

The Unlawful Activities (Prevention) Act, 1967

Act No. of Year: Act No. 37 of 1967

CHAPTER I - PRELIMINARY

1. (1) Short title and extent. This Act may be called the Unlawful Activities (Prevention) Act, 1967.

1*(2) It extends to the whole of India: Provided that it shall come into force in the State of Jammu and Kashmir on such date as the Central Government may, by notification in the Official Gazette, appoint.]

2. Definitions. In this Act, unless the context otherwise requires,-

(a) "association" means any combination or body of individuals;

(b) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part ;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India ;

(e) "Tribunal" means the Tribunal constituted under section 5;

(f) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),-

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession;

1 Subs. by Act 24 of 1969, s. 2, for sub-section (2). The Act comes into force in the State of Jammu and Kashmir on 1.9.1969, vide Notifn. No. G.S.R. 2098, dated 30.8.1969, Gazette of India, Exty., Part II, Sec. 3(i), page 615.

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India ;

1*[(g) "unlawful association" means any association-

(i)which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or (ii)which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity: Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir.]

2*[2A.Construction of reference to laws not in force in Jammu and Kashmir. Any reference in this Act to a law which is not in force in the "State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.]

CHAPTER II - UNLAWFUL ASSOCIATIONS

3. Declaration of an association as unlawful (1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful. (2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary: Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose. (3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette: Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, -----
----- 1 Subs. by Act 31 of 1972, s. 4, for cl. (g). 2 Ins. by Act 24 of 1969, s. 3. -----
----- 765 for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette. (4) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the association affected is situated, and shall also be served on such association in such manner as the Central Government may think fit and all or any of the following modes may be followed in effecting such service, namely:- (a) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association ; or (b) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association ; or (c) by proclaiming by beat of drum or by means of loudspeakers, the contents of the notification in the area in which the activities of the association are ordinarily carried on ; or (d) in such other manner as may be prescribed.

4. Reference to Tribunal. (1) Where any association has been declared unlawful by a notification issued under sub-section (1) of section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub- section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. (2) On receipt of a reference under sub-section (1), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful. (3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the-Tribunal shall hold an inquiry in the manner specified in section 9 and after calling for such further

information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of section 3, such order as it may deem fit either confirming the declaration made in notification or cancelling the same. 766 (4) The order of the Tribunal made under sub-section (3) shall be published in the Official Gazette.

5. Tribunal. (1) The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of one person, to be appointed by the Central Government: Provided that no person shall be so appointed unless he is a Judge of a High Court. (2) If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, then, the Central Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled. (3) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act. (4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India. (5) Subject to the provisions of section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings. (6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:- (a) the summoning and enforcing the attendance of any witness and examining him on oath; (b) the discovery and production of any document or other material object producible as evidence; (c) the reception of evidence on affidavits; (d) the requisitioning of any public record from any court or office ; (e) the issuing of any commission for the examination of witnesses. (7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of 767 the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

6. Period of operation and cancellation of notification (1) Subject to the provisions of sub-section (2), a notification issued under section 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under section 4, remain in force for a period of two years from the date on which the notification becomes effective. (2) Notwithstanding anything contained in sub-section (1), the Central Government may, either on its own motion or on the application of any person aggrieved, at any time, cancel the notification issued under section 3, whether or not the declaration made therein has been confirmed by the Tribunal.

7. Power to prohibit the use of funds of an unlawful association (1) Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section and the Central Government is satisfied, after such inquiry as it may think fit, that any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association, the Central Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with any other moneys, securities or credits which may come into his custody after the making of the order, save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the manner specified in sub-section (3). (2) The Central Government may

endorse a copy of the prohibitory order made under sub-section (1) for investigation to any gazetted officer of the Government it may select, and such copy shall be a warrant whereunder such officer may enter in or upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys, securities or credits, and make inquiries from such person or any officer, agent or servant of such person, touching the origin of any dealings in any moneys, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purpose of the unlawful association. (3) A copy of an order made under this section shall be served in the manner provided in the Code of Criminal Procedure, 1898 (5 of 1898), for 768 the service of a summons, or, where the person to be served is a corporation, company, bank or other association, it shall be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or other association at its registered office, or where there is no registered office, at the place where it carries on business. (4) Any person aggrieved by a prohibitory order made under sub-section (1) may, within fifteen days from the date of the service of such order, make an application to the Court of the District Judge within the local limits of whose jurisdiction such person voluntarily resides or carries on business or personally works for gain, to establish that the moneys, securities or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used for the purpose of the unlawful association and the Court of the District Judge shall decide the question. (5) Except so far as is necessary for the purposes of any proceedings under this section, no information obtained in the course of any investigation made under sub-section (2) shall be divulged by any gazetted officer of the Government, without the consent of the Central Government. (6) In this section, "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money.

8. Power to notify places for the purpose of an unlawful association. (1) Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section, the Central Government may, by notification in the Official Gazette, notify any place which in its opinion is used for the purpose of such unlawful association. Explanation.-For the purposes of this sub-section, "place" includes a house or building, or part thereof, or a tent or vessel. (2) On the issue of a notification under sub-section (1), the District Magistrate within the local limits of whose jurisdiction such notified place is situated or any officer authorised by him in writing in this behalf shall make a list of all movable properties (other than wearing-apparel, cooking vessels, beds and beddings, tools of artisans, implements of husbandry, cattle, grain and foodstuffs and such other articles as he considers to be of a trivial nature) found in the notified place in the presence of two respectable witnesses. 769 (3) If, in the opinion of the District Magistrate, any articles specified in the list are or may be used for the purpose of the unlawful association he may make an order prohibiting any person from using the articles save in accordance with the written orders of the District Magistrate. (4) The District Magistrate may thereupon make an order that no person who at the date of the notification was not a resident in the notified place shall, without the permission of the District Magistrate, enter, or be on or in, the notified place : Provided that nothing in this sub-section shall apply to any near relative of any person who was a resident in the notified place at the date of the notification. (5) Where in pursuance of sub-section (4), any person is granted permission to enter, or to be on or in, the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate. (6) Any police officer, not below the rank of a sub-inspector, or any other person authorised in this behalf by the Central Government may search any person entering, or seeking to enter, or being on or in, the notified place and may detain any such person for the purpose of searching him: Provided that no female shall be searched in

pursuance of this sub-section except by a female. (7) If any person is in the notified place in contravention of an order made under sub-section (4), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any officer or by any other person authorised in this behalf by the Central Government. (8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be,, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situated- (a) for declaration that the place has not been used for the purpose of the unlawful association ; or (b) for setting aside the order made under sub-section (3) or sub-section (4), 770 and on receipt of the application the Court of the District Judge shall, after giving the parties an opportunity of being heard, decide the question.

9. Procedure to be followed in the disposal of applications under this Act. Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final.

CHAPTER III - OFFENCES AND PENALTIES

10. Penalty for being members of an unlawful association. Whoever is and continues to be a member of an association declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section, or takes part in meetings of any such unlawful association, or contributes to, or receives or solicits any contribution for the purpose of, any such unlawful association, or in any way assists the operations of any such unlawful association, shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

11. Penalty for dealing with funds of an unlawful association. If any person on whom a prohibitory order has been served under sub-section (1) of section 7 in respect of any moneys, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with the same in contravention of the prohibitory order, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), the court trying such contravention may also impose on the person convicted an additional fine to recover from him the amount of the moneys or credits or the market value of the securities in respect of which the prohibitory order has been contravened or such part thereof as the court may deem fit.

12. Penalty for contravention of an order made in respect of notified place.(1) Whoever uses any article in contravention of a prohibitory order in respect thereof made under sub-section (3) of section 8 771 shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine. (2) Whoever knowingly and wilfully is in, or effects or attempts to effect entry into, a notified place in contravention of an order made under sub-section (4) of section 8 shall be punishable with imprisonment for a term which may extend to one year, and shall also be liable to fine.

13. Punishment for unlawful activities. (1) Whoever- (a) takes part in or commits, or (b) advocates abets,

advises or incites the commission of, any unlawful activity, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine. (2) Whoever, in any way, assists any unlawful activity of any association, declared unlawful under section 3, after the notification by which it has been so declared has become effective under sub-section (3) of that section, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both. (3) Nothing in this section shall apply to any treaty, agreement or convention entered into between the Government of India and the Government of any other country or to any negotiations therefor carried on by any person authorised in this behalf by the Government of India.

14. Offences to be cognizable. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence punishable under this Act shall be cognizable.

CHAPTER IV - MISCELLANEOUS

15. Continuance of association. An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.