purposes of prosecution;

- (d) perform such functions and exercise such powers as may be entrusted to him under the Code and any other law for the time being in force;
- (e) withdraw, with the consent of the Court, from prosecution of any person either generally or in respect of any one or more of the offences for which he is being tried, after obtaining prior approval of -
 - (i) the District Public Prosecutor, where the offence is punishable upto three years,
 - (ii) the Prosecutor General, where the offence is punishable up to seven years; and
 - (iii) Government, in all other offences and for the offences triable by the Special Courts and at any stage of a trial before any trial Court subordinate to the High Court before the judgment is passed, the Prosecutor General or any Prosecutor specifically authorized by him, may, for reasons to be recorded in writing, inform the Court on behalf of Government that the Prosecutor shall not prosecute the accused upon the charge and thereupon all proceedings against the accused shall be stayed and he shall be discharged of and from the same:

Provided that such discharge shall not amount to an acquittal unless the court directs otherwise.

**Amendment of
Section 11 of Sindh
Act No. IX of 2010.**

9. In the said Act, in section 11, in sub-section (8), for clause (d), the following shall be substituted: --

“(d) perform such other duties as may be delegated to him by the Prosecutor General Sindh under this Act”.

**Amendment of
Section 14 of Sindh
Act No. IX of 2010.**

10. In the said Act, in section 14, after the words “member of the service”, the words “except the Prosecutor General” shall be inserted.

**Addition of section
18 in Sindh Act No.
IX of 2010.**

11. In the said Act, after section 17 the following new section shall be added:-

“18. Act to over-ride other laws--The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.”.

**BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH**

**G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH**